

Texas Register

Volume 13, Number 31, April 19, 1988

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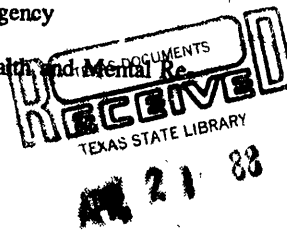
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Texas Register

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Information Available: The 10 sections of the *Register* represent various facets of state government. Documents contained within them include:

- Governor—appointments, executive orders, and proclamations
- Secretary of State—summaries of opinions based on election laws
- State Ethics Advisory Commission—summaries of requests for opinions and opinions
- Attorney General—summaries of requests for opinions, opinions, and open records decisions
- Emergency Rules—rules adopted by state agencies on an emergency basis
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- Withdrawn Rules—rules withdrawn by state agencies from consideration for adoption, or automatically withdrawn by the *Texas Register* six months after proposal publication date
- Adopted Rules—rules adopted following a 30-day public comment period
- Open Meetings—notices of open meetings
- In Addition—miscellaneous information required to be published by statute or provided as a public service

Specific explanations on the contents of each section can be found on the beginning page of the section. The division also publishes accumulative 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: "12 TexReg 2 issue date," while on the opposite page, page 3, in the lower right-hand corner, would be written "issue date 12 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, 1036E Sam Houston Building, Austin. Material can be found by using *Register* indexes, the *Texas Administrative Code*, rule 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 rule is designated by a TAC number. For example, in the citation 1 TAC §27.15:

- 1 indicates the title under which the agency appears in the *Texas Administrative Code*;
- TAC stands for the *Texas Administrative Code*;
- 27.15 is the section number of the rule (27 indicates that the rule is under Chapter 27 of Title 1; 15 represents the individual rule within the chapter).



Texas Register Publications

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The Governor

As required by Texas Civil Statutes, Article 6252-13a, §6, the *Texas Register* publishes executive orders issued by the Governor of Texas. Appointments and proclamations are also published. Appointments are published in chronological order. Additional information on documents submitted for publication by the Governor's Office can be obtained by calling (512) 463-1814.

Appointments Made April 12, 1988

To be a member of the Governor's Committee for Disabled Persons for a term to expire July 8, 1989: Claire L. Barlow-Roffino, 1506 Commerce Street, Dallas, Texas 75201. Ms. Barlow-Roffino will be replacing Joe W. Russell of Dallas whose term expired.

To be a member of the Governor's Committee for Disabled Persons for a term to expire July 8, 1989: Jerry D. Cooper, 4600 InterFirst One, Dallas, Texas 75202. Mr. Cooper will be replacing William J. Martin of Austin whose term expired.

To be a member of the Hospital Licensing Advisory Council for a term to expire December 7, 1989: Richard Lewis Ballard, M.D., 1406 Kerria, McAllen, Texas 78501. Dr. Ballard will be replacing Dr. Van Goodall of Clifton whose term expired.

To be a member of the Agricultural Diversification Board for a term to expire January 1, 1989: George B. (Ben) Mathers, Jr., P.O. Box 668, Canadian, Texas 79014, pursuant to House Bill 49, 70th Legislature.

To be a member of the Advisory Council on Community Affairs for a term to expire January 31, 1990: G. Ted Simmons, 204 East Graham, McLean, Texas 79057. Mr. Simmons will be replacing Commissioner Richard Borchard of Robstown whose term expired.

To be a member of the District Three Review Committee, Board of Medical Examiners for a term to expire January 15, 1994: F. Warren Tingley, M.D., 801 Road to Six Flags West, Arlington, Texas 76012. Dr. Tingley will be replacing Dr. Jesse Donald Cone of Odessa whose term expired.

To be a member of the Texas Commission on the Arts for a term to expire August 31, 1989: Rollin Khoury, 606 RepublicBank Tower, Waco, Texas 76701. Mr. Khoury will be filling the unexpired term of Terrylin Neale of Houston who resigned.

To be a member of the Home Health Services Advisory Council for a term to expire January 31, 1990: Joyce Nicholson Snead, 8815 Dyer, Suite 310, El Paso, Texas 79904. Mrs. Snead is being reappointed.

To be a member of the Texas Agricultural Finance Authority Board of Directors for a term to expire January 1, 1989: Jerry Harris, P.O. Box M, Lamesa, Texas 79331,

pursuant to House Bill 49, 70th Legislature.

To be a member of the Texas Agricultural Finance Authority Board of Directors for a term to expire January 1, 1989: John W. Jones, 105 East Second, Brady, Texas 76825, pursuant to House Bill 49, 70th Legislature.

To be a member of the Texas Agricultural Finance Authority Board of Directors for a term to expire January 1, 1989: John E. Birdwell, Jr., Box 720, Lubbock, Texas 79407, pursuant to House Bill 49, 70th Legislature.

To be a member of the Texas State Board of Examiners of Dietitians for a term to expire September 1, 1993: Alana Davis Webb, 4107 Medical Parkway, Suite 214, Austin, Texas 78756. Ms. Webb will be replacing Rosario Hamilton of San Antonio whose term expired.

To be a member of the Texas Advisory Commission on Intergovernmental Relations for a term to expire September 1, 1993: Carroll M. Thomas, 300 North Lorraine, Midland, Texas 79701. Mr. Thomas will be replacing Rosalie Brown of Sinton whose term expired.

To be a member of the Texas Advisory Board of Occupational Therapy Examiners for a term to expire February 1, 1993: Sally Wise Schultz, 2101 Brugge Court, Plano, Texas 75023. Ms. Schultz will be replacing Linda Veale of Abilene whose term expired.

To be a member of the Texas Surplus Property Agency for a term to expire March 19, 1991: Robert Caskey, P.O. Box 545, Johnson City, Texas 78636. Mr. Caskey will be filling the unexpired term of Gerald D. Irons of the Woodlands who resigned.

To be a member of the Texas Board of Mental Health and Mental Retardation for a term to expire January 31, 1989: Michael Joseph Moncrief, Fort Worth Club Tower, Suite 1030, Fort Worth, Texas 76102. Mr. Moncrief will be filling the unexpired term of Dr. Grace K. Jameson of Galveston who resigned.

Issued in Austin, Texas on April 13, 1988.

TRD-8903789

William P. Clements, Jr.
Governor of Texas



Attorney General

Description of Attorney General submissions. Under provisions set out in the Texas Constitution, Texas Civil Statutes, Article 4399, and numerous statutes, the attorney general is authorized to write advisory opinions for state and local officials. These advisory opinions are requested by agencies or officials when they are confronted with unique or unusually difficult legal questions. The attorney general also determines, under authority of the Texas Open Records Act, whether information requested for release from governmental agencies maybe held from public disclosure. Requests for opinions, opinions, and open record decisions are summarized for publication in the *Texas Register*.

Opinions

JM-887 (RQ-1237). Request from David W. Wallace, Sutton County Attorney, Sonora, concerning the authority of a commissioners court to enter into certain contracts to provide health insurance coverage for its employees.

Summary of Opinion. The commissioners court of Sutton County is not authorized to self-fund a health insurance program for county employees. TRD-8803749

JM-888 (RQ-1349). Request from S. Dale Ousley, Chairman, Texas Board of Irrigators, Austin, concerning per diem for members of the Texas Board of Irrigators.

Summary of Opinion. The members of the Texas Board of Irrigators are entitled to receive reimbursement for their actual travel expenses incurred in connection with their service on the board. TRD-8803748

Name: John A. Moore
Grade: 8
School: Clear Lake Intermediate, Clear Creek



Emergency Rules

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

Symbology in amended emergency sections. 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 1. ADMINISTRATION Part XII. Advisory Commission on State Emergency Communications

Chapter 255. Finance

• 1 TAC §255.4

The Advisory Commission on State Emergency Communications adopts new §255.4 on an emergency basis. The public health, safety, and welfare require emergency adoption because the implementation of 9-1-1 is funded by a 9-1-1 local access charge. It is essential that the activities authorized by House Bill 911, 70th Legislature, 1987, which amended Texas Civil Statutes, Article 1432f be initiated. In order to carry out its assigned functions, the commission should provide the telephone companies with adequate notice in order to begin generating the funds. 9-1-1 service is beneficial and serves the public health, safety, and welfare.

The new section is adopted on an emergency basis under Texas Civil Statutes, Article 1432f, which provides the Advisory Commission on State Emergency Communications with the authority to administer the implementation of statement 9-1-1 emergency telephone service.

§255.4. Definition of Equivalent Local Access Line. Each local exchange service provider shall add an equivalent local access line charge on each customer's bill whenever it assesses federal subscriber line charge.

Issued in Austin, Texas, on April 6, 1988.

TRD-8803779

Jay Stanford
Chairman
Advisory Commission on
State Emergency
Communications

Effective date: April 12, 1988

Expiration date: August 10, 1988

For further information, please call: (512) 463-1812

TITLE 4. AGRICULTURE Part II. Animal Health Commission

Chapter 34. Sale and Distribution of Veterinary Biological Products

• 4 TAC §34.1, §34.2

The Texas Animal Health Commission adopts on an emergency basis new (comprising new Chapter 34), §34.1 and §34.2, concerning definitions; and regulations for the sale and distribution of veterinary biologics in this state. The commission is proceeding on an emergency basis to allow the earliest possible adoption of these new sections to give specific rules governing the sale of veterinary biologics in Texas.

Numerous requests have been received by the commission to market veterinary biologics. The commission must determine the effectiveness of the biologic and whether or not the disease, for which the veterinary biologic is used or intended to be used, is present in this state and to what extent the disease is present.

Without controls on the use of veterinary biologics, there is an imminent threat to the health and welfare of valuable animals owned by the public. The new rules conform to the Administrative Procedure and Texas Register Act.

These new sections are adopted on an emergency basis under the Agriculture Code, Chapter 161, which grants rulemaking authority and sets forth the duty of this agency.

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

Commission—Texas Animal Health Commission (TAHC).

Executive Director—The executive director of the commission.

USDA, APHIS, VS—The United States Department of Agriculture, Animal and Plant Health Inspection Service, Veterinary Services.

Veterinary Biologics—All viruses, serums, toxins, and analogous products of natural or synthetic origin, or products prepared from any type of genetic engineering, such as diagnostics, antitoxins, vaccines, live microorganisms, killed microorganisms and the antigenic or immunizing components of microorganisms intended for use in the diagnosis, treatment, or prevention of diseases in animals.

§34.2. General Requirements.

(a) License. Only veterinary biolog-

ics produced under a regular license issued by the USDA, APHIS, VS, may be imported into the State of Texas. The executive director may allow the importation of unlicensed or conditionally licensed veterinary biologics when it is determined necessary for the protection of humans or domestic animals or for research purposes. Prior to importation of any newly licensed veterinary biologic into the state for sale, use, or distribution within the state, written approval of the commission shall be required.

(b) Restricted biologics to control diseases.

(1) All veterinary biologics used to control or diagnose any of the following diseases are restricted:

(A) Arkansas type infectious bronchitis;

(B) Brucellosis;

(C) Equine Infectious Anemia;

(D) Equine Viral Arteritis;

(E) Hog Cholera;

(F) Paratuberculosis;

(G) Laryngotracheitis;

(H) Pseudorabies;

(I) Tuberculosis;

(J) Vesicular Stomatitis;

(K) Potomac Horse Fever.

(2) Restricted veterinary biologics may be purchased, administered, or otherwise used by or under the following conditions:

(A) direct supervision of licensed veterinarians;

(B) employees of the commission and USDA;

(C) livestock and poultry producers; when authorized as follows:

(i) Arkansas type infectious bronchitis vaccine upon confirmed diagnosis by an approved laboratory, and written agreement between the commission and the flock owners in a designated area;

(ii) Larngotracheitis (LT), Chick Embryo Origin Vaccine upon tentative or confirmed diagnosis by an approved laboratory and written agreement between the commission and the flock owners in a designated area;

(D) research agencies or laboratories authorized by the commission;

(E) emergency disease control programs; and

(F) other limited and controlled purposes not likely to create a hazard to the public health or to the health of domestic animals.

(c) Recommendations and information on veterinary biologics. Recommendations for the sale and distribution of veterinary biologics may be solicited by the commission when it deems it advisable to ascertain the following information:

(1) known effectiveness of the biologic;

(2) whether or not the disease, for which the veterinary biologic is used or intended to be used, is present in this state and to what extent it is present;

(3) degree of isolation of the animals and area; and,

(4) any other factor which, having due regard for the properties of the biologic, may constitute a hazard to animal or public health in this state.

(d) Reporting of suspected or actual disease outbreak. In the interest of public health and good cooperative disease control, any person using any veterinary biologics, as defined in 34.1 of this title (relating to Definitions), shall report to the commission any suspected or actual disease outbreak or adverse reaction that occurs in connection with use of any veterinary biologic.

(e) Petitions. Any person, firm, or group may petition the commission for a review of the sale and distribution of any veterinary biologic at any time.

(f) Appeals. Any person, or other legal entity who receives an adverse decision by the executive director of this commission on the sale and distribution of veterinary biologics in this state may appeal such decision pursuant to the provisions of the Administrative Procedures Act.

Issued in Austin, Texas, on April 8, 1988.

TRD-8803763

John W. Holcombe
Executive Director
Texas Animal Health
Commission

Effective date: April 12, 1988

Expiration date: August 10, 1988

For further information, please call: (512) 479-6697

◆ ◆ ◆
TITLE 19. EDUCATION
Part II. Texas Education Agency

Chapter 81. Instructional Resources

Subchapter D. State Textbook Program

Local Operations

• **19 TAC §81.164**

The Texas Education Agency adopts an amendment to §81.164, concerning textbook depository status, on an emergency basis. The section previously required that requests for changes in depository status be submitted to the commissioner of education by September 1, to be effective January 1. The amended section allows publishers to move from one approved depository to another approved depository at their discretion. A completed, signed contract between the publisher and a depository must be filed with the agency within 15 days of signature, to serve as notice of a change in depository. The amendment also provides that payments from the Central Education Agency will be made directly to the publisher, or to any agent or trustee designated in writing by the publisher. Under this provision, a publisher may designate a depository as agent or trustee for receipt of payment.

This amendment is adopted on an emergency basis because the agency finds that an imminent peril to the public welfare exists which requires adoption of this amendment on fewer than 30 days' notice. It has come to the attention of the agency that one of the state's textbook depositories is experiencing serious cash flow problems which may affect its ability to handle orders for textbooks from public school in Texas. Based on information provided by several publishers under contract with the agency, there is concern that the depository in question may not be able to handle shipments of books ordered for the 1988-1989 school year to be delivered to Texas public schools by September 1, 1988. The amended section removes a previous regulatory limitation which would have prevented publishers from moving to another approved depository before an effective date of January 1. Payment provisions have also been amended, to ensure that state funds are paid to the publishers with whom the state has a contractual obligation for payment for books received, rather than to depositories, with whom the state has no contractual obligation, unless the depository is designated by the publisher as an agent or trustee to whom payment should be made on the publisher's behalf.

This amendment is adopted under the Texas Education Code, §12.31, which requires parties with whom book contracts have been made to establish or designate a depository, subject to the approval of the State Board of Education.

§81.164. *Depository Status.*

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

(c) Any publisher, at its discretion, may change from one depository to another depository approved by the State Board of Education pursuant to the Texas Education Code, §12.31, relating to depository approval. [Requests for change in depository status, requests to join a depository already established, or] Requests to establish a new depository shall be submitted to the commissioner of education [by] September 1.

(d) (No change.)

(e) A completed, signed contract between the publisher and a depository must be filed with the commissioner of education within fifteen days of signature. Receipt of this contract shall serve as notice of change of depository. [The effective date for depository changes shall be January 1.]

(f) Payments from the Central Education Agency shall be made directly to the publisher or to any agent or trustee designated in writing by the publisher for books received after the effective date of this rule. [These publishers establishing depository status for the first time shall have an effective date of December 1.]

Issued in Austin, Texas, on April 11, 1988.

TRD-8803687

W. N. Kirby
Commissioner of Education

Effective date: April 11, 1988

Expiration date: August 9, 1988

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

◆ ◆ ◆
TITLE 22. EXAMINING BOARDS

Part IX. State Board of Medical Examiners

Chapter 193. Standing Delegation Orders

• **22 TAC §193.7**

The State Board of Medical Examiners is renewing the effectiveness of the emergency adoption of new §193.7, for a 60-day period effective April 30, 1988. The text of new §193.7 was originally published in the December 18, 1987, issue of the *Texas Register* (12 TexReg 4722).

Issued in Austin, Texas on April 12, 1988.

TRD-8803756

Jean Davis
Texas Register Liaison
State Board of Medical
Examiners

Effective date: April 30, 1988

Expiration date: June 29, 1988

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

◆ ◆ ◆
TITLE 28. INSURANCE
Part I. State Board of
Insurance

Chapter 1. General
Administration

Subchapter C. Maintenance
Taxes

• 28 TAC §1.406

The State Board of Insurance is renewing the effectiveness of the emergency adoption of new §1.406, for a 60-day period effective April 15, 1988. The text of new §1.406 was originally published in the December 25, 1987, issue of the *Texas Register* (12 TexReg 4876).

Issued in Austin, Texas on April 12, 1988.

TRD-8803778

Nicholas Murphy
Chief Clerk
State Board of Insurance

Effective date: April 15, 1988

Expiration date: June 14, 1988

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

◆ ◆ ◆
Chapter 5. Property and
Casualty Insurance

Subchapter C. Texas Medical
Liability Insurance
Underwriting Association

• 28 TAC §5.2003

The State Board of Insurance is renewing the effectiveness of the emergency adoption of amended §5.2003, for a 60-day period effective April 15, 1988. The text of amended §5.2003 was originally published in the December 25, 1987, issue of the *Texas Register* (12 TexReg 4876).

Issued in Austin, Texas on April 12, 1988.

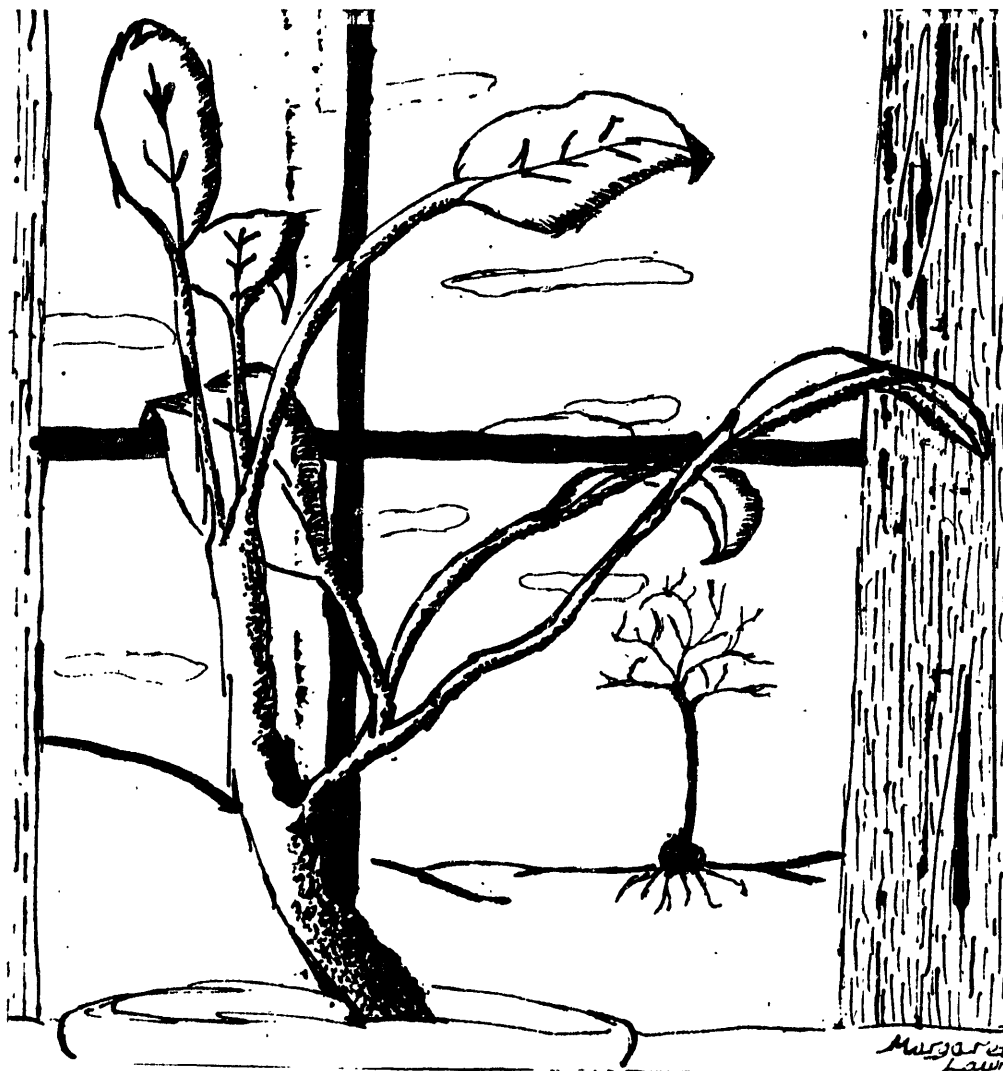
TRD-8803777

Nicholas Murphy
Chief Clerk
State Board of Insurance

Effective date: April 15, 1988

Expiration date: June 14, 1988

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



Name: Margaret Lawrence

Grade: 7

School: Clear Lake Intermediate, Clear
Creek

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 1.

ADMINISTRATION

Part XII. Advisory Commission on State Emergency Communications

Chapter 252. Administrative Definitions

1 TAC §252.1

The Advisory Commission on State Emergency Communications proposes new §252.1, concerning the definition of "state agency" for the billing purposes of the 9-1-1 service fees and surcharges. Texas Civil Statutes, Article 1432f, exempts state agencies from payment of a 9-1-1 service fee or surcharge. Being consistent with current state statute, this section defines public agencies in order to provide for the correct programming and billing of the 9-1-1 fees and surcharges by the telephone company service providers.

Jay G. Stanford, chairman, 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. Stanford 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 billing clarification and uniformity in exempting state agencies from being charged a 9-1-1 service for surcharge for planning, implementation, and operation of 9-1-1 emergency telephone systems. 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 Jay G. Stanford, Chairman, Advisory Commission on State Emergency Communications, P.O. Box 13206, Austin, Texas 78711, (512) 463-1812.

The new section is proposed under Texas Civil Statutes, Article 1432f, which provide the Advisory Commission on State Emergency Communications with the authority to administer the implementation of statewide emergency telephone service.

§252.1. Definition of State Agency for Billing Purposes of the 9-1-1 Service Fees and Surcharges. State agency means:

(1) any department, commission, board, office, or other agency that:

(A) is in the executive, legis-

lative, or judicial branch of state government;

(B) has authority that is not limited to a geographical portion of the state; and

(C) was created by the constitution or a statute of this state; or

(2) an institution of higher education as defined by the Education Code, §61.003, other than a public junior college or community college.

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 April 6, 1988.

TRD-8803780

Jay G. Stanford
Chairman
Advisory Commission on
State Emergency
Communications

Earliest possible date of adoption: May 20, 1988

For further information, please call: (512) 463-1812.

Chapter 255. Finance

• 1 TAC §255.4

(Editor's Note: The Advisory Commission on State Emergency Communications proposes for permanent adoption the new section it adopts on an emergency basis in this issue. The text of the new section is in the Emergency Rules section of this issue.)

The Advisory Commission on State Emergency Communications proposes new §255.4, concerning the definition of equivalent local access line. This rule has been filed for simultaneous emergency action. With the Advisory Commission approval of a regional 9-1-1 plan, Texas Civil Statutes, Article 1432f, provides a funding mechanism for the implementation of 9-1-1 Article 1432f, emergency telephone services by an assessment of a 9-1-1 service fee on local access lines. For clarification and uniformity of billing an local access lines. For clarification and uniformity of billing an approved 9-1-1 service fee, this section defines local access line for the telephone service providers.

Jay G. Stanford, chairman, 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. Stanford 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 and uniformity in the billing of 9-1-1 service fees as approved and authorized by the Advisory Commission and Texas Civil Statutes, Article 1432f, §6. The possible economic cost to individuals who are required to comply with the section as proposed will be there is no anticipated economic cost to individuals who are required to comply with the proposed section.

Comments on the proposal may be submitted to Jay G. Stanford, Chairman, Advisory Commission on State Emergency Communications, P.O. Box 13206, Austin, Texas 78711 (512) 463-1812.

The new section is proposed under Texas Civil Statutes, Article 1432f, which provides the Advisory Commission on State Emergency Communications administer the implement statewide 9-1-1 emergency telephone service.

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 April 6, 1988.

TRD-8803781

Jay Stanford
Chairman
Advisory Commission on
State Emergency
Communications

Earliest possible date of adoption: May 20, 1988

For further information, please call: (512) 463-1812

TITLE 4. AGRICULTURE

Part II. Texas Animal Health Commission

Chapter 34. Sale and Distribution of Veterinary Biological Products

• 4 TAC §34.1, §34.2

(Editor's Note: The Texas State Animal Health Commission proposes for permanent adoption the new sections it adopts on an emergency basis in this issue. The text of the new sections is in the Emergency Rules section of this issue.)

The Texas Animal Health Commission pro-

poses new §34.1 and §34.2 (comprising new Chapter 34), concerning definitions and general requirements. The new chapter clearly sets forth requirements for marketing of veterinary biological products. The proposed new sections are simultaneously adopted on an emergency basis in this issue of the *Texas Register*.

Hayden, director of administration, 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.

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 the public will be served by having guidelines governing the sale and distribution of veterinary biologics in this state. 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 Jo Anne Conner, Texas Animal Health Commission, P.O. Box 12966, Austin, Texas 78711.

The new sections are proposed under the Agriculture Code, Chapter 161, which provides the commission with authority to propose rules.

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 April 8, 1988.

TRD-8803764

John W. Holcombe
Executive Director
Texas Animal Health
Commission

Earliest possible date of adoption: May 20, 1988

For further information, please call: (512) 479-6697

Chapter 47. Requirements and Standards for Approved Personnel

• 4 TAC §§47.1, 47.2, 47.6

The Texas Animal Health Commission proposes amendments to §§47.1, 47.2, and 47.6, concerning general standards; definitions; and suspension or revocation of status of approved personnel, respectively.

Following adoption of §47.1 and §47.2 in February 1988, the agency experienced some difficulty in preparing certificates for distribution to approved personnel as evidence of approved status. The problem being that veterinarians had attended seminars as well as taking card test training; whereas, their technicians were only required to take card test training. A veterinarian's technician may vaccinate or collect blood as well as conduct the card test. The training technicians receive is given at the state/federal laboratory and training has now been added or vaccination and collecting blood samples. Recognition of veterinarians as approved personnel will be by certificate from the agency.

Recognition of the technician employed by a veterinarian will be by a veterinarian who will be by a card test permit issued by USDA. Veterinarians who do testing at livestock markets must receive complete owner information prior to conducting the card test as required in §47.6. Failure of the veterinarian to comply with this requirement is grounds for suspension or revocation of approved personnel status. Therefore this section has been amended to reflect this item as grounds for suspension or termination of approved personnel status.

