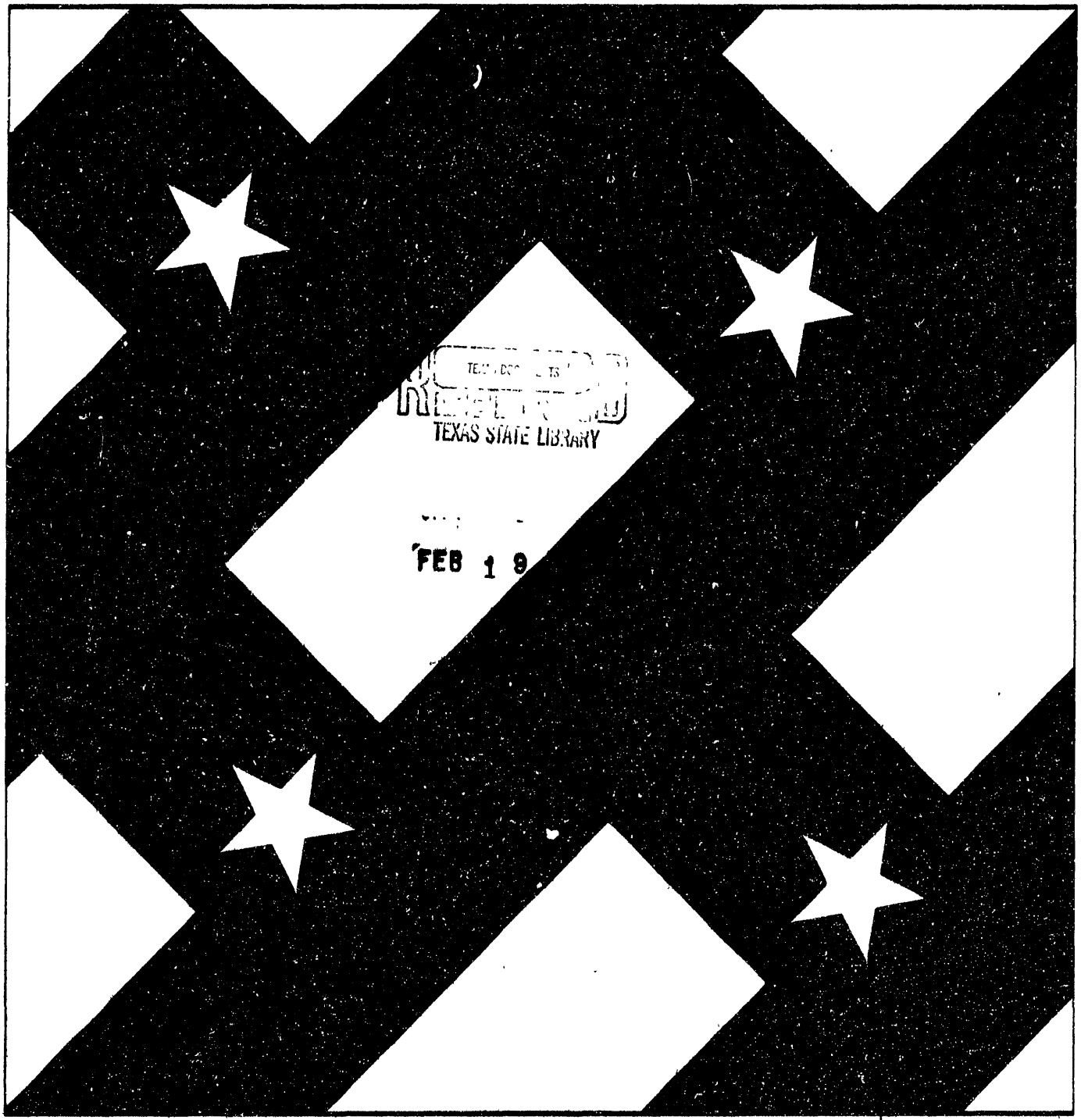
Texas Register

Volume 10, Number 13, February 15, 1985 *Pages 553 - 610*



Highlights

The **Texas Water Development Board** proposes new sections concerning the Edwards Aquifer in Williamson County Earliest possible date of adoption - March 18 **page 557**

The **Veterans Land Board** proposes amendments concerning the Veterans Housing Assistance Program. Earliest possible date of adoption - March 18 **page 567**

The **Texas Air Control Board** adopts amendments concerning exempted facilities and special permits
Effective date - March 15 **page 581**

Office of the Secretary of State

Texas Register

The *Texas Register* (ISN 0362-4781) is published twice each week at least 100 times a year Issues will be published on every Tuesday and Friday in 1985 with the exception of June 25, July 9, August 30, December 3, and December 31, by the Office of the Secretary of State

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
- Proposed Rules—rules proposed for adoption
- Withdrawn Rules—rules withdrawn by state agencies from consideration for adoption, or automatically withdrawn by the *Texas Register* six months after proposal publication date
- Adopted Rules—rules adopted following a 30-day public comment period
- Open Meetings—notices of open meetings
- In Addition—miscellaneous information required to be published by statute or provided as a public service

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

How To Cite: Material published in the *Texas Register* is referenced by citing the volume in which a document appears, the words "TexReg," and the beginning page number on which that document was published For example, a document published on page 2402 of Volume 6 (1981) is cited as follows 6 TexReg 2402

In order that readers may cite material more easily, page numbers are now written as citations Example on page 2, in the lower left-hand corner of the page, would be written "10 TexReg 2 issue date," while on the opposite page, page 3, in the lower right-hand corner, would be written "issue date 10 TexReg 3"

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

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Office of the Secretary of State
P.O. Box 13824
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512-475-7886

Myra A. McDaniel
Secretary of State

Director
Dave Harrell

Documents Section Coordinator
Jane Hooks

Document Editors
Cynthia Cooke, Phyllis Smith

Open Meetings Specialist
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Production Editors
Richard Salinas, Lindy Vaughan

Typographer
C. Steven Lowe

Circulation Section Coordinator
Dee Wright

Circulation Assistant
Kristine Hopkins Mohajer

TAC Editors
William Craig Howell, Hollis Glaser

Administrative Assistant
Jeff Richardson

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Table of Contents

TAC Titles Affected This Issue

The Governor

Proposed Rules

Withdrawn Rules

Adopted Rules

Open Meetings

The Legislature

In Addition

The Governor

As required by Texas Civil Statutes, Article 6252-13a, §6, the *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) 475-3021

Appointment Made January 31

Criminal Justice Policy Council

To be executive director for a term to continue at the pleasure of this governor:

Ronald Dean Champion
4208 Cat Hollow Drive
Austin, Texas 78731

Mr. Champion is replacing Charles Garland Shandera of Huntsville, who resigned.

Issued in Austin, Texas, on January 31, 1985.

TRD-851224 Mark White
Governor of Texas

★ ★ ★

(Editor's note: The following appointments have been submitted by the governor to the Senate of the 69th Legislature, 1985, for confirmation.)

Appointments Submitted February 8

Texas Water Development Board

For terms to expire December 31, 1989:

Stuart Sinclair Coleman
106 Parkview Terrace
Brownwood, Texas 76801

Mr. Sinclair is replacing W. O. Bankston of Dallas, whose term expired.

Glen E. Roney
3316 Kent Lane
McAllen, Texas 78501

Mr. Roney is being reappointed.

Texas Department of Labor and Standards

To be commissioner for a term to expire February 1, 1987:

Allen Ross Parker, Sr.
974 Marjorie Road
Houston, Texas 77088

Commissioner Parker is being reappointed.

Issued in Austin, Texas, on February 8, 1985.

TRD-851297 Mark White
Governor of Texas

★ ★ ★

Proposed Rules

Before an agency may permanently adopt a new or amended rule, or repeal an existing rule, a proposal detailing the action must be published in the *Register* at least 30 days before any action may be taken The 30-day time period gives interested persons an opportunity to review and make oral or written comments on the rule Also, in the case of substantive rules, 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 rule is indicated by the use of **bold text**. [Brackets] indicate deletion of existing material within a rule.

TITLE 7. BANKING AND SECURITIES
Part VI. Credit Union Department
Chapter 91. Chartering, Operations, Mergers, Liquidations
Direction of Affairs

★7 TAC §91.506

The Credit Union Department proposes amendments to §91.506, concerning the compensation authorized to a member of a credit union's board of directors and the bonding of employees.

John P. Parsons, credit union commissioner, has determined that for the first five-year period the rule will be in effect there will be no fiscal implications for state or local government or small businesses as a result of enforcing or administering the rule.

Mr. Parsons also has determined that for each year of the first five years the rule is in effect the public benefit anticipated as a result of enforcing the rule as proposed is the requirement of written board policy as to the payment of expenses incurred by directors, committee members, and their spouses participating in credit union activities; the authorization of the payment of meeting fees; and the establishment of the amount of fidelity bond coverage required by a credit union to protect members against financial loss.

The anticipated economic cost to individuals who are required to comply with the rule as proposed is minimal and permissive.

Comments on the proposal may be submitted to Harry L. Elliott, Staff Services Officer, 914 East Anderson Lane, Austin, Texas 78752.

The amendments are proposed under Texas Civil Statutes, Article 2461, §11.07, which provide the Credit Union Commission with the authority to promulgate general rules and regulations pursuant to this act, and from time to time, to amend the same.

§91.506. Compensation and Bond Requirements.

(a) Compensation. A credit union may, by written board policy, authorize the payment of expenses incurred by directors and committee members and their spouses for attending and participating in credit union conferences and/or educational programs. **In addition, a credit union may, by written board policy, authorize the payment of reasonable fees for directors and/or committee members attending duly called meetings for the conduct of appropriate credit union business,** provided that:

(1) no credit union under supervisory sanctions imposed by the commissioner pursuant to the Act, §5.09, or §91.901 of this title (relating to Reserve Requirements) shall make such expenditures unless each such expenditure is approved in writing by the commissioner; [and]

(2) each credit union establishing a policy under this section shall **notify the commissioner by furnishing a copy of such policy, and any amendments thereto, to the commissioner 30 days prior to the implementation of such policy or policies;** [keep accurate records of such expenses and shall make them available for review by examiners of the department.]

(3) each credit union adopting such compensation and/or meeting fee policies shall keep accurate records of such expenses, and the board of directors shall review such expenses annually. Such records shall be available for review by examiners of the Texas Credit Union Department. Such policies shall include a schedule of meeting fee amounts, and a provision that fees may be paid only for attendance at duly called meetings.

(b) Bond requirements. Each credit union shall provide a blanket fidelity bond issued by a corporate surety company authorized to do business in this state, and approved by the commissioner, covering the officials, employees, members of official committees, attorneys-at-law, and other agents of the credit union to protect the credit union against loss caused by dishonesty, burglary, robbery, larceny, theft, hold-up, forgery or alteration of instruments, misplacement or mysterious disappearance, and for lack of faithful performance of duty. Each bond shall provide a rider requiring the surety to give 30 days' notice to the commissioner prior to cancellation of any or all coverages set out in the bond.

(1) (No change.)

(2) Special riders shall be provided where change funds are kept in excess of **$1,000, if change funds are not covered in the bond.**

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

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

Issued in Austin, Texas, on January 24, 1985.

TRD-851250 John P. Parsons
Commissioner
Credit Union
Department

Earliest possible date of adoption:
March 18, 1985
For further information, please call
(512) 837-9236.

★ ★ ★

★7 TAC §91.507

The Credit Union Department proposes amendments to §91.507, concerning financial reporting, audits, and verification of accounts. The amendments add new subscription (a), which establishes generally accepted accounting procedures (GAAP) as the standard for credit unions and the reporting requirements which are essential for department monitoring of each individual credit union's financial progress. Existing subsections (a) and (b) have been changed to subsections (b) and (c) without any changes to their wording.

John P. Parsons, credit union commissioner, has determined that for the first five-year period the rule will be in effect there will be no fiscal implications for state or local government or small businesses as a result of enforcing or administering the rule.

Mr. Parsons also has determined that for each year of the first five years the rule is in effect the public benefit anticipated

as a result of enforcing the rule as proposed will be the establishment of an accounting standard in the state's credit union industry which is recognized by all accounting personnel as fundamental to excellence in financial record keeping and the requirement for reporting this financial data which will keep the department fully appraised as to each credit union's financial stature. There is no anticipated economic cost to individuals who are required to comply with the rule as proposed.

Comments on the proposal may be submitted to Harry L. Elliott, Staff Services Officer, 914 East Anderson Lane, Austin, Texas 78752.