Bill Hayden, director of administration, has determined that there will be fiscal implications as a result of enforcing or administering the sections. The effect on state government for the first five-year period the sections will be in effect is an estimated additional cost of \$1,075 in 1988; and \$450 for each year from 1989-1992. There will be no fiscal implications for local government or small businesses.

Mr. Hayden 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 having regulations to control the sale and distribution of veterinary biologics in this state that are unnecessary and unneeded. There is no anticipated economic cost to individuals who are required to comply with the sections as proposed.

§47.1. General. These regulations define and set the standards for personnel who [are approved by the commission to do] work in the Texas Bovine Brucellosis Program pursuant to the Agriculture Code, Chapter 163, §163.064. Only [those persons] approved personnel [by the commission as evidenced by certification and issued a USDA, APHIS, VS card test permit] are authorized to do brucellosis work in Texas and must hold a valid card test permit issued by USD, APHIS, VS to conduct the card test [draw blood and conduct brucellosis tests in Texas].

§47.2 Definitions. The following words and terms, when used in these sections [this chapter], shall have the following meanings, unless the context clearly indicates otherwise.

Approved personnel—Veterinarians and inspectors of the commission; USDA, APHIS, VS veterinary medical officers and animal health technicians; Texas veterinarians, who hold a Brucellosis Program training certificate issued by the commission, and veterinarians' technicians who have completed state-approved training in vaccination; blood collection and conducting the card test as evidenced by a card test permit. [Inspectors and veterinarians of the commission; federal animal health technicians and veterinarians, of USDA, APHIS, VS; accredited Texas veterinarians; and brucellosis technicians approved by the commission as evidenced by certification. These brucellosis technicians are employed by accredited Texas veterinarians to do assigned duties as described in these regulations for brucellosis control and control and eradication and work under direct supervision of the accredited veterinarian.]

Veterinarians' [Brucellosis Technicians.] Technician—Personnel employed by approved Texas veterinarians and who work under their

direct supervision. The technician must hold a valid card test permit issued by USDA, APHIS, VS to draw blood or conduct the card test. [Approved personnel (see the definition of approved personnel in this section) who are employed by accredited veterinarians and who hold valid card test permits, and are authorized officially to brucellosis vaccinate calves, to collect blood and to conduct the card test when under the direct supervision of the accredited veterinarian.]

§47.6. Suspension or Revocation of Status of Approved Personnel.

(a) (No change.)

(b) Suspension or revocation of approved personnel status may be made upon a determination that violations including, but not limited to, the following are found to have occurred.

(1)-(13) (No change.)

(14) Conducting the card test at a livestock market prior to receiving complete ownership information or backtag identification.

(c)-(h) (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 April 8, 1988.

TRD-8803766

John W. Holcombe
Executive Director
Texas Animal Health
Commission

Earliest possible date of adoption: May 20, 1988

For further information, please call: (512) 479-6697

TITLE 7. BANKING AND SECURITIES

Part II. Texas Department of Banking

Chapter 11. Miscellaneous

• 7 TAC §11.25

(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 Texas Department of Banking, 2601 North Lamar Boulevard, Austin or in the Texas Register office, Room 503, Sam Houston Building, Room 201, East 14th Street, Austin.)

The Banking Department of Texas proposes the repeal of §11.25, concerning qualifications of bank examiners. The repeal enhances the ability of the department to hire qualified examiners.

Carlos J. Contreras, III, assistant general counsel has determined that for the first five-year period the proposed repeal 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 repeal.

Mr. Contreras also has determined that for

each year of the first five years the repeal is in effect the public benefit anticipated as a result of enforcing the repeal will be enhanced ability of the Banking Department of Texas to hire qualified examiners. There is no anticipated economic cost to individuals who are required to comply with the repeal as proposed.

Comments on the proposal may be submitted to Carlos J. Contreras, III, Assistant General Counsel, Texas Department of Banking, 2601 North Lamar Boulevard, Austin, Texas 78705.

The repeal is proposed under Texas Civil Statutes, Article 342-113, which provide the Banking Section of the Finance Commission with the authority to promulgate rules which are not inconsistent with the Constitution and statutes of this state.

§11.25. Qualifications of Examiners.

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 April 12, 1988.

TRD-8803740
Jorge A. Gutierrez
General Counsel
Texas Department of
Banking

Earliest possible date of adoption: May 19, 1988

For further information, please call: (512) 479-1200

TITLE 22. EXAMINING BOARDS

Part XXII. Texas State Board of Public Accountancy

Chapter 511. Certification as CPA

Certification

• 22 TAC §511.163

(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 Texas State Board of Public Accountancy, 1033 La Posada, Suite 340, Austin or in the Texas Register office, Room 503, Sam Houston Building, Room 201, East 14th Street, Austin.)

The Texas State Board of Public Accountancy proposes the repeal of §511.163, concerning replacement certificates. The repeal will allow for the adoption of a new section that will set forth guidelines for issuance of replacement certificates for licensees of the board.

Bob E. Bradley, executive director, has determined that for the first five-year period the proposed repeal 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 repeal.

Mr. Bradley also has determined that for each year of the first five years the repeal is in effect the public benefit anticipated as a result of enforcing the repeal will be to allow for the adoption of a new section that will establish

guidelines for the issuance of replacement certificates. There is no anticipated economic cost to individuals who are required to comply with the repeal as proposed.

Comments on the proposal may be submitted to William A. Sansing, 1033 La Posada, Suite 340, Austin, Texas 78752-3892.

The repeal is proposed under Texas Civil Statutes, Article 41a-1, §6(a), which provide the Texas State Board of Public Accountancy with the authority to promulgate rules regarding replacement certificates for certified public accountants.

§511.163. Replacement Certificates.

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 April 11, 1988.

TRD-8803691
Bob E. Bradley
Executive Director
Texas State Board of
Public Accountancy

Earliest possible date of adoption: May 19, 1988

For further information, please call: (512) 450-7066

The Texas State Board of Public Accountancy proposes the new §511.163, concerning replacement certificates. The new section sets forth guidelines for issuance of replacement certificates for licensees of the board.

Bob E. Bradley, executive director, 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. Bradley 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 that guidelines will be set forth for the issuance of replacement certificates for licensees of the board. 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 William A. Sansing, 1033 La Posada, Suite 340, Austin, Texas 78752-3892.

The new section is proposed under Texas Civil Statutes, Article 41a-1, §6(a), which provide the Texas State Board of Public Accountancy with the authority to promulgate rules regarding replacement certificates for certified public accountants.

§511.163. *Replacement Certificates.* Replacement certificates may be issued by the board in appropriate cases and upon payment by the certified public accountant or public accountant of the actual cost, as determined by the board, of the replacement certificate.

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 April 11, 1988.

TRD-8803690
Bob E. Bradley
Executive Director
Texas State Board of
Public Accountancy

Earliest possible date of adoption: May 19, 1988

For further information, please call: (512) 450-7066

TITLE 28. INSURANCE

Part I. State Board of Insurance

Chapter 15. Surplus Lines Insurance

Subchapter A. General Regulation of Surplus Lines Insurance

• 28 TAC §15.28

The State Board of Insurance proposes new §15.28, concerning the use of surplus lines insurance by a licensee or an applicant for a license under the Private Investigators and Private Security Agencies Act (the Act). The new section was previously adopted on an emergency basis and became effective on December 7, 1987. Notice of emergency adoption of the new section appeared in the December 15, 1987, issue of the *Texas Register* (12 TexReg 4667), and notice of renewal of the effectiveness of the emergency adoption appeared in the April 12, 1988, issue of the *Texas Register* (13 TexReg 1701). This new section is necessary in order to prevent disruption of the regulation of private investigators and private security agencies under the Act, Texas Civil Statutes, Article 4413(29bb). Recent amendment of the Act increases the amount of liability insurance required of licensees under the Act. The Act, §40, requires proof of liability insurance coverage for damages because of bodily injury. Even before the increase in the required amount, such liability insurance has not always been available from insurers licensed within this state. This new section allows the use of surplus lines insurance written prior to September 1, 1989, for liability insurance coverage required under the Act.

R. B. Ashworth, deputy commissioner for corporate and financial regulation, 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. Ashworth 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 implementation of recent amendment of the Private Investigators and Private Security Agencies Act. 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 R. B. Ashworth, Deputy Insurance Commissioner for Corporate and Financial Regulation, State Board of Insurance, 1110 San

Jacinto Boulevard, Austin, Texas 78701-1998.

The new section is proposed under the Insurance Code, Article 1.04, and Texas Civil Statutes, Article 4413(29bb), §40(c), and Article 6252-13a, §5. The Insurance Code, Article 1.04, authorizes the State Board of Insurance to determine policy and rules. Texas Civil Statutes, Article 4413(29bb), §40(c), provide for approval by the State Board of Insurance of the purchase from a surplus lines insurer of liability insurance coverage for applicants for licenses under the Private Investigators and Private Security Agencies Act. Texas Civil Statutes, Article 6252-13a, §5, prescribe the procedure for adoption of rules by any state administrative agency.

§15.28. *Use of Surplus Lines Insurance under the Private Investigators and Private Security Agencies Act.*

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

Act—The Private Investigators and Private Security Agencies Act, Texas Civil Statutes, Article 4413(29bb).

Applicant—An applicant for, or a holder of, a license under the Act.

Private Investigators Board—The Texas Board of Private Investigators and Private Security Agencies.

(b) If an applicant has established to the Private Investigators Board that liability insurance coverage as required under the Act, §40, cannot be obtained from an insurer authorized to do business in this state, the applicant may obtain coverage from a surplus lines insurer that meets the requirements of the Insurance Code, Article 1.14-2. Approval of the use of surplus lines insurance by this section shall apply only to coverage written prior to September 1, 1989. Nothing in this section shall excuse the applicant from compliance with the Act, §40, Subsections (b) and (c).

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 April 12, 1988.

TRD-8803776 Nicholas Murphy
Chief Clerk
State Board of Insurance

Earliest possible date of adoption: May 20, 1988

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

TITLE 40. SOCIAL SERVICES AND ASSISTANCE

Part I. Texas Department of Human Services

Chapter 33. Early and Periodic Screening, Diagnosis, and Treatment

Subchapter R. Dental Services

• 40 TAC §33.301

The Texas Department of Human Services (DHS) proposes an amendment to §33.301 and new §§33.324-33.327, concerning orthodontic services, in its Early and Periodic Screening, Diagnosis, and Treatment (EPSDT) Program. The sections implement orthodontic services as part of the services available in the EPSDT Program. The department's health insuring agent, the National Heritage Insurance Company (NHIC), will administer the orthodontic services. Participating dentists must be licensed by the Texas State Board of Dental Examiners and enrolled as providers in the Medicaid EPSDT Dental Program as providers of orthodontic services.

Brian Packard, associate commissioner for budget, planning, and economic analysis, has determined that for the first five-year period the proposed section will be in effect there will be fiscal implications for state government as a result of enforcing or administering the section. The cost to the state is expected to be \$63,097 in fiscal year 1988; \$333,424 in fiscal year 1989; \$365,021 in fiscal year 1990; \$376,687 in fiscal year 1991; and \$386,304 in fiscal year 1992. There will be no effect on local governments or small businesses as a result of enforcing or administering the section.

Mr. Packard has also 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 the availability of orthodontic services for children through age 20 who are EPSDT Medicaid eligible and who meet the criteria for DHS orthodontic services. There is no anticipated economic cost to individuals who are required to comply with the proposed section.

Comments on the proposal may be submitted to Cathy Rossberg, Administrator, Policy Development Support Division-206, Texas Department of Human Services 222-E, P.O. Box 2960, Austin, Texas 78769, within 30 days of publication in the *Texas Register*.

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.

§33.301. *Dental Examination and Treatment.* Four [Three] types of services are available as funds permit: emergency, preventive, [and] therapeutic, and orthodontic. [To reinforce the fact that different request procedures are followed to obtain these services,] The definitions are presented in the following sections.

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 April 12, 1988.

TRD-8803712 Marlin W. Johnston
Commissioner
Texas Department of
Human Services

Proposed date of adoption: June 15, 1988

For further information, please call: (512) 450-3765.

• 40 TAC §§33.324-33.327

The new sections 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.

§33.324. *Orthodontic Services.*

(a) Orthodontic services are limited to the following:

(1) severe handicapping malocclusion, as measured on the Handicapping Labio-Lingual Deviation Index (HLD) with a minimum score of 26;

(2) crossbite therapy;

(3) facial accidents involving severe traumatic deviations;

(4) cleft palates with gross malocclusion that will benefit from early treatment. No other cases in the mixed dentition may be considered.

(b) Cosmetic orthodontia is not covered.

§33.325. *Recipient's Eligibility for Orthodontic Services.*

(a) Recipients must be under age 21 on the dates that the prior authorization request is submitted and the appliances first applied. The recipient must also be eligible for Medicaid.

(b) If the recipient has had appliances but loses Medicaid eligibility before his orthodontic treatment ends, the EPSDT Program provides four months of post-coverage payment for monthly appliance adjustments, appliance removal, or retainer application. Coverage is available whether or not the recipient may have been eligible for four months post-coverage of Medicaid benefits.

§33.326. *Provider Participation.*

(a) Dentists interested in providing orthodontic services must be licensed by the Texas State Board of Dental Examiners and enrolled as providers in the Medicaid EPSDT Dental Program as providers of orthodontic services.

(b) The NHIC associate dental director must authorize all orthodontic treatment. Providers must submit the following with each request for prior authorization:

(1) properly occluded and

trimmed dental models;

(2) cephalometric radiograph with tracing models;

(3) completed and scored HLD sheet with diagnosis of angle class;

(4) facial photographs;

(5) treatment plan;

(6) full series of radiographs or a panorex;

(7) additional pertinent information as determined by the provider or requested by the associate dental director.

(c) The NHIC associate dental director returns all submittals to the provider.

(d) If a case is not approved, the provider may file a claim and receive payment to defray the costs of the diagnostic materials necessary to obtain the prior authorization. The provider may receive payment for no more than two denials out of 10 cases he submits.

§33.327. Post-payment Review.

(a) A board-certified orthodontist performs on-site utilization reviews.

(b) At the provider's expense, the provider must submit study models and diagnostic work-up information on patients with questionable review results.

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 April 12, 1988.

TRD-8803713 Marlin W. Johnston
Commissioner
Texas Department of
Human Services

Proposed date of adoption: June 15, 1988

For further information, please call: (512) 450-3765.

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Chapter 46. Residential Care Program

The Texas Department of Human Services (DHS) proposes the repeal of §46.2002, §46.2009, and 46.2010, concerning prior approval for services, and new prior approval for services, critical omissions/errors, and renewal of prior approval, respectively, in its Residential Care Program chapter. The purpose of the proposal is to clarify the provider agency requirements for obtaining prior approval. The department is simultaneously proposing related changes to clarify the relationship between the residential health care client's medical condition and his need for residential health care, in its community care for aged and disabled chapter.

Brian Packard, associate commissioner for budget, planning, and economic analysis, has determined that for the first five-year period the proposed repeal and 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 repeal sections.

Mr. Packard has also determined that for each year of the first five years the repeal and sections are in effect the public benefit anticipated as a result of enforcing the repeal and sections will be that provider agencies will know which omissions in documentation will cause their prior approval requests to be rejected by the department. There is no anticipated economic cost to individuals who are required to comply with the proposed repeal and sections.

Comments on the proposal may be submitted to Cathy Rossberg, Administrator, Policy Development Support Division-199, Texas Department of Human Services 222-E, P.O. Box 2060, Austin, Texas 78769, within 30 days of publication in the *Texas Register*.

Provider Participation

• **40 TAC §46.2002**

The repeal 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.

§46.2002. Prior Approval for Services.

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 April 12, 1988.

TRD-8803716 Marlin W. Johnston
Commissioner
Texas Department of
Human Services

Proposed date of adoption: June 1, 1988

For further information, please call: (512) 450-3765.

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The new section 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.

§46.2002. Prior Approval for Services.

(a) When a facility receives the approval for CCAD services-referral response form indicating a supervised living recipient's potential eligibility for residential health care, the facility's registered nurse (RN) must complete the following tasks before requesting prior approval.

(1) Conduct a face-to-face nursing assessment of the recipient, using the client health assessment/proposed service plan form. If the assessment cannot be conducted within 14 days, the facility RN must notify the caseworker about the reason for delay. This notification must be sent on the case information form within 14 days of the referral date on the approval for CCAD services-referral response form.

(2) Obtain a physician's order for residential health care by sending the department's physician's order form to the

recipient's physician. If the facility's RN does not obtain the physician's order within 14 days of the referral date on the approval for CCAD services-referral response form, he must notify the caseworker. The physician signing the order must not be one who is excluded from participation by Medicare or Medicaid.

(b) The facility RN must request prior approval of residential health care within 14 days of the referral date on the approval for CCAD services-referral response form, by sending the following forms to the regional nurse:

- (1) client intake;
- (2) summary of client need for service;
- (3) approval for CCAD services-referral response;
- (4) client health assessment/proposed service plan;
- (5) physician's order; and
- (6) enrollment agreement.

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 April 12, 1988.

TRD-8803717 Marlin W. Johnston
Commissioner
Texas Department of
Human Services

Proposed date of adoption: July 1, 1988

For further information, please call: (512) 450-3765.

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• **40 TAC §46.2009, §46.2010**

The new sections 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.

§46.2009. Critical Omissions/Errors.

(a) If the client health assessment/proposed service plan or the physician's orders is missing, or if any of the following critical omissions has occurred in the required documentation, the facility cannot obtain prior approval.

(1) The facility RN fails to sign or date the client health assessment/proposed service plan or omits the RN credentials that should follow his signature.

(2) Major functional impairment documented on the client health assessment/proposed service plan is not related to medical diagnosis(es) on the physician's order or functional impairment is not documented.

(3) Service plan tasks are not identified on the client health assessment/proposed service plan.

(4) For renewal of prior approval, the client health assessment/proposed service plan is dated more than 60 days before the end of the prior approval period.

(5) The medical diagnosis(es) on the physician's order does not support the recipient's functional impairment.

(6) The MD or DO credential is missing from the physician's or osteopath's signature on the physician's order.

(7) The physician's order does not include the license number of the physician or osteopath who signed it.

(8) The physician who signed the order is excluded from participation in Medicare or Medicaid.

(9) The residential health care order block is not checked on the physician's order.

(10) The physician did not sign the physician's order.

(11) The physician's signature date or the facility's stamped date is missing from the physician's order.

(12) The facility's stamped date used instead of the physician's date on the physician's order does not include the facility's name, abbreviated name, or initials.

(13) For renewal of prior approval, the physician's order has a date that is earlier than 30 days before the end of the prior approval period.

(b) Corrections of critical omissions or errors in facility documentation must be postmarked or date stamped as received by the department within 14 days after the regional nurse mails the notification of critical omissions/errors in required documentation. If the facility fails to meet this time frame, the date of prior approval can be no earlier than the first day of the month following the postmark or department-stamped date on the corrected documentation.
\$46.2010. Renewal of Prior Approval.

(a) To request renewal of prior approval, the facility RN must send the following forms to the regional nurse:

(1) approval for CCAD services-referral response, if received from caseworker;

(2) client health assessment/proposed service plan; and

(3) physician's order.

(b) The facility RN must make an on-site nursing assessment of the client to develop a proposed service plan and must obtain a physician's order for residential health care. The nursing assessment must be dated no more than 60 days before the end of the prior approval period. The physician's order must be dated no more than 30 days before the end of the prior approval period.

(c) The facility RN must submit

prior approval renewal material to the regional nurse in time for it to be postmarked or date-stamped by the department on or before the termination date of the current prior approval period.

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 April 12, 1988.

TRD-8803718

Marlin W. Johnston
Commissioner
Texas Department of
Human Services

Proposed date of adoption: July 1, 1988

For further information, please call: (512) 450-3765.

Chapter 48. Community Care for Aged and Disabled

Eligibility

• 40 TAC §48.2930

The Texas Department of Human Services (DHS) proposes an amendment to §48.2930, concerning residential health care, in its community care for aged and disabled chapter. The purpose of the amendment is to clarify the relationship between the client's medical condition and his need for residential health care. The department is simultaneously proposing related changes to prior approval requirements in its Residential Care Program chapter.

Brian Packard, associate commissioner for budget, planning, and economic analysis, has determined that for the first five-year period the proposed section 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 section.

Mr. Packard has also 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 that more clients may be referred for residential health care services. There is no anticipated economic cost to individuals who are required to comply with the proposed section.

Comments on the proposal may be submitted to Cathy Rossberg, Administrator, Policy Development Support Division-199, Texas Department of Human Services 222-E, P.O. Box 2960, Austin, Texas 78769, within 30 days of publication in the *Texas Register*.

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.

\$48.2930. Residential Health Care.

(a) Residential health care applicant/clients must meet the following eligibility criteria:

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

(3) have a medical need for personal care. The client's medical condition must be[,] substantiated by symptoms

and a physician's medical diagnosis(es). The medical condition must be the cause of the client's functional impairment in performing personal care tasks. Mental illness and/or mental retardation are not considered medical conditions for this purpose but may be present if the client's functional impairment is related to a coexisting medical condition [diagnosis, which requires assistance with personal care];

(4) have a signed and dated physician's order for residential health care [orders];

[(5) have a service plan that links prescribed tasks to the applicant/client's needs;]

(5) [(6)] have a signed and dated enrollment agreement; and

(6) [(7)] be a resident of a residential care facility.

(b)-(g) (No change.)

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

Issued in Austin, Texas, on April 12, 1988.

TRD-8803715

Marlin W. Johnston
Commissioner
Texas Department of
Human Services

Proposed date of adoption: June 1, 1988

For further information, please call: (512) 450-3765.

Chapter 49. Child Protective Services

Subchapter C. Eligibility for Child Protective Services

• 40 TAC §49.316, §49.317

The Texas Department of Human Services (DHS) proposes amendments to §49.316 and §49.317, concerning eligibility requirements for foster care assistance, in its child protective services chapter. The purpose of the amendments is to extend eligibility for foster care assistance to alien children legally residing in the United States. These children currently receive county-paid assistance. The amendments will shift the source of payment to the state. Approximately 60 children will become eligible for AFDC or state-paid foster care.

Brian Packard, associate commissioner for budget, planning, and economic analysis, has determined that for the first five-year period the proposed sections will be in effect there will be fiscal implications for state and local governments as a result of enforcing or administering the sections. The effect on state government for the first five-year period the sections will be in effect is an estimated additional cost of \$64,390 in 1988; \$254,047 in 1989; \$251,401 in 1990; \$248,583 in 1991; and \$247,141 in 1992. The effect on local government for the first five-year period the

sections will be in effect is an estimated reduction in cost of \$90,000 for 1988; and \$360,000 for 1989-1992. There will be no fiscal implications for small businesses as a result of enforcing or administering the sections.

Mr. Packard has also 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 access to foster care assistance for alien children in the department's managing conservatorship. 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 Support Division-201, Texas Department of Human Services 222-E, P.O. Box 2960, Austin, Texas 78769, within 30 days of publication in the *Texas Register*.

The amendments are proposed under the Human Resources Code, Title 2, Chapter 22, which provides the department with the authority to administer public assistance programs.

§49.316. Eligibility Requirements for AFDC, MAO, and State-Paid Foster Care Assistance. The child must meet all of the following criteria to be eligible for AFDC, MAO, or state-paid foster care.

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

(3) **Citizenship and Alien Status.** The child must be a citizen of the United States or an alien:

(A) lawfully admitted for permanent residence; [A child of unknown parentage, who is in the United States when he is less than five years old, is considered a United States citizen unless a determination is made before the child is 21 years old that the child was not born in the United States.]

(B) granted temporary residence status under the Immigration Reform and Control Act of 1986, Public Law 99-603; or

(C) permanently residing in the United States under color of law (PRUCOL). A deportable alien living in the United States with the continuing knowledge and permission of the Immigration and Naturalization Services is PRUCOL.

(4)-(8) (No change.)
§49.317. Additional Eligibility Requirements for AFDC Foster Care. Besides the general requirements for foster care eligibility, a child must meet other criteria to be eligible for AFDC foster care. These criteria are:

(1) (No change.)

[(2) managing conservatorship. DHS must retain managing conservatorship continuously from the time of the court order through the child's placement.]

(2)[(3)] **judicial determination.** Except in emergency removals, the court must make a determination that DHS made reasonable efforts to prevent removal and to reunify the family.

(3)[(4)] **relationship and domicile.** The child must have been living with person who meets the AFDC relationship requirements during the month court proceedings were initiated or during the six months before the month court proceedings were initiated.

(4)[(5)] **need.** The child's family must have been living at subsistence level or below according to AFDC income standards. If the child has a stepparent living in the home, the stepparent's income is considered according to the rules governing stepparent income for AFDC eligibility.

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 April 12, 1988.

TRD-8803711

Marlin W. Johnston
Commissioner
Texas Department of
Human Services

Proposed date of adoption: July 1, 1988

For further information, please call: (512) 450-3765.

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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 22. EXAMINING BOARDS

Part XXIII. Texas Real Estate Commission

Chapter 535. Provisions of the Real Estate License Act

• 22 TAC §535.163

The Texas Real Estate Commission has withdrawn from consideration for permanent adoption a proposed new section which appeared in the March 8, 1988, issue of the *Texas Register* (13 TexReg 1178). The effective date of this withdrawal is April 12, 1988.

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.

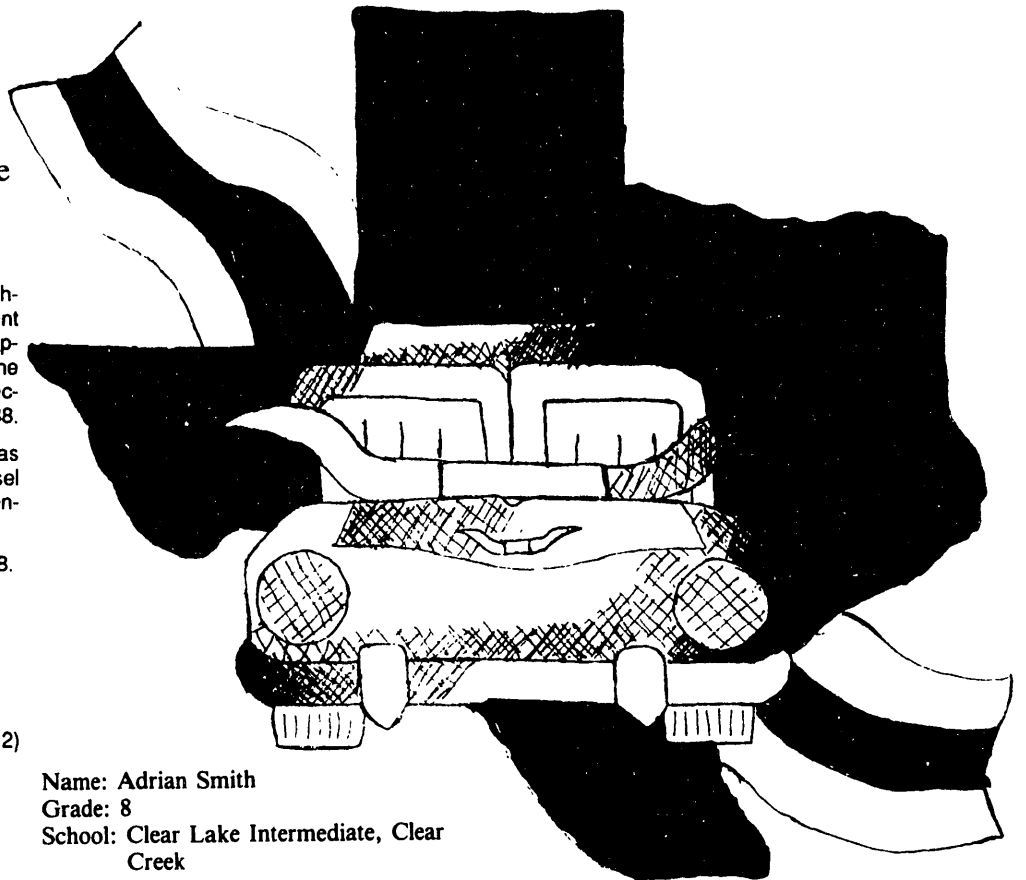
Issued in Austin, Texas on April 12, 1988.

TRD-8803754

Mark A. Moseley
Legal Counsel
Texas Real Estate
Commission

Filed: April 12, 1988

For further information, please call: (512)
465-3960



Name: Adrian Smith
Grade: 8
School: Clear Lake Intermediate, Clear
Creek

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 4. AGRICULTURE

Part II. Texas Animal Health Commission

Chapter 35. Brucellosis

Subchapter A. Eradication of Brucellosis

4 TAC §35.2

The Texas Animal Health Commission adopts an amendment to §35.2, with changes to the proposed text published in the February 5, 1988, issue of the *Texas Register* (13 TexReg 582). New wording in the subsection clarifies the point of allowing the postquarantine test to serve as the certifying test for herd certification. There had been no requirements in subsection (l)(1)(A)-(B) for a person protesting a herd test or herd plan to specify the nature of the protest. This was a detriment to an orderly and expeditious hearing process. The amended language corrects this.

This amendment was required to clarify confusing language that allows the postquarantine test to serve as the certifying test for herd certification.

The section sets out requirements regarding postquarantine testing of cattle and the contents of a protest or an appeal from a herd owner to an initial test or herd plan.

No comments were received regarding adoption of the amendment.

The amendment is adopted under the Agriculture Code, Chapters 161 and 163, which provides the commission with the authority to adopt rules and sets forth the duties of the commission to protect domestic animals in the state from disease.

§35.2. General Requirements.

(a)-(j) (No change.)

(k) Requirements following classification of a dairy or a beef animal or a bison as a reactor or a suspect.

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

(4) The plan will consist of the following:

(A)-(D) (No change.)

(E) Postquarantine test.

Upon release of quarantine the owner/caretaker shall retest all test-eligible cattle in not less than 10 months nor more than 16 months from the removal of the last reactor from herds found to be infected.

(When brucellosis free herd certification is desired, the postquarantine test must be conducted pursuant to §35.3(d)(1)(B) of this title (relating to Requirements for Certified Brucellosis Free Herd of Cattle).

(l) Procedures to protest an initial test or a herd plan.

(1) If a person after consultation with the state/federal veterinarian of the brucellosis control program objects to an initial test or a herd plan for the preservation or elimination of brucellosis in each herd classified as affected, adjacent or high risk due to a reactor or suspect animal, he may protest such initial test or a herd plan.

(A) To protest, the herd owner must request a meeting, in writing, with the executive director of the commission within 15 days of receipt of the herd plan or notice of an initial test and set forth a short, plain statement of the issues that shall be the subject of the protest, after which:

(i) the meeting will be set by the executive director no later than 21 days from receipt of the request for a meeting;

(ii) the meeting or meetings shall be held in Austin; and

(iii) the executive director shall render his decision in writing within 14 days from date of the meeting.

(B) Upon receipt of a decision or order by the executive director which the herd owner wishes to appeal, the herd owner may file an appeal within 15 days in writing with the chairman of the commission and set forth a short, plain statement of the issues that shall be the subject of the protest.

(C) The subsequent hearing will be conducted pursuant to the provisions of the Administrative Procedure and Texas Register Act, and Chapter 32 of the title (relating to Hearing and Appeal Procedures).

(m)-(v) (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 April 8, 1988.

TRD-8803761

John W. Holcombe, DVM
Executive Director
Texas Animal Health
Commission

Effective date: May 5, 1988

Proposal publication date: February 5, 1988

For further information, please call: (512) 479-6697

Chapter 49. Equine

• 4 TAC §49.1

The Texas Animal Health Commission adopts an amendment to §49.1 without changes to the proposed text published in the February 5, 1988, issue of the *Texas Register* (13 TexReg 582).

Concern for more uniform enforcement of the required identification of Equine Infectious Anemia (EIA) reactors prompted this amendment making it the responsibility of the commission representative. Identifying the EIA reactor with a lip tattoo had not been an effective method of identification, therefore it was removed as an option. In order to assure uniformity in the issuance of quarantines, the commission representative is given this responsibility by this amendment.

Amended wording in subsection (f) specifies that the commission representative is responsible for identifying EIA reactors. Another change deletes all reference to allowing a reactor to be identified with a lip tattoo. New wording in subsection (g) specifies that the commission representative is responsible for issuing the quarantine on an EIA reactor.

No comments were received regarding adoption of the amendment.

The amendment is adopted under the Agriculture Code, Chapter 161, which provides the commission with the authority to adopt rules and sets forth the duties of the commission to protect domestic animals in the state from disease.

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 April 8, 1988.

TRD-8803762

John W. Holcombe, DVM
Executive Director
Texas Animal Health
Commission

Effective date: May 5, 1988

Proposal publication date: February 5, 1988

For further information, please call: (512) 479-6697

TITLE 7. BANKING AND SECURITIES

Part I. State Finance Commission

Chapter 3. Banking Section

Subchapter B. General

• 7 TAC §3.33

The Finance Commission of Texas, Banking Section, adopts new §3.33, without changes to the proposed text published in the January 5, 1988, issue of the *Texas Register* (13 TexReg 84).

The new section is adopted in accordance with Texas Civil Statutes, Article 6252-13b.1, §§1-7, enacted as House Bill 5, 70th Legislature, 1987.

The new section provides a period of time within which the commissioner must issue a written notice informing the applicant that the application is complete and accepted for filing, or that the application is deficient, setting out specific additional information that is required. The new section provides a period of time, beginning on the date a complete application has been accepted for filing, within which the agency must reach a decision to either deny or approve the application. The new section also establishes a process for appeals directly to the Banking Section for a timely resolution of any dispute arising from a violation of the periods set forth in the new section, including the applicant's entitlement to reimbursement of filing fees, if any, if the commissioner fails to show good cause for exceeding the periods established by the rule.

No comments were received regarding adoption of the new section.

The new section adopted under Texas Civil Statutes, Article 6252-13b.1, §§1-7, which provide the Banking Section of the State Financing Commission with the authority to promulgate rules setting out procedures for processing applications; setting out time periods to be followed; and establishing an appeal process in the event that the time periods are not followed.

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 April 12, 1988.

TRD-8803745 Jorge A. Gutierrez
 General Counsel
 State Finance Commission

Effective date: May 3, 1988

Proposal publication date: January 5, 1988

For further information, please call: (512) 479-1200

Chapter 27. Applications

• 7 TAC §27.1

The Banking Department of Texas adopts new §27.1, without changes to the proposed text published in the January 5, 1988, issue

of the *Texas Register* (13 TexReg 94).

The new section in accordance with Texas Civil Statutes, Article 6252-13b.1, §§1-7, enacted as House Bill 5, by the 70th Legislature, 1987.

The new section provides a period of time within which the department must issue a written notice informing the applicant that the application is complete and accepted for filing, or that the application is deficient, setting out specific additional information that is required. The new section also provides a period of time, beginning the date a complete application has been accepted for filing, within which the commissioner must reach a decision to either deny or approve the application. The new section also establishes a process for appeals directly to the commissioner for a timely resolution of any dispute arising from a violation of the periods set forth in the section, including the applicant's entitlement to reimbursement of filing fees if the department or the commissioner fail to show good cause for exceeding the periods established by the section.

No comments were received regarding adoption of the new section.

The new section is adopted under Texas Civil Statutes, Article 6252-13b.1, §§1-7, which provide the Banking Department with the authority to promulgate rules setting out procedures for processing applications; setting out time periods to be followed; and establishing an appeal process in the event that the time periods are not followed.

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 April 12, 1988.

TRD-8803744 Jorge A. Gutierrez
 General Counsel
 Banking Department of
 Texas

Effective date: May 3, 1988

Proposal publication date: January 5, 1988

For further information, please call: (512) 479-1200

Chapter 31. Miscellaneous

General Rules

• 7 TAC §31.7

The State Banking Board adopts new §31.7, without changes to the proposed text published in the January 5, 1988, issue of the *Texas Register* (13 TexReg 85).

The new section is adopted in accordance with Texas Civil Statutes, Article 6252-13b.1, §§1-7, enacted as House Bill 5, by the 70th Legislature, 1987.

The new section provides a period of time within which the department, on behalf of the board, must issue a written notice informing the applicant that the application is complete and accepted for filing, or that the application is deficient, setting out specific additional information that is required. In addition, a period of time is established, beginning on the date a complete application has been

accepted for filing, within the board must reach a decision to either deny or approve the application. The new section also establishes a process for appeals directly to the board for a timely resolution of any dispute arising from a violation of the periods set forth in the section, including the applicant's entitlement to reimbursement of filing fees, if any, if the commissioner fails to show good cause for exceeding the periods established by the section.

No comments were received regarding adoption of the new section.

The new section is adopted under Texas Civil Statutes, Article 6252-13b.1, §§1-7, which provide the State Banking Board with the authority to promulgate rules setting out procedures for processing applications; setting out time periods to be followed; and establishing an appeal process in the event that the time periods are not followed.

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 April 12, 1988.

TRD-8803743 Jorge A. Gutierrez
 General Counsel
 Department of Banking

Effective date: May 3, 1988

Proposal publication date: January 5, 1988

For further information, please call: (512) 479-1200

TITLE 16. ECONOMIC REGULATION

Part I. Railroad Commission of Texas

Chapter U. General and Special Rules of Practice and Procedure

• 16 TAC §5.459

The Railroad Commission of Texas adopts an amendment to §5.459, without changes to the proposed text in the December 4, 1987, issue of the *Texas Register* (12 TexReg 4513).

The amendment revises the list of documents available by subscription to include a notice of deviation application. Pursuant to the Motor Carrier Act, §4(a)(4), Texas Civil Statutes, Article 911b, the commission is required to give prompt notice to the public of any proposed deviation from the prescribed base rate submitted by a carrier.

No comments were received regarding adoption of the amendment.

The amendment is adopted under Texas Civil Statutes, Article 911b, §4(a)(1) and (4) and §14, which provide the Railroad Commission with the authority to establish 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 April 12, 1988.

Effective date: April 3, 1988

Proposal publication date: December 4, 1987

For further information, please call: (512) 463-7149

TITLE 19. EDUCATION

Part II. Texas Education Agency

Chapter 75. Curriculum

Subchapter F. Graduation Requirements

• 19 TAC §§75.151-75.152

The Texas Education Agency adopts amendments to §75.151 and §75.152. Section 75.152 is adopted with changes to the proposed text published in the February 26, 1988, issue of the *Texas Register* (13 TexReg 952). Section 75.151 is adopted without changes and will not be republished. In §75.152, the cross-reference subsection (d) to subsection (e) has been corrected. Section 75.151 concerns high school graduation requirements, and §75.152 concerns the advanced high school program. The amendments delete references to requirements that all units for high school graduation, without exception, be completed in grades nine-12, since as a result of previous State Board of Education action it is now possible to receive high school graduation credit for high school courses satisfactorily completed in grades seven and/or eight. The amendments also include a reference to College Board Advanced Placement literature and composition as an alternative way to satisfy the requirement for the fourth unit of English. The list of computer science options for the advanced high school program has been updated to reflect recent amendments to rules for vocational education. Under the amended sections, students will be able to receive high school graduation credit for certain courses completed in grades seven and/or eight and will also be able to satisfy the requirement for a fourth unit of English through the College Board Advanced Placement program.

No comments were received regarding adoption of the amendments.

The amendments are adopted under the Texas Education Code, §21.101, which directs the State Board of Education to make rules concerning the public school curriculum; and §21.257, which directs the board to specify what constitutes an advanced high school program.

§75.152. *Advanced High School Program.*

(a) (No change.)

(b) The required units shall include the following:

(1) (No change.)

(2) Mathematics-three units. Algebra I, algebra II, geometry, precalculus (trigonometry and either elementary analy-

sis or analytic geometry may be taken in lieu of precalculus), computer mathematics I and II, probability and statistics, calculus, number theory, linear algebra, linear programming, history of mathematics, and survey of mathematics.

(3)-(8) (No change.)

(9) Computer science-once unit selected from a variety of computer-related courses as provided for in Subchapter D of this chapter (relating to Essential Elements, Grades Nine-12), including:

(A)-(B) (No change.)

(C) business computer applications I or II;

(D) business computer programming I or II;

(E) advanced typewriting/word processing;

(F) computer science I or II;

(G) business information processing; and

(H) microcomputer applications.

(10)-(11) (No change.)

(c) (No change.)

(d) School district boards of trustees that wish to offer the advanced high school honors program shall adopt policies which provide for such special honors courses and programs. Such policies shall provide for modification of the courses of study in subsection (b) of this section by accelerating, providing greater depth, and expanding the courses and their essential elements described in this section and in Subchapter D of this chapter (relating to Essential Elements-Grades Nine-12) and shall be consistent with subsection (e) of this section. School districts shall ensure that students participating in honors courses or programs are instructed in all essential elements and demonstrate an acceptable degree of mastery of those elements.

(e) (No change.)

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

Issued in Austin, Texas, on April 11, 1988.

TRD-8803686

W. N. Kirby
Commissioner of Education

Effective date: May 2, 1988

Proposal publication date: February 26, 1988

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

TITLE 25. HEALTH SERVICES

Part VII. Texas Medical Disclosure Panel

Chapter 601. Informed Consent

Medical Treatments and Surgical Procedures Established by the Texas Medical Disclosure Panel

• 25 TAC §601.1, §601.2

The Texas Medical Disclosure Panel adopts amendments to §601.1 and §601.2 with changes to the proposed text published in the October 9, 1987, issue of the *Texas Register* (12 TexReg 3636). There also are changes to the lists which are adopted by reference in the sections. Section 601.1 adopts by reference a list (List A) of medical treatments and surgical procedures which physicians and health care providers are required to disclose to patients or persons authorized to consent for the patients.

Section 601.2 adopts by reference a list (List B) of medical treatments and surgical procedures which physicians and health care providers are not required to disclose to patients or their authorized representatives.

The Medical Liability and Insurance Improvement Act, Texas Civil Statutes, Article 4590i, §6.04, requires that List A and List B be published in the *Texas Register*. Since it has been several years since the last changes to the list were published in the *Texas Register*, and since the amendments are numerous and substantial in nature, the entire lists, including the changes, are being published in the In Addition section of this issue of the *Texas Register*.

The purpose of the amendments is to clarify and update the information in the lists of medical treatments and surgical procedures established by the Texas Medical Disclosure Panel. The lists enable physicians and health care providers to be aware of the procedures which require disclosure and those which do not require disclosure.

The amendments add a brief summary to §601.1 of the effective dates of the changes to the lists since they were first adopted. The amendments transfer a number of procedures from List B to List A, as follows: conization of cervix; dilation and curettage of the uterus (diagnostic and therapeutic); removal of fallopian tube and/or ovary without hysterectomy; delivery (cesarean section); and delivery (vaginal). The amendments add a number of new procedures to List A, as follows: removing fibroids; uterine suspension; removal of the nerves to the uterus; removal of the cervix; repair of the vaginal hernia; abdominal suspension of the bladder; and transfusion of blood and blood components. The amendments add a new system to List A concerning psychiatric procedures (§601.1.17). Finally the amendments add a system to List B concerning psychiatric procedures (§601.2.17).

The Texas Obstetrical and Gynecological Society made comments against the proposal Concerning §601.1.8.1, relating to transfusion

of blood and blood components, a commenter recommended that the panel design a separate informed consent form for this procedure. The panel's response is that it does not agree with this recommendation because the official form provides administrative opportunity for the use of more than one of same forms for different procedures.

Concerning §601.1.11.1.4, relating to delivery (vaginal), several commenters suggested changing the wording of this risk to remove the word "normal" and to more clearly state the risk. The panel agrees and has changed this rule to state, "Brain damage, injury, or even death occurring to the fetus before or during labor and/or vaginal delivery whether or not the cause is known".

Concerning §601.1.11.2.4, relating to delivery (cesarean section) several commenters suggested changing the wording of this rule to more clearly state the risk. The panel agrees and has changed this rule to state "Brain damage, injury, or even death occurring to the fetus before or during labor and/or cesarean delivery whether or not the cause is known".

Concerning §601.1.11.2.5, relating to delivery (cesarean section), a commenter recommended rewording risk number 5 to state, "Hysterectomy secondary to uterine disease or injury". The panel disagrees and took no action concerning this request.

Concerning §601.1.17, relating to psychotherapeutic procedures, a commenter recommended changing the title from "Psychotherapeutic Procedures" to "Psychiatric Procedures". The panel's response is that it agrees and has changed the title.

Concerning §601.2.17, relating to psychotherapeutic procedures, a commenter recommended changing the title from "Psychotherapeutic Procedures" to "Psychiatric Procedures".

The panel's response is that it agrees and has changed the title.

Concerning §601.1.17.1.1, relating to psychotherapeutic procedures, a commenter recommended restating risk number 1 to state, "Temporary memory interference of events prior to, during, and immediately following treatment". The panel's response is that it disagrees; however, it chose to remove the risk entirely and to resubmit it for comment as it is currently published.

Concerning §601.1.17.1.2, relating to psychotherapeutic procedures a commenter recommended that risk number 2 be reworded to state, "Temporary confusion requiring additional duration of psychiatric care". The panel's response is that it disagrees; however, it chose to remove the risk entirely and to resubmit it for comment as it is currently published.

Concerning §601.1.17.1.3, relating to psychotherapeutic procedures, a commenter recommended deleting risk #3 because with the appropriate, up-to-date techniques used in ECT, fractures and dislocation of bones essentially never occur because of the use of succinyl choline. The panel's response is that it disagrees, however, it chose instead to resubmit the risk for further comment.

Concerning §601.1.7.11.3 and §601.1.7.11.4, relating to conization of cervix, §601.1.7.12.4

relating to dilation and curettage of uterus (diagnostic); and §601.1.7.13.4, relating to dilation and curettage of uterus (obstetrical), a commenter stated that identifying injury to bladder and injury to rectum as risks in these procedures will unduly alarm patients about to undergo the procedures for very remotely possible complications. The panel's response is that it disagrees because these risks can happen and they are expected complications of the procedures.

Concerning §601.1.11.1, relating to vaginal deliveries, a commenter stated that, "As the woman is already pregnant prior to presenting to the physician and delivery is not an elective procedure, it seems that the required information would unduly alarm her in what should be a normal and somewhat enjoyable process". The panel's response is that it disagrees because the Texas Obstetrical and Gynecological Society made the suggestions about the manner in which these procedures should be handled and these are reflected in the wording of the risks.

Concerning §601.1.8.1, relating to transfusion of blood and blood components, another commenter recommended revising the informed consent form to include the risks of blood transfusions in order to eliminate the need for a separate form. The panel's response is that it disagrees with this recommendation because it feels it is unwise to alter the form at this time. Several commenters recommended changes to §601.3 concerning the informed consent form, however, since §601.3 was not proposed for amendment by the panel in the October 9, 1987, issue of the *Texas Register*, the panel has not considered these comments.

§601.1. Procedures Requiring Full Disclosure (List A).

(a) The procedures in this section, the procedures in §601.2 of this title (relating to Procedures Requiring No Disclosure), and the form described in §601.3 of this title (relating to the Disclosure and Consent Form), were first published in the December 15, 1981, issue of the *Texas Register* and initially became effective on June 1, 1982. The first amendments to §601.1 and §601.2 were published in the December 3, 1983, issue of the *Texas Register* and became effective on January 1, 1983. Additional amendments to §601.1 and §601.2 were published in the November 23, 1984, issue of the *Texas Register* and became effective on January 1, 1985.

(b) The Texas Medical Disclosure Panel adopts by reference the list of medical treatments and surgical procedures requiring full disclosure, as amended May 1988. The list is indexed and filed in the office of the Texas Medical Disclosure Panel, Texas Department of Health, 1100 West 49th Street, Austin, Texas 78756, and is available for public inspection during regular working hours.

§601.2. Procedures Requiring No Disclosure (List B). The Texas Medical Disclosure Panel adopts by reference the list of medical treatments and surgical procedures requiring no disclosure, as amended May 1988. The list is indexed and filed in the

office of the Texas Medical Disclosure Panel, Texas Department of Health, 1100 West 49th Street, Austin, Texas 78756, and is available for public inspection during regular working hours.

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 April 11, 1988.

TRD-8803697

James H. Duke, M.D.
Chairman
Texas Medical Disclosure
Panel

Effective date: May 2, 1988

Proposal publication date: October 9, 1987

For further information, please call: (512) 458-7245

TITLE 31. NATURAL RESOURCES AND CONSERVATION Part IX. Texas Water Commission

Chapter 335. Industrial Solid Waste and Municipal Hazardous Waste

Subchapter G. Location Standards for Hazardous Waste Storage, Processing, and Disposal

• 31 TAC §§335.201, 335.202, 335.204

The Texas Water Commission (TWC) adopts amendments to §§335.201, 335.202, and 335.204, with changes to the proposed text published in the October 13, 1987, issue of the *Texas Register* (12 TexReg 3768). The amendments are adopted pursuant to House Bill 2358, 69th Legislature, 1985, effective September 1, 1985, which amended the Solid Waste Disposal Act, Texas Civil Statutes, Article 4477-7 (the Act), by expanding the scope of the existing siting requirements.

The location standards for hazardous waste storage, processing, or disposal are set forth in Subchapter G of Chapter 335 (relating to Industrial Solid Waste and Municipal Hazardous Waste). This subchapter establishes minimum standards for the location of facilities used for the storage, processing, and disposal of hazardous waste that are to be applied in the evaluation of an application to manage hazardous waste, as authorized by the Solid Waste Disposal Act, Texas Civil Statutes, Article 4477-7, §4(c). Under the Solid Waste Disposal Act, §4(c)(7), the TWC is directed to adopt rules that define the characteristics that make areas unsuitable for a hazardous waste management facility. The list of characteristics for agency consideration was lengthened by House Bill 2358 to include areas of direct drainage within one mile of a lake used to supply public drinking water, active geological processes, coastal high hazard areas (such as areas subject to hurri-

cane storm surge and shoreline erosion), and critical habitat of endangered species. These amendments incorporate those items of consideration into the TWC regulations. Other amendments concerning the siting of facilities that were passed in House Bill 2358 were already set forth in the existing TWC regulations and therefore regulatory amendments for those statutory revisions are not needed. In addition, persons should also refer to Chapter 313 of this title (relating to Edwards Aquifer) for other rules affecting the location of some facilities.

The amendments adopted in this issue include revisions to the applicability provisions for the location standards, additions to and revisions of the definitions used in this subchapter, and new provisions concerning unsuitable site characteristics for different types of hazardous waste management activities. Revisions of the sections proposed have been made in response to comments, as described later in this preamble.

The amendment to §335.201(a) adds a provision clarifying that these state siting regulations do not apply to on-site remedial actions undertaken under the federal or state superfund laws. In addition, §335.201(a) has been revised to clarify that these location standards are not applicable to permit applications submitted pursuant to §335.45(b) (as well as §335.2(c) and §335.43(b)) and that these newly adopted provisions do not apply to facilities that have filed a notice of intent to file a permit application pursuant to §335.391 prior to the effective date of these sections, or to permit applications that were declared to be administratively complete pursuant to §281.3 of this title (relating to Initial Review) prior to the effective date of these sections. A qualifying phrase has been added to the broad statement about the applicability of these standards to applications filed on or after September 1, 1984, in order to recognize that there are exceptions to that general rule. The effective date of these newly adopted provisions is specified in the regulations. Corresponding changes were also made in subparagraph (A) of the definition of existing hazardous waste management facility in §335.202. The commission believes that these revisions are proper in response to comments and are in conformity with legislative intent.

The amendment to §335.202, the definition section, adds six definitions of relevance to these amendments, including the terms "active geologic processes," "area subject to active shoreline erosion," "areas of direct drainage," "critical habitat of an endangered species," "erosion", and "public water system."

Also in §335.202, the commission is revising the definition of existing hazardous waste management facility so that it is consistent with the ordinary meaning of the term "existing" and more clearly reflects the legislative intent in enacting the site suitability provisions found in the enabling legislation. The Act, §4(c)(1), states that each agency shall adopt rules that condition issuance of a permit for a new hazardous waste management facility or the areal expansion of an existing hazardous waste management facility on selection of a facility site that reasonably minimizes possible contamination of surface water and groundwater. Prior to today's amendment, the

existing regulations defined an existing hazardous waste management facility as any facility which is used or proposed to be used for the storage, processing, or disposal of hazardous waste and which is authorized by a solid waste permit. The commission believes that it was not the intent of the legislature to provide an exemption from the site suitability criteria for facilities which hold a solid waste permit because the statute does not specifically mention such facilities. The phrase in the prior definition concerning a facility that is "proposed to be used" for hazardous waste management was confusing because it does not appear in this subsection of the Solid Waste Disposal Act. As stated before, the statutory language of the Solid Waste Disposal Act, §4(c), focuses on new hazardous waste management facilities or areal expansions of existing hazardous waste management facilities. To clarify that the commission's regulations are in conformity with the statutory directive, this rulemaking amends the definition of existing facility so that the definition does not exempt facilities from the site suitability criteria by using phrases that do not appear in the enabling legislation.

The amendments to §335.204 address several specific areas of consideration mandated in House Bill 2358: areas of direct drainage within one mile of a lake used to supply public drinking water, active geologic processes (including geologic faults), coastal high hazard areas, and critical habitat of an endangered species. As a clarifying amendment, the commission has also revised §335.204(e) to move the statement in the opening paragraph of subsection (e) into a new paragraph (14) within that subsection to improve the readability of that provision. The new format is intended to clarify that, although surface impoundments closed as landfills are subject to the subsection (e) provisions for landfills in potentially unsuitable sites, there are other landfills that are also subject to this subsection.

For areas of direct drainage to a lake used to supply public drinking water, the amendment prohibits the location of land disposal facilities in areas of direct drainage within one mile of a lake at its maximum conservation pool level, if the lake is used to supply public drinking water through a public water system, unless the design, construction, and operational features of the facility will prevent adverse effects which would result from a release in such area. §335.202 incorporates the definition of public water system used by the Texas Department of Health in its regulations concerning water hygiene.

For active geologic processes, the agency believes that a site-specific review of the manner in which active geologic processes affect a particular facility location must be performed. If a facility is subject to active geologic processes at a particular location, then the section would prohibit permit issuance unless it can be demonstrated that the design, construction, and operational features of the facility will prevent adverse effects resulting from the geologic processes.