The amendments are proposed under Texas Civil Statutes, Article 2461, §11.07, which provide the Credit Union Commission with the authority to promulgate general rules and regulations pursuant to this act, and from time to time, to amend the same.

§91.507. Financial Reporting; Audits and Verification of Accounts.

(a) Accounting requirements and financial reporting.

(1) Each credit union authorized to do business under the Texas Credit Union Act shall follow generally accepted accounting principals (GAAP), except as they may be altered or amended by the Texas Credit Union Act or these rules.

(2) In addition to the annual report to the Credit Union Department as prescribed by the Texas Credit Union Act, §2.09, the commissioner may require from all credit unions, or from selected categories of credit unions authorized to do business under this act, quarterly or semiannual financial and statistical reports, relating to financial conditions and accounting practices.

(3) The commissioner is authorized to require periodic financial and information reports by individual credit unions, from time to time, in order to monitor such credit unions for legal compliance, safety, and soundness.

(b)[(a)] The board of directors shall, at least once each year, make or cause to be made a comprehensive audit of the books and the affairs of the credit union as follows:

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

(c)[(b)] Share, deposit, certificate of deposit, any type of savings or savings club accounts, and loan accounts shall be verified by the duly appointed auditor as follows:

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

(d)[(c)] A negative or positive verification for any percentage of accounts may be ordered by the commissioner at any time.

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 February 7, 1985.

TRD-851295 John P. Parsons
Commissioner
Credit Union
Department

Earliest possible date of adoption:
March 18, 1985
For further information, please call
(512) 837-9236.

★ ★ ★

TITLE 22. EXAMINING BOARDS

Part XI. Board of Nurse Examiners

Chapter 213. Practice and Procedure

★22 TAC §213.4

The Board of Nurse Examiners proposes an amendment to §213.4, concerning service or notice.

The amendment is necessary due to the change in the law which now requires a registered nurse to renew every two years rather than yearly. Nurses are asked to keep the board office informed of their current address at all times, not just when they become registered or reregistered.

Margaret Rowland, R.N., executive secretary, has determined that for the first five-year period the rule 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 rule as proposed.

Ms. Rowland also has determined that for each year of the first five years the rule is in effect the public benefit anticipated as a result of enforcing the rule as proposed is that the board will be able to make a more thorough investigation and notify the nurse of a disciplinary hearing, when warranted.

Comments on the proposal may be submitted to Margaret Rowland, R.N., Executive Secretary, Board of Nurse Examiners, 1300 East Anderson Lane, Building C, Suite 225, Austin, Texas 78752, (512) 835-4880.

The amendment is proposed under Texas Civil Statutes, Article 4514, §1, which provide the Board of Nurse Examiners with the authority to make and enforce all rules and regulations necessary for the performance of its duties and conducting of proceedings before it, to establish standards of professional conduct for all persons licensed under the provisions of this law in keeping with its purpose and objectives, to regulate the practice of professional nursing, and to determine whether or not an act constitutes the practice of professional nursing, not inconsistent with this Act. Such rules and regulations shall not be inconsistent with the provisions of this law.

§213.4. Service or Notice. Service on the respondent shall be complete and effective if the document to be served is sent by registered or certified mail to the respondent at **his or her most recent** [the] address **as shown in the records of the board** [on his or her most recent application for certificate of registration or reregistration under the Act].

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

Issued in Austin, Texas, on February 6, 1985.

TRD-851232 Margaret L. Rowland
Executive Secretary
Board of Nurse
Examiners

Earliest possible date of adoption:
March 18, 1985
For further information, please call
(512) 835-4880.

★ ★ ★

TITLE 31. NATURAL RESOURCES AND CONSERVATION

Part X. Texas Water Development Board

Chapter 331. Edwards Aquifer

Subchapter B. Edwards Aquifer in Williamson County

★31 TAC §§331.101-331.110

The Texas Department of Water Resources proposes new §§331.101-331.110, concerning the Edwards Aquifer in Williamson County. Sections 331.101-331.110 were previously proposed in the December 14, 1984, issue of the *Texas Register* (9 TexReg 6296), but are withdrawn in this issue and reproposed herein with revisions as noted.

On January 7, 1985, a representative of the Texas Water Development Board (TWDB) held a public hearing in Georgetown to receive comments on the proposed sections as originally proposed. In addition to the oral comments received at the meeting, written comments also were submitted. As a result of the com-

ments, oral and written, and additional staff recommendations, the original proposal has been withdrawn, and the rules are reproposed here.

Proposed §331.102 has been revised to reflect that the Comanche Peak Formation is no longer proposed to be included in the recharge zone as defined by the official maps of the TDWR. Accordingly, the definitions of "Edwards Aquifer" and "recharge zone" have been revised. The change was made after staff determination that further review is warranted before the Comanche Peak Formation is included in those areas regulated under these rules to protect water quality of the Edwards Aquifer.

The definition of "regulated development" has been changed to exclude developments located within the jurisdiction of a city or town, exclusive of its extraterritorial jurisdiction. This change will decrease duplication of efforts of state and local governments without a significant negative impact on regulatory effectiveness.

Nonsubstantive changes have been made to clarify the definitions of "no-discharge system" and "sewage holding tank."

Section 331.103(b)(3)(B), as originally proposed, has been deleted, and the words "expected to occur" added to the end of §331.103(b)(3)(A). This change is considered nonsubstantive and is made for clarification purposes. The last sentence of §331 103(b)(3)(E) was deleted due to concerns which were raised about requiring applicants to provide information to the TDWR which may require access to private property not owned by the applicant. Finally, the words "and under which approved water pollution abatement plan" have been deleted from §331.103(e)(2) because they are unnecessary.

Proposed §331.104 has been substantially revised in response to extensive public comment. Proposed §331.104(a) remains the same. Proposed §331.104(b)(1) no longer requires that the sewage collection system plans submitted to the TDWR show areas within the five-year floodplain. Proposed §331.104(b)(2) now states that precast and fiberglass manholes are acceptable for new construction.

Revised §331.104(b)(4) and (5) provide that new sewer systems must be tested following construction and prior to use, and must be evaluated every five years thereafter. Existing sewer lines must be inspected to determine types and locations of structural damage and defects such as offset or open joints, or cracked or crushed lines that would allow exfiltration to occur. Existing sewer lines must be evaluated every five years after the initial inspection has occurred.

Proposed §331 104(b)(8) is new and provides for more stringent design and installation standards for gravity sewer pipe, including requirements for in-place deflection tests, maximum allowable infiltration/exfiltration rates, and requirements for embedment materials. Proposed §331.104(b)(10) is revised to provide that when a new gravity line or force main is placed in an area which could cause erosion and scouring of the backfill, the trench must be capped with concrete or the line encased in concrete. Section 331.104(b)(8) of these rules as originally proposed has been deleted.

The following sentence has been added to §331.105(b):

> "No discharge" systems which rely primarily on percolation for wastewater disposal, except for licensed private sewage facilities, are prohibited in the recharge zone.

This sentence formerly appeared in the definition of "no discharge" system.

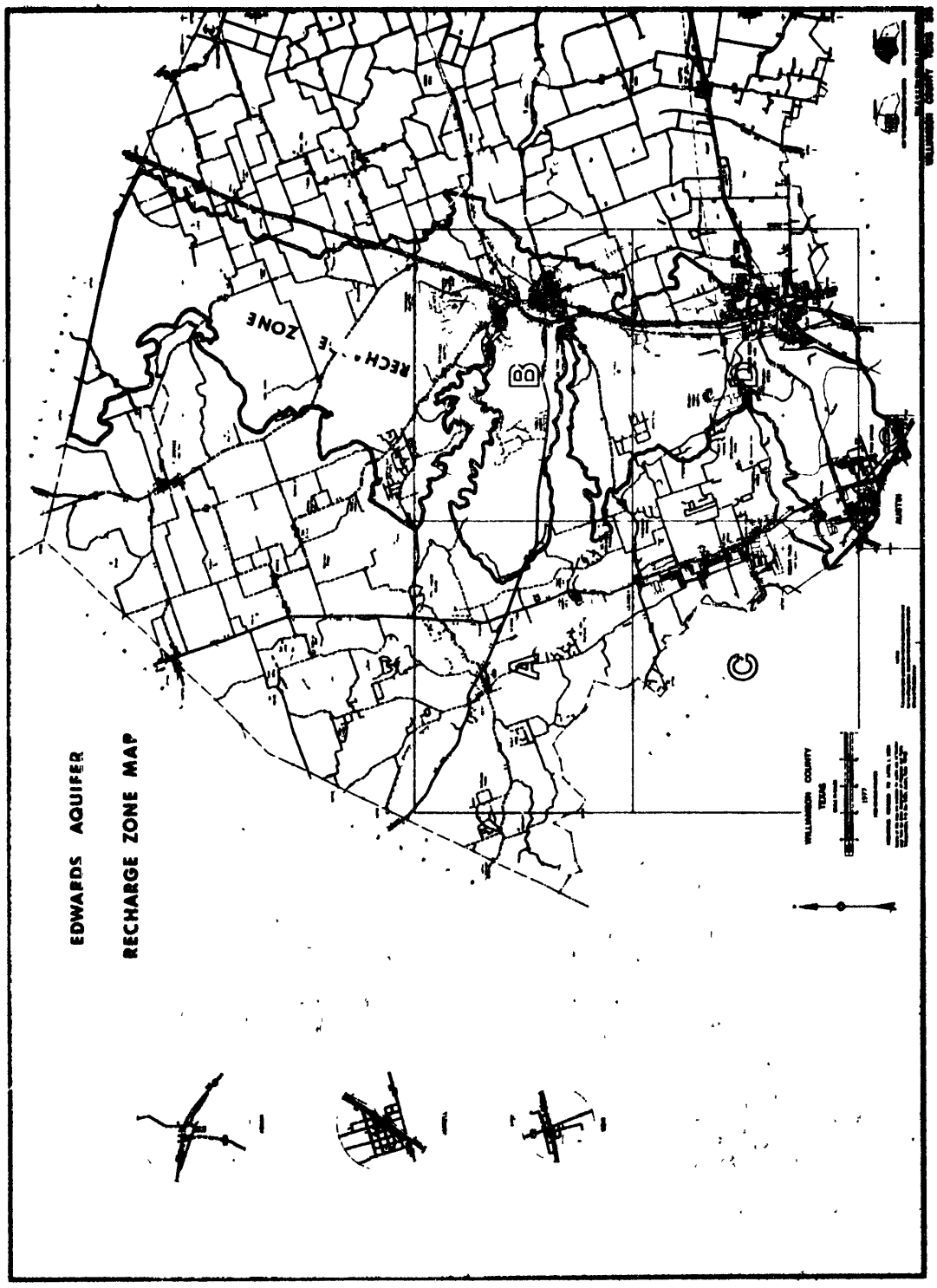
Proposed §331.105(c) has been changed by the addition of the words "new or increased" to make clear that the effluent standards are not intended to apply to existing wastewater discharges upstream from the recharge zone.

Proposed §331.106 has been revised to provide that the Williamson County commissioners court may regulate private sewage facilities on the recharge zone according to rules adopted pursuant to the Texas Water Code, §26.032, to the extent that such rules are as stringent as, and not inconsistent with the proposed new sections. In situations where the rules adopted by the commissioners court are less stringent and/or inconsistent with the proposed new section, these sections shall apply. This change allows the commissioners court more flexibility and efficiency in administering its county-wide regulation of private sewage facilities while ensuring that sufficiently strict standards are imposed on the recharge zone.

Proposed §331.106(j) has been revised so that grandfathering of existing lots for the purpose of minimum lot size requirements relates to the effective date of the rules rather than the date of original proposal (December 14, 1984).

Proposed §331.108(2) has been revised to make clear that only permanent storage facilities storing less than 1,000 gallons total volume at the facility or site are exempt from the requirements of §331.108(2).

Appendix A has been revised in accordance with the new proposed definition of the recharge zone and illustrates in a general fashion the recharge area proposed to be regulated in Williamson County. Appendix A should not be considered definitive. Appendix A is illustrative only, and any person interested in reviewing the precise area proposed to be regulated should consult the map located in the offices of the executive director of the department. Shortly after the publication of these rules, copies of the official map will be provided to the Williamson County commissioners court and the Cities of Georgetown, Round Rock, Leander, and Cedar Park.


EDWARDS AQUIFER
RECHARGE ZONE MAP
RECHARGE ZONE
WILLIAMSON COUNTY
TEXAS
AUSTIN

Mike Hodges, Fiscal Services Section chief, has determined that for the first five-year period the rules will be in effect there will be fiscal implications as a result of enforcing or administering the rules. The effect on local government is an estimated additional cost of $10 per capita each year from 1985-1989. The effect on small businesses is an estimated additional cost of $10,000 per applicant. There is no anticipated effect on state government.