Active geologic faults are known to be present along the Texas Gulf Coast, as far south as Corpus Christi. The fault hazard is most severe in the vicinity of Houston, where over 135 active or potentially active faults have

been mapped at the surface. The Gulf Coast faults, known as growth faults, are not seismic, but their slow vertical shearing motion can crack foundations, break pipes and utilities, and upset drainage. Seismic faults are known to exist in far west Texas.

Established procedures such as photo interpretation and geophysical logging are routinely used to detect and map faults. Based on the comments submitted on the proposed sections, as described later, the agency has determined that a distance of 30 feet from the upthrown side and 50 feet from the downthrown side of the actual or inferred surface expression of a fault should provide an adequate margin of safety from the effects of geologic faults on hazardous waste management activities.

When considering coastal high hazard areas in siting a facility on the Texas Gulf Coast, two primary hazards are coastal flooding and active shoreline erosion. The flood hazard has previously been addressed in §335.204, which imposes restrictions on siting facilities within the 100-year coastal floodplain. This amendment specifically addresses the problem of shoreline erosion. Areas of active shoreline erosion have been identified by the University of Texas Bureau of Economic Geology (BEG) in the BEG publication entitled Natural Hazards of the Texas Coastal Zone. The BEG considers 10 feet of erosion or more per year as severe, and up to 10 feet of erosion per year as moderate. In this amendment, the agency is establishing separation distances from shorelines due to the potential of such areas for exposure to moderate and severe erosional forces. In addition, these amendments prohibit placement of certain hazardous waste facilities on barrier islands or peninsulas. For a number of reasons, such areas are highly unsuitable for most hazardous waste management activities. Active processes such as flooding and erosion and soil conditions on or near shorelines combine to make these areas unsuitable. Shorelines which are not protected by barrier islands or peninsulas have also historically experienced high erosion rates. For those shorelines which are subject to active shoreline erosion and which are unprotected by a barrier island or peninsula, these regulations establish a separation distance of 5,000 feet from a land disposal facility to the shoreline, unless it can be demonstrated that the design, construction, and operational features of the facility will prevent adverse effects from those hazards. An example of such a shoreline is the area from Sabine Pass to High Island on the upper Texas Coast. To a lesser extent, shoreline erosion may occur even in those areas protected by barrier islands. A separation distance of 1,000 feet from a shoreline subject to active shoreline erosion is required for land disposal facilities, unless it can be demonstrated that the design, construction, and operational features of the facility will prevent adverse effects resulting from the hazards presented by that location. These distances should provide sufficient time Industrial Solid Waste and Municipal Hazardous Waste to remove wastes in the event that erosion or other hazards threaten the waste containment systems.

For critical habitat, the amendment prohibits the location of any hazardous waste storage, processing, or disposal facility in any area designated as a critical habitat of an endan-

gered species under the protection of federal laws. Areas determined to be critical habitats for the wildlife and plants that are listed as endangered species pursuant to the federal Endangered Species Act are described in 50 Code of Federal Regulations §§17.94-17.96. In Texas, endangered plants and animals are also protected under the statutes governing endangered species in the Texas Parks and Wildlife Code, Chapters 68 and 88, and applicants should consult with the Texas Parks and Wildlife Department on those matters. Information concerning endangered species and their habitats is available from the Texas Parks and Wildlife Department, 4200 Smith School Road, Austin, Texas 78744; and from the Regional Office of the United States Fish and Wildlife Service, Office of Endangered Species, P. O. Box 1306, Albuquerque, New Mexico 87103.

The commission received several oral and written comments on the proposed regulations, including comments from the Texas Chemical Council; Bill R. Elsbury, P.E., of McClelland Engineers; the law firm of Lloyd, Gosselink, Ryan & Fowler; the law firm of Thompson & Knight (on behalf of Thermal Kinetics, Inc.); the Texas Parks and Wildlife Department; Professor H.C. Clark of Rice University; the Sierra Club; State Representative Mark Stiles; State Representative Stan Schlueter; the law firm of Fulbright & Jaworski (on behalf of CECOS International, Inc.); and TEXSTOR. Most of the comments were generally supportive of the proposed sections as a reasonable implementation of the Texas Solid Waste Disposal Act as amended by House Bill 2358 in 1985. One commenter expressed support for the approach taken in the proposed sections as opposed to the more general approach taken in the section requested in some recent petitions for rulemaking concerning hazardous waste incinerators. Following is a discussion of specific comments, and the changes made, if any, for the purpose of clarification in response to those comments.

The agency received several comments concerning the definition of "active geologic processes." One commenter recommended that this definition should include only processes occurring within Holocene time, and referenced the federal United States Environmental Protection Agency (EPA) regulations at 40 Code of Federal Regulations (CFR) §264.18 as an acceptable basis for that recommendation. Another commenter felt that the definition of "active geologic processes" should have no reference to geologic time, particularly for flooding and erosion where the hazard can be predicted using more recent data within the past 100 to 150 years. The commenters suggested that the definition of active processes referred to undefined time periods and was overly broad, therefore imposing an unnecessarily long, unrealistic, and highly speculative time frame on the regulated community. A commenter also suggested that faulting and earthquakes should be excluded from the definition in order to allow a time period to be specified for seismic activity. Another commenter suggested that the section's reference to the prevention of adverse effects resulting from the geologic processes is overly broad and asks the applicant to comply with unstated design, construction, and operational criteria. The commenter also asserted that compliance

would be difficult to prove with such broad definitions, which would place an unreasonable burden on the applicant and the agency. In response, today's rule does not include a time limitation in the definition of "active geologic processes" because the commission agrees that the appropriate time period to be considered may be different for each process. The agency has not excluded faulting and earthquakes from the definition of active geologic processes. However, the more specific restrictions in §335.204 would govern facility location with respect to the fault hazard, and those restrictions have also been revised in response to comments. The commission hopes that these revisions will satisfy the comments received, while remaining within the statutory guidelines.

The commission received several comments concerning the 200 foot wide offset from a geologic fault. Several commenters felt that a 200-foot-wide offset from a fault is wider than is necessary in most cases, since they felt that the distances from a fault should be set relative to the type of fault and actual hazards that exist. Commenters felt that terms like "zone of surface deformation" and "inferred surface expression" of a geologic fault were overly broad and vague, and that the distance from faults should be established after careful scrutiny and study during the permit process. A commenter also referred the commission to some rules of the United States Environmental Protection Agency appearing in 40 Code of Federal Regulations §264.18 and 40 Code of Federal Regulations Part 264, Appendix VI, which concern seismic considerations in the federal location standards. They also commented that a site-specific study should be required to accurately locate fault deformation, and that setback distances of 25 to 30 feet on the upthrown side and 40 to 50 feet on the downthrown side of a fault are appropriate for most hazardous waste permitting situations. In response to comments, the section as amended restricts the location of facilities within specified distances from the actual or inferred surface expression of a fault that has caused displacement of shallow Quaternary sediments or of man-made structures, unless adverse effects resulting from fault movement will be prevented. The fault location will be determined by a qualified professional, and therefore there is no need for an unnecessarily wide buffer zone. In addition, the commission has described the elements of a fault assessment under §335.204, in order to clarify the agency's expectations in regard to an applicant's demonstrations under these standards.

Some commenters suggested that the limitation on locations near a fault should only apply to currently active faults or to faults causing displacement in Holocene time. However, cases are known in Texas where inactive faults became active due to activities of man, so inactive faults have not been excluded. The section has been revised to conform with well-established geologic procedures of identifying and tracing a fault by the displacement of specific sediments and structures. The required study of fault evidence is limited to those sediments which, in practice, have been found to be relevant to fault hazards in Texas.

The agency received numerous comments concerning the proposal to amend the definition of existing facility. Four commenters sup-

ported the proposed change as an accurate representation of legislative intent, including the legislator who sponsored House Bill 2358, which was the bill that initiated these rule changes. State Representative Schlueter's comments stated that the agency's prior definition of "existing hazardous waste management facility" was inconsistent with the plain language and the legislative intent of the Solid Waste Disposal Act, §4(c), as amended by House Bill 2358. Although the bill does not define "existing" or "new," there is no indication in the language or legislative history that the term "existing" was intended to have anything but its ordinary meaning. The commenter urged the commission to adopt the amendment as proposed in order to remedy the inconsistency between the rule and the statute by eliminating the "proposed to be used" language and by limiting the exemption to those facilities with hazardous waste permits.

One commenter opposed the commission's proposed revision of the definition of an existing hazardous waste management facility as an amendment that would be unfair, unwise (as a policy matter, in view of the need for hazardous waste management capacity), and illegal (as a special law that is unconstitutional because it applies only to one facility). The commenter holds a solid waste management permit from the agency, but has not obtained a hazardous waste management permit. The commission understands the concerns of the commenter and believes that this amended definition of an existing facility should apply prospectively from the time of the effective date of this amendment. Thus, any facility that satisfied the prior definition of "existing facility" by the effective date of the amended definition shall remain an existing facility for purposes of these rules. At the same time, the commission believes that the adoption of the proposed revision to the definition of an existing facility is appropriate as a clarification of the language intended by the enabling legislation. When the agency promulgated location standards in 1984 (see the March 16, 1984, and July 31, 1984, issues of the Texas Register), the definition of an "existing hazardous waste management facility" apparently used the phrase "proposed to be used" to reference the list of "facilities identified in the following pending applications" that would also be considered as "existing" pending final action on their applications. The list of pending applications referenced §335.2(c) and §335.43(b), or applications filed pursuant to §335.2(a) that were declared administratively complete under the applicable regulations. These references to permit provisions for hazardous waste management and the fact that the definition itself refers to hazardous waste management facilities (rather than solid waste management facilities) support the commission's position that this amendment merely clarifies the language and intent of the definition.

Two commenters submitted opinions on the applicability provisions in the existing and proposed regulations. Specifically, the commenters expressed concern that the rule changes that were proposed in October 1987 are not retroactively applied to all applications filed on or after September 1, 1984, as that applicability language currently exists in §335.201(a). The commenters suggested that the TWC needs to clarify that these proposed

amendments are not intended to apply to those permitting situations where Part A and Part B permit applications have been submitted and declared to be administratively complete prior to the effective date of these proposed regulations. In addition, a commenter suggested that the proposed regulations should not apply to facilities for which a notice of intent to file an application has been filed pursuant to §335.391 prior to the effective date of these proposed amendments. The commenter noted that this suggestion would encourage the use of the pre-application review process that is envisioned in Chapter 335, Subchapter M and would be consistent with the directions given in House Bill 2358, §17, as passed by the 69th Texas Legislature in 1985, which references both the filing of applications and notices of intent to file applications in its discussion of the applicability of the amendments enacted in that bill.

The commenters stressed the potential unlawfulness and inequitable results of imposing these new amendments on applications filed prior to their effective date, which could therefore disrupt permitting by imposing new considerations into an ongoing process. One commenter also recommended that the proposed new amendments should not apply to interim status facilities described in §335.45(b), and noted that the imposition of new standards on some existing businesses might force them to close, thus resulting in an unnecessary decrease in hazardous waste treatment capacity that is available in Texas.

The commenter suggested language to clarify the applicability provisions in §335.201 in accordance with their comments by adding a subsection to describe which specific standards apply to which facilities. The commission agrees with these suggestions for clarifying the applicability of these new regulations, and has revised §335.201 accordingly so that the standards for the potentially unsuitable site characteristics that are addressed in this rulemaking are not applicable to facilities that have filed a notice of intent to file a permit application pursuant to §335.391 prior to the effective date of these sections, or to permit applications that were declared to be administratively complete pursuant to §281.3 of this title (relating to Initial Review) prior to the effective date of these sections, or to permit applications submitted pursuant to §§335.2(c), 335.43(b), or 335.45(b) (concerning existing facilities that have submitted permit applications to continue operations prior to the issuance or denial of a permit).

The commission also received comments on other aspects of the proposed regulations. One commenter suggested that the term "lake" should be defined to clarify whether a low water crossing or similar structure which impounds water would be determined to be a lake. Another commenter remarked that the proposed sections do not adequately protect lakes used for public drinking water because adverse effects from a release are only minimized, not prevented, by early detection, containment, and cleanup procedures. In response, the commission believes that the term "lake" will have its ordinary meaning, and that the definitions in 31 TAC §299.1 (in the chapter concerning dams and reservoirs) may be helpful as a reference for unusual situations. The commission believes that the provisions on adverse effects from potential

releases are in conformity with the statutory directives and should provide protection of lakes. In addition, the Texas Water Commission has broad authority under the Texas Water Code, Chapter 26, to address unauthorized discharges into water in the state.

The Sierra Club and the Texas Parks and Wildlife Department submitted comments recommending that the sections provide an absolute prohibition on the location of hazardous waste facilities in the critical habitat of an endangered species. Although the commission agrees that it is extremely important to protect the designated critical habitat of an endangered species, it appears that the proposed language, which provides an exception to the prohibition where the applicant establishes that the design, construction, and operational features will prevent adverse effects on the critical habitat, is in conformity with the enabling legislation in the Solid Waste Disposal Act, §4(c)(8). The Texas Parks and Wildlife Department also recommended that the sections should be expanded to protect endangered species designated under state law, and should include other critical natural resource areas identified by the department, such as state and federal parks, wildlife refuges, preserves, recreation areas, historical sites, marshes, and fishery areas. In response, the commission believes that these concerns are well-founded, but that the statutory directive for the commission in this rulemaking was to develop rules concerning the critical habitat of endangered species, as it has proposed. However, the commission hopes to work with the Parks and Wildlife Department in the future to develop regulations that extend beyond the list of species that are listed as endangered with a designated critical habitat under federal law to also reference species that are considered to be endangered and that have a critical habitat under state law.

One commenter sought clarification of the applicability of the proposed sections to the surface facility component of an underground geologic repository for solid wastes. In response, it appears that surface facilities used for storage and processing of hazardous waste would be subject to the provisions governing storage and processing facilities, as set forth in this subchapter, with revisions to the applicability provisions described earlier in this preamble.

These amendments are adopted under the Texas Water Code, §5.103 and §5.105, which provide the Texas Water Commission with the authority to adopt any rules necessary to carry out its powers and duties under the Code and other laws of this state and to establish and approve all general policies of the commission. These amendments are also adopted under the Solid Waste Disposal Act, Texas Civil Statutes, Article 4477-7, §4(c), which authorizes the commission to adopt and promulgate rules consistent with the general intent and purposes of the Act and to establish minimum standards of operation for all aspects of the management and control of municipal hazardous waste and industrial solid waste, including rules relating to the siting of hazardous waste facilities. Under the Solid Waste Disposal Act, §3(b), the Texas Water Commission is designated the state solid waste agency with respect to the management of all industrial solid waste and municipal hazardous waste management by all

practical and economically feasible methods consistent with the legislation. Section 3(b) also grants to the commission the powers and duties specifically prescribed in the Act and all other powers necessary or convenient to carry out its responsibilities.

§335.201. Purpose, Scope, and Applicability.

(a) This subchapter establishes minimum standards for the location of facilities used for the storage, processing, and disposal of hazardous waste. These standards are to be applied in the evaluation of an application for a permit to manage hazardous waste. Except as otherwise provided in this section, this subchapter applies to permit applications for new hazardous waste management facilities and areal expansions of existing hazardous waste management facilities, filed on or after September 1, 1984. These sections do not apply to the following:

(1) permit applications submitted pursuant to §335.2(c) of this title (relating to Permit Required), §335.43(b) of this title (relating to Permit Required), and §335.45(b) of this title (relating to Effect on Existing Facilities), including any revision submitted pursuant to §305.51 of this title (relating to Revision of Applications for Hazardous Waste Permits);

(2) permit applications filed pursuant to §335.2(a) of this title (relating to Permit Required) which have been submitted in accordance with Chapter 305 of this title (relating to Consolidated Permits) and which have been declared to be administratively complete pursuant to §281.3 of this title (relating to Initial Review) prior to September 1, 1984; and

(3) on-site remedial actions conducted pursuant to the federal Comprehensive Environmental Response, Compensation, and Liability Act of 1980, 42 United States Code §9601 et seq., as amended by the Superfund Amendments Reauthorization Act of 1986 or the Texas Solid Waste Disposal Act, Texas Civil Statutes, Article 4477-7, §13.

(b) The standards contained in §§335.204(a)(6)-(9), 335.204(b)(7)-(12), 335.204(c)(6)-(11), 335.204(d)(6)-(11), 335.204(e)(8)-(13) are not applicable to facilities that have submitted a notice of intent to file a permit application pursuant to §335.391 of this title (relating to Pre-Application Review) prior to May 3, 1988, or to facilities that have filed permit applications pursuant to §335.2(a) of this title (relating to Permit Required) which were submitted in accordance with Chapter 305 of this title (relating to Consolidated Permits) and that were declared to be administratively complete pursuant to §281.3 of this title (relating to Initial Review) prior to May 3, 1988.

(c) The purpose of this subchapter is to condition issuance of a permit for a new hazardous waste management facility

or the areal expansion of an existing hazardous waste management facility on selection of a site that reasonably minimizes possible contamination of surface water and groundwater; to define the characteristics that make an area unsuitable for a hazardous waste management facility; and to prohibit issuance of a permit for a facility to be located in an area determined to be unsuitable, unless the design, construction and operational features of the facility will prevent adverse effects from unsuitable site characteristics. Nothing herein is intended to restrict or abrogate the commission's general authority under the Solid Waste Disposal Act to review site suitability for all facilities which manage municipal hazardous waste or industrial solid waste.

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

Active geologic processes—Any natural process which alters the surface and/or subsurface of the earth, including, but not limited to, erosion (including shoreline erosion along the coast), submergence, subsidence, faulting, karst formation, flooding in alluvial flood wash zones, meandering river bank cutting, and earthquakes.

Area subject to active shoreline erosion—A coastal area where shoreline erosion has been documented within historic time.

Areas of direct drainage—Those land areas from which surface water runoff could flow into a lake used to supply public drinking water.

Critical habitat of an endangered species—An area that is determined by the United States Fish and Wildlife Service to be a critical habitat for an endangered species.

Erosion—The group of natural processes, including weathering, deterioration, detachment, dissolution, abrasion, corrosion, wearing away, and transportation, by which earthen or rock material is removed from any part of the earth's surface.

Existing hazardous waste management facility—Any facility used for the storage, processing, or disposal of hazardous waste and which is authorized by a hazardous waste permit.

Facilities identified in the following pending applications will also be considered existing hazardous waste management facilities pending final action on the application by the commission:

(A) an application submitted pursuant to §335.2(c) of this title (relating to Permit Required), §335.43(b) of this title (relating to Permit Required), and §335.45(b) of this title (relating to Effect on Existing Facilities), including any revisions made in accordance with §305.51 of this title (relating to Revision of Applications for Hazardous Waste Permits); or

(B) (No change.)

Public water system—A system for the provision to the public of piped water for human consumption, if such system has at least 15 service connections or regularly services an average of at least 25 individuals daily at least 60 days out of the year.

§335.204. Unsuitable Site Characteristics.

(a) Storage or processing facilities (excluding storage surface impoundments).

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

(6) A storage or processing facility (excluding storage surface impoundments) may not be located in areas of direct drainage within one mile of a lake at its maximum conservation pool level, if the lake is used to supply public drinking water through a public water system, unless the design, construction, and operational features of the facility will prevent adverse effects resulting from a release in such areas.

(7) A storage or processing facility (excluding storage surface impoundments) may not be located in areas of active geologic processes unless the design, construction, and operational features of the facility will prevent adverse effects resulting from the geologic processes.

(8) A storage or processing facility may not be located in the critical habitat of an endangered species of plant or animal unless the design, construction, and operational features of the facility will prevent adverse effects on the critical habitat of the endangered species.

(9) A storage or processing facility may not be located within 30 feet of the upthrown side or 50 feet of the downthrown side of the actual or inferred surface expression of a fault that has reasonably been shown to have caused displacement of shallow Quaternary sediments or of man-made structures, unless the design, construction, and operational features of the facility will prevent adverse effects resulting from fault movement. The presence, and if a fault is found to be present, the width and location of the actual or inferred surface expression of a fault, including both the identified zone of deformation and the combined uncertainties in locating a fault trace, must be determined by a qualified geologist or geotechnical engineer. For purposes of fault assessment under this paragraph, depths of shallow sediments to be considered could be as little as 100 feet (for older, slowly accumulated sediments), or as great as 300 feet (for younger, rapidly accumulated sediments). The fault study should include analyses of any electric logs developed for any required subsurface characterization of the site, interpretation of available aerial photographs, study of available maps, logs, and documents that may indicate fault locations at the surface and in the subsurface, and a visual observation of the proposed site.

(b) Land treatment facilities.

(1)-(6) (No change.)

(7) A land treatment facility may not be located in areas of direct drainage within one mile of a lake at its maximum conservation pool level, if the lake is

used to supply public drinking water through a public water system, unless the design, construction, and operational features of the facility will prevent adverse effects resulting from a release in such areas.

(8) A land treatment facility may not be located in areas of active geologic processes unless the design, construction, and operational features of the facility will prevent adverse effects resulting from the geologic processes.

(9) A land treatment facility may not be located within 1000 feet of an area subject to active coastal shoreline erosion if the area is protected by a barrier island or peninsula unless the design, construction, and operational features of the facility will prevent adverse effects resulting from storm surge and erosion or scouring by water. On coastal shorelines which are subject to active shoreline erosion and which are unprotected by a barrier island or peninsula, a separation distance from the shoreline to the facility must be at least 5000 feet unless the design, construction, and operational features of the facility will prevent adverse effects resulting from storm surge and erosion or scouring by water.

(10) A land treatment facility may not be located in the critical habitat of an endangered species of plant or animal unless the design, construction, and operational features of the facility will prevent adverse effects on the critical habitat of the endangered species.

(11) A land treatment facility may not be located on a barrier island or peninsula.

(12) A land treatment facility may not be located within 30 feet of the upthrown side or 50 feet of the downthrown side of the actual or inferred surface expression of a fault that has reasonably been shown to have caused displacement of shallow Quaternary sediments or of man-made structures, unless the design, construction, and operational features of the facility will prevent adverse effects resulting from fault movement. The presence, and if a fault is found to be present, the width and location of the actual or inferred surface expression of a fault, including both the identified zone of deformation and the combined uncertainties in locating a fault trace, must be determined by a qualified geologist or geotechnical engineer. For purposes of fault assessment under this paragraph, depths of shallow sediments to be considered could be as little as 100 feet (for older, slowly accumulated sediments), or as great as 300 feet (for younger, rapidly accumulated sediments). The fault study should include analyses of any electric logs developed for any required subsurface characterization of the site, interpretation of available aerial photographs, study of available maps, logs, and documents that may indicate fault locations at the surface and in the subsurface, and a

visual observation of the proposed site.

(c) Waste piles.

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

(6) A waste pile may not be located in areas of direct drainage within one mile of a lake at its maximum conservation pool level, if the lake is used to supply public drinking water through a public water system, unless the design, construction, and operational features of the facility will prevent adverse effects resulting from a release in such areas.

(7) A waste pile may not be located in areas of active geologic processes unless the design, construction, and operational features of the facility will prevent adverse effects resulting from the geologic processes.

(8) A waste pile may not be located within 1000 feet of an area subject to active coastal shoreline erosion if the area is protected by a barrier island or peninsula unless the design, construction, and operational features of the facility will prevent adverse effects resulting from storm surge and erosion or scouring by water. On coastal shorelines which are subject to active shoreline erosion and which are unprotected by a barrier island or peninsula, a separation distance from the shoreline to the facility must be at least 5000 feet unless the design, construction, and operational features of the facility will prevent adverse effects resulting from storm surge and erosion or scouring by water.

(9) A waste pile may not be located in the critical habitat of an endangered species of plant or animal unless the design, construction, and operational features of the facility will prevent adverse effects on the critical habitat of the endangered species.

(10) A waste pile may not be located on a barrier island or peninsula.

(11) A waste pile may not be located within 30 feet of the upthrown side or 50 feet of the downthrown side of the actual or inferred surface expression of a fault that has reasonably been shown to have caused displacement of shallow Quaternary sediments or of man-made structures, unless the design, construction, and operational features of the facility will prevent adverse effects resulting from fault movement. The presence, and if a fault is found to be present, the width and location of the actual or inferred surface expression of a fault, including both the identified zone of deformation and the combined uncertainties in locating a fault trace, must be determined by a qualified geologist or geotechnical engineer. For purposes of fault assessment under this paragraph, depths of shallow sediments to be considered could be as little as 100 feet (for older, slowly accumulated sediments), or as great as 300 feet (for younger, rapidly accumulated sediments). The fault study should include anal-

yses of any electric logs developed for any required subsurface characterization of the site, interpretation of available aerial photographs, study of available maps, logs, and documents that may indicate fault locations at the surface and in the subsurface, and a visual observation of the proposed site.

(d) Storage surface impoundments.

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

(6) A storage surface impoundment may not be located in areas of direct drainage within one mile of a lake at its maximum conservation pool level, if the lake is used to supply public drinking water through a public water system, unless the design, construction, and operational features of the facility will prevent adverse effects resulting from a release in such areas.

(7) A storage surface impoundment may not be located in areas of active geologic processes unless the design, construction, and operational features of the facility will prevent adverse effects resulting from the geologic processes.

(8) A storage surface impoundment may not be located within 1000 feet of an area of active coastal shoreline erosion if the area is protected by a barrier island or peninsula, unless the design, construction, and operational features of the facility will prevent adverse effects resulting from storm surge and erosion or scouring by water. On coastal shorelines which are subject to active shoreline erosion and which are unprotected by a barrier island or peninsula, a separation distance from the shoreline to the facility must be at least 5000 feet unless the design, construction, and operational features of the facility will prevent adverse effects resulting from storm surge and erosion or scouring by water.

(9) A storage surface impoundment may not be located in the critical habitat of an endangered species of plant or animal unless the design, construction, and operational features of the facility will prevent adverse effects on the critical habitat of the endangered species.

(10) A storage surface impoundment may not be located on a barrier island or peninsula.

(11) A storage surface impoundment may not be located within 30 feet of the upthrown side or 50 feet of the downthrown side of the actual or inferred surface expression of a fault that has reasonably been shown to have caused displacement of shallow Quaternary sediments or of man-made structures, unless the design, construction, and operational features of the facility will prevent adverse effects resulting from fault movement. The presence, and if a fault is found to be present, the width and location of the actual or inferred surface expression of a fault, including both the identified zone of deformation and the combined uncertainties in lo-

cating a fault trace, must be determined by a qualified geologist or geotechnical engineer. For purposes of fault assessment under this paragraph, depths of shallow sediments to be considered could be as little as 100 feet (for older, slowly accumulated sediments), or as great as 300 feet (for younger, rapidly accumulated sediments). The fault study should include analyses of any electric logs developed for any required subsurface characterization of the site, interpretation of available aerial photographs, study of available maps, logs, and documents that may indicate fault locations at the surface and in the subsurface, and a visual observation of the proposed site.

(e) Landfills.

(1)-(7) (No change.)

(8) A landfill may not be located in areas of direct drainage within one mile of a lake at its maximum conservation pool level, if the lake is used to supply public drinking water through a public water system, unless the design, construction, and operational features of the facility will prevent adverse effects resulting from a release in such areas.

(9) A landfill may not be located in areas of active geologic processes unless the design, construction, and operational features of the facility will prevent adverse effects resulting from the geologic processes.

(10) A landfill may not be located within 1000 feet of an area subject to active coastal shoreline erosion, if the area is protected by a barrier island or peninsula, unless the design, construction, and operational features of the facility will prevent adverse effects resulting from storm surge and erosion or scouring by water. On coastal shorelines which are subject to active shoreline erosion and which are unprotected by a barrier island or peninsula, a separation distance from the shoreline to the facility must be at least 5000 feet unless the design, construction, and operational features of the facility will prevent adverse effects resulting from storm surge and erosion or scouring by water.

(11) A landfill may not be located in the critical habitat of an endangered species of plant or animal unless the design, construction, and operational features of the facility will prevent adverse effects on the critical habitat of the endangered species.

(12) A landfill may not be located on a barrier island or peninsula.

(13) A landfill may not be located within 30 feet of the upthrown side or 50 feet of the downthrown side of the actual or inferred surface expression of a fault that has reasonably been shown to have caused displacement of shallow Quaternary sediments or of man-made structures, unless the design, construction, and operational features of the facility will prevent adverse

effects resulting from fault movement. The presence, and if a fault is found to be present, the width and location of the actual or inferred surface expression of a fault, including both the identified zone of deformation and the combined uncertainties in locating a fault trace, must be determined by a qualified geologist or geotechnical engineer. For purposes of fault assessment under this paragraph, depths of shallow sediments to be considered could be as little as 100 feet (for older, slowly accumulated sediments), or as great as 300 feet (for younger, rapidly accumulated sediments). The fault study should include analyses of any electric logs developed for any required subsurface characterization of the site, interpretation of available aerial photographs, study of available maps, logs, and documents that may indicate fault locations at the surface and in the subsurface, and a visual observation of the proposed site.

(14) For purposes of this subchapter, any surface impoundment to be closed as a landfill (where wastes will remain after closure of the impoundment) is subject to the requirements for land fills.

(f) (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 April 12, 1988.

TRD-8803767 William G. Newchurch
Director, Legal Division
Texas Water Commission

Effective date: May 3, 1988

Proposal publication date: October 13, 1987

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

TITLE 40. SOCIAL SERVICES AND ASSISTANCE

Part I. Texas Department of Human Services

Chapter 15. Medicaid Eligibility

Subchapter HH. Income for Individuals Related to the SSI Program

• 40 TAC §15.3307

The Texas Department of Human Services (DHS) adopts an amendment to §15.3307, concerning proceeds of death benefits. The amendment is adopted to comply with provisions of the Omnibus Budget Reconciliation Act of 1987, which specify that income from death benefits is excludable to the extent that it does not exceed the amount spent by the client on the deceased's last illness and burial expenses. Death benefits include the proceeds from life insurance, inheritances, and gifts. The amendment is adopted effective April 1, 1988, to comply with federal requirements.

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.

§15.3307. Proceeds of Death Benefits.

(a) Unearned income under SSI provisions includes the proceeds of any death benefits to the extent that they exceed the amount expended on the deceased's last illness and burial expenses. Death benefits include life insurance, inheritances, and gifts.

(b) (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 April 12, 1988.

TRD-8803714 Marlin W. Johnston
Commissioner
Texas Department of
Human Services

Effective date: April 1, 1988

For further information, please call: (512) 450-3765.

Chapter 47. Primary Home Care

Provider Contracts

• 40 TAC §47.4902

The Texas Department of Human Services (DHS) adopts new §47.4902, concerning geographic boundaries, without changes to the proposed text published in the March 1, 1988, issue of the *Texas Register* (13 TexReg 1084).

The new section is justified to ensure that primary home care services are appropriately coordinated and provided on a statewide basis.

The new section will function by clarifying the geographic boundaries within which home health agencies provide services under primary home care contracts.

No comments were received regarding adoption of the new section.

The new section 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 April 12, 1988.

TRD-8803710 Marlin W. Johnston
Commissioner
Texas Department of
Human Services

Effective date: June 1, 1988

Proposal publication date: March 1, 1988

For further information, please call: (512) 450-3765.

State Board of Insurance Exempt Filing

Notifications 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 a filing by CUMIS Insurance Society, Inc. of revised rates and manual pages for the Credit Union Discovery Bond Program.

In accordance with the provisions of the Insurance Code, Article 5.97, a text of the rate

filing has been filed in the Office of the Chief Clerk of the State Board of Insurance since January 26, 1988. The filing has been available for public inspection for 15 days and a public hearing was not requested by any party.

The filing submitted by CUMIS Insurance Society, Inc., proposes an overall 7.0% increase in the rates approved for the Credit Union Discovery Bond Program. The rate changes proposed in the filing are as follows: an 8.5% average increase in rates for the basic bond; an increase of certain increased limits factors for the basic bond; a 20% decrease in the rates for the consumer legislation endorsement; a 10% increase in the rates for the share draft coverage endorsement; and a rate increase of 1.0% per card for plastic cards coverage, with a \$50 increase in the annual minimum premium.

The Manual of Rates and rules has been revised to reflect the rate changes proposed in the filing. The manual has also been subdivided into four sections which contain the specific rating rules, the rates, the risk control rating plan, and the supplemental rating rules. The revised manual will replace the pages currently approved for use with this program.

The revised rates and rules for the Credit Union Discovery Bond Program become effective on the 15th day after notice of this action is published in the *Texas Register*.

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 April 12, 1988.

TRD-8803774 Nicholas Murphy
Chief Clerk
State Board of Insurance

Effective date: May 5, 1988

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



The State Board of Insurance has considered a filing by Insurance Services Office, Inc., proposing a revision of the Texas Changes-Pesticide or Herbicide Applicator Coverage Endorsement CG 01 56 01 88. This endorse-

ment provides coverage if the insured is properly licensed to conduct the operations as a pesticide or herbicide applicator.

The board has approved this filing to become effective June 1, 1988, in accordance with the following rule of application. These changes are applicable to all policies effective on or after June 1, 1988. No policy effective prior to June 1, 1988, shall be endorsed or cancelled and rewritten to take advantage of or to avoid the application of these changes except at the request of the insured and using the cancellation procedures applying on the date of such request.

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.

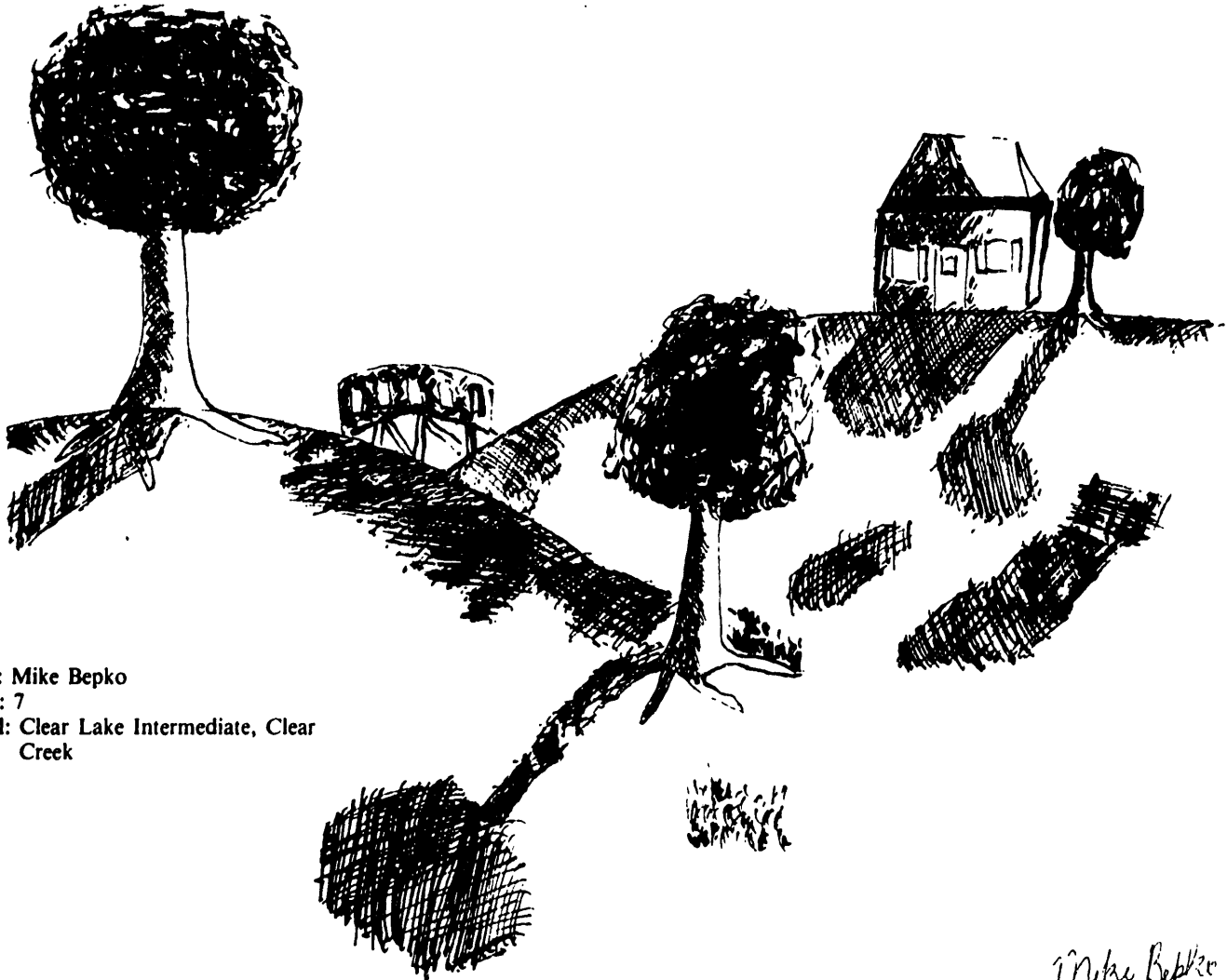
This agency hereby certifies that the rule as adopted has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Issued in Austin, Texas on April 12, 1988.

TRD-8803773 Nicholas Murphy
Chief Clerk
State Board of Insurance

Effective date: June 1, 1988

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



Name: Mike Bepko
Grade: 7
School: Clear Lake Intermediate, Clear Creek

Mike Bepko

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 billeting 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

Monday, April 25, 1988, 11:30 a.m. The Texas Department of Agriculture will meet in the District Office, 4502 Englewood Avenue, Lubbock. According to the agenda, the department will review alleged violation of Texas Agriculture Code §103.001 by James Keith Wingate as petitioned by Allen L. Deatherage.

Contact: Margo P. Wilton, P.O. Box 12847, Austin, Texas 78711, (512) 463-7583.

Filed: April 13, 1988, 3:01 p.m.

TRD-8803809

Tuesday, April 26, 1988, 10 a.m. The Texas Department of Agriculture will meet in the District Office, Expressway 83, two blocks west of Morningside Road, San Juan. According to the agenda, the department will review alleged violation of Texas Agriculture Code §103.001 by Francisco Badillo as petitioned by Jose G. Garcia.

Contact: Margo P. Wilton, P.O. Box 12847, Austin, Texas 78711, (512) 463-7583.

Filed: April 13, 1988, 3:01 p.m.

TRD-8803810

Texas Commission on Alcohol and Drug Abuse

Tuesday, April 19, 1988, 9:30 a.m. The Commissioners for the Texas Commission on Alcohol and Drug Abuse will meet for an emergency agenda revision in the Conference Room, 1705 Guadalupe Street, Austin. According to the agenda, the commissioners will meet in executive session to discuss employment matters pertaining to an individual. The emergency status is necessary as the request for commissioner review of a personnel matter was received subsequent to the filing of the complete agenda with the *Texas Register*.

Contact: Becky Davis, 1705 Guadalupe Street, Austin, Texas 78701, (512) 463-5510.

Filed: April 13, 1988, 1:45 p.m.

TRD-8803805

Texas Alcoholic Beverage Commission

Monday, April 25, 1988, 1:30 p.m. The Texas Alcoholic Beverage Commission will meet in Room 320, Jefferson Building, 1600 West 38th Street, Austin. According to the agenda, the commission will approve minutes of the March 28, 1988, meeting; hear administrator's and staff's reports on agency activity; and approve an affidavit of destruction of tested alcohol beverages.

Contact: W. S. McBeath, P.O. Box 13127, Capitol Station, Austin, Texas 78711, (512) 458-2500.

Filed: April 12, 1988, 1:33 p.m.

TRD-8803737

State Bar of Texas

Thursday, April 21, 1988, 9 a.m. The Executive Committee of the State Bar of Texas will meet in Room 202-203, Texas Law Center, 1414 Colorado Street, Austin. According to the agenda summary, the committee will hear reports of chairman of the board, president, executive director, general counsel, president-elect, immediate past president, immediate past chairman, TYLA president, and supreme court liaison; and consider items on agenda.

Contact: Paula Welch, 1414 Colorado Street, Austin, Texas 78701, (512) 463-1451.

Filed: April 13, 1988, 3:03 p.m.

TRD-8803811

Texas Committee on Purchases of Products and Services of Blind and Severely Disabled Persons

Monday, April 25, 1988, 10 a.m. The Pricing Subcommittee of the Texas Committee on Purchases of Products and Services of Blind and Severely Disabled Persons will meet in Room 1006, LBJ Office Building, 111 East 17th Street, Austin. According to the agenda, the subcommittee will approve minutes of the January 7, 1988; discuss and recommendations for action on filing TIBH catalog with *Texas Register*, action and new services, action on renewal services, action on new products, electronic typewriters, video cassettes, ribbon re-inking, mechanical pencils, photographic film, animal control tags, polyethylene garbage cart, action on product changes and revisions, instant coffee, flexible diskettes, battery wall clocks, hall trees, and secretarial footstool.

Contact: Micheal T. Phillips, P.O. Box 12866, Austin, Texas 78711, (512) 459-2603.

Filed: April 12, 1988, 1:17 p.m.

TRD-8803728

Texas Bond Review Board

Tuesday, April 26, 1988, 10 a.m. The Staff Working Session of the Texas Bond Review Board will meet in Room 203, Texas Law Center, 1414 Colorado Avenue, Austin. According to the agenda, the board will discuss preliminary draft of revised board rules. No official action will be taken.

Contact: Tom K. Pollard, Sam Houston Building, Room 711, Austin, Texas (512) 463-1741.

Filed: April 13, 1988, 4:27 p.m.

TRD-8803813

East Texas State University

Wednesday, April 20, 1988, 9 a.m. The Board of Regents, Campus Planning and

Finance Committee for East Texas State University will meet in the McDowell Administration Building, East Texas State University, Commerce. According to the agenda, the board will draft budgets for fiscal year 1989 for ETSU-Commerce and Texarkana. The board also will meet in executive session to consult with the university's attorney and discuss personnel and contract matters.

Contact: Dayton Cole, East Texas State University, Commerce, Texas 75428, (214) 886-5539.

Filed: April 13, 1988, 1:56 p.m.

TRD-8803808

Texas Education Agency

Tuesday, May 3, 1988, 10 a.m. The Committee for Personnel, State Board of Education of the Texas Education Agency will meet in Room 1-104, William B. Travis Building, 1701 North Congress Avenue, Austin. According to the agenda, the committee will consider proposed amendment to 19 TAC §194.71 concerning assignment to the teacher career ladder subsection (c) the selection process, testimony must be limited to the proposed amendment to §149.71(c) which is currently being considered by the State Board of Education and was published in the *Texas Register* on January 29, 1988, (13 TexReg 532). Persons wishing to testify at the hearing must sign up before 5 p.m. on Friday, April 29, 1988, by calling Cheryl Robinson at (512) 463-9328, Texas Education Agency. Testimony will be limited to five minutes. This limit may be reduced depending on the number of individuals wishing to testify. It is requested that individuals testifying supply 30 written copies of their testimony prior to the oral presentation.

Contact: W.N. Kirby, 1701 North Congress Avenue, Austin, Texas 78701, (512) 463-8985.

Filed: April 13, 1988, 4:47 p.m.

TRD-8803814

Advisory Commission on State Emergency Communications

Wednesday, April 20, 1988, 10:30 a.m. The Regional Planning Committee of the Advisory Commission on State Emergency Communications will meet in Room 2300, One Bell Plaza, Dallas. According to the agenda, the committee will discuss methods for contracting with the regional planning councils as collections agent of all 9-1-1 service fees utilizing electronic funds transfer or other appropriate methods. The committee will also discuss establishing a firm date, in which with regional planning councils can begin accumulating expenses for 9-

1-1 planning; continue developing 9-1-1 handbook; and begin developing minimum 9-1-1 training standard. The committee will also consider any new business and schedule future meetings.

Contact: Mary A. Boyd, P.O. Box 13206, Austin, Texas 78711, (512) 463-1812.

Filed: April 12, 1988, 4:27 p.m.

TRD-8803783

Division of Emergency Management (Department of Public Safety)

Tuesday, May 3, 1988, 1:30 p.m. The State Emergency Management Council of the Division of Emergency Management will meet in the Emergency Operations Center, DPS Headquarters, 5805 North Lamar Boulevard, Austin. According to the agenda, the council will review state and federal requirements of the Superfund Amendments and Reauthorization Act, Title III, of the Comprehensive Environmental Response and Compensation and Liability Act of 1980; consider emergency notification information, LEPC status update, public information program, legal issues, EPA-FEMA presentation, and other business.

Contact: Mike L. Scott, 5805 North Lamar Boulevard, Austin, Texas (512) 465-2138.

Filed: April 13, 1988, 3:46 p.m.

TRD-8803812

Texas Employment Commission

Wednesday, April 20, 1988, 8:30 a.m. The Texas Employment Commission will meet in Room 644, TEC Building, 101 East 15th Street, Austin. According to the agenda, the commission will consider prior meeting notes, internal procedures of commission appeals, consider and act on tax liability cases and higher level appeals in unemployment compensation cases listed on commission docket 16, and set the date of the next meeting. The commission also will meet in executive session to discuss Kelly Hobbs v. TEC, et al. and any action resulting from the session.

Contact: C. Ed Davis, 101 East 15th Street, Austin, Texas 78778, (512) 463-2291.

Filed: April 12, 1988, 12:39 p.m.

TRD-8803727

State Finance Commission

Thursday, April 21, 1988, 10:15 a.m. The State Finance Commission will meet in the Boardroom (across from the Ballroom), Doubletree Hotel (formerly La Mansion), 6505 IH 35 North, Austin. According to the

agenda, the commission will consider legislative proposals and regulatory update. The commission also will meet in executive session to consider personnel matters, including appointment of a savings and loan commissioner.

Contact: Jorge A. Gutierrez, Texas Department of Banking, 2601 North Lamar Boulevard, Austin, Texas 78705, (512) 479-1200.

Filed: April 12, 1988, 1:36 p.m.

TRD-8803736

Firemen's Pension Commission

Thursday, April 28, 1988, 1 p.m. The Administrative Division for the Firemen's Pension Commission will meet in Suite 235, 3910 IH 35 South, Austin. According to the agenda, the division will hold a re-hearing on the motion to grant R.J. Herschbach's request for service retirement pursuant to Texas Civil Statutes, Article 6252-13a, §16(e). Items of concern include date of disability, years of service, and refund of payments made from December 20, 1988, to present.

Contact: Helen Campbell, 3910 IH 35 South, Suite 235, Austin, Texas 78704, (512) 462-0222.

Filed: April 13, 1988, 10:29 a.m.

TRD-8803798

Interagency Council for Genetic Services

Friday, April 22, 1988, 8:30 a.m. The Interagency Council for Genetic Services will meet in Room T-604, 1100 West 49th Street, Austin. According to the agenda summary, the council will approve minutes of the March 10, 1988 meeting; consider assessment of need in Texas, availability of data to assess needs in Texas, assessment of automated data processing resources, and prioritization of interagency contract legislative mandates; review proposed logo; and consider next meeting date.

Contact: Patti J. Patterson, 1100 West 49th Street, Austin, Texas 78756, (512) 458-7321.

Filed: April 13, 1988, 9:58 a.m.

TRD-8803800

Texas Department of Health

Wednesday, April 13, 1988, 1 p.m. The Medical Radiologic Technologists Advisory Board of the Texas Department of Health met in the Oakwood Room, Austin Airport Hilton, 6000 Middle Fiskville Road, IH 35 at Highland Mall, Austin. According to the agenda, the board met for an emergency

agenda revision to review an application for limited curriculum approval. The emergency status was necessary as the application was received on the day of the meeting and a determination had to be made at this meeting.

Contact: Donna Hardin, 1100 West 49th Street, Austin, Texas 78756, (512) 458-7275.

Filed: April 13, 1988, 9:58 a.m.

TRD-8803801

Thursday, April 28, 1988, 10 a.m. The Advisory Committee on Nursing Home Affairs will meet in Room T-610, 110 West 49th Street, Austin. According to the agenda summary, the department will approve minutes of the previous meeting; hear subcommittee reports (social services, paperwork reduction, Alzheimer's Disease certificate standards, and administrative penalties); hear Bureau of Long Term Care reports on update on new rules, etc. (processing of license application (House Bill 5), criminal record check (Senate Bill 200), memorandum of understanding with Texas Department of Human Services, and proposed rules on controlled drugs); consider dietitian taking diet orders, physical plant licensing standards and interpretations-reactive subcommittee on architectural manual and policies, deaf residents' needs, committee name change/reorganization, proposed legislation for 71st legislative session, and next scheduled meeting.

Contact: Juanita Carrell, 1100 West 49th Street, Austin, Texas 78756, (512) 458-7706.

Filed: April 13, 1988, 8:24 a.m.

TRD-8803772

Health and Human Services Coordinating Council

Tuesday, April 19, 1988, 10 a.m. The Administration/Task Force Technical Advisory Subcommittee of the Health and Human Services Coordinating Council will meet in the Fourth Floor Conference Room, Sam Houston Building, Austin. According to the agenda, the subcommittee will consider vision of tasks to be considered; discuss future directions; consider objectives for next meeting, and determination of next meeting date.

Contact: Patricia O. Thomas, 311-A East 14th Street, Austin, Texas (512) 463-2195.

Filed: April 12, 1988, 4:14 p.m.

TRD-8803751

Wednesday, April 20, 1988, 10 a.m. The Children and Youth Services State Coordinating Committee, will meet in the Auditorium, 909 West 45th Street, Austin. According to the agenda, the committee approve minutes of the previous meeting; consider old business; hear report of the Tracking

Subcommittee, Joint Funding Subcommittee, Local Level Cooperation Subcommittee, and Needs and Resources Subcommittee; consider new business and selection of next meeting.

Contact: Patria O. Thomas, 311-A East 14th Street, Austin, Texas (512) 463-2195.

Filed: April 12, 1988, 4:11 p.m.

TRD-8803750

Special Task Force on Rural Health Care Delivery in Texas

Wednesday, April 20, 1988, 10 a.m. The Special Task Force on Rural Health Care Delivery in Texas will meet in the Auditorium, Texas Tech University Regional Health Center, 1400 Wallace Boulevard, Amarillo. According to the agenda, the task force will introduce task force members; hear presentation and public testimony; and consider other business.

Contact: Susan Wilson, Sam Houston Building, Suite 1007, Austin, Texas (512) 463-0360.

Filed: April 12, 1988, 2:47 p.m.

TRD-8803738

Thursday, April 21, 1988, 10:30 a.m. The Special Task Force on Rural Health Care Delivery in Texas will meet in the Auditorium, Texas Tech Regional Health Center, 800 West Fourth Street, Odessa. According to the agenda, the task force will introduce task force members; hear presentation and public testimony; and consider other business.

Contact: Susan Wilson, Sam Houston Building, Suite 1007, Austin, Texas (512) 463-0360.

Filed: April 12, 1988, 2:47 p.m.

TRD-8803739

Texas Historical Commission

The Texas Historical Commission will meet in the Fort Brown Hotel, 1900 East Elizabeth, Brownsville. Dates, times, rooms, and agendas follow.

Wednesday, April 20, 1988, 4 p.m. The Executive Committee will consider awards concerning Texas Award for historic preservation and Special Historic Preservation Award for new media; consider special budget, proposed rules, committee appointments, and Committee on Reorganization of State Agencies.

Contact: Curtis Tunnell, 1511 Colorado Avenue, Austin, Texas (512) 463-6100.

Filed: April 12, 1988, 3:22 p.m.

TRD-8803752

Thursday, April 21, 1988, 9 a.m. The commission will meet in the Fortress Room to hear reports from the chairman, Field and Museum Committee, Architecture Committee, Review and Compliance Committee, Nominations, Surveys, and Certified Local Governments Committee, Publications Committee, Main Street Committee, State Marker Committee, and Archaeology Committee.

Contact: Curtis Tunnell, 1511 Colorado Avenue, Austin, Texas (512) 463-6100.

Filed: April 12, 1988, 3:22 p.m.

TRD-8803753

Texas Hospital Equipment Financing Council

Thursday, April 21, 1988, 10 a.m. The Texas Hospital Equipment Financing Council will meet in Room 103, John H. Reagan Building, 15th Street and Congress Avenue, Austin. According to the agenda, the council will consider and discuss redemption of the series 1985 bonds and proposal to convert, all or in part, the bonds to a fixed interest rate with an extended maturity date and to extend the loan origination period, and other matters in connection therewith, including any actions necessary to amend documents, maintain tax-exempt status of the bonds and hiring of professional to carry out such proposal; consider and discuss commitments from potential borrowers in connection with the conversion of the bonds; and consider other business.

Contact: Charles W. Bailey, P.O. Box 15587, Austin, Texas 78761, (512) 465-1000.

Filed: April 13, 1988, 10:43 a.m.

TRD-8803795

Texas Department of Human Services

Monday-Tuesday, April 25-26, 1988, 1:30 p.m. The Church Relations Advisory Group of the Texas Department of Human Services will meet on the second floor, Classroom 7, West Tower, 701 West 51st Street, Austin. According to the agenda, the group will discuss meeting schedules, miscellaneous business, concerns of members, teen pregnancy, DHS family planning initiatives, AIDS, DHS program update, religious community support groups, one church, one child, employment pilot project, how the religious community can give support to AFDC clients who become employed, mission statement for income assistance, new job description for eligibility workers, programs for the homeless, what is being done at the state level, family violence, and comments on brochure for religious community.

Contact: Lucy Todd, P.O. Box 2960,

Austin, Texas 78769, (512) 450-3129.

Filed: April 12, 1988, 3:20 p.m.

TRD-8803755

State Board of Insurance

The State Board of Insurance will meet at 1110 San Jacinto Boulevard, Austin. Dates, times, and agendas follow.

Friday, April 22, 1988, 10 a.m. The board will meet in Room 414, to consider position by board on rules proposed by State Finance Commission as 7 TAC §§3.101-3.105 concerning insurance activities of state chartered banks, and consideration of possible comments to the State Finance Commission.

Contact: Pat Wagner, 1110 San Jacinto Street, Austin, Texas, 78701-1998, (512) 463-6526.

Filed: April 12, 1988, 4:36 p.m.

TRD-885159

Monday, April 25, 1988, 9 a.m. The board will meet in Room 342, to consider Docket 1578-Request by W.A. Pitchford, for a hearing on an action of the board of the Texas Medical Insurance Underwriting Association with respect to a determination concerning an appeal for a reduction in an assessment against Dr. Pitchford.