Mr. Hodges also has determined that for each year of the first five years the rules as proposed are in effect the public benefit anticipated as a result of enforcing the rules as proposed is protection of the Edwards Aquifer, a major source of drinking water, from pollution. It should be noted that the estimated additional cost to local governments after the first five years the rules are in effect will be drastically reduced. There is no anticipated economic cost to individuals who are required to comply with the rules as proposed.

Comments on the proposal may be submitted to Paula Hilsenbeck, Staff Attorney, Texas Department of Water Resources, P.O. Box 13087, Austin, Texas 78711, (512) 475-7851.

The new sections are proposed under the Texas Water Code, §§5.131, 5.132, and 26.011, which provide the TWDB with the authority to regulate and promulgate the rules for the protection of water quality in the state.

§331.101. Purpose. This subchapter is adopted in order to regulate activities with the potential for causing pollution of the Edwards Aquifer. The activities addressed are those that pose direct threats to water quality. Nothing in this subchapter is intended to restrict the powers of the board or any other governmental entity to prevent, correct, or curtail activities that result or might result in pollution of the Edwards Aquifer.

§331.102. Definitions. The definitions for the words and terms in the Texas Water Code, §26.001 and §26.263, are applicable to this subchapter. Those words and terms, when used in this subchapter, shall have those definitions, unless the context clearly indicates otherwise. The following words and terms, when used in this subchapter, shall have the following meanings, unless the context clearly indicates otherwise:

District 14 office—The Texas Department of Water Resources District Office located in Austin.

Edwards Aquifer—That portion of porous, permeable waterbearing formations consisting of the Edwards Limestone and Georgetown Formation trending from south to north in Williamson County.

Hazardous substance—Any substance designated as such by the administrator of the U.S. Environmental Protection Agency pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act; regulated pursuant to the Federal Water Pollution Control Act, §311; or any solid waste, or other substance that is designated to be hazardous by the board, pursuant to the Texas Water Code, §26.263.

License—A license to operate as required by §331.106 of this title (relating to Private Sewage Facilities).

No discharge system—A wastewater disposal system that does not result in a discharge of wastewater directly into a surface drainageway.

Private sewage facilities—Septic tanks, pit privies, cesspools, sewage holding tanks, injection wells used to dispose of sewage, chemical toilets, treatment tanks and all other facilities, systems, and methods used for the disposal of sewage other than disposal systems operated under a waste discharge permit issued by the commission or its predecessor.

Recharge zone—Generally, that area where the Edwards Limestone and Georgetown Formation are exposed at the surface, and other formations in proximity to the Edwards Limestone, where faulting and fracturing may allow entry of the surface waters to the Edwards Aquifer. The recharge zone is specifically that geological area delineated on official maps located in the offices of the executive director.

Regulated development—Any residential subdivision or any public or private industrial, commercial, or multifamily construction, not located within the jurisdiction of an incorporated city or town exclusive of its extraterritorial jurisdiction. Residential subdivisions in which every lot is larger than five acres and no more than one single-family residence is allowed on each lot are not considered regulated developments.

Sewage holding tank—A tank or other containment structure used to receive and store sewage until its transfer to a treatment facility having a waste discharge permit issued by the Texas Water Commission or its predecessor.

Significant recharge areas—Sinkholes, caverns, faults, and other geological features where rapid infiltration to the subsurface may occur.

Static hydrocarbon—A hydrocarbon which is liquid at atmospheric pressure and 20°C.

Stub out—A wye, tee, or other manufactured appurtenance placed in a sewage collection system providing a location for a private service lateral to connect to the collection system.

Substantial modification—A 25% or more increase in the volume of or a change in the nature of the wastewater being treated by a private sewage facility, or a reduction of the facility's capacity by 25% or more.

§331.103. Water Pollution Abatement for Regulated Developments.

(a) Water pollution abatement plan. For all regulated developments that are proposed to be located on the recharge zone, a water pollution abatement plan must be prepared and approval from the executive director obtained prior to the commencement of any construction in the development. A water pollution abatement plan shall include the items specified under subsection (b) of this section and shall address other areas as may be required by the executive director. Only those persons owning, having an option to purchase, or having the right to possession and control of the property which is the subject of the water pollution abatement plan may submit a water pollution abatement plan.

(b) Contents of a water pollution abatement plan. A water pollution abatement plan shall contain, at a minimum, the following:

(1) the names, addresses, and telephone numbers of the applicant and any agents, such as consulting engineers, authorized to act for the applicant in the process of obtaining approval of a water pollution abatement plan;

(2) maps, including:

(A) a general location map, showing the site location on a U.S Geological Survey 7½ minute quadrangle map;

(B) a site plan, showing the layout of the development and finished contours at appropriate, but not greater than five foot, contour intervals;

(C) a drainage plan, showing the path of drainage from the development to the boundary of the recharge zone; and

(D) a map, showing the location of any wells (the term "wells" refers to all wells; including water wells, oil wells, unplugged and abandoned wells, etc.) and any sinkholes or other significant recharge areas located within the development.

(3) a technical report addressing:

(A) the nature of the development (whether residential, commercial, etc.), the size of the development, projected population, the volume and character of wastewater expected to be produced, and the character of stormwater runoff expected to occur;

(B) a description of the measures that will be taken to prevent pollutants from entering significant recharge areas;

(C) the disposal of wastewater from the development;

(i) if wastewater is to be disposed of by conveyance to a sewage treatment plant for treatment and disposal, the existing or proposed treatment facility shall be identified; or

(ii) if wastewater is to be disposed of in private sewage facilities, then the application must be accompanied by a written statement fully justifying the decision not to use an organized sewage collec-

tion, treatment, and disposal system and a written statement from the appropriate licensing authority, stating that the land in the development is suitable for the use of private sewage facilities or identifying those areas that are not suitable (See §331.106 of this title (relating to Private Sewage Facilities));

(D) an assessment of area geology. For regulated developments consisting of more than 100 family units, nonresidential developments more than five acres in size, and other developments as determined by the executive director, the applicant shall submit a report that describes the surface geologic units present in the development and that identifies the location and extent of any significant recharge areas in the development;

(E) the proposed method for plugging wells identified in paragraph (2)(D) of this subsection, where plugging is planned.

(c) Procedure for submission of a water pollution abatement plan. Water pollution abatement plans shall be submitted to the District 14 office in triplicate. A plan will not be processed until all information required to properly consider the plan has been obtained. If additional information is requested and is not submitted in a timely manner, the plan may be returned.

(d) Approval of water pollution abatement plans. Written approval of water pollution abatement plans must be obtained from the executive director. As a condition of approval, the executive director may impose additional provisions deemed necessary to protect the Edwards Aquifer from pollution.

(e) Notice.

(1) The applicant, upon receiving written approval of the water pollution abatement plan for that development, shall record in the county deed records that the property is subject to a water pollution abatement plan approved by the department pursuant to this section and shall also, upon transferring title to that property, place a restriction in the deed which states that the property is subject to that water pollution abatement plan. The applicant shall submit to the executive director proof of recordation of notice in the county deed records no less than 10 days prior to commencing construction.

(2) Prior to commencing any construction, except vegetation clearing for surveying, on a regulated development, the applicant shall notify the District 14 office when the construction will commence.

(f) Modification of previously approved water pollution abatement plans. The present holder of any previously approved water pollution abatement plan must notify the District 14 office in writing and obtain approval from the executive director prior to:

(1) any physical modification to or any modification in procedures for operation of any water pollution abatement structure, such as ponds, dams, berms, sewage treatment plants, and diversionary structures;

(2) any change in the nature or character of the development from that which was originally approved which would significantly impact the viability of the water pollution abatement plan;

(3) any development of land identified as undeveloped in the original water pollution abatement plan.

(g) Reporting. During construction, the holder of an approved water pollution abatement plan shall submit quarterly progress reports to the District 14 office outlining the status of construction in the development.

(h) Term. The executive director's approval of a water pollution abatement plan will expire two years after the date of issuance unless, prior to the expiration date, construction has commenced on the development.

§331.104. Sewage Collection Systems.

(a) General design of collection systems. Design of sewage collection systems on the recharge zone shall be in accordance with Chapter 325 of this title (relating to Design Criteria for Sewerage Systems), and 25 TAC §§301.51-301.63 adopted by the Texas Department of Health (relating to Design Criteria for Sewerage Systems). Approval of the design of sewage collection systems shall be obtained from the appropriate reviewing authority, as defined in §325.21 of this title (relating to General Provisions), prior to the commencement of construction.

(b) Special requirements for collection systems. In addition to the requirements in subsection (a) of this section, owners of sewage collection systems on the recharge zone shall meet the following special requirements.

(1) Plans and specifications for all collection systems will be submitted in triplicate to the District 14 office. The plans shall include one sheet that depicts the sewer collection system layout overlaid by topographic contour lines using an interval of not greater than five feet.

(2) All manholes for new construction shall be monolithic, cast-in-place concrete structures, precast, fiberglass or of equivalent construction, with watertight rings and covers.

(3) All sewer pipes shall have compression or mechanical joints with the exception of private service laterals, in which case solvent weld joints may be used if the pipe diameter is no more than six inches and the pipe meets the applicable standards of the American Society of Testing and Materials for sewer pipe.

(4) All new sewer systems having a diameter greater than or equal to six inches, including private collection systems, but excluding private service laterals, shall be tested following construction and prior to use and certified by a registered professional engineer to meet or exceed the requirements of paragraph (8) of this subsection. The certification shall be reported to the executive director. New sewer lines shall be evaluated every five years thereafter in accordance with paragraph (5) of this subsection.

(5) All existing sewer lines having a diameter greater than or equal to six inches, excluding private service laterals, shall be inspected to determine types and locations of structural damage and defects such as offset or open joint, or cracked or crushed lines that would allow exfiltration to occur. Such testing shall commence within one year of the effective date of this subchapter and shall be completed within five years of commencement. Every five years thereafter, existing sewer lines shall be evaluated to determine excessive leakage. The results of such testing and evaluation shall be certified by a registered professional engineer as having been correctly performed and shall be reported to the District 14 office along with plans for any necessary corrective action. Upon approval by the executive director, the owner shall implement the corrective plan.

(6) Blasting for sewer line excavation shall be done in accordance with appropriate criteria established by the National Fire Protection Association. Should such blasting result in damage to an already in-place sewer or its appurtenances, the owner of the sewer system shall repair and retest such sewers and appurtenances immediately.

(7) New collection lines shall be constructed with stub outs for the connection of anticipated private service laterals. The location of such stub outs shall be marked such that the location of these stub outs can be easily determined at the time of connection of the private service laterals. Such stub outs shall be manufactured wyes or tees that are compatible in size and material with both the sewer line and the private service lateral. At the time of original construction, private service lateral shall be constructed sufficient to extend beyond the edge(s) of any street pavement under which they must pass. Private service laterals that were not anticipated at the time of original construction or that are to be connected to an existing sewer line not furnished with stub outs shall be connected using a manufactured saddle and done in accordance with accepted plumbing techniques.

(8) For all new gravity sewer pipe within the recharge zone, having a diameter greater than or equal to six inches, the following requirements shall apply.

(A) In place deflection of all flexible conduits will be used to determine adequacy of pipe, bedding, and backfill of gravity lines. The test shall consist of pulling a mandrel sized at 95% of the inside di-

ameter of the pipe from manhole to manhole.

(B) The maximum allowable infiltration/exfiltration measured by test shall be at a rate not greater than 50 gallons per inch of pipe diameter per mile per 24 hours.

(C) Embedment materials shall meet or exceed the specification for bedding class A, B, I, and II as contained in Chapter 325 of this title (relating to Design Criteria for Sewerage Systems).

(9) Prior to connecting the private service lateral into an organized sewage collection system, a registered professional engineer, registered sanitarian, or appropriate city inspector, as determined by the holder of the waste discharge permit for the sewage treatment facility serviced by the collection system, shall visually inspect the private service lateral after installation and prior to covering and certify it to have been constructed in conformity with the applicable provisions of this section. The holder of the waste discharge permit for the facility to which the collection system connects shall forward such certifications to the District 14 office.

(10) When a new gravity line or force main will be placed in an area that is subject to inundation and stream velocities which could cause erosion and scouring of backfill, the trench must be capped with concrete to prevent scouring of backfill, or the line encased with concrete. Alternate means of protection in accordance with paragraph (12) of this subsection can be considered.