Contact: Pat Wagner, 1110 San Jacinto Street, Austin, Texas, 78701-1998, (512) 463-6526.

Filed: April 12, 1988, 4:36 p.m.

TRD-8805760

Midwestern State University

Monday, April 18, 1988, 2 p.m. The Board of Regents for Midwestern State University met in the Boardroom via telephone conference call, Hardin Administration Building, Wichita Falls. According to the agenda, the board reviewed recommendation to increase the 1988 summer faculty salary budget by \$51, 582 to accommodate increases in course offerings.

Contact: Deborah L. Barrow, 3400 Taft Boulevard, Wichita Falls, Texas 76308, (817) 692-6551.

Filed: April 19, 1988, 1:54 p.m.

TRD-8803806

Special Committee on Organization of State Agencies

Thursday, April 28, 1988, 9:30 a.m. The Special Committee on Organization of State Agencies will meet in Room 109, John H. Reagan Building, 105 West 15th Street,

Austin. According to the agenda summary, the committee will meet in Room 109, to approve minutes of the previous meeting; hear presentation on statewide accounting and data processing issues from Jim Williams, Deloitte, Harkins and Sells and Representative Richard Williamson; consider reports from the subcommittees on economic/development/regulatory/local affairs, professional licensing, natural resources/recreation/cultural affairs, general government services, and public protection/criminal justice/corrections; consider preliminary subcommittee findings, which may include alternative organizational structures, as well as data requirements for further study and future meeting schedules.

Contact: Jay G. Stanford, P.O. Box 13206, Austin, Texas 78711, (512) 463-1812.

Filed: April 12, 1988, 4:28 p.m.

TRD-8803782

Pan American University

Wednesday, April 13, 1988, The Board of Regents of Pan American University met in emergency session in the Administration Building, Pan American University, Edinburg. Times, rooms, and agendas follow.

1 p.m. The Committee for Contract Review met in executive session to hear presentation by committee consultant Ed Mann, Jr. The emergency status was necessary because urgent public necessity requires that the committee reconvene to hear the remainder of the presentation of its consultant who will be unable to attend the board's regularly scheduled meeting on April 15, 1988.

Contact: Miguel A. Nevarez, Pan American University, Edinburg, Texas (512) 381-2100.

Filed: April 12, 1988, 4:41 p.m.

TRD-8803768

2 p.m. The board met in executive session to hear presentation by committee consultant Ed Mann, Jr. The emergency status was necessary because urgent public necessity requires that the committee reconvene to hear the remainder of the presentation of its consultant who will be unable to attend the board's regularly scheduled meeting on April 15, 1988.

Contact: Miguel A. Nevarez, Pan American University, Edinburg, Texas (512) 381-2100.

Filed: April 12, 1988, 4:41 p.m.

TRD-8803769

Texas Board of Pardons and Paroles

Wednesday, April 20, 1988, 10:30 a.m. The Texas Board of Pardons and Paroles will meet at 8610 Shoal Creek Boulevard, Austin. According to the agenda, the board will conduct full board interviews, and meet with interested parties in connection with the case of Steven Davis, TDC 313,817, subject to the board's jurisdiction.

Contact: Daniel R. Guerra, (512) 459-2706.

Filed: April 12, 1988, 11:02 a.m.

TRD-8803720

Texas State Board of Pharmacy

Tuesday and Wednesday, April 26 and 27, 1988, noon and 8 a.m., respectively. The Texas State Board of Pharmacy will meet in the Embassy Suites North, 5901 IH-35, Austin. According to the agenda summary, the board will approve minutes of the February 23, 1988, meeting; hear reports of upcoming events; discuss reallocation of board member per diem and schedule board member participation of visits to review college of pharmacy internships programs; consider for final adoption rules 291.31-291.34, 291.36, 291.71, 291.73-291.76, 309.2-309.6, 281.33, 291.6, 309.7, 281.58, and 291.72; consider proposed rules 291.93 and 303.4 and proposed agreed board orders. The board will also meet in executive session to discuss personnel matters and pending litigation.

Contact: Fred S. Brinkley, 8505 Cross Park Drive, Suite 110, Austin, Texas 78754, (512) 832-0661.

Filed: April 13, 1988, 3:39 p.m.

TRD-8803821

Public Utility Commission of Texas

Friday, April 22, 1988, 1:30 p.m. The Hearings Division of the Public Utility Commission of Texas will meet in Suite 450N, 7800 Shoal Creek Boulevard, Austin. According to the agenda, the division will consider Docket 8068-Complaint of Flat Rate Communications, Ltd. against Southwestern Bell Telephone Company.

Contact: Phillip A. Holder, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

Filed: April 12, 1988, 3:19 p.m.

TRD-8803757

Texas Rehabilitation Commission

Friday, April 22, 1988, 9:30 a.m. The Texas Planning Council for Developmental Disabilities Advocacy and Public Information Committee of the Texas Rehabilitation Commission will meet in Room 302, 118 East Riverside Drive, Austin. According to the agenda, the council will approve of summary report; consider state legislative priorities for fiscal year 1990-1991, fiscal year 1989 funding recommendations; hear ICF-MR report requirements-DD Act; and consider federal legislation/policy.

Contact: Roger Webb, 118 East Riverside Drive, Austin, Texas 78701, (512) 445-8867.

Filed: April 14, 1988, 8:47 a.m.

TRD-8803817

Texas Commission on Human Rights

Friday, April 22, 1988, 9 a.m. The Texas Commission on Human Rights will meet in Room 103, John H. Reagan Building, Austin. According to the agenda, the commission will welcome guests, approve minutes, hear administrative reports, discuss status of Sunset Review, hear report from governmental organization, consider TCHR annual conference, IAOHRA annual conference, special projects, personnel matters, and status of EEO compliance training, hear report on current situation with Dallas EEOC district office, hear TCHR annual report, discuss commissioners issues, and consider unfinished business.

Contact: William M. Hale, 8100 Cameron Road, Suite 525, Austin, Texas 78753, (512) 837-8534.

Filed: April 13, 1988, 10:31 a.m.

TRD-8803796

Texas Senate

Friday, May 6, 1988, 10 a.m. The Deceptive Trade Practices Act Interim Committee of the Texas Senate will meet on the third floor, Old Supreme Court Room, Capitol, Austin. According to the agenda, the committee will overview the Texas Deceptive Trade Practice Act and cases with public testimony from the consumer and defense prospective.

Contact: Rheda Moseley, (512) 463-0128.

Filed: April 13, 1988, 11:44 a.m.

TRD-8803803

Select Committee on Tax Equity

Monday, May 9, 1988, 10 a.m. The Select Committee on Tax Equity will meet in the Auditorium, Short Course Center, Texas State Technical Institute, Loop 499 and Oak Street, Harlingen. According to the agenda, the committee will hold hearing on state and local tax policy issues and hear testimony.

Contact: Billy Hamilton, Reagan Office Building, Room 304, Austin, Texas 78711, (512) 463-1238.

Filed: April 12, 1988, 2:10 p.m.

TRD-8803734

Monday, May 9, 1988, 3 p.m. The Select Committee on Tax Equity will meet in the First Floor, City Hall, City Council Chambers, 1201 Leopard Street, Corpus Christi. According to the agenda, the committee will hold hearing on state and local tax policy issues and hear testimony.

Contact: Billy Hamilton, Reagan Office Building, Room 304, Austin, Texas 78711, (512) 463-1238.

Filed: April 12, 1988, 2:10 p.m.

TRD-8803735

Texas Water Commission

The Texas Water Commission will meet in the William B. Travis Building, 1701 North Congress Avenue, Austin. Dates, times, rooms, and agendas follow.

Thursday, April 28, 1988, 9 a.m. The commission will meet in Room 1-111, to consider temporary orders by City of Lubbock to allow the use of land adjoining or near the Gray Farm in Lubbock County, for irrigation of treated effluent; and request by Philip Mischel and Kenneth Jackson, doing business as Pelican Bay Joint Venture, for authorizing the operation of a wastewater treatment and disposal facility on a temporary basis prior to the commission's determination of Pelican Bay's application for proposed permit 13426-01, Trinity River Basin in Tarrant County.

Contact: Peggy O. Maxwell, P.O. Box 13087, Austin, Texas 78711, (512) 463-7899.

Filed: April 12, 1988, 11:36 a.m.

TRD-8803724

Thursday, April 28, 1988, 9 a.m. The commission will meet in Room 1-111, to determine whether a temporary order, pursuant to §26.0191, Texas Water Code, and 31 TAC §§305.21-305.30 of the rules of the commission, should be issued to the City of Lubbock to irrigate treated wastewater effluent onto 2, 635 acres of land which adjoins or is near the Gray Farm in Lubbock County.

Contact: Bill Thompson, P.O. Box 13087, Austin, Texas 78711, (512) 463-8069.

Filed: April 12, 1988, 4:26 p.m.

TRD-8803786

Monday, May 2, 1988, 10 a.m. The commission will meet in Room 118, to determine whether a temporary order should be issued to the City of Hallettsville, P.O. Box 247, Hallettsville, Texas 77964-0247. The proposed temporary order, if issued, would authorize the City of Hallettsville to discharge partially treated wastewater effluent not to exceed an average flow of 330,000 gallons per day into the Lavaca River, Lavaca River Basin. The applicant has stated that such a request is justified to make necessary repairs and maintenance to its wastewater treatment plant to ensure continued compliance with state law.

Contact: Mark Jordan, P.O. Box 13087, Austin, Texas 78711, (512) 463-8069.

Filed: April 13, 1988, 4:10 p.m.

TRD-8803819

Monday, May 9, 1988, 10 a.m. The Office of Hearings Examiner will meet in Room 102, to consider the rate increase of Southwest Utilities, Docket 7456-R.

Contact: Carol Wood, P.O. Box 13087, Austin, Texas 78711, (512) 463-7875.

Filed: April 12, 1988, 11:37 a.m.

TRD-8803721

Monday, May 9, 1988, 10 a.m. The Office of Hearings Examiner will meet in Room 512, to consider Docket 7523-Q-Application by Indian Hills Water Company to cease operation in Comal County and cancel certificate of convenience and necessity 11639.

Contact: Mary Miller, P.O. Box 13087, Austin, Texas 78711, (512) 463-7875.

Filed: April 12, 1988, 11:37 a.m.

TRD-8803723

Friday, May 13, 1988, 10 a.m. The Office of Hearings Examiner will meet in Rooms 1149A and B, to consider Docket 7504-R-rate increase of Copano Cove Water Company.

Contact: Ann MacMurray, P.O. Box 13087, Austin, Texas 78711, (512) 463-7875.

Filed: April 12, 1988, 11:37 a.m.

TRD-8803722

Tuesday, June 7, 1988, 9 a.m. The commission will meet in Room 118, to consider Riverbrook Associates, a joint venture seeking a permit to construct a diversion channel between Middle Bayou and Rabbs Bayou and to divert flows in Middle Bayou into Rabbs Bayou to provide flood protection to a proposed development approximately eight miles east of Richmond, Fort Bend County. Rabbs Bayou is a tributary of

the Brazos River, Brazos River Basin.

Contact: Peggy O. Maxwell, P.O. Box 13087, Austin, Texas 78711, (512) 463-7899.

Filed: April 13, 1988 4:09 p.m.

TRD-8803820

Texas Water Development Board

Thursday, April 21, 1988, 9:30 a.m. The Texas Water Development Board will meet at 3201 South Loop, Lubbock. According to the agenda, the board will consider approval of minutes, DFM report, extension of time for Magnolia, Melissa, and Harris Counties flood control WSC, Sabine River Authority payment on Toledo Bend Resources, financial assistance for Robinson, Channel WSC and Brazos Bend water authority, commitment of \$24,000 from the water quality enhancement account for use in the state revolving fund (SRF) loan program, authorizing the executive administrator to contract with the state treasurer to establish the SRF as a trust fund, amendment of 31 TAC §373.2, grant application by Travis County WC&ID 17, Angelina and Neches River Authority's request to accept the board's loan commitment as assurance of matching funds for a planning grant, awarding \$5,000 to the Colorado River MWD regarding cloud seeding program, Cleburne's request for exchange refunding, and the annual report on the Agricultural Soil and Water Conservation Program.

Contact: M. Reginald Arnold II, P.O. Box 13231, Austin, Texas, (512) 463-7847.

Filed: April 12, 1988, 2:01 p.m.

TRD-8803732

Texas Water Resource Finance Authority

The Texas Water Resources Finance Authority will meet in 3201 South Loop, Lubbock. Dates, times, and agendas follow.

Wednesday, April 20, 1988, 8 a.m. The authority will hear oral presentations concerning proposals from underwriters, to serve as managing underwriter and/or co-managing underwriter, on the revenue bond issue and relative transactions to acquire a portfolio of political subdivision bonds from the Texas Water Development Board.

Contact: M. Reginald Arnold II, P.O. Box 13231, Austin, Texas (512) 463-7847.

Filed: April 12, 1988, 2:04 p.m.

TRD-8803730

Thursday, April 21, 1988, 9 a.m. The authority will approve minutes of the March 17, 1988, meeting; and consider the selection of a senior underwriter and underwrit-

ing team for a negotiated revenue bond sale.

Contact: M. Reginald Arnold II, P.O. Box 13231, Austin, Texas (512) 463-7847.

Filed: April 12, 1988, 2:04 p.m.

TRD-8803731

Regional Meetings

Meetings Filed April 12, 1988

The Burnet County Appraisal District, Appraisal Review Board, met at 215 South Pierce Street, Burnet, on April 15, 1988, at 4 p.m. Information may be obtained from Melda Hart, 215 South Pierce, Burnet, Texas 78611.

The Hickory Underground Water Conservation District, #1, Board and Advisers, met at 2005 Old Nine Road, Brady, on April 14, 1988, at 7 p.m. Information may be obtained from Rick Illgner, P.O. Box 1214, Brady, Texas 76825, (915) 597-2785.

Meetings Filed April 13, 1988

The Bexar Appraisal District, Board of Directors, will meet at 535 South Main, San Antonio, on April 18, 1988, at 5 p.m. Information may be obtained from Walter Stoneham, 535 South Main, San Antonio, Texas 78204, (512) 224-8511.

The Education Service Center, Region XII, Board of Directors, will meet at 401 I-35, Waco, on April 21, 1988, at 7:30 p.m. Information may be obtained from Weldon O. Mills, P.O. Box 1249, Waco, Texas 76703-1249, (817) 756-7494.

The Harris County Appraisal District, Board of Directors, will meet on the Eighth floor, 2800 North Loop West, Houston, on April 20, 1988, at 1:30 p.m. Information may be obtained from Margie Hilliard, P.O. Box 920975, Houston, Texas 77292-0975, (713) 957-5291.

The Central Counties Center for MHMR Services, Board of Trustees, will meet at 304 South 22nd Street, Temple, on April 19, 1988, at 7:45 p.m. Information may be obtained from Micheal K. Muegge, 304 South 22nd Street, Temple, Texas.

TRD-88037990

Meetings Filed April 14, 1988

The Austin Transportation Study, Policy Advisory Committee, will meet in Room 2.102, Thompson Conference Center, Austin, on April 19, 1988, at 6 p.m. Information may be obtained from Joseph p. Gieselmann, P.O. Box 1748, Austin, Texas 78765, (512) 473-9122.

The Austin Travis County MHMR Center, Board of Trustees, met at 611 South Congress Avenue, Austin, on April 14,

1988, at noon. Information may be obtained from Sharon Taylor, 611 South Congress Avenue, Texas Austin, Texas 78704, (512) 447-4141.

The Cherokee County Appraisal District, Board of Directors, will meet at 107 East Sixth Street, Rusk, on April 21, 1988, at 2:30 p.m. Information may be obtained from S.R. Danner, P.O. Box 494, Rusk, Texas 75785, (214) 683-2296.

The Houston-Galveston Area Council, Project Review Committee, will meet on April 19, 1988, at 8:30 a.m. Information may be obtained from Jack Steele.

The Jack County Appraisal District, Board of Directors, will meet in the Los Creek Office Building, 216-D South Main, Jacksboro, on April 19, 1988, at 7 p.m. Information may be obtained from Doris G. Ray or Linda Williams, 216-D South Main, Jacksboro, Texas 76056, (817) 567-6301.

The Lampasas County Appraisal District, Board of Directors, met at 109 East Fifth Street, Lampasas, on April 15, 1988, at 1 p.m. Information may be obtained from Dana Ripley, P.O. Box 175, Lampasas, Texas 76550, (512) 556-8058.

The Liberty County Central Appraisal District, Board of Directors and Appraisal Review Board, will meet at 1820 Sam Houston, on April 27, 1988, at 9:30 a.m. and April 28, 1988, at 9:30 a.m. respectively. Information may be obtained from Sherry Greak, P.O. Box 100016, Liberty, Texas 77575.

The Lone Star Municipal Power Agency, met in the College Station Community Center, 1300 Jersey, College Station, on April 18, 1988, at 5:30 p.m. Information may be obtained from Cathy Locke, (409) 764-3509.

The Lower Colorado River Authority, Board of Directors, will meet at 3700 Lake Austin Boulevard, Austin, on April 19, 1988, at 9 a.m. Information may be obtained from Thomas G. Mason, 3700 Lake Austin Boulevard, Austin, Texas.

The Trinity River Authority of Texas, Resources Development Committee and Legal Committee, will meet at 5300 South Collins, Arlington, on April 19, 1988, at 10:30 a.m. and April 20, 1988, at 11 a.m. Information may be obtained from Jack C. Worsham, P.O. Box 60, Arlington, Texas 76010, (817) 467-4343.

The Wood County Appraisal District, Board of Directors, will meet in the Conference Room, 217 North Main, Quitman, on April 21, 1988, at 1:30 p.m. Information may be obtained from Carson Wages, P.O. Box 951, Quitman, Texas 75783.

TRD-8803818

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 Department of Banking Corrections of Error

The Texas Department of Banking proposed a section which contained an error as published in the April 5, 1988, issue of the *Texas Register* (13 TexReg 1583).

In §3.104, the first paragraph should read: "No bank employee, officer, director, or principal shareholder may retain commissions or other income from the sale of insurance as provided for in §3.102 and §3.103 of this title (relating to Insurance Activities Engaged in by a Bank at its Principal Banking House, Banking Facilities, or through other Affiliated Offices Located in Any Place with a Population of 5,000 or Less: and Authorized Insurance Related Activities Incidental to the Business of Banking that may be Conducted by State-Chartered Banks Domiciled in any Place in this State) unless authorized herein.

Banking Section of the State Finance Commission Public Hearing

The Hearings Officer of the Banking Department of Texas will conduct a public hearing on the proposed new 7 TAC §§3.101-3.105, concerning certain insurance sales activities to be engaged in by state banks. Those sections were published in the April 5, 1988, issue of the *Texas Register* (13 TexReg 1580). The public hearing will commence at 9 a.m. on April 26, 1988, in the Department of Banking's Hearing Room, 2601 North Lamar Boulevard, Austin.

This hearing is held to receive oral and/or written comments (written comments are preferred) on the proposed sections. The proceeding does not represent a contested case hearing. The hearings officer may impose reasonable time limits on comments in such a manner as to give those persons in favor of and those opposed to the proposed sections equal time for their respective presentations.

Additional information may be obtained from Hubert Bell, Jr., Assistant General Counsel, Banking Department of Texas, 2601 North Lamar Boulevard, Austin, Texas 78705-4294, (512) 479-1200.

Issued in Austin, Texas, on April 13, 1988.

TRD-8803746 Jorge A. Gutierrez
General Counsel
Texas Department of Banking

Filed: April 12, 1988

For further information, please call (512) 479-1200.

Texas Department of Commerce Weekly Report on the 1988 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 1988 is \$834,100,000.

State legislation, Senate Bill 1382, Chapter 1092, Acts of the 70th Legislature, (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 \$278,033,300, with 185,355,500 available to the local housing authorities and \$92,677,800 available to the Texas Housing Agency. The aggregate amount for state-voted issues is \$208,525,000 and the amount for all other bonds requiring an allocation is \$347,541,700.

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, April 4, 1988-April 8, 1988.

Weekly report on the 1988 allocation of the state ceiling on certain private activity bonds as pursuant to Senate Bill 1382.

Total amount of state ceiling remaining unreserved for the \$278,033,300 subceiling for qualified mortgage bonds under the Act as of April 8, 1988: \$228,033,300

Total amount of state ceiling remaining unreserved for the \$208,525,000 subceiling for state-voted issues under the Act as of April 8, 1988: \$208,525,000

Total amount of state ceiling remaining unreserved for the \$347,541,700 subceiling for all other bonds under the Act as of April 8, 1988: \$60,000

Total amount of the \$834,100,000 state ceiling remaining unreserved as of April 8, 1988: \$436,618,300

Comprehensive listing of bond issues which have received a reservation date pursuant to the Act from April 4, 1988-April 8, 1988: none

Comprehensive listing of bonds issued and delivered as pursuant to the Act from April 4, 1988-April 8, 1988. Listed is the issuee, user, description, and amount: Brazos

River Harbor, The Dow Chemical Navigation District Company of Brazoria County, Solid Waste and Pollution Control Facility, \$54,000,000.

Note: The qualified mortgage bonds subceiling increases are due to the cancellation of reservations for projects that did not close.

The all other bond subceiling increase is due to a closing at a lower amount than the reserved amount.

The state ceiling reflects an increase due to the notes as stated previously.

Issued in Austin, Texas, on April 13, 1988.

TRD-8803747 J.W. Lauderback
Executive Director
Texas Department of Commerce

Filed: April 12, 1988

For further information, please call (512) 472-5059.

Texas Department of Health Licensing Actions for Radioactive Materials

The Texas Department of Health has taken actions regarding licenses for the possession and use of radioactive materials as listed in the table below. The subheading labeled "Location" indicates the city in which the radioactive material may be possessed and/or used. The location listing "Throughout Texas" indicates that the radioactive material may be used on a temporary basis at job sites throughout the state.

NEW LICENSES ISSUED:

Location	Name	License#	City	Amend- ment #	Date o Actio
Lone Star	Precision Tubular Inspection, Inc.	L4164	Lone Star	0	03/15/8
Throughout Texas	Lone Star Test Lab, Inc.	L04171	San Antonio	0	03/11/8
Throughout Texas	L. A. Fuller & Sons Construction, Inc.	L04170	Amarillo	0	03/11/8

AMENDMENTS TO EXISTING LICENSES ISSUED:

Location	Name	License#	City	Amend- ment #	Date o Actio
Amarillo	Panhandle Diagnostic Imaging Center, Ltd.	L03737	Amarillo	4	03/17,
Amarillo	Master Nuclear Pharmacy	L03398	Amarillo	5	03/21/88
Arlington	SURGIKOS, INC.	L02435	Arlington	6	03/16/8
Arlington	Highlands Medical Center	L03704	Arlington	3	03/25/8
Austin	Allan Shivers Radiation Therapy Center	L01761	Austin	16	03,17/8
Austin	Allan Shivers Radiation Therapy Center	L03726	Austin	3	03/18/88
Austin	Radian Corporation	L01692	Austin	24	03/15/88
Austin	Syncor International Corporation	L02117	Austin	39	03/21/88
Beaumont	Baptist Hospital of Southeast Texas	L00358	Beaumont	48	03/25/88
Borger	Golden Plains Community Hospital	L02542	Borger	7	03/21/88
Corpus Christi	Spohn Hospital	L02495	Corpus Christi	19	03/24/8
Corpus Christi	Radiology Associates	L04169	Corpus Christi	1	03/25/88
Dallas	North Dallas Diagnostic Center	L03125	Dallas	19	03/17/88
Dallas	Baylor University Medical Center	L01290	Dallas	20	03/21/88
El Paso	Providence Memorial Hospital	L02353	El Paso	25	03/11/88
El Paso	El Paso Cancer Treatment Center	L01847	El Paso	23	03/11/88
Fort Worth	Medical Ancillary Services, Inc.	L03212	Fort Worth	13	03/21/8
Hondo	Medina Community Hospital	L03323	Hondo	4	03/18/88
Houston	Woman's Hospital of Texas	L03946	Houston	1	03/15/8
Houston	Jeffrey N. Bowman, D.P.M. and Harry R. Pattinian, DPM	L03565	Houston	4	03/18/88
Houston	Ferronet Resources, Inc.	L03509	Houston	3	03/07/88
Houston	Parkway Imaging and Medical Services	L04111	Houston	1	03/15/88
Houston	University of Texas System Cancer Center	L00466	Houston	40	03/15/88
Houston	Mosher Steel Company	L01539	Houston	17	03/15/88
Houston	Mallinckrodt, Inc.	L03008	Houston	16	03/21/88

AMENDMENTS TO EXISTING LICENSES ISSUED CONTINUED:

ston	Parkway Hospital	L01964	Houston	21	03/21/88
Longview	Longview Regional Hospital	L02882	Longview	6	03/21/88
Lubbock	Highland Hospital	L02467	Lubbock	5	03/21/88
Lubbock	Glen H. Stanbaugh, Jr., M.D.	L03748	Lubbock	3	03/21/88
Orange	Chevron Chemical Company	L00031	Orange	21	03/15/88
San Antonio	Southwest Foundation for Biomedical Research	L00468	San Antonio	30	03/15/88
San Antonio	San Antonio Imaging Center	L04098	San Antonio	3	03/21/88
San Antonio	Trinity University	L01668	San Antonio	13	03/21/88
San Antonio	Louis B. Levy, Ph.D.	L03410	San Antonio	2	03/23/88
Temple	Scott and White Memorial Hospital	L00331	Temple	37	03/21/88
Throughout Texas	Berger Materials Engineering, Inc.	L03332	Bryan	8	03/04/88
Throughout Texas	Texas Department of Health	L01155	Austin	29	03/15/88
Throughout Texas	Aero Pipe Inspection, Inc.	L03581	Snyder	2	03/07/88
Throughout Texas	Pro-Technics II, Inc.	L03835	Houston	9	03/07/88
Throughout Texas	Scientific Measurement Systems, Inc.	L02696	Austin	23	03/17/88
Throughout Texas	Independent Testing Laboratories, Inc.	L03795	Houston	10	03/17/88
Throughout Texas	Terra-Mar, Inc.	L03157	Houston	8	03/22/88
Throughout Texas	Tru-Tec	L03913	La Porte	13	03/23/88
Victoria	DeTar Hospital	L01630	Victoria	22	03/21/88
Waco	Texas State Technical Institute	L01926	Waco	22	03/18/88
Webster	GNI Incorporated	L02995	Webster	19	03/15/88
Wichita Falls	Wichita Falls Clinic	L00523	Wichita Falls	18	03/24/88
Wichita Falls	Bethania Regional Health Care Center	L01844	Wichita Falls	30	03/25/88
Winnie	Medical Center of Winnie	L03537	Winnie	2	03/21/88

RENEWALS OF EXISTING LICENSES ISSUED:

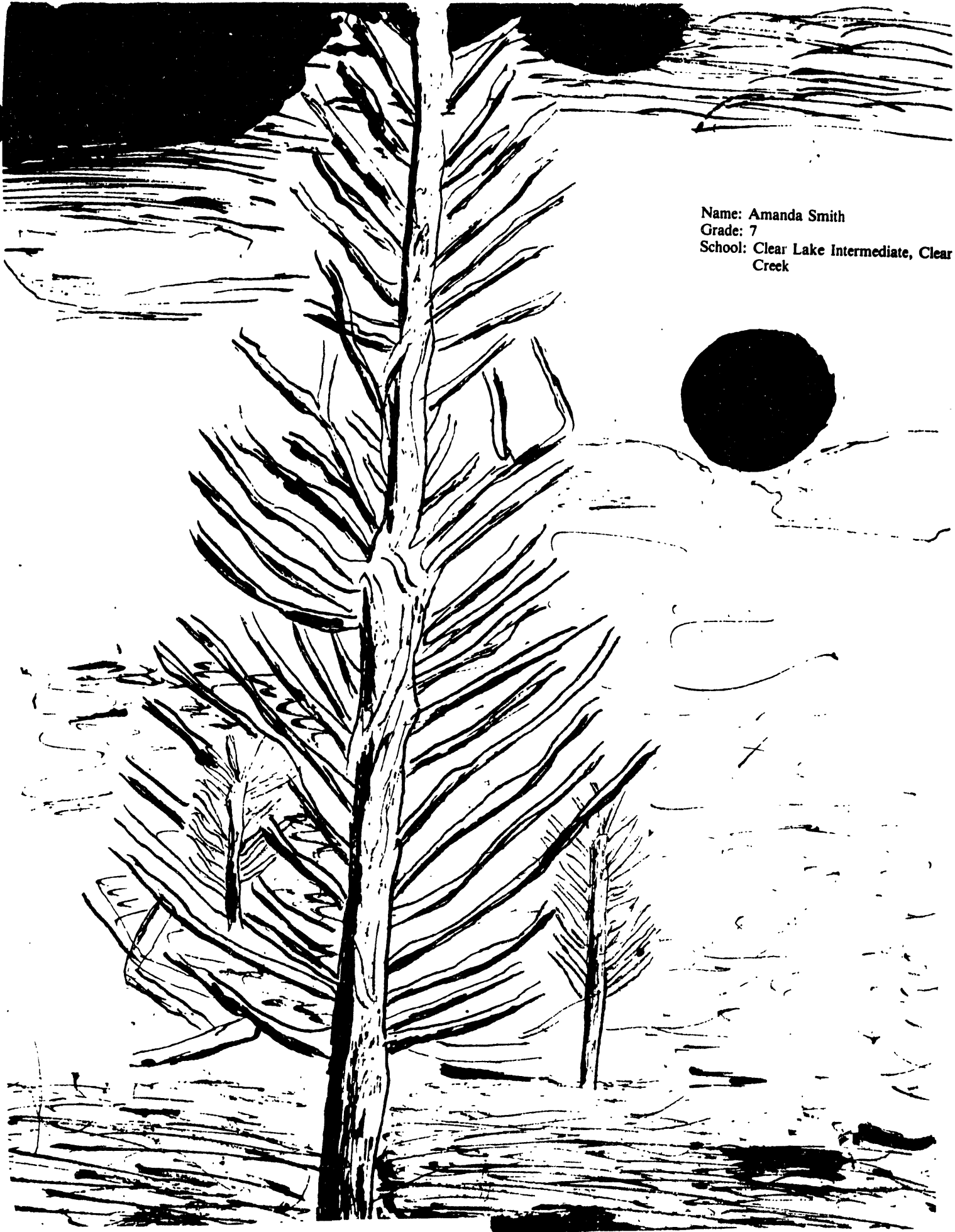
<u>Location</u>	<u>Name</u>	<u>License#</u>	<u>City</u>	<u>Amend- ment #</u>	<u>Date of Action</u>
Anson	Anson General Hospital	L03417	Anson	3	03/11/88
Brownsville	Valley Regional Medical Center	L02274	Brownsville	8	03/25/88
Dallas	Metropolitan Hospital	L02263	Dallas	12	03/23/88
El Paso	Southwestern General Hospital	L02338	El Paso	16	03/21/88
Fort Worth	All Saints Episcopal Hospital	L02212	Fort Worth	16	03/11/88
Galena Park	Deaton Hospital, Inc.	L03409	Galena Park	2	03/15/88
Harlingen	Valley Baptist Medical Center	L01909	Harlingen	29	03/21/88
Houston	Louis Daily, M.D.	L00086	Houston	10	03/11/88
Houston	St. Elizabeth Hospital	L03467	Houston	1	03/18/88
Houston	University of Houston - Clear Lake	L02108	Houston	7	03/18/88
Houston	Gator Hawk Inc.	L03367	Houston	2	03/24/88
Huntsville	Huntsville Memorial Hospital	L02822	Huntsville	4	03/18/88
N. Richland Hills	HCA North Hills Medical Center	L02271	N. Richland Hills	12	03/25/88
Quitman	Wood County Central Hospital	L03376	Quitman	3	03/15/88
Richmond	John D. Huff, M.D.	L02864	Richmond	2	03/17/88
San Antonio	San Antonio Independent School District	L01918	San Antonio	5	03/15/88
Throughout Texas	Abbott Laboratories, Inc.	L03340	Austin	4	03/17/88
Throughout Texas	Chaparral Inspection Company	L03139	Odessa	3	03/17/88
Waco	Baylor University	L00343	Waco	12	03/21/88

TERMINATIONS OF LICENSES ISSUED:

<u>Location</u>	<u>Name</u>	<u>License#</u>	<u>City</u>	<u>Amend- ment #</u>	<u>Date o Action</u>
Fort Worth	Petrochemicals/DeSoto, Inc.	L01115	Fort Worth	14	03/22/88
Hamilton	Harris Methodist Hamilton	L03219	Hamilton	5	03/25/88

AMENDMENTS TO EXISTING LICENSES DENIED:

<u>Location</u>	<u>Name</u>	<u>License#</u>	<u>City</u>	<u>Amend- ment #</u>	<u>Date of Action</u>
Throughout Texas	R/A Services, Inc.	L03010	Odessa	0	03/17/88



Name: Amanda Smith
Grade: 7
School: Clear Lake Intermediate, Clear
Creek

In issuing new licenses and amending and renewing existing licenses, the Texas Department of Health, Bureau of Radiation Control, has determined that the applicants are qualified by reason of training and experience to use the material in question for the purposes requested in accordance with *Texas Regulations for Control of Radiation* in such a manner as to minimize danger to public health and safety or property and the environment; the applicants proposed equipment, facilities, and procedures are adequate to minimize danger to public health and safety or property and the environment; the issuance of the license(s) will not be inimical to the health and safety of the public or the environment; and the applicants satisfy any applicable special requirements in the *Texas Regulations for Control of Radiation*.

This notice affords the opportunity for a hearing on written request of a licensee, applicant, or "person affected" within 30 days of the date of publication of this notice. A "person affected" is defined as a person who is resident of a county, or a county adjacent to the county, in which the radioactive materials are or will be located, including any person who is doing business or who has a legal interest in land in the county or adjacent county, and any local government in the county; and who can demonstrate that he has suffered or will suffer actual injury or economic damage due to emissions of radiation. A licensee, applicant, or "person affected" may request a hearing by writing David K. Lacker, Chief, Bureau of Radiation Control (Director, Radiation Control Program), 1100 West 49th Street, Austin, Texas 78756-3189.

Any request for a hearing must contain the name and address of the person who considers himself affected by agency action, identify the subject license, specify the reasons why the person considers himself affected, and state the relief sought. If the person is represented by an agent, the name and address of the agent must be stated.

Copies of these documents and supporting materials are available for inspection and copying at the office of the Bureau of Radiation Control, Texas Department of Health, 1212 East Anderson Lane, Austin, from 8 a.m. to 5 p.m. Monday-Friday (except holidays).

Issued in Austin, Texas, on April 12, 1988.

TRD-8803771 Robert A. MacLean
Deputy Commissioner
Texas Department of Health

Filed: April 13, 1988

For further information, please call (512) 835-7000.

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**State Department of Highways and
Public Transportation**
Consultant Proposal Request

As required by Texas Civil Statutes, Article 6252-11c, the following notice for request for proposals is filed.

Notice of Invitation. The State Department of Highways and Public Transportation is soliciting bids to conduct a study of internal control procedures, compiling an inventory of existing internal controls, evaluating compliance with existing internal control procedures, identifying deficiencies, recommending improvements to enhance efficiency, providing functional risk analyses, and identifying performance measures for each functional area of operations.

The major objective of the study is to inventory, document, and enhance the internal control system of the State Department of Highways and Public Transportation to provide the commission, administration, and senior managers reasonable assurance that all resources and works schedules are appropriately and timely utilized.

Agency Contact. Detailed information concerning the request for proposals can be obtained from the State Department of Highways and Public Transportation, Dewitt C. Greer Building, 11th and Brazos Streets, Austin, Texas 78701-2483, Attn: Internal Control Executive Committee, Walt Paluch, (512) 463-8678.

Response Dates. Closing date for receipt of vendor bids responding to the request for proposals will be 4 p.m., May 31, 1988, at the Main Office (Room 505) of the State Department of Highways and Public Transportation, Austin. Contract award is contemplated on or before June 30, 1988.

Selection Criteria. Evaluation of bids will be conducted by the Internal Control Executive Committee, A. R. Castello, chairman. Final selection of the vendor will be by the State Highway and Public Transportation Commission and the engineer-director of the State Department of Highways and Public Transportation.

Issued in Austin, Texas, on April 13, 1988.

TRD-8803787 Diane L. Northam
Administrative Technician
State Department of Highways and Public
Transportation

Filed: April 13, 1988

For further information, please call (512) 463-8630.

◆ ◆ ◆
Public Hearing

Pursuant to the Texas Coastal Waterway Act of 1975, Texas Civil Statutes, Article 5415e-2, §6(g), the State Highway and Public Transportation Commission will conduct a public hearing to receive data, evidence, comments, views, and/or testimony concerning the acquisition by donation, lease, or purchase of land environmentally suitable for use as disposal sites for materials dredged from the main channel of waterway. The location of the proposed sites for consideration by the commission is in Matagorda County and concerns five sites adjacent to the Intracoastal Waterway, and may be more specifically described as follows:

approximately 200 acres, referred to as DA101A, is adjacent to and on the north side of the Gulf Intracoastal Waterway and west of Caney Creek. The site is also identified by the United States Army Corps of Engineers as between their station numbers 343+000;

approximately 265 acres, referred to as DA102D, is adjacent to and on the north side of the Gulf Intracoastal Waterway and east of Boggy Bayou. The site is also identified by the United States Army Corps of Engineers as between their station numbers 356+000 and 361+000;

approximately 260 acres, referred to as DA102E, is adjacent to and on the north side of the Gulf Intracoastal Waterway and west of Boggy Bayou. The site is also identified by the United States Army Corps of Engineers as between their station numbers 364+600 and 370+000;

approximately 60 acres, referred to as DA104A Extension, is adjacent to and on the north side of the Gulf Intracoastal Waterway and west of Live Oak Bayou. The site is also

identified by the United States Army Corps of Engineers as between their station numbers 383+000 and 386+900; approximately 50 acres, referred to as DA105A, is adjacent to and on the north side of the Gulf Intracoastal Waterway and west of Big Boggy Bayou. The site is also identified by the United States Army of Engineers as between their station numbers 403+00 and 405+500.

The public hearing will be held at 10:15 a.m., Wednesday, April 27, 1988, First Floor Meeting Room, Dewitt C. Greer State Highway Building, 11th and Brazos Streets, Austin.

Any interested person may appear and offer comment or testimony, either orally or in writing; however, questioning of commenters or witnesses will be reserved exclusively to the commission as may be necessary to ensure a complete record. While any person with pertinent comments or testimony will be granted an opportunity to present them during the course of the hearing, the commission reserves the right to restrict testimony in terms of time or repetitive content.

For further information, please contact Alvin R. Luedecke, Jr., State Transportation Planning Engineer, P.O. Box 5051, Austin, Texas 78763-5051, (512) 465-7346; or Marcus L. Yancey, deputy director, Planning Policy, (512) 463-8627.

Issued in Austin, Texas, on April 13, 1988.

TRD-8803788 Diane L. Northam
Administrative Technician
State Department of Highways and Public
Transportation

Filed: April 13, 1988

For further information, please call (512) 463-8630.

Texas Department of Human Services Notice of Award

In accordance with Texas Civil Statutes, Article 6252-11c, the Texas Department of Human Services (TDHS) furnished this notice of consultant contract award. The consultant proposal request was published in the January 8, 1988, issue of the *Texas Register* (13 Tex Reg 205).

Description of Service. The contractor will conduct a statewide evaluation which will focus on the following Child Protective Services Programs: adequacy of the intake process; promptness and thoroughness of CPS investigations; availability of in-home services; rate of removal into substitute care; returning children to parents who were previously abusive or neglectful; child deaths resulting from abuse/neglect; recruitment, qualification, and retention of CPS staff; and cooperation and coordination among components of the CPS system.

Name of Consultant. The name of the Consultant is American Association for Protecting Children, American Humane Association, 9725 East Hampden Avenue, Denver, Colorado 80231, (303) 695-0811.

Total Value and Term of Contract. The contract period is April 1, 1988-October 31, 1988. Payments under this contract will not exceed \$250,000.

Study Completion Date. The consultant's final report will be due August 1988, and presentations to TDHS executive staff will be done in September or October 1988.

Public Comments. Comments or questions regarding this study should be directed to Nancy McDaniel, Project

Manager, American Association for Protecting Children, American Humane Association, 9725 East Hampden Avenue, Denver, Colorado 80231, (303) 695-0811.

Issued in Austin, Texas, on April 12, 1988.

TRD-8803719 Marlin W. Johnston
Commissioner
Texas Department of Human Services

Filed: April 12, 1988

For further information, please call (512) 450-3765.

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 Anglo-American Insurance Company, a foreign casualty insurance company. The home office is in New Orleans, Louisiana.

2. Application for a name change by Combined American Life Insurance Company, a foreign life insurance company. The home office is in Lincoln, Nebraska. The proposed new name is American Combined Life Insurance Company.

3. Application for admission to do business in Texas of American Funeral Assurance Company, a foreign life insurance company. The home office is in Amory, Mississippi.

4. Application for admission to do business in Texas of Insurance Benefit Administrators, Inc., a foreign life insurance company. The home office is in Western Spring, Illinois.

5. Application for admission to do business in Texas of Life Insurance Company of Arkansas, a foreign life insurance company. The home office is in Little Rock, Arkansas.

6. Application for incorporation of The New Millers Casualty Insurance Company, a domestic casualty company. The home office is in Fort Worth.

7. Application for incorporation of the Aetna Dental Care of Texas, Inc., a domestic health maintenance organization. The home office is in Richardson.

8. Application for a name change by First Continental Life and Accident Insurance Company of Texas, a domestic life insurance company. The home office is in Houston. The proposed new name is Lomas Life and Accident Insurance Company of Texas.

9. Application for a name change by Savers Annuity Insurance Company, a domestic life insurance company. The home office is in Dallas. The proposed new name is Mayflower National Life Insurance Company of Texas.

10. Application for incorporation of Allstate Texas Lloyd's, a domestic casualty insurance company. The home office is in Irving.

11. Application for incorporation of Continental Investors Life Insurance Company, Inc., a domestic life insurance company. The home office is in Austin.

Filed: April 12, 1988

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

◆ ◆ ◆
Texas Medical Disclosure Panel
Medical Treatments and Surgical
Treatments Established by the Texas
Medical Disclosure Panel

The Medical Liability and Insurance Improvement Act, Texas Civil Statutes, Article 4590i, §6.04, requires the Texas Medical Disclosure Panel to prepare lists of medical treatments and surgical procedures which physicians and health care providers are required to disclose or not disclosed to patients or persons authorized to consent for the patients. The Act also requires that the lists be published in the *Texas Register*. In compliance with the Act, the panel has prepared List A, covering treatments and procedures which are required to be disclosed, and List B, covering treatments and procedures which are not required to be disclosed. The lists are adopted by reference in 25 TAC §601.1 and §601.2.

In the adopted rules section of this issue, the panel has adopted amendments to the lists. Since it has been several years since the last amendments to the lists were published in the *Texas Register*, and since the amendments involve numerous and substantial changes, the lists in their entirety, including the adopted amendments is contained in the preamble to the adopted posed amendments to 25 TAC §601.1 and §601.2, which is being published in the adopted rules section of this issue of the *Texas Register*.

Section 601.1. Procedures Requiring Full Disclosure (List A). The following treatments and procedures require full disclosure by the physician or health care provider to the patient or person authorized to consent for the patient.

1. Anesthesia.
 1. Epidural.
 1. Risks are enumerated in the informed consent form in rule 601. 3.
 2. General.
 1. Risks are enumerated in the informed consent form in rule 601. 3.
 3. Spinal.
 1. Risks are enumerated in the informed consent form in rule 601. 3.
 2. Cardiovascular system. (No procedures assigned at this time.)
 3. Digestive system treatments and procedures.
 1. Cholecystectomy with or without common bile duct exploration.
 1. Pancreatitis.
 2. Injury to the tube between the liver and the bowel.
 3. Retained stones in the tube between the liver and the bowel.
 4. Narrowing or obstruction of the tube between the liver and the bowel.

5. Injury to the bowel and/or intestinal obstruction.
4. Ear treatments and procedures.
 1. Stapedectomy.
 1. Diminished or bad taste.
 2. Total or partial loss of hearing in the operated ear.
 3. Brief or long-standing dizziness.
 4. Eardrum hole requiring more surgery.
 5. Ringing in the ear.
 2. Reconstruction of auricle of ear for congenital deformity or trauma.
 1. Less satisfactory appearance compared to possible alternative artificial ear.
 2. Exposure of implanted material.
 3. Tympanoplasty with mastoidectomy.
 1. Facial nerve paralysis.
 2. Altered or loss of taste.
 3. Recurrence of original disease process.
 4. Total loss of hearing in operated ear.
 5. Dizziness.
 6. Ringing in the ear.
5. Endocrine system treatments and procedures.
 1. Thyroidectomy.
 1. Injury to nerves resulting in hoarseness or impairment of speech.
 2. Injury to parathyroid glands resulting in low blood calcium levels that require extensive medication to avoid serious degenerative conditions, such as cataracts, brittle bones, muscle weakness and muscle irritability.
 3. Lifelong requirement of thyroid medication.
 6. Eye treatments and procedures.
 1. Eye muscle surgery.
 1. Additional treatment and/or surgery.
 2. Double vision.
 3. Partial or total loss of vision.
 2. Surgery for cataract with or without implantation of intraocular lens.
 1. Complications requiring additional treatment and/or surgery.
 2. Need for glasses or contact lenses.
 3. Complications requiring the removal of implanted lens.
 4. Partial or total loss of vision.
 3. Retinal or vitreous surgery.
 1. Complications requiring additional treatment and/or surgery.
 2. Recurrence or spread of disease.
 3. Partial or total loss of vision.
 4. Reconstructive and/or plastic surgical procedures of the eye and eye region, such as, blepharoplasty, tumor, fracture, lacrimal surgery, foreign body, abscess, or trauma.
 1. Worsening or unsatisfactory appearance.

2. Creation of additional problems such as:
 1. Poor healing or skin loss.
 2. Nerve damage.
 3. Painful or unattractive scarring.
 4. Impairment of regional organs, such as, eye or lip function.
 3. Recurrence of the original condition.
5. Photocoagulation and/or cryotherapy.
 1. Complications requiring additional treatment and/or surgery.
 2. Pain.
 3. Partial or total loss of vision.
6. Corneal surgery, such as, corneal transplant, refractive surgery and pterygium.
 1. Complications requiring additional treatment and/or surgery.
 2. Possible pain.
 3. Need for glasses or contact lenses.
 4. Partial or total loss of vision.
7. Glaucoma surgery by any method.
 1. Complications requiring additional treatment and/or surgery.
 2. Worsening of the glaucoma.
 3. Pain.
 4. Partial or total loss of vision.
8. Removal of the eye or its contents (enucleation or eviseration).
 1. Complications requiring additional treatment and/or surgery.
 2. Worsening or unsatisfactory appearance.
 3. Recurrence or spread of disease.
9. Surgery for penetrating ocular injury, including intraocular foreign body.
 1. Complications requiring additional treatment and/or surgery, including removal of the eye.
 2. Chronic pain.
 3. Partial or total loss of vision.
7. Female genital system treatments and procedures.
 1. Abdominal hysterectomy (total).
 1. Uncontrollable leakage of urine.
 2. Injury to bladder.
 3. Sterility.
 4. Injury to the tube (ureter) between the kidney and the bladder.
 5. Injury to the bowel and/or intestinal obstruction.
 2. Vaginal hysterectomy.
 1. Uncontrollable leakage of urine.
 2. Injury to bladder.
 3. Sterility.
 4. Injury to the tube (ureter) between the kidney and the bladder.
 5. Injury to the bowel and/or intestinal obstruction.
6. Completion of operation by abdominal incision.
 3. All fallopian tube and ovarian surgery with or without hysterectomy, including removal and lysis of adhesions.
 1. Injury to the bowel and/or bladder.
 2. Sterility.
 3. Failure to obtain fertility (if applicable).
 4. Failure to obtain sterility (if applicable).
 5. Loss of ovarian functions or hormone production from ovary(ies) .
 4. Abdominal endoscopy (peritoneoscopy, laparoscopy).
 1. Puncture of the bowel or blood vessel.
 2. Abdominal injection and complications of infection.
 3. Abdominal incision and operation to correct injury.
 5. Removing fibroids (uterine myomectomy).
 1. Uncontrolled leakage of urine.
 2. Injury to bladder.
 3. Sterility.
 4. Injury to the tube (ureter) between the kidney and the bladder.
 5. Injury to the bowel and/or intestinal obstruction.
 6. Uterine suspension.
 1. Uncontrollable leakage of urine.
 2. Injury to bladder.
 3. Sterility
 4. Injury to the tube (ureter) between the kidney and the bladder.
 5. Injury to the bowel and/or intestinal obstruction.
 7. Removal of the nerves to the uterus (presacral neurectomy).
 1. Uncontrolled leakage of urine.
 2. Injury to bladder.
 3. Sterility.
 4. Injury to the tube (ureter) between the kidney and the bladder.
 5. Injury to the bowel and/or intestinal obstruction.
 6. Hemorrhage, complications of hemorrhage, with additional operation.
 8. Removal of the cervix.
 1. Uncontrolled leakage of urine.
 2. Injury to bladder.
 3. Sterility.
 4. Injury to the tube (ureter) between the kidney and the bladder.
 5. Injury to the bowel and/or intestinal obstruction.
 6. Completion of operation by abdominal incision.
 9. Repair of vaginal hernia (anterior and/or posterior colporrhaphy and/or enterocele repair).
 1. Uncontrollable leakage of urine.

2. Injury to bladder.
3. Sterility.
4. Injury to the tube (ureter) between the kidney and the bladder.
5. Injury to the bowel and/or intestinal obstruction.
10. Abdominal suspension of the bladder (retropubic urethropexy).
 1. Uncontrolled leakage of urine.
 2. Injury to bladder.
 3. Injury to the tube (ureter) between the kidney and the bladder.
 4. Injury to the bowel and/or intestinal obstruction.
11. Conization of cervix.
 1. Hemorrhage with possible hysterectomy to control.
 2. Sterility.
 3. Injury to bladder.
 4. Injury to rectum.
 5. Failure to procedure to remove all of cervical abnormality.
12. Dilation and curettage of uterus (diagnostic).
 1. Hemorrhage with possible hysterectomy.
 2. Perforation of the uterus.
 3. Sterility.
 4. Injury to bowel and/or bladder.
 5. Abdominal incision and operation to correct injury.
13. Dilation and curettage of uterus (obstetrical).
 1. Hemorrhage with possible hysterectomy to control.
 2. Perforation of the uterus.
 3. Sterility.
 4. Injury to the bowel and/or bladder.
 5. Abdominal incision and operation to correct injury.
 6. Failure to remove all products of conception.
8. Hematic and lymphatic system.
 1. Transfusion of blood and blood components.
 1. Fever.
 2. Transfusion reaction which may include kidney failure or anemia.
 3. Heart failure.
 4. Hepatitis.
 5. A.I.D.S. (acquired immune deficiency syndrome).
 6. Other infections.
9. Integumentary system treatments and procedures.
 1. Radical or modified radical mastectomy. (Simple mastectomy excluded.)
 1. Limitation of movement of shoulder and arm.
 2. Swelling of the arm.
 3. Loss of the skin of the chest requiring skin graft.
 4. Recurrence of malignancy, if present.
 5. Decreased sensation or numbness of the inner aspect of the arm and chest wall.
2. Reconstruction and/or plastic surgical operations of the face and neck.
 1. Worsening or unsatisfactory appearance.
 2. Creation of several additional problems, such as:
 1. Poor healing or skin loss.
 2. Nerve damage.
 3. Painful or unattractive scarring.
 4. Impairment of regional organs, such as, eye or lip function.
 3. Recurrence of the original condition.
10. Male genital system.
 1. Orchidopexy (reposition of testis(es)).
 1. Removal of testicle.
 2. Atrophy (shriveling) of the testicle with loss of function.
 2. Orchiectomy (removal of the testis(es)).
 1. Decreased sexual desire.
 2. Difficulties with penile erection.
 3. Vasectomy.
 1. Loss of testicle.
 2. Failure to produce permanent sterility.
11. Maternity and related cases.
 1. Delivery (vaginal).
 1. Injury to bladder and/or rectum, including a hole (fistula) between bladder and vagina and/or rectum and vagina.
 2. Hemorrhage possible requiring blood administration and/or hysterectomy and/or artery ligation to control.
 3. Sterility
 4. Brain damage, injury or even death occurring to the fetus before or during labor and/or vaginal delivery whether or not the cause is known.
 2. Delivery (cesarean section).
 1. Injury to bowel and/or bladder.
 2. Sterility.
 3. Injury to tube (ureter) between kidney and bladder.
 4. Brain damage, injury or even death occurring to the fetus before or during labor and/or cesarean delivery whether or not the cause is known.
 5. Uterine disease or injury requiring hysterectomy.
12. Musculoskeletal system: treatments and procedures.
 1. Arthroplasty of all joints with mechanical device.
 1. Impaired function such as shortening or deformity of an arm or leg, limp or foot drop.
 2. Blood vessel or nerve injury.
 3. Pain or discomfort.
 4. Fat escaping from bone with possible damage to a vital organ.