(11) Sewer lines that bridge caverns or solution channels shall be constructed in a manner that will maintain the structural integrity of the line. When such geologic features are encountered, the location and extent shall be reported to the District 14 office.

(12) Where fully supported by relevant information, the executive director may allow the substitution of an alternate procedure for any of the requirements of this subsection.

(13) Notwithstanding the requirements of paragraphs (1)-(11) of this subsection, sewer collections systems shall operate in a manner so as not to cause pollution to the Edwards Aquifer, and any failure, for any cause whatsoever, shall be required to be corrected in a manner satisfactory to the executive director.

§331.105. Wastewater Treatment and Disposal Systems.

(a) General. No new or increased discharges of treated wastewater will be permitted on the recharge zone. New wastewater treatment plants located on the recharge zone shall be designed, constructed, and operated such that there will be no bypass of the treatment facilities nor any discharge of untreated or partially treated wastewater.

(b) No discharge systems. Wastewater disposal systems utilizing no discharge methods, such as evaporation or land application, for disposal of wastewater on the recharge zone will be considered on a case-by-case basis. At a minimum, those systems shall attain secondary treatment as defined in Chapter 327 of this title (relating to Effluent Standards). No discharge systems that rely primarily on percolation for wastewater disposal, except for licensed private sewage facilities, are prohibited in the recharge zone.

(c) Discharges upstream from the recharge zone. All new or increased waste discharges within 10 stream miles upstream from the recharge zone and any other discharges that the department determines may affect the Edwards Aquifer shall, at a minimum, attain Effluent Set 2N as defined in Chapter 327 of this title (relating to Effluent Standards). More stringent treatment or more frequent monitoring may be required on a case-by-case basis.

(d) General design of waste treatment plants. Design of waste treatment plants shall be in accordance with Chapter 325 of this title (relating to Design Criteria for Sewerage Systems) and 25 TAC §§301.51-301.63 adopted by the Texas Department of Health (relating to Design Criteria for Sewerage Systems).

§331.106. Private Sewage Facilities.

(a) Licensing authorities. The commissioners court of Williamson County is designated as the licensing authority for the area of Williamson County regulated in this subchapter. The commissioners court may regulate private sewage facilities on the recharge zone according to rules adopted pursuant to the Texas Water Code, §26.032, rather than this subchapter, to the extent that such rules are as stringent as and not inconsistent with this section. In situations where the rules adopted by the commissioners court are less stringent and/or inconsistent with this section, the provisions of this section shall apply. The county commissioners court may designate any county department or local government to act for the county commissioners court in administering its rules.

(1) The licensing authority shall perform or direct the performance of such inspections and tests as may be necessary in the design and construction of a private sewage facility.

(2) The licensing authority shall establish reasonable fees and shall develop the necessary procedures, including development of application forms and record keeping, to carry out the functions of this subchapter.

(3) The licensing authority shall inspect licensed private sewage facilities at reasonable times for the purpose of determining compliance with the conditions of the license and this subchapter.

(4) The licensing authority shall require a malfunctioning system to be repaired in a satisfactory manner and may pursue such legal action as is necessary to achieve such repairs.

(b) Prohibited systems. New pit privies, cesspools, and injection wells used to dispose of sewage, and any other system utilizing naturally or artificially produced holes, cavities, or drilled wells for the disposal of sewage are prohibited. Private sewage holding tanks shall not be utilized without the approval of the licensing authority.

(c) Requirements for new private sewage facilities.

(1) A permit to construct must be obtained from the licensing authority prior to commencing the construction or installation of, or a substantial modification to, a private sewage facility on the recharge zone and will be issued upon a finding that construction can commence.

(2) A license to operate must be obtained from the licensing authority prior to operating a new private sewage facility on the recharge zone and will be issued after satisfactory completion and approval of construction.

(d) Conditions for a permit to construct. In order to obtain a permit to construct, the following conditions must be met.

(1) The design of private sewage facilities shall, at a minimum and when not in conflict with this subchapter, meet the requirements of the latest edition of *Construction Standards for Private Sewage Facilities* as published by the Texas Department of Health.

(2) The lot or tract in question must be large enough, considering the soil and drainage conditions and volume of sewage to be disposed, to permit the use of a private sewage facility without causing pollution, nuisance conditions, or danger to public health.

(3) Lots or tracts of land on the recharge zone on which private sewage facilities are to be located must have an area of at least one acre, unless an exception is granted in accordance with §331.109 of this title (relating to Exceptions) or unless exempted under subsection (i) of this section.

(4) Whenever the natural percolation rate is faster than one minute per inch or slower than 60 minutes per inch, an alternate site or a disposal method other than soil absorption disposal, such as an evapotranspiration system, should be considered. If no suitable alternate site exists, the licensing authority shall grant or deny a permit to construct on the basis of all relevant factors.

(5) No permit to construct may be granted for private sewage facilities on lots on which the private sewage facility would be placed at an excessive slope, unless

proper construction techniques to overcome the effects of the slope will be utilized.

(6) Percolation tests shall be performed in accordance with the latest edition of *Construction Standards for Private Sewage Facilities* as published by the Texas Department of Health.

(e) Conditions for a license to operate.

(1) The construction, installation, or substantial modification of a private sewage facility shall be made in accordance with the approved design and requirements of the permit to construct issued therefor.

(2) Except as provided herein, no components of a private sewage facility may be covered until an inspection has been made and a license issued by the licensing authority. Absorption trenches or beds, or evapotranspiration beds may be partially backfilled, provided all ends and other critical areas shall not be covered until the licensing authority has determined, as evidenced by the issuance of a license, that the installation, construction, or substantial modification complies with this subchapter and the special conditions in the permit to construct.

(f) Terms for licenses.

(1) Licenses shall be issued for a period of time determined by the licensing authority.

(2) Upon notice to the licensing authority, licenses may be transferred to succeeding owners, if the private sewage facility has not been substantially modified, when ownership of the private sewage facility is transferred.

(3) Licenses may be renewed only upon a finding by the licensing authority that the system is functioning properly.

(g) Revocation or suspension of licenses. The licensing authority may revoke or suspend a license for any of the causes listed in paragraphs (1)-(6) of this subsection. Neither revocation of license nor any other provision of this subchapter shall preclude the executive director or any governmental entity from acting to prevent or curtail pollution of the Edwards Aquifer, to abate a nuisance, or to protect the public health:

(1) an increase in the volume of or change in the nature of the wastewater being treated by the private sewage facility, or a reduction of the capacity of the facility;

(2) failure of the holder of the license to properly maintain or operate the private sewage facility;

(3) malfunction of the private sewage facility;

(4) evidence that the private sewage facility is causing or will cause pollution of the Edwards Aquifer;

(5) failure to comply with the terms and conditions of the license or this subchapter; and

(6) any other reason which the licensing authority determines to be sufficient to revoke or suspend the license.

(h) Existing private sewage facilities. Private sewage facilities licensed by or registered with the appropriate licensing authority at the time of adoption of this subchapter shall remain licensed or registered under the terms and conditions of the current license or registration. Any relicensing shall be under the terms and conditions of this subchapter.

(i) Exceptions for certain lots. Any private sewage facility to be located in the recharge zone in Williamson County on a lot less than one acre and not required to connect to an organized collection system under subsection (j) of this section and that was platted and recorded in the office of the county clerk prior to the effective date of these rules, is exempted from the one acre minimum lot size requirement.

(j) Connection to an organized sewage collection system. The department encourages the development of organized sewage collection systems to serve developments on the recharge zone and requires:

(1) No person may cause or allow the installation of a private sewage facility when any part of the facility is to be within 300 feet in horizontal distance (measured on the closest practicable access route) of an existing organized disposal system, unless one of the following requirements has been met:

(A) The person has received a written denial of service from the owner or governing body of the organized disposal system; or

(B) The person has received a written determination from the licensing authority that it is not feasible for the person to connect to the organized disposal system.

(2) Whenever an organized disposal system is developed within 300 feet in horizontal distance (measured on the closest practicable access route) from any part of a private sewage facility, that facility shall be connected to the organized disposal system within 120 days after receiving notice from the owner or governing body of the organized disposal system that the person can connect, unless the requirement in paragraph (1)(B) of this subsection has been met.

(k) Notice by subdividers. Any person, or his agents or assignees, desiring to create a residential development on the recharge zone with two or more lots in which private sewage facilities will be utilized, in whole or in part, and sell, lease, or rent the lots therein shall inform in writing each prospective purchaser, lessee, or renter:

(1) that the subdivision is subject to the terms and conditions of this subchapter;

(2) that a permit to construct shall be required before a private sewage facility can be constructed in the subdivision;

(3) that a license to operate shall be required for the operation of such a private sewage facility; and

(4) whether or not an application for a water pollution abatement plan has been made, and whether or not it has been approved, including any restrictions or conditions placed on that approval.

§331.107. Prohibited Activities. The following activities are prohibited on the recharge zone:

(1) waste disposal wells regulated under Chapter 353 of this title (relating to Underground Injection Control);

(2) new confined animal feeding operations;

(3) land disposal of industrial solid waste, including hazardous waste regulated under Chapter 335 of this title (relating to Definitions) with the exception of Class III wastes as defined in §335.1 of this title (relating to Definitions); and

(4) the use of sewage holding tanks as parts of organized collection systems not connected to treatment facilities.

§331.108. Static Hydrocarbon and Hazardous Substance Storage Facilities. Approval of the design of storage facilities to be located on the recharge zone for hydrocarbon or hazardous substances, including leak detection systems, spill containment areas, or other control measures, as described in paragraph (1) and paragraph (2) of this section, shall be obtained from the executive director prior to construction. To request approval, the applicant shall file a written request with the District 14 office in triplicate.

(1) Underground storage facilities. Facilities for the underground storage of static hydrocarbon or hazardous substances shall be of double walled constuction or of an equivalent method approved by the executive director. Methods for detecting leaks in the wall of the storage facility shall be included in the facility's design and construction.

(2) Above ground storage facilities. Facilities used for the above ground storage of static hydrocarbon or hazardous substances shall be constructed within controlled drainage areas that are sized to capture one and one-half times the storage capacity of the facility and that direct any spillage to a point convenient for the collection and recovery of the spillage. The controlled drainage area shall be constructed of or in a material suitably impervious to the material being stored. Any spillage from such storage facilities shall be removed from the controlled drainage area for disposal within 24 hours of spillage. Static hydrocarbon temporary storage facilities to be used on site for less than one year which do not require a permit from the commission and permanent storage facilities smaller than 1,000 gallons total volume at the facility are exempt from this paragraph.

§331.109. Exceptions.

(a) General. This subchapter will be strictly enforced; nevertheless, situations

will arise on occasion that are materially different from those normally encountered or anticipated in this area of regulation. These situations may justify a departure from this subchapter in order to avoid hardships or the use of regulatory resources which would not provide protection for the Edwards Aquifer.

(o) Procedures.

(1) A person desiring an exception to the provisions of this subchapter shall file a written request with the executive director stating:

(A) the nature of the exception requested;

(B) the justification for granting the exception; and

(C) any information that the executive director or his representative reasonably requests.

(2) All requests shall be submitted in triplicate.

(3) Decisions regarding exceptions to §331.106 of this title (relating to Private Sewage Facilities) may be made by the supervisor of the District 14 office. All decisions regarding exceptions made by the supervisor of the District 14 office are appealable to the executive director by following the procedures of this subsection. If the commissioners court for the county in which the private sewage facility is or is proposed to be located is regulating private sewage facilities pursuant to rules approved by the Texas Water Development Board under the Texas Water Code, §26.032, and §331.106(a) of this title (relating to Private Sewage Facilities), then decisions regarding exceptions to those rules shall be made by the commissioners court.

§331.110. Review of Decisions of Executive Director. Any person aggrieved by a decision of the executive director under this subchapter may within 30 days of the notification request the Texas Water Commission to review the decision of the executive director. Request for review is a prerequisite to judicial appeal.

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 February 11, 1985.

TRD-851302 Susan Plettman
General Counsel
Texas Department of
Water Resources

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

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Chapter 335. Industrial Solid Waste

Subchapter A. Industrial Solid Waste Management

★31 TAC §335.5

The Texas Department of Water Resources proposes an amendment to §335.5, concerning deed recordation. This change is proposed to exempt injection wells used to dispose of hazardous industrial solid waste from the recordation requirements of this section.

Although the section appears to apply to injection wells, the recordation requirement does not have a practical application to these wells because of the dynamic nature of the waste deposit.

Recordation will be required of these hazardous waste disposal facilities pursuant to new §353.46(g) proposed with this amendment. The new recordation rule will require prediction of and recordation of the waste front, rather than the surface site of the well, thus providing greater assurance that the wastes disposed of will be adequately located for future drillers.

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

Mr. Hodges also has determined that for each year of the first five years the rule is in effect the public benefit anticipated as a result of enforcing the rule as proposed will be assurance that the industrial solid waste and underground injection control programs notify future drillers of the presence of hazardous waste deposits. There is no anticipated economic cost to individuals who are required to comply with the rule.

Comments on the proposal may be submitted to Mary Reagan, Assistant General Counsel, Texas Department of Water Resources, P.O. Box 13087, Austin, Texas 78711.

The amendment is proposed under Texas Civil Statutes, Article 4477-7, §3, and the Texas Water Code, §5.131 and §5.132, which provide the Texas Department of Water Resources with the authority to regulate industrial solid wastes and to promulgate rules.

§335.5. Deed Recordation.

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

(c) Additional requirements. Owners of property on which facilties for disposal of hazardous waste are located are subject to further requirements of §335.220 of this title (relating to Notice in Deed to Property).

(d) Injection wells. This section does not apply to disposal activities for which recordation is required under §353.46(g) of this title (relating to Plugging and Abandonment Standards).

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

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TRD-851266 Susan Plettman
General Counsel
Texas Department of
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Chapter 351. Regionalization Upper Brushy Creek Watershed

★31 TAC §§351.111-351.113

The Texas Department of Water Resources proposes new §§351.111-351.113, concerning regionalization of wastewater treatment services in the Upper Brushy Creek Watershed and designation of a regional entity to provide such services.

Representatives of the Texas Department of Water Resources conducted a public hearing on behalf of the board on November 7, 1984, in the City of Round Rock, within the proposed regional area. The hearing was to determine whether there is a need for regional wastewater treatment and disposal services within the Upper Brushy Creek Watershed in southwest Williamson County and to consider an appropriate regional entity to provide such services. This hearing is required under the Texas Water Code, §26.082 and §26.083.

After evaluation of the evidence and testimony received at this hearing, the department proposes designation of the Upper Brushy Creek Watershed as a regional area, including the Cities of Cedar Park, Leander, Round Rock, portions of the extraterritorial jurisdiction of the City of Austin, and the unincorporated areas surrounding these cities, which encompasses approximately 90,000 acres. The department further proposes designation of the Brushy Creek Water Control and Improvement District 1 of Williamson and Milam Counties as the regional entity to

provide wastewater treatment and disposal services within the regional area.

At the hearing, evidence showed that the wastewater treatment facility currently proposed by the district to be located on the south side of U.S. Highway 79 at the confluence of Brushy Creek and Chandler Creek, approximately four miles east of the city of Round Rock in Williamson County, would be appropriate for use as a regional wastewater treatment and disposal system. Evidence also demonstrated that the Brushy Creek Water Control and Improvement District is willing to provide regional wastewater treatment services.

Mike Hodges, Fiscal Services Section chief, has determined that for the first five-year period the rules will be in effect there will be fiscal implications as a result of enforcing or administering the rules as proposed. The anticipated effect on local government is an estimated additional cost of $7 million in 1985, $14 million each year in 1986 and 1987, $9 million in 1988, and $5 million in 1989. There is no anticipated economic effect on state government or small businesses as a result of enforcing or administering the proposed rules.

Mr. Hodges also has determined that for each year of the first five years the rules are in effect the public benefit anticipated as a result of enforcing the rules is an annual savings to residents within the proposed regional service area for operation and maintenance costs in excess of $1 million where the sewage area is provided by a single regional system rather than a series of individual sewage treatment plants. Social and economic development of the state in the regional service area can be accommodated without the necessity of discharging treated sewage through watercourses which recharge the Edwards Aquifer. There is no anticipated economic cost to individuals who are required to comply with the rules as proposed.

Comments on the proposal may be submitted to Kenneth L. Petersen, Jr., Assistant General Counsel, Room 616A, Stephen F. Austin Building, 1700 North Congress Avenue, Austin, Texas 78705.

The new sections are proposed under the Texas Water Code, §§5.131, 5.132, 26.011, and 26.081-26.087, which provides the Texas Water Development Board with the authority to promulgate rules for the purposes of water quality management and implementation of regionalization.

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

District—The Brushy Creek Water Control and Improvement District 1 of Williamson and Milam Counties.

Regional area—The Upper Brushy Creek Watershed in southwest Williamson County, including the cities of Cedar Park, Leander, Round Rock, portions of the extraterritorial jurisdiction of the City of Austin, and the unincorporated areas surrounding these cities, which area encompasses approximately 90,000 acres.

§351.112. Designation of Regional Area. The Upper Brushy Creek Watershed in southwest Williamson County, including the cities of Cedar Park, Leander, Round Rock, portions of the extraterritorial jurisdiction of the City of Austin, and the unincorporated areas surrounding these cities, which area encompasses approximately 90,000 acres, is designated an area in which the implementation of a regional or area-wide wastewater treatment and disposal system is both necessary and desirable for serving the wastewater disposal needs of the citizens of that area and for preventing pollution and maintaining and enhancing the quality of the waters of the state.

§351.113. Designation of Regional Entity. The Brush Creek Water Control and Improvement District 1 of Williamson and Milam Counties is designated as the entity responsible for the planning, construction, operation, and maintenance of an integrated wastewater treatment system for the regional area designated in §351.112 of this title (relating to Designation of Regional Area).

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

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TRD-851301 Susan Plettman
General Counsel
Texas Department of Water Resources

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Chapter 353. Underground Injection Control
General Standards and Methods

★31 TAC §§353.43, 353.46-353.48

The Texas Department of Water Resources (TDWR) proposes amendments to §§353.43, 353.46-353.48 and new §353.47, concerning general standards and methods.

The amendments to §353.43 allow by rule additional alternate tests for mechanical integrity which are acceptable to the department. These methods have previously been authorized by the executive director on a case-by-case basis and found to be reliable. These methods have been approved for use in Texas by the U.S. Environmental Protection Agency (EPA).

The amendment to §353.46, concerning plugging and abandonment standards, replaces the requirements of §335.5, relating to deed recordation, of the industrial solid waste sections as applied to wells used to dispose of hazardous wastes. The proposed amendment sets out the requirements to provide deed recordation of hazardous waste injection disposal sites.

New §353.47, concerning holding ponds, replaces existing §353.47, concerning waiver of requirements, which is renumbered as §353.48. New §353.47 requires minimum lining requirements for holding ponds or emergency storage ponds associated with surface facilities of underground injection wells. Lining of ponds is currently a standard permit requirement. Former §353.47, currently proposed to be §353.48, is changed by deleting reference to the board. This change reflects current practice of the department.

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

Mr. Hodges also has determined that for each year of the first five years the rules as proposed are in effect the public benefit anticipated as a result of enforcing the rules is assurance that injection wells have mechanical integrity and that mechanical integrity tests are appropriate and reasonable for the injection activity, assurance that surface facilities do not pose a threat to groundwater quality, and assurance that accidental penetrations through disposed hazardous wastes will not occur.

Since lining of ponds is a standard permit provision, the amendments to §353.47 and §353.48 are not anticipated to create an additional cost to the individual or the industry. The amendment to §353.46 is anticipated to cause additional expenses of about $50 per individual, or about $250 industry-wide per year. The amendment of §353.53 is not anticipated to create any additional cost to individuals or the industry.

Comments on the proposal may be submitted to Mary Reagan, Assistant General Counsel, Texas Department of Water Resources, P.O. Box 13087, Austin, Texas 78711.

The amendments and new section are proposed under the Texas Water Code, §§27.019, 5.131 and 5.132, which provide the Texas Water Development Board with the authority to regulate underground injections and to promulgate rules.

§353.43. Mechanical Integrity Standards.

(a) (No change.)

(b) Except as provided by subsection (c) of this section, the following tests **or combinations of tests** shall be used to evaluate the mechanical integrity of an injection well:

(1) monitoring of annulus pressure, **and** [or] pressure test with liquid or gas, **or radioactive tracer survey, or (for Class III uranium solution mining wells only) single point resistivity survey in conjunction with a pressure test** to detect any leaks in casing, tubing, or packer; and

(2) temperature log, or noise log, **or radioactive tracer survey, or cement bond log, or (for Class III uranium solution mining wells only) cement records where other tests are not suitable, or (for Class III brine solution mining wells only) a pressure test of the well and cavity** to detect any fluid movement through vertical channels adjacent to the injection wellbore.

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

§353.46. Plugging and Abandonment Standards.

(a)-(f) (No change.)

(g) Prior to plugging a Class I well, the permittee shall calculate, to the extent possible using the best information available at the time of closure, the location of the fluid waste front within the disposal zone and the predicted location of the waste front after 100 years, assuming no further injection. Permittee shall file in the county deed records of the county or counties in which the waste body will, within 100 years, be located, the following information:

(1) the owner and operator's name;

(2) the class or classes of wastes disposed of, and waste description;

(3) the Texas Department of Water Resources (TDWR) numbers;

(4) the address (current as of time of closure) where more specific information can be secured; and

(5) a description of the expected waste front at time of closure, and as predicted after 100 years assuming no further injection.

(h)[(g)] Within 30 days after completion of plugging, the permittee shall file with the executive director a plugging report on forms provided by the department, **and proof of recordation in writing, if required.**

§353.47. Pond Lining. All holding ponds, emergency overflow ponds, emergency storage ponds, or other impoundments associated with, or part of the surface facilities associated with, underground injection wells shall be lined with clay or an artificial liner as approved by the executive director and as required by permit, and shall in addition, conform to any applicable requirements of Chapter 335 of this title (relating to Industrial Solid Waste).

§353.48. [*§353.47*] *Waiver of Requirements.*

(a) When injection does not occur into, through, or above an underground source of drinking water, the commission by permit [or the board by rule] may authorize a well with less stringent requirements than those required in this chapter and Chaper 341 of this title (relating to Consolidated Permits) to the extent that the less stringent requirements will not result in an increased likelihood of movement of fluid that may pollute fresh water.

(b) When injection occurs and a cone of depression centered at the well or well field is maintained for the injection zone, the commission by permit [or the board by rule] may authorize a well with less stringent requirements for operation, monitoring, and reporting than those required in this chapter and Chapter 341 of this title (relating to Consolidated Permits) to the extent that the less stringent requirements will not result in an increased likelihood of movement of fluid that may pollute fresh water.

(c) (No change.)

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

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TITLE 34. PUBLIC FINANCE

Part I. Comptroller of Public Accounts

Chapter 3. Tax Administration

Subchapter C. Crude Oil Production Tax

★34 TAC §3.36

The Comptroller of Public Accounts proposes new §3.36, concerning estimated tax payment. The legislature determined that to accelerate tax collections an estimated payment of tax must be made on or before August 15th for the month of July of each odd-numbered calendar year. This section provides guidelines for those payments.

Billy Hamilton, revenue estimating director, has determined that for the first five-year period the rule will be in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the rule. This rule is promulgated under the Tax Code, Title 2, and no statement of the fiscal implications for small businesses is required.

Mr. Hamilton also has determined that the public benefit anticipated as a result of enforcing the rule as proposed is new information for the public regarding their tax responsibilities under changes made by the legislature. There is no anticipated economic cost to individuals as a result of enforcing the rule as proposed.

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

This new section is proposed under Texas Tax Code, §111.002, which provides that the comptroller may prescribe, adopt, and enforce rules relating to the administration and enforcement of the oil production tax.

§3.36. Estimated Tax Payment.

(a) Payment of estimated tax.

(1) All persons responsible for remitting tax due on crude oil, as imposed by Texas Tax Code, Chapter 202, must make a reasonable estimate of the tax due for the production month of July of each odd-numbered calendar year (1985, 1987, etc.) and remit a prepayment on or before August 15th of each such odd-numbered calendar year.

(2) A reasonable estimate of the tax due for the production month of July is equal to the tax due for the production month of June of the same year or the actual tax due for the production month of July, whichever is less.

(3) The regular monthly report must be filed and any additional tax due for

the production month of July in excess of the reasonable estimate must be remitted on or before August 25th of each odd-numbered calendar year.

(b) Penalties.

(1) If the amount paid pursuant to subsection (a) of this section is less than the required amount, a penalty of 10% will accrue on the difference between the required amount and the amount actually remitted.

(2) If an estimated payment is not timely or no estimated payment is made, a 10% penalty will accrue on the entire amount required to be paid by August 15th.