5. Failure of bone to heal.
6. Bone infection.
7. Removal or replacement of any implanted device or material.
2. Mechanical internal prosthetic device.
 1. Impaired function such as shortening or deformity of an arm or leg, limp or foot drop.
 2. Blood vessel or nerve injury.
 3. Pain or discomfort.
 4. Fat escaping from bone with possible damage to a vital organ.
 5. Failure of bone to heal.
 6. Bone infection.
 7. Removal or replacement of any implanted device or material.
3. Open reduction with internal fixation.
 1. Impaired function such as shortening or deformity of an arm or leg, limp or foot drop.
 2. Blood vessel or nerve injury.
 3. Pain or discomfort.
 4. Fat escaping from bone with possible damage to a vital organ.
 5. Failure of bone to heal.
 6. Bone infection.
 7. Removal or replacement of any implanted device or material.
4. Osteotomy.
 1. Impaired function such as shortening or deformity of an arm or leg, limp or foot drop.
 2. Blood vessel or nerve injury.
 3. Pain or discomfort.
 4. Fat escaping from bone with possible damage to a vital organ.
 5. Failure of bone to heal.
 6. Bone infection.
 7. Removal or replacement of any implanted device or material.
5. Ligamentous reconstruction of joints.
 1. Failure of reconstruction to work.
 2. Continued loosening of the joint.
 3. Degenerative arthritis.
 4. Continued pain.
 5. Increased stiffening.
 6. Blood vessel or nerve injury.
 7. Cosmetic and/or functional deformity.
6. Children's orthopedics (bone, joint, ligament or muscle).
 1. Growth deformity.
 2. Additional surgery.
13. Nervous system treatments and procedures.
 1. Craniotomy (craniectomy) for excision of brain tissue, tumor, vascular malformation and cerebral revascularization.
 1. Additional loss of brain function including memory.
 2. Recurrence or continuation of the condition that required this operation.
 3. Stroke.
 4. Blindness, deafness, inability to smell, double vision, coordination loss, seizures, pain, numbness and paralysis.
 2. Craniotomy (craniectomy) for cranial nerve operation including neurectomy, avulsion, rhizotomy or neurolysis.
 1. Numbness, impaired muscle function or paralysis.
 2. Recurrence or continuation of the condition that required this operation.
 3. Seizures.
 3. Spine operation. Including: laminectomy, decompression, fusion, internal fixation or procedures for nerve root or spinal cord compression; diagnosis; pain; deformity; mechanical instability; injury; removal of tumor, abscess or hematoma. (Excluding coccygeal operations.)
 1. Pain, numbness or clumsiness.
 2. Impaired muscle function.
 3. Incontinence or impotence.
 4. Unstable spine.
 5. Recurrence or continuation of the condition that required the operation.
 6. Injury to major blood vessels.
 4. Peripheral nerve operation; nerve grafts, decompression, transposition or tumor removal; neurorrhaphy, neurectomy or neurolysis.
 1. Numbness.
 2. Impaired muscle function.
 3. Recurrence or persistence of the condition that required the operation.
 4. Continued; increased or different pain.
 5. Correction of cranial deformity.
 1. Loss of brain function.
 2. Seizures.
 3. Recurrence or continuation of the condition that required this operation.
 6. Transphenoidal hypophysectomy or other pituitary gland operation.
 1. Spinal fluid leak.
 2. Necessity for hormone replacement.
 3. Recurrence or continuation of the condition that required this operation.
 4. Nasal septal deformity or perforation.
 7. Cerebral spinal fluid shunting procedure or revision.
 1. Shunt obstruction or infection.
 2. Seizure disorder.
 3. Recurrence or continuation of brain dysfunction.
 14. Radiology.

1. Angiography, aortography, arteriography (arterial injection of contrast media-diagnostic).

1. Injury to artery.

2. Damage to parts of the body supplied by the artery with resulting loss of function or amputation.

3. Swelling, pain, tenderness or bleeding at the site of the blood vessel perforation.

4. Aggravation of the condition that necessitated the procedure.

5. Allergic sensitivity reaction to injected contrast media.

2. Myelography.

1. Chronic pain.

2. Transient headache, nausea, vomiting.

3. Numbness.

4. Impaired muscle function.

3. Angiography with occlusion techniques-therapeutic.

1. Injury to artery.

2. Loss or injury to body parts.

3. Swelling, pain, tenderness or bleeding at the site of the blood vessel perforation.

4. Aggravation of the condition that necessitated the procedure.

5. Allergic sensitivity reaction to injected contrast media.

4. Angioplasty (intravascular dilatation technique).

1. Swelling, pain tenderness, or bleeding at the site of vessel puncture.

2. Damage to parts of the body supplied by the artery with resulting loss of function or amputation.

3. Injury to the vessel that may require immediate surgical intervention.

4. Recurrence or continuation of the original condition.

5. Allergic sensitivity reaction to injected contrast media.

5. Splenoportography (needle injection of contrast media into the spleen).

1. Injury to the spleen requiring blood transfusion and/or removal of the spleen.

15. Respiratory system treatments and procedures.

1. Excision of lesion of larynx, vocal cords, trachea. (No risks or hazards assigned at this time.)

2. Rhinoplasty or nasal reconstruction with or without septoplasty.

1. Deformity of skin, bone or cartilage.

2. Creation of new problems, such as, septal perforation or breathing difficulty.

3. Submucous resection of nasal septum or nasal septoplasty.

1. Persistence, recurrence or worsening of the obstruction.

2. Perforation of nasal septum with dryness and crusting.

3. External deformity of the nose.

16. Urinary system.

1. Partial nephrectomy (removal of part of the kidney).

1. Incomplete removal of stone(s) or tumor, if present.

2. Obstruction of urinary flow.

3. Leakage of urine at surgical site.

4. Injury to or loss of the kidney.

5. Damage to adjacent organs.

2. Radical nephrectomy (removal of kidney and adrenal gland for cancer).

1. Loss of the adrenal gland.

2. Incomplete removal of tumor.

3. Damage to adjacent organs.

3. Nephrectomy (removal of kidney).

1. Incomplete removal of tumor if present.

2. Damage to adjacent organs.

3. Injury to or loss of the kidney.

4. Nephrolithotomy and pyelolithotomy (removal of kidney stone(s)).

1. Incomplete removal of stone(s).

2. Obstruction of urinary flow.

3. Leakage of urine at surgical site

4. Injury to or loss of the kidney.

5. Damage to adjacent organs.

5. Pyeloureteroplasty (pyeloplasty or reconstruction of the kidney drainage system).

1. Obstruction of urinary flow.

2. Leakage of urine at surgical site.

3. Injury to or loss of the kidney.

4. Damage to adjacent organs.

6. Exploration of kidney or perinephric mass.

1. Incomplete removal of stone(s) or tumor, if present.

2. Leakage of urine at surgical site.

3. Injury to or loss of the kidney.

4. Damage to adjacent organs.

7. Ureteroplasty (reconstruction of ureter (tube between kidney and bladder)).

1. Leakage of urine at surgical site.

2. Incomplete removal of the stone or tumor (when applicable).

3. Obstruction of urine flow.

4. Damage to other adjacent organs.

5. Damage to or loss of the ureter.

8. Ureterolithotomy (surgical removal of stone(s) from ureter (tube between kidney and bladder)).

1. Leakage of urine at surgical site.

2. Incomplete removal of stone.

3. Obstruction of urine flow.

4. Damage to other adjacent organs.
5. Damage to or loss of ureter.
9. Ureterectomy (partial/complete removal of ureter (tube between kidney and bladder)).
 1. Leakage of urine at surgical site.
 2. Incomplete removal of tumor (when applicable).
 3. Obstruction of urine flow.
 4. Damage to other adjacent organs.
10. Ureterolysis (partial/complete removal of ureter (tube between kidney and bladder from adjacent tissue)).
 1. Leakage of urine at surgical site.
 2. Obstruction to urine flow.
 3. Damage to other adjacent organs.
 4. Damage to or loss of ureter
11. Ureteral reimplantation (reinserting ureter (tube between kidney and bladder) into the bladder).
 1. Leakage of urine at surgical site.
 2. Obstruction to urine flow.
 3. Damage to or loss of ureter.
 4. Backward flow of urine from bladder into ureter.
 5. Damage to other adjacent organs.
12. Prostatectomy (partial or total removal of prostate).
 1. Leakage of urine at surgical site.
 2. Obstruction to urine flow.
 3. Incontinence (difficulty with urinary control).
 4. Semen passing backward into bladder.
 5. Difficulty with penile erection (possible with partial and probable with total prostatectomy).
13. Total cystectomy (removal of urinary bladder).
 1. Probable loss of penile erection and ejaculation in the male.
 2. Damage to other adjacent organs.
 3. This procedure will require an alternate method of urinary drainage.
14. Partial cystectomy (partial removal of urinary bladder).
 1. Leakage of urine at surgical site.
 2. Incontinence (difficulty with urinary control).
 3. Backward flow of urine from bladder into ureter (tube between kidney and bladder).
 4. Obstruction of urine flow.
 5. Damage to other adjacent organs.
15. Urinary diversion (ileal conduit, colon conduit).
 1. Blood chemistry abnormalities requiring medication.
 2. Development of stones, strictures or infection.
 3. Routine lifelong medical evaluation.
 4. Leakage of urine at surgical site.
 5. Requires wearing a bag for urine collection.
16. Ureterosigmoidostomy (placement of kidney drainage tubes into the large bowel).

1. Blood chemistry abnormalities requiring medication.
2. Development of stones, strictures or infection.
3. Routine lifelong medical evaluation.
4. Leakage of urine at surgical site.
5. Difficulty in holding urine in the rectum.
17. Urethroplasty (construction/reconstruction of drainage tube from bladder).
 1. Leakage of urine at surgical site.
 2. Stricture formation.
 3. Additional operation(s).

Section 601.1.17 Psychiatric Procedures.

Section 601.2. Procedures Requiring No Disclosure (List B). The following treatments and procedures require no disclosure by the physician or health care provider to the patient or person authorized to consent for the patient.

1. Anesthesia.
 1. Local.
 2. Other forms of regional anesthesia.
2. Cardiovascular system.
 1. Excision and ligation of varicose veins of the leg.
3. Digestive system.
 1. Appendectomy.
 2. Hemorrhoidectomy with fistulectomy or fissurectomy.
 3. Hemorrhoidectomy.
 4. Incision or excision of perirectal tissue.
 5. Local excision and destruction of lesion, anus and rectum.
 6. Operations for correction of cleft palate.
 7. Repair of inguinal hernia.
 8. Repair and plastic operations on anus and rectum.
 9. Resection of colon (segmental).
 10. Tonsillectomy with adenoidectomy.
 11. Tonsillectomy without adenoidectomy.
4. Ear.
 1. Myringotomy.
 2. Reconstruction of auricle of ear for skin cancer.
 3. Tympanoplasty without mastoidectomy.
5. Endocrine system. (No procedures assigned at this time.)
6. Eye.
 1. Administration of topical, parenteral (such as IV), or oral drugs or pharmaceuticals, including, but not limited to fluorescein angiography, orbital injection or periocular injections.
 2. Removal of extraocular foreign bodies.
 3. Chalazion excision.
7. Female genital system. (no procedures assigned at this time.)
8. Hematic and lymphatic system.
 1. Biopsy of lymph nodes.

9. Integumentary system.
 1. Biopsy of breast.
 2. Cutting and preparation of skin grafts or pedicle flaps.
 3. Removal or treatment of local skin or subcutaneous lesion.
 4. Excision of pilonidal sinus or cyst.
 5. Suture of skin.
 6. Wide or radical excision of skin lesion with or without graft.
 7. Z plasty without excision.
 8. Biopsy of skin or mucus membrane.
 9. Incision and drainage of skin or mucus membrane lesion.
 10. Debridement of ulceration of the skin.
10. Male genital system.
 1. Biopsy of testicle.
 2. Placement of testicular prosthesis.
 3. Hydrocelectomy (removal/drainage of cyst in scrotum).
 4. Circumcision.
 5. Cystoscopy.
11. Maternity and related cases. (No procedures assigned at this time.)
12. Musculoskeletal system.
 1. Arthrotomy.
 2. Closed reduction without internal fixation.
 3. Excision of lesion, muscle, tendon, fascia, bone.
 4. Excision of semilunar cartilage of knee joint.
 5. Needle biopsy or aspiration, bone marrow.
 6. Partial excision of bone.
 7. Removal of internal fixation device.
 8. Traction or fixation without manipulation for reduction.
13. Nervous system.
 1. Cranioplasty.
 2. Lumbar puncture.
 3. Closure of meningocele.
 4. Ventricleostomy with or without air ventriculogram.
 5. Cysternal puncture (diagnostic).
 6. Craniectomy or craniotomy for intracranial hematoma, abscess or penetrating injury.
 7. Stereotaxic surgery for dystonia.
 8. Insertion of skeletal tongs.
 9. Intravenous cut-down.
 10. Elevation of depressed skull fracture.
 11. Cervical 1-2 puncture (diagnostic).
14. Radiology.
 1. Injection of contrast media or imaging media into the spinal canal for diagnostic encephalography and/or cisternography.
2. Intravascular infusion technique-therapeutic.
3. Lymphangiography.
4. Percutaneous transhepatic (liver) catheter placement.
5. Discography.
6. Venography (Venogram) with contrast media.
7. Cholangiography with contrast media.
8. Urography (IVP) with contrast media.
9. Digital Subtraction Angiography with contrast media.
10. Radionuclide scans and/or blood flow studies.
11. G. I. Tract Radiography and Fluoroscopy.
12. Oral cholecystography.
13. Fistula or sinus tract injection.
14. Sialography.
15. Dacryocystography.
16. Cystography, Cystourethrography.
17. Retrograde and antegrade urography.
18. Laryngography, Bronchography.
19. Hysterosalpingography.
20. E.R.C.P. (Endoscopic Retrograde Cholangio Pancreatography).
21. Galactography.
22. T-tube cholangiography.
23. Skeletal Radiography and/or Fluoroscopy (skull, mastoids, sinuses and facial bones; spine, ribs, pelvis; extremities.)
24. Foreign Body Radiography and/or Fluoroscopy.
25. Chest and abdomen Radiography and Fluoroscopy.
26. Portable Radiography/Fluoroscopy.
27. Pelvimetry, Feiogram.
28. Computer tomography scan with and without contrast media.
29. Ultrasound and Doppler studies.
30. Laminography, polytomography.
31. Soft-tissue Radiography including Xerography and Zeromammography.
32. Kidney or bile duct stone manipulation through percutaneous tube or tube tract.
33. Pacemaker lead placement.
34. Arthrography.
35. Percutaneous nephrostogram and/or internal stent or external drainage of the kidney.
36. Percutaneous transhepatic cholangiogram and/or internal stent or external drainage of the liver.
37. Percutaneous abscess drainage.
15. Respiratory system.
 1. Aspiration of bronchus.
 2. Biopsy of lesion of larynx, trachea, bronchus, esophagus.
 3. Lung biopsy.

4. Needle biopsy, lung.
 5. Segmental resection of lung.
 6. Thoracotomy.
 7. Thoracotomy with drainage.
 8. Reduction of nasal fracture.
 9. Tracheostomy.
16. Urinary system.
1. Nephrostomy (placement of drainage tubes).
 2. Biopsy of prostate, bladder or urethra.
 3. Cystolithotomy (surgical removal of stone(s) from the bladder).
 4. Cystolitholapaxy (cystoscopic crushing and removal of bladder stone(s)).
 5. Cystotomy (placement of tube into the bladder).
 6. Urethrotomy (incision of the urethra).
 7. Diverticulectomy of the bladder (removal of outpouching of the bladder).
 8. Diverticulectomy or diverticulotomy of the urethra (repair or drainage of outpouching of the urethra).
17. Psychiatric Procedures. (No procedures assigned at this time)

Issued in Austin, Texas, on April 12, 1988.

TRD-8803770 James H. Duke, Jr., M.D.
Chairman
Texas Medical Disclosure Panel

Filed: April 13, 1988

For further information, please call (512) 458-7538.

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Texas Water Commission Correction of Error

The Texas Water Commission proposed new sections which contained errors as published in the April 5, 1988, issue of the *Texas Register* (13 TexReg 1596).

In the preamble to Chapter 304 the first sentence to the third paragraph should read: "David Crawford, chief fiscal officer, has determined that for the first five-year period the proposed sections are in effect there will be fiscal implications for state or local government or small businesses as a result of enforcing or administering the sections."

In §304.32 paragraph (a)(3) should read: "(3) fail to provide a measuring a device as required in §304.13 of this title (relating to Requirement for Measurement Devices)."

In §304.61, the second to last sentence should read: "The executive director shall file with the commission a copy of the proposed budget. Following a public hearing, the commission shall issue an order for each water division or group of water divisions, as the commission may determine to be appropriate, approving the assessment income needed for the watermaster operations for the assessment period under consideration."

In §304.62, subsection (a) should read: "(a) After a commission order is issued approving the assessment income needed for the watermaster operations for the assessment period under consideration, the executive director shall calculate assessment rates for water use and storage for each water division, or group of divisions, based on the following formula:"

In §304.63, subsection (b) "(b) The assessment shall be paid to the executive director in advance of expenditures. The executive director shall specify the dates by which payments shall be due, and may provide for payments in installments. The executive director shall transmit all collections to the state treasurer to be held in a special fund to provide for the cost of the watermaster operation.

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Enforcement Orders

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 Lithcote Company on April 8, 1988, assessing \$10,080 in administrative penalties, deferring \$5,080.

Information concerning any aspect of this order may be obtained by contacting Michelle McFaddin, Staff Attorney, Texas Water Commission, P.O. Box 13087, Austin, Texas 78711-3087, (512) 463-8069.

Issued in Austin, Texas, on April 12, 1988.

TRD-8803784 Gloria A. Vasquez
Notices Coordinator
Texas Water Commission

Filed: April 12, 1988

For further information, please call (512) 463-8069.

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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 Dainippon Inks and Chemical Company on April 8, 1988, assessing \$2,240 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Michelle McFaddin, Staff Attorney, Texas Water Commission, P.O. Box 13087, Austin, Texas 78711-3087, (512) 463-8069.

Issued in Austin, Texas, on April 11, 1988.

TRD-8803785 Gloria A. Vasquez
Notices Coordinator
Texas Water Commission

Filed: April 12, 1988

For further information, please call (512) 463-8069.

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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 March 22-April 8, 1988.

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, Capitol Station, Austin, Texas 78711, (512) 463-7905.

Listed is 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.

El Paso Products Company, Bayport Plant (Amended Notice), Pasadena; polypropylene and polyethylene manufacturing plant; at 9802 Fairmont Parkway in the City of Pasadena, Harris County; 02600; renewal

City of Sherman (Amended Notice); sewage treatment plant; south of the FM Road 1417 Bridge over Post Oak Creek, on the west side of Post Oak Creek, southeast of the City of Sherman, Grayson County; 10329-01; amendment

Galveston County Water Control and Improvement District Number 1, Dickinson; wastewater treatment plant; on the north side of Dickinson Bayou between the Galveston, Houston and Henderson Railroad and Nebraska Street in the Village of Dickinson in Galveston County; 10173-01; amendment

Harris County MUD Number 229, Harris; wastewater treatment facilities; on the south side of Greens Bayou, approximately 1/2 mile west of the intersection of Mills Road and FM Road 149 in Harris County; 12559-01; renewal

Boise Cascade Corporation, Houston; wastewater treatment facilities; adjacent to FM Road 529 (Spencer Road), approximately one mile west of the intersection of FM Road 529 and United States Highway 290, Harris County; 12466-01; renewal

Memorial Municipal Utility District, Houston; wastewater treatment facilities; on the west property line of Barker Reservoir, which is south of Harris County Flood Control Ditch T-103-00-00, and approximately 2.5 miles east of the intersection of Clodine Road and Beeler Road in Harris County; 11893-01; renewal

City of Alice; wastewater treatment plant; approximately 4,800 feet southeast of the intersection of FM Road 665 and FM Road 1931, on the south bank of Lattas Creek, Jim Wells County; 10536-02; renewal

The City of Joaquin; wastewater treatment plant; approximately 2,700 feet northeast of the intersection of Jackson Street and United States Highway 84 in the City of Joaquin in Shelby County; 12718-01; renewal

City of Lometa; wastewater treatment plant; approximately 4,500 feet southeast of the intersection of FM Road 581 and United States Highway 190, west of Kirby Creek and south of the City of Lometa, Lampasas County; 11982-01; renewal

City of Quitman; wastewater treatment facilities; approximately .3 mile west-northwest of the intersection of State Highway 37 and State Highway 154 (City of Quitman

and 700 feet north of State Highway 154 in Wood County; 10254-01; renewal

CPL Properties, Inc., Red Oak; wastewater treatment facilities; approximately 5,500 feet north-northwest of the intersection of IH 35 and United States Highway 77, 6,000 feet west of the City of Red Oak in Ellis County; 12609-01; renewal

E. I. Dupont De Nemours and Company, Inc.; waste disposal well; on company property in Abstract A-38 of the Desiderio Garcia Survey, Victoria County; WDW-271; new

New of Del Rio Utility Commission, Del Rio; wastewater treatment facilities; southwest of the intersection of Martinez and Noriega Streets in the City of Del Rio, Val Verde County; 10159-05; amendment

City of Houston; sewage treatment plant; approximately 2,000 feet east of State Highway 288 at 123191/2 Almeda Road in the southwest quadrant of the City of Houston in Harris County; 10495-03; amendment

Harris County MUD Number 102, Houston; wastewater treatment facilities; on the north bank of Langham Creek, which is approximately 2,400 feet east of State Highway 6 and 1.2 miles south of FM Road 529 (Spencer Road) in Harris County; 11523-01; renewal

City of Goodrich; wastewater treatment facilities; on the west side of the Southern Pacific Railroad, which is approximately 1,200 feet southeast of the intersection of FM Road 393 and United States Highway 59, northwest of the City of Goodrich, Polk County; 12711-01; renewal

Iola Independent School District, Iola; wastewater treatment facilities; on school property, at the intersection of Fort Worth and Neches Streets in the City of Iola, Grimes County; 12664-01; renewal

Martin Realty and Land, Inc., Porter; wastewater treatment facilities; approximately two miles southeast of the intersection of FM Road 1485 and FM Road 2090 in the Country West Subdivision in Montgomery County; 12621-01; renewal

Mills Road MUD, Houston; wastewater treatment facilities; approximately 3,000 feet southwest of the intersection of Perry Road and Mills Road, northwest of the City of Houston in Harris County; 11907-01; renewal

Harris County MUD Number 180, Houston; wastewater treatment facilities; at 5042 Innbruck, approximately 1/3 mile east of the intersection of Borgeois Road and Bammel-North Houston Road in Harris County; 12127-01; renewal

Turk Brothers Building Company, Houston; wastewater treatment facilities; between FM Road 1960 and Cypress Creek, just south of the intersection of Stuebner-Airline Road and Strack Road in Harris County; 11900-01; renewal

Earl Allen Et Al, Houston; wastewater treatment facilities; approximately 4,000 feet east of the intersection of State Highway 6 and IH 10 below Addicks Dam in the City of Houston, Harris County; 12738-01; renewal

City of Alamo; wastewater treatment facilities; on Tower Road, approximately three miles south of the intersection of United States Highway 83 and tower Road in Hidalgo County; 11511-01; renewal

West Harris County MUD Number 7, Houston; wastewater treatment facilities; approximately 5,500 feet northwest of the intersection of Fry Road and Franz Road on the southwest bank of South Mayde Creek, west of the City of Houston, Harris County; 12140-01; renewal

Texas State Department of Highways and Public Transportation, Dallas; sewage treatment plant; along and within the right-of-way of IH 35, at a point approximately 1.4 miles north of FM Road 329, in Ellis County; 11958-01; renewal

Harris County MUD Number 200, Houston; wastewater treatment facilities; at 13035 Kuykendahl Road in Harris County; 12294-01; renewal

Mount Houston Road MUD, Houston; wastewater treatment facilities; on the east bank of Halls Bayou, which is approximately 4,400 feet north of FM Road 149 (West Mount Houston Road) and 2,200 feet west of Steubner-Airline Road, Harris County; 11154-01; renewal

R. E. Adams, Houston; wastewater treatment facilities; approximately 500 feet west of the intersection of Fairbanks-White Oak Road and West Little York Road, 100 feet north of Little York Road in Harris County; 12683-01; renewal

City of Henderson; wastewater treatment facilities; approximately 2.3 miles north of United States Highway 259 and .8 mile west of FM Road 782 in Rusk County; 10187-02; renewal

City of San Benito; wastewater treatment facilities; approximately 1 1/2 miles northeast of the intersection of State Highway 448 and FM Road 1846, between the northern termination of Mayfield Road and FM Road 1846 in Cameron County; 10473-02; renewal

Issued in Austin, Texas, on April 8, 1988.

TRD-8803693 Karen A. Phillips
Chief Clerk
Texas Water Commission

Filed: April 11, 1988

For further information, please call (512) 463-7906.



Texas Water Development Board Applications Received

Pursuant to the Texas Water Code, §6.195, the Texas Water Development Board provides notice of the following applications received by the board:

City of Robinson, 111 West Lyndale, Robinson, Texas 76706, received February 18, 1988, financial assistance in the amount of \$7,000,000 from the water supply account of the water development fund;

North Channel Water Supply Corporation, P.O. Box 24625, Houston, Texas 77229, received February 29, 1988, financial assistance in the amount of \$7,900,000 from the water supply account of the water development fund;

Brazos Bend Water Authority, P.O. Box 2068, Pearland, Texas 77588, received March 15, 1988, financial assistance in the amount of \$290,000 from the water quality enhancement account of the water development fund;

Travis County Water Control and Improvement District Number 17, 3900 Eck Lane, Austin, Texas 78734, received December 15, 1987, request for regional water supply and wastewater planning grant in an amount not to exceed \$27,500;

Colorado River Municipal Water District, P.O. Box 869, Big Spring, Texas 79721-0869, received February 9, 1988, request for \$5,000 to support a cooperative project by San Angelo, the Colorado River and TWDB to develop predictors for rainfall enhancement through cloud seeding.

Additional information concerning this matter may be obtained from M. Reginald Arnold II, Executive Administrator, P.O. Box 13231, Austin, Texas 78711.

Issued in Austin, Texas, on April 12, 1988.

TRD-8803733 M. Reginald Arnold II
Executive Administrator
Texas Water Development Board

Filed: April 12, 1988

For further information, please call (512) 463-7850.





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GERARD L. CAFESJIAN
Vice President
Marketing and Sales

Dear Texas Register Subscriber,

We at West Publishing are very pleased to announce that we have signed an agreement with the state of Texas to publish the Official Texas Administrative Code (TAC). Texas Secretary of State Jack Rains, in his February news release, said, "I am pleased to see a company with West's credentials and experience undertaking this job. Texans deserve to have access to the state's constantly changing rules and regulations. They cannot afford to wait more than a year for updates."

With West as the official publisher of the TAC, you will not have to wait more than a year for updates; we plan on supplementing the TAC as often as necessary to keep you current. In addition to regular updates, the West Official TAC will continue to be supplemented twice each week by the Texas Register.

As this letter is being written, the following TAC titles are being scheduled for publication:

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| Title 1 | Administration |
| Title 7 | Banking and Securities |
| Title 16 | Economic Regulation |
| Title 19 | Education |
| Title 25 | Health Services |
| Title 28 | Insurance |
| Title 31 | Natural Resources and Conservation |

We will be publishing the TAC in softbound pamphlet form, which is much easier to use and maintain than a looseleaf service. If you've ever subscribed to a looseleaf service, you know how easily material can be misfiled or important information can be discarded. And you know how expensive it can be! West also plans to immediately add a workable index.

We will be notifying you in the very near future as to the exact publication dates and prices of the TAC. We look forward to fulfilling your needs for accurate, easy-to-use and timely Texas Administrative Code Titles and updates. Please feel free to contact Myrna Currier at 1-800-328-9352 with any comments or questions that you might have.

Sincerely,

G. L. Cafesjian