(3) A penalty of 5.0% will accrue on the additional tax due for the production month of July or any other regular monthly report if it is not paid when the report is due. An additional 5.0% penalty will accrue 30 days after the due date of the report if the tax is still not paid.

Examples

Tax Due for June 1985	$10,000	$10,000	$10,000	$10,000
Reasonable Estimate for July 1985	$10,000	$10,000	$10,000	$10,000
Estimated Payment Remitted for July	$10,000	$ 8,000	$ 8,000	$ 0
Actual Tax Due for July	$12,000	$ 8,000	$12,000	$12,000
Amount Delinquent	$ 0	$ 0	$ 2,000	$10,000
Penalty on Delinquent Amount	$ 0	$ 0	$ 200	$ 1,000
Additional Tax Due	$ 2,000	$ 0	$ 4,000	$12,000

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 February 11, 1985.

TRD-851299 Bob Bullock
Comptroller of Public Accounts

Earliest possible date of adoption:
March 18, 1985
For further information, please call (512) 475-1913.

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TITLE 40. SOCIAL SERVICES AND ASSISTANCE

Part V. Veterans Land Board

Chapter 177. Veterans Housing Assistance Program

★40 TAC §177.3, §177.8

The Veterans Land Board proposes amendments to §177.3 and §177.8, concerning the Veterans Housing Assistance Program. The amendments authorize funds of the Veterans Housing Assistance Program to be used also for home improvement loans to eligible veterans.

Richard Keahey, executive secretary, has determined that for the first five-year period the rules will be in effect there will be no fiscal implications for state or local government or small businesses as a result of enforcing or administering the rules.

Mr. Keahey also has determined that for each year of the first five years the rules are in effect the public benefit anticipated as a result of enforcing the rules is that eligible veterans will be able to get a home improvement loan, in addition to being able to purchase a home through the Veterans Housing Assistance Program. There is no anticipated economic cost to individuals who are required to comply with the rules as proposed.

Comments on the proposal may be submitted to Jim Phillips, General Counsel, 1700 North Congress Avenue, Austin, Texas 78701.

The amendments are proposed under the Natural Resources Code, §162.003, which provides the Veterans Land Board with the authority to adopt rules governing the making or acquiring of veterans' housing assistance loans.

§177.3. Administration of Fund.

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

(c) After the requirements of subsection (b) of this section have been satisfied, the board, with the assistance of the administrator, shall monitor the cash flow requirements of the program and shall administer the fund to:

(1) (No change.)

(2) make money available as needed by the program to make or acquire home loans as provided by the Natural Resources Code, Chapter 162, and this chapter; **and**

(3) make money available as needed by the program to make home improvement loans as provided by §177.8 of this title (relating to Qualifying Homes).

(d)-(g) (No change.)

§177.8. Qualifying Homes.

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

(e) The home in which a veteran actually resides may be eligible for a home improvement loan (as such loans are commonly defined in the real estate lending industry) in the home and the veteran meet the qualification requirements for an FHA Title I home improvement loan. The board may adopt guidelines setting forth the requirements for obtaining an FHA Title I home improvement loan through the program and have them provided to all participating lending institutions.

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

Issued in Austin, Texas, on February 6, 1985.

TRD-851206 Garry Mauro
Chairman
Veterans Land Board

Earliest possible date of adoption:
March 18, 1985
For further information, please call (512) 475-5661.

★ ★ ★

Withdrawn Rules

An agency may withdraw proposed action or the remaining effectiveness of emergency action on a rule by filing a notice of withdrawal with the *Texas Register*. The notice is effective immediately upon filing. If a proposal is not adopted or withdrawn within six months after the date of publication in the *Register*, it will automatically be withdrawn by the *Texas Register* office and a notice of the withdrawal will appear in the *Register*.

TITLE 28. INSURANCE
Part I. State Board of Insurance

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

Universal Life
Universal Life Insurance

★059.03.51.101-.111

Pursuant to Texas Civil Statutes, Article 6252-13a, §5(b), and 1 TAC §91.24(b), proposed new Rules 059.03.51.101-.111 submitted by the State Board of Insurance, have been automatically withdrawn, effective February 8, 1985. The new rules as proposed appeared in the August 7, 1984, issue of the *Texas Register* (9 TexReg 4218).

TRD-851249
Filed: February 8, 1985

★ ★ ★

Variable Life
Variable Life Insurance

★059.03.76.001-.012

Pursuant to Texas Civil Statutes, Article 6252-13a, §5(b), and 1 TAC §91.24(b), proposed new Rules 059.03.76.001-.012 submitted by the State Board of Insurance have been automatically withdrawn, effective February 8, 1985. The new rules as proposed appeared in the August 7, 1984, issue of the *Texas Register* (9 TexReg 4223).

TRD-851248
Filed: February 8, 1985

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Policy Approval
Rules and Regulations for Variable Life Insurance

★059.10.01.001-.010

Pursuant to Texas Civil Statutes, Article 6252-13a, §5(b), and 1 TAC §91.24(b), the proposed repeal of Rules 059.10.01.001-.010 submitted by the State Board of Insurance has been automatically withdrawn, effective February 8, 1985. The repeal as proposed appeared in the August 7, 1984, issue of the *Texas Register* (9 TexReg 4245).

TRD-851247
Filed: February 8, 1985

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TITLE 31. NATURAL RESOURCES AND CONSERVATION
Part X. Texas Water Development Board
Chapter 331. Edwards Aquifer
Subchapter B. Edwards Aquifer in Williamson County

★31 TAC §§331.101-331.110

The Texas Water Development Board has withdrawn from consideration for permanent adoption proposed new §§331.101-331.110, effective February 11, 1985. The new sections as proposed appeared in the December 14, 1984, issue of the *Texas Register* (9 TexReg 6296).

Issued in Austin, Texas, on February 11, 1985.

TRD-851303 Susan Plettman
General Counsel
Texas Water Development Board

Filed: February 11, 1985
For further information, please call (512) 475-7845.

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Adopted Rules

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

If an agency adopts the rule without any changes to the proposed text, only the preamble of the notice and statement of legal authority will be published. If an agency adopts the rule with changes to the proposed text, the proposal will be republished with the changes.

TITLE 7. BANKING AND SECURITIES

Part VI. Credit Union Department

Chapter 91. Chartering, Operations, Mergers, Liquidations

Powers of Credit Unions

★7 TAC §91.407

The Credit Union Department adopts new §91.407, with changes to the proposed text published in the November 16, 1984, issue of the *Texas Register* (9 TexReg 5870).

These changes are not substantial. The portion of the proposed section that was deleted referred to federal and state security laws and rules which are considered to be common knowledge to members of those organizations that issue bonds. However, a statement was added which refers the users of the rule to the definitions section of the Credit Union Department rules to insure that the term credit union service organizations (CUSO) is understood.

This section provides a method for credit unions to improve their earnings during periods having a sluggish economical climate, thereby, increasing the money supply available for additional lending.

No comments were received regarding the adoption of the new section.

The new section is adopted under Texas Civil Statutes, Article 2461, §11.07, which provide the Credit Union Commission with the authority to promulgate general rules and regulations pursuant to this act and, from time to time, to amend the same.

§91.407. Securities. A credit union operating under the laws of the State of Texas and these rules, and/or a credit union service organization (CUSO) as defined in §91.1 of this title (relating to Definitions), are authorized by this section to issue mortgage-backed bonds.

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 February 7, 1985.

TRD-851252 John P. Parsons
Commissioner
Credit Union Department

Effective date: March 1, 1985
Proposal publication date: November 16, 1984
For further information, please call (512) 837-9236.

★ ★ ★

Chapter 109. Transactions Exempt from Registration

★7 TAC §109.13

The State Securities Board adopts new §109.13, concerning limited offering exemptions, with changes to the proposed text published in the January 1, 1985, issue of the *Texas Register* (10 TexReg 19). The changes are intended to make clear the board's intent that the exemption provided by subsection (k) is available for intrastate offerings as well as interstate offerings sold in part to accredited investors.

The new section creates an exemption that increases uniformity with federal and other states' law by coordinating with the Securities and Exchange Commission's Regulation D and the North American Securities Administrators Association's uniform limited offering exemption.

The new section provides an exemption for limited offerings. While this section becomes effective on March 1, 1985, current §109.4, concerning public solicitation or advertistments, will not be amended or repealed until some later date. The delayed effectiveness date of such amendment or repeal enables offerings begun under §109.4 to be completed pursuant to that section.

Frank Arnold of the law firm of Arnold & Booker, Austin, questioned whether a transaction would be exempt from the licensing requirements of §12 and the information filing requirements of §22 in addition to the Act, §7, since only a reference to the transactions being exempt from §7 is made. Since both the preface language to §5 and §139.1 indicate that the company or person engaged in a transaction exempt pursuant to that section will not be deemed to be a dealer, this does not appear to be a problem. Pursuant to §22.F, §22 does not apply to transactions exempt under §5.

Along with Ken T. Foley of Equity Growth International, Houston, Mr. Arnold commented that the filing requirement could create a trap for the unwary with no discernible offsetting benefit and suggested deletion of the requirement. In the alternative, if the filing were deemed essential, he recommended that the proposal be revised so that failure to file would not result in a loss of the exemption but merely a monetary penalty of three times the amount had one been required to be registered and filed on demand of the commissioner. The board feels that a filing is necessary to have information on those issuers who rely upon the exemption. In addition, a legal question exists as to the board's authority to creat new fees since the Securities Act does not authorize it to do so.

Alan Baden, of the firm of Vinson & Elkins, Houston, noted that since one of the goals is to allow issuers conducting offerings pursuant to the intrastate exemption from the registration requirements of the Securities Act of 1933, to continue to do so with no material new burdens, filing a Form D, which is a form used to file with the Securities and Exchange Commission (SEC), would result in such issuers claiming an exemption which they probably would not be relying upon in light of revised information requirements provided in the rule for such issuers. He suggested an additional clause exception should be added to §109.13(k) to indicate that were an is-

suer to rely for purposes of federal law on the exemption provided in §3(a)(11) and Rule 147 promulgated by the SEC pursuant to the section, the issuer could rely on the exemption set forth in §109.13(k) without having to make the filings required by Regulation D with the SEC. Such addition does not appear necessary since the rule as adopted includes in the preface to §109.13(k) a provision to the effect that an issuer may rely on the Securities Act of 1933, §3(a)(11), which does not require a filing with the SEC to claim.

A. Michael Hainsfurther, of the firm of Geary, Stahl, & Spencer, Dallas, suggested the addition of a provision that failure to timely file the Form D would not in itself preclude the applicability of the exemption for the offering and noted several states have concepts similar to this. He suggested that such provision would provide evidence to a court of the intent of the board that a mere technical violation would not prevent the exemption from being available. The board believes that without a penalty for failure to file the form, it would be difficult to persuade issuers to make such a filing.

Mr. Hainsfurther also suggested that a filing be deemed to have been made as of the date upon which the notice is mailed by means of United States registered or certified mail to the securities commissioner's office in Austin, if the notice is delivered to such office after the date on which it is required to be filed. Mr. Hainsfurther also noted that such provisions would provide some certainty as to the date of filing and help keep expenses of issuers down since it would negate the reason to use some type of overnight express service. Also, several states have adopted this provision which is included in Regulation D. The board does not wish to discriminate against mail services other than the United State Postal Service, and feels that the form should actually have been received by the agency before an issuer may be said to have the exemption.

Mr. Hainsfurther also suggested that a fee be required since approximately 35 states require a fee to be paid for similar exemptions. A legal question exists as to the board's authority to create new fees since the Act itself does not authorize it to do so.

Everett D. Jobe, of the firm of Clark, Thomas, & Winters, Austin, suggested the addition of a paragraph to indicate that in the event the issuer were relying on the exemption provided by Regulation D, the facing page of the initial notice on Form D filed with the securities commissioner should contain a statement of such fact. The board does not feel this is necessary in view of the addition to the preface of §109.13(k) discussed previously.

Mr. Jobe also suggested the addition of language clarifying that different exemptions may be relied upon simultaneously as long as the private offering exemptions are not stacked. The board does not believe this is necessary given the language in §109.13(10), which is intended only to prohibit the numerical stacking of the private offering exemptions contained in the Act, §5.I(a) and (c), and §109.13(k).

Finally, Mr. Jobe suggested that the introduction language to proposed subsection (k) was superfluous and that the language "in addition of sales made under the Texas Securities Act, §5.I" could be deleted without substantive effect. The board feels that the reference to §5.I is important given that it provides another private offering exemption which may be available if, for some reason, §109.13(k) were not.

Charles R. Milam, of Texland Resources, Inc., Austin; Gary Johnson, of J. C. Corporation, Austin; and Tommy B. Thompson, of Thompson Associates, Inc., Austin, objected to adoption of the section and repeal of existing §109.4(11). It was noted that the intrastate offering exemption which allows for offerings made in part to accredited investors should remain available in Texas without requiring any involvement with federal securities law. He indicated that in attempting to satisfy the objections of one faction of the investment community, i.e., those operating exempt securities offerings on an interstate basis under Regulation D, the board will have ignored the equally valid concerns of other issuers, including those who utilize the current intrastate offering exemption and make sales in part to accredited investors. Mr. Milam noted that it would be counterproductive to require these issuers to research federal law and have federal securities attorneys to accomplish their Texas only offerings. While the board acknowledges that the section initially will result in a more complex system, to reiterate Regulation D in its entirety would result in a very lengthy section. Also, such approach appears to be unnecessary given the addition of language noting the exemption's availability where the Securities Act of 1933, §3(2)(11), is relied upon as the applicable federal exemption.

Roy W. Mouer, of the firm of Johnson & Swanson, Austin, commented that proposed §103.13(a) and (b) would make it advisable, if not essential, to qualify offerees by using offeree questionnaires and/or other investigative devices. Under current §109.4, reasonable belief that an offeree is sophisticated is no defense if an issuer or registered dealer offers securities to one not meeting the sophistication requirements of the rule. The board is lowering rather than increasing the standard which must be met. To revert to a willful or reckless misconduct standard would detract from the investor protection such screening of offerees provides.

Mr. Mouer also noted the problem, previously addressed, which occurs when intrastate issuers are relying upon the Securities Act of 1933, §3(2)(11), as the applicable federal exemption. As noted, the changes to §109.13(k) resolve this problem. Mr. Mouer suggested that a form other than Form D be required to be filed by such intratstate issuers. The board feels that the same form should be filed by all issuers who rely upon the exemption.

The new section is adopted under Texas Civil Statutes, Article 581, §28-1 and §5.T, which provide respectively that the board may adopt rules or regulations governing registration statements, applications, notices, and reports, and in the adoption of rules and regulations may classify securities, persons, and matters within its jurisdiction, prescribe different requirements for different classes and prescribe new exemptions by rule.

§109.13. Limited Offering Exemptions.

(a) Public solicitation, well informed, and sophisticated investor. The offer for sale or sale of the securities of the issuer would not involve the use of public solicitation under the Act, §5.I, if the issuer, after having made a reasonable factual inquiry has reasonable cause to believe, and does believe, that the purchasers of the securities are sophisticated, well-informed investors or well-informed investors who have a relationship with the issuer or its principals, executive officers, or directors evincing trust between the parties (namely close business association, close friendship, or close family ties), and such purchasers acquire the securities as ultimate purchasers and not as underwriters or conduits to other beneficial owners or subsequent purchasers. The use of a registered dealer in a sale otherwise meeting the requirements of §5.I does not necessarily mean that the transaction involves the use of public solicitation. The offer without advertising to a person who did not come within the class of persons described in this subsection does not alone result in public solicitation if the issuer had a reasonable cause to believe and did believe that such person fell within the class of persons described, and that such offer was not made indiscriminately.

(1) The term "well-informed" could be satisfied through the dissemination of printed material to each purchaser prior

to his or her purchase, which by a fair and factual presentation discloses the plan of business, the history, and the financial statements of the issuer, including material facts necessary in order that the statements made, in the light of circumstances under which they are made, not be misleading.

(2) In determining who is a sophisticated investor at least the following factors should be considered.

(A) The financial capacity of the investor, to be of such proportion that the total cost of that investor's commitment in the proposed investment would not be material when compared with his total financial capacity. It may be presumed that if the investment does not exceed 20% of the investor's net worth (or joint net worth with the investor's spouse) at the time of sale that the amount invested is not material.

(B) Knowledge of finance, securities, and investments, generally. This criteria may be met by the investor's purchaser representative if such purchaser representative has such knowledge, so long as such purchaser representative:

(i) has no business relationship with the issuer;

(ii) represents only the investor and not the issuer; and

(iii) is compensated only by the investor.

(C) Experience and skill in investments based on actual participation. This criteria may be met by the investor's purchaser representative if such purchaser representative has such experience and skill, so long as such purchaser representative:

(i) has no business relationship with the issuer;

(ii) represents only the investor and not the issuer; and

(iii) is compensated only by the investor.

(b) Advertisements. The term "advertisements" does not include the use of the type of printed material as set out in subsection (a) of this section under the discussion of the term "well-informed." Further, the main concept to be considered in a definitional analysis of the term "advertisements," as it is used in §5.I, is the method of use of the printed material. The following circumstances, though not intended to be exclusive, will be considered in determining whether the method of use of any printed material is within the limits of §5.I:

(1) limited printing of the material;

(2) limited distribution of the material only to persons who the issuer, after having made a reasonable factual inquiry has reasonable cause to believe and does believe are sophisticated investors, or to persons who have a relationship with the issuer as set forth in subsection (a) of this section, or to their purchaser representatives;

(3) control of the printing and distribution of the printed material;

(4) recognition of the necessity of compliance with the requirements set forth in this subsection on the part of the issuer and the investor. Such recognition might consist of a printed prohibition on the front in large type that the circular is for that individual's confidential use only, and may not be reproduced; and, the use of a statement warning that any action contrary to these restrictions may place such individual and the issuer in violation of the Texas Securities Act.

(c) Number of persons or security holders. In computing the number of purchasers or security holders for §5.I, the following criteria shall be used.

(1) There shall be counted as one purchaser or security holder any purchaser or security holder together with:

(A) any relative or spouse of such purchaser or security holder who has the same home as such purchaser or security holder; any relative of such spouse who has the same home as such purchaser or security holder; any relative or spouse or relative of such spouse who is a dependent of such security holder;

(B) any trust or estate in which such purchaser or security holder or any of the persons related to him as specified in subparagraph (A) or (C) of this paragraph collectively have more than 50% of the beneficial interest (excluding contingent interests); and

(C) any corporation or other organization of which such purchaser or security holder or any of the persons related to him as specified in subparagraph (A) or subparagraph (B) of this paragraph collectively are the beneficial owners of more than 50% of the equity securities (excluding directors' qualified shares) or equity interest.

(2) There shall be counted as one purchaser or security holder any corporation, partnership, association, joint stock company, trust or unincorporated association, organized and existing other than for the purpose of acquiring securities of the issuer for which the exemption is claimed under §5.I.

(3) Any general partner of a limited partnership who is subject to general liability for the obligations of the limited partnership and actively engages in the control and management of the business and affairs of the limited partnership or of the managing general partner of the partnership shall not be counted as a purchaser or security holder for purposes of §5.I.

(4) The exemptions contained in the Act, §5.I(a) and (c), as interpreted in subsections (a)-(j) of this section may not be combined with the exemption promulgated pursuant to the Act, §5.T, contained in subsection (k) of this section.

(d) Total number of security holders. The phrase "the total number of security holders of the issuer" in §5.I(a) includes all security holders of the issuer without regard to their places of residence (within or without the State of Texas) and without regard to where they acquired the securities. In determining the number of persons for purposes of §5.I(c), prior sales to persons residing outside the State of Texas and prior sales to Texas residents consummated outside the State of Texas shall be included unless such sales were made in compliance with §139.7 of this title (relating to Sale of Securities to Nonresidents).

(e) Other exemptions. The phrase "exempt under other provisions of this §5" in §5.I(c) means exempt under any provisions of the Act, other than §5.I, and subsection (k) of this section.

(f) Employee plan advertising. No public solicitation or advertisement under §5.I occurs by the distribution to eligible employees of:

(1) a prospectus filed under the Securities Act of 1933 with the Securities and Exchange Commission for an employees' restricted stock option plan, qualified stock option plan, or employee stock purchase plan (as identified in the Internal Revenue Laws of the United States); or

(2) any other material required or permitted to be distributed by the Securities Act of 1933 in connection with such a plan.

(g) Restricted stock options. The phrase "an employees' restricted stock option" as used in subsection (f)(1) of this section and of the Act, §5.I(b), includes an option granted pursuant to a plan which is exempted by §139.11 of this title (relating to Employee Plans).

(h) Notices. There is no notice filing requirement for sales made under the Act, §5.I(a), (b), or (c).

(i) Employee plans for counting purposes. A noncontributory employees stock ownership plan or employees stock ownership trust which holds securities of the employer company for the benefit of that company's employees shall be counted as one security holder under §5.I. Employee participants in such an employee stock ownership plan or trust will not be deemed security holders of the employer company for purposes of counting security holders under §5.I solely because of their participation in the plan or trust. However, employee participants receiving distributions of securities from the plan or trust will be deemed security holders of the employer on receipt of securities of the employer from the plan or trust.

(j) Limitations on disposition. The issuer and any person acting on its behalf shall exercise reasonable care to assure that the purchasers are acquiring the securities as an investment. Such reasonable care should include, but not be limited to, the following:

(1) making reasonable inquiry to determine if the purchaser is acquiring the securities for his or her own account or on behalf of other persons;

(2) placing a legend on the certificate or other document evidencing the securities to the effect that the securities have

not been registered under any securities law and setting forth or referring to the restrictions on transferability and sale of the securities;

(3) issuing stop transfer instructions to the issuer's transfer agent, if any, with respect to the securities, or, if the issuer transfers its own securities, making a notation in the appropriate records of the issuer;

(4) obtaining from the purchaser a signed written agreement to the effect that the securities will not be sold without registration under applicable securities laws or exemptions therefrom; and

(5) prior to sale, written disclosure to each purchaser, to the effect that a purchaser of the securities must bear the economic risk of the investment for an indefinite period of time because the securities have not been registered under applicable securities laws and therefore cannot be sold unless they are subsequently registered under such securities laws or an exemption from such registration is available; and that the securities are subject to the limitations set forth in paragraphs (2)-(4) of this subsection.

(k) Uniform limited offering exemption. In addition to sales made under the Texas Securities Act, §5.I, the State Securities Board, pursuant to the Act, §5.T, exempts from the registration requirements of the Act, §7, any offer or sale of securities offered or sold in compliance with the Securities Act of 1933, Regulation D, Rules 230.501-230.503 (except for Rule 230.502 (b)(2)), 230.505, and 230.506 as made effective in United States Securities and Exchange Commission Release 33-6389 or offered or sold in compliance with §3(a)(11) of the Securities Act of 1933, and which satisfies the following further conditions and limitations.

(1) No commission, fee, or other remuneration shall be paid or given, directly or indirectly, to any person for soliciting any prospective purchaser in this state unless such person is appropriately registered in this state. It is a defense to a violation of this subsection if the issuer sustains the burden of proof to establish that he or she did not know and in the exercise or reasonable care could not have known that the person who received a commission, fee, or other remuneration was not appropriately registered in this state.

(2) No exemption under this subsection shall be available for the securities of any issuer if any of the parties described in the Securities Act of 1933, Regulation A, Rule 230.252(c), (d), (e), or (f) as made effective in United States Securities and Exchange Commission Release 33-6389;

(A) has filed a registration statement which is subject of a currently effective registration stop order entered pursuant to any state's securities law within five years prior to the filing of the notice required under this exemption;

(B) has been convicted within five years prior to the filing of the notice required under this exemption of any felony or misdemeanor in connection with the offer, purchase, or sale of any security or any felony involving fraud or deceit;

(C) is currently subject to any state administrative enforcement order or judgment entered by that state's securities administrator within five years prior to the filing of the notice required under this exemption or is subject to any state's administrative enforcement order or judgment in which fraud or deceit was found and the order or judgment was entered within five years prior to the filing of the notice required under this exemption;

(D) is subject to any state's administrative enforcement order or judgment which prohibits, denies, or revokes the use of any exemption from registration in connection with the offer, purchase, or sale of securities;

(E) is currently subject to any order, judgment, or decree of any court of competent jurisdiction temporarily or preliminarily restraining or enjoining, or is subject to any order, judgment, or decree of any court of competent jurisdiction, permanently restraining or enjoining, such party from engaging in or continuing any conduct or practice in connection with the purchase or sale of any security or involving the making of any false filing with the state entered within five years prior to the filing of the notice required under this exemption.

(3) The prohibitions of paragraph (2)(A)-(C) and (E) of this subsection shall not apply if the person subject to the disqualification is duly licensed or registered to conduct securities-related business in the state in which the administrative order or judgment was entered against such person or if the broker/dealer employing such party is licensed or registered in this state and the dealer application filed with this state discloses the order, conviction, judgment, or decree relating to such person. No person disqualified under this subsection may act in a capacity other than that for which the person is licensed or registered.

(4) Any disqualification caused by this subsection is automatically waived if the state securities administrator or agency of the state which created the basis for disqualification determines upon a showing of good cause that it is not necessary under the circumstances that the exemption be denied.

(5) Upon application, and for good cause shown, the securities commissioner may waive a disqualification contained in paragraph (2) of this subsection.

(6) The issuer of securities sold in reliance on this exemption will not be precluded from maintaining this exemption if a person or entity identified in paragraph (2) of this subsection has been the subject of any action identified in paragraph (2)(A)-(E) of this subsection if the issuer can demonstrate that, prior to any sale being made in this state, it conducted a reasonable factual inquiry and had reasonable cause to believe, and did believe, that no person or entity so identified was the subject of any such action.

(7) The issuer shall file with the securities commissioner a notice on Form D as made effective in United States Securities and Exchange Commission Release 33-6389 (17 Code of Federal Regulations §239.500):

(A) one manually executed copy of the form required under Regulation D, Rule 230.503, to be filed with the Securities and Exchange Commission, no later than 15 days after the first sale of securities to a resident of this state and at such later times as prescribed in paragraph (c) of the instructions, covering when filings must be made, found on the facing page of Form D;

(B) the initial notice shall contain an undertaking by the issuer to furnish to the securities commissioner, upon written request, the information furnished by the issuer to offerees;

(C) unless otherwise available, included with or in the initial notice shall be a consent to service of process.

(8) In all sales to nonaccredited investors in this state, the issuer and any person acting on its behalf shall have reasonable grounds to believe and after making reasonable inquiry shall believe that one of the following conditions has been satisfied:

(A) the investment is suitable for the purchaser upon the basis of the facts, if any, disclosed by the purchaser as to his/her other security holdings and as to his/her financial situation and needs. For the purpose of this condition only, it may be presumed that if the investment does not exceed 10% of the investor's net worth, it is suitable;

(B) the purchaser either alone or with his/her purchaser representative(s) has such knowledge and experience in financial and business matters that he/she is or they are capable of evaluating the merits and risks of the prospective investment.

(9) Sales made pursuant to this subsection to nonaccredited investors must comply with the disclosure requirements of subsection (a)(1) of this section. While subsection (a)(1) of this section does not include specific disclosure requirements, compliance with Regulation D, Rule 230.502(b) is deemed to be in compliance with subsection (a)(1).

(10) Transactions which are exempt under this subsection may not be combined with offers and sales exempt under any other rule or section of the Act, however, nothing in this limitation shall act as an election. Should for any reason, the offer and sale fail to comply with all of the conditions for this exemption, the issuer may claim the availability of any other applicable exemption.

(11) The securities commissioner may, by order, increase the number of purchasers or waive any other conditions of this exemption.

(12) This limited offering transactional exemption is designed to further the objectives of compatibility with federal exemptions and uniformity among the states.

(13) Nothing in this exemption is intended to or should be construed as in any way relieving issuers or persons acting on behalf of issuers from providing disclosure to prospective investors adequate to satisfy the antifraud provisions of the Texas Securities Act.

(14) In view of the objective of this subsection and the purposes and policies underlying the Texas Securities Act, the exemption is not available to any issuer with respect to any transaction which, although in technical compliance with this subsection, is part of a plan or scheme to evade registration or the conditions or limitations explicitly stated in this subsection.

(15) Nothing in this subsection is intended to relieve registered dealers, salesmen, or agents from the due diligence, suitability, or know your customer standards or any other requirements of law otherwise applicable to such registered persons.

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 February 8, 1985.

TRD-851286 Richard D. Latham
Commissioner
State Securities Board

Effective date: March 1, 1985
Proposal publication date: January 1, 1985
For further information, please call (512) 474-2233.

★ ★ ★

★7 TAC §109.14

The State Securities Board adopts new §109.14, concerning oil and gas interests, without changes to the proposed text published in the January 1, 1985, issue of the *Texas Register* (10 TexReg 22).

The new section creates an exemption that increases uniformity with federal and other states' law by coordinating with the Securities and Exchange Commission's regulation D and the North American Securities Administrators Association's uniform limited offering exemption.

The new section provides an exemption for limited offerings of oil and gas interests. While this section becomes effective on March 1, 1985, current §109.9 will not be amended or repealed until some later date. The delayed effectiveness date of such amendment or repeal will enable offerings begun under §109.9 to be completed pursuant to that section. This arrangement will coordinate with the eventual amendment or repeal of §109.4 and the adoption of new §109.13.

No comments were received regarding adoption of the new section.

The new section is adopted under Texas Civil Statutes, Article 581, §28-1 and §5.T, which provide, respectively, that the board may adopt rules or regulations governing registration statements, applications, notices, and reports, and in the adoption of rules and regulations may classify securities, persons, and matters within its jurisdiction, prescribe different requirements for different classes, and prescribe new exemptions by rule.

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 February 8, 1985.

TRD-851287 Richard D. Latham
Commissioner
State Securities Board

Effective date: March 1, 1985
Proposal publication date: January 1, 1985
For further information, please call (512) 475-2233.

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TITLE 16. ECONOMIC REGULATION

Part IV. Texas Department of Labor and Standards

Chapter 69. Manufactured Housing Division

Consumer Notice of Requirements

★16 TAC §§69.181-69.184

The Texas Department of Labor and Standards adopts the repeal of §§69.181-69.184, pursuant to federal mandate.

The U.S. Department of Housing and Urban Development has adopted new controls and a notice for formaldehyde emissions on materials used in manufactured housing, which make the current rules adopted for repeal obsolete. Simultaneously new §§69.181-69.185 are being adopted.

The current §§69.181-69.184 are no longer effective because adoption of 24 Code of Federal Regulations §§3280.306, 3280.309, 3280.406, and 3280.710 by the U.S. Department of Housing and Urban Development became effective on February 11, 1985.

The repeal is adopted pursuant to Texas Civil Statutes, Article 5221f, §9(b), which provides the department with authority to adopt rules and regulations, promulgate administrative orders, and take all action necessary to assure compliance with the intent of this Act.

§69.181. *Retailer Responsibilities.*
§69.182. *The Commission Must Sign the Notice.*
§69.183. *Manufacturers Must Sell or Ship to Registered Retailers.*
§69.184. *Notice.*

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 February 6, 1985.

TRD-851198 Robert R. Busse
Assistant Commissioner
Texas Department of Labor and Standards

Effective date: February 11, 1985?
Proposal publication date: N/A
For further information, please call (512) 475-0155.

★ ★ ★

★16 TAC §§69.181-69.185

Pursuant to federal mandate, the Texas Department of Labor and Standards adopts new §§69.181-69.185, relating to health notices and controls concerning formaldehyde emissions.

The U.S. Department of Housing and Urban Development (HUD) has promulgated rules establishing formaldehyde emission controls for all plywood and particleboard materials bonded with a resin system or coated with a surface finish that contain formaldehyde and are used in manufactured housing. The agency has found that an indoor ambient formaldehyde level of 0.4 ppm provides reasonable protection to manufactured home occupants and determined that the product standards of 0.2 ppm and 0.3 ppm for plywood and particleboard, respectfully, will result in the targeted 0.4 ppm ambient level if the requisite temperature, humidity, and ventilation conditions exist (as set forth in the HUD rule). These HUD rules are effective February 11, 1985, and, pursuant to federal law, are preemptive of all state or local standards and requirements.

Pursuant to requirements of Texas Civil Statutes, Article 5221f, §20, the Texas Department of Labor and Standards contracted with the University of Texas Health Science Center, Houston, for a study of the effects of formaldehyde in the indoor ambient air of manufactured housing on the health of occupants. This study has been completed, and some initial, tentative conclusions based on a sample of 164 manufactured homes are:

> Extremely high indoor concentrations of formaldehyde appear to be uncommon in Texas mobile homes At the relatively low concentrations encountered in the field survey (0 2 ppm to 0.78 ppm), there is no consistent evidence at this time for adverse health effects due to exposure to formaldehyde However, this does not rule out the possibility that health problems may exist in a relatively small number of homes with high formaldehyde levels There is no doubt that formaldehyde can cause severe irritant effects at sufficiently high concentrations, these levels were not encountered during this study.

Following this study, Article 5221f, §20, requires that the department set standards for the emission of formaldehyde from wood products and materials used in manufactured housing. Since HUD has established preemptive products and materials standards which result in a targeted ambient standard, the department is adopting the HUD rules.

Article 5221f, §20, also requires that the department revise the mandated warning or notice to be given prospective purchasers to assure that the risks, if any, of living in the manufactured home are adequately disclosed and prohibits manufacturers or retailers from varying the provisions or form of the notice. The U.S. Department of Housing and Urban Development has adopted and promulgated a specific form of notice in the rules effective February 11, 1985. This notice is also preemptive under federal law of all state and local rules or regulations; thus, the department is adopting the "important health notice" identically as prescribed by HUD.

To conform with the preeemptive HUD rules and to provide the consumer with adequate information on the possible health effects of formaldehyde in the indoor ambient air and the risks of living in the home, the department must adopt these new sections, which are federally mandated pursuant to 24 Code of Federal Regulations §§32280.306; 3280.309; 3280.406; and 3280.710.

Manufacturers of mobile homes shall display the health notice on formaldehyde emissions in the kitchen on a countertop or exposed cabinet face. The notice shall not be removed by any person or party until the entire sales transaction to the first purchaser for purposes other than resale (first purchase at retail) has been completed. In addition, a copy of the notice shall be included in the consumer manual.

Retailers shall display the notice as prescribed by HUD on all manufactured homes held for resale, whether in inventory or on consignment, henceforth.

Additionally, in new §69.185, the department is requiring a retailer to deliver a copy of the health notice prescribed by HUD to the consumer before the execution of any mutually binding sales agreement. If it is a cash sale, the copy of the notice must be delivered before the acceptance of payment or the execution of title transfer documents. An agreement to order a manufactured home from the manufacturer, or an agreement to hold a home in inventory for a period of time, which is secured by a forfeitable consumer deposit is a "mutually binding sales agreement" for purposes of this section.

The consumer must sign the copy of the notice. The retailer shall keep the originally signed copy in the permanent sales file and shall give a copy to the consumer at the time the original copy is signed. If requested, the retailer shall deliver a copy of the signed notice to the manufacturer of the home.

The copies of the notice may be reduced in size from the notice required to be posted in the home and may be reproduced entirely in either red or black. This copy of the notice must be on a form approved by the department, be dated, and contain the following certification immediately above the place for the consumer's signature in boldface type which is at least eight points in size

> I (We) certify that this Important Health Notice was prominently displayed in the kitchen of the manufactured home being purchased and further that this notice was given to me (us) on the date shown and prior to the signing of any binding agreement I (We) have read the notice and understand it

The new sections are adopted pursuant to Texas Civil Statutes, Article 5221f, §9(b), wherein it states that the department shall adopt rules and regulations, promulgate administrative orders, and take all action necessary to assure compliance with the intent of this Act.

§69.181. Formaldehyde Emission Controls for Certain Wood Products.

(a) Formaldehyde emission levels. All plywood and particleboard materials bonded with a resin system or coated with a surface finish containing formaldehyde shall not exceed the following formaldehyde emission levels when installed in HUD-code manufactured homes:

(1) Plywood materials shall not emit formaldehyde in excess of 0.2 parts per million (ppm) as measured by the air chamber test method specified in §69.183 of this title (relating to Air Chamber Test Method for Certification and Qualification of Formaldehyde Emission Levels).

(2) Particleboard materials shall not emit formaldehyde in excess of 0.3 ppm as measured by the air chamber test specified in §69.183 of this title (relating to Air Chamber Test Method for Certification and Qualification of Formaldehyde Emission Levels).

(b) Product certification and continuing qualification. All plywood and particleboard materials to be installed in HUD-code manufactured homes which are bonded with a resin system or coated with a surface finish containing formaldehyde, other than an exclusively phenol-formaldehyde resin system or finish, shall be certified by a nationally recognized testing laboratory as complying with subsection (a) of this section.

(1) Separate certification shall be done for each plant where the particleboard is produced or where the plywood or particleboard is surface-finished.

(2) To certify plywood or particleboard, the testing laboratory shall witness or conduct the air chamber test specified in §69.183 of this title (relating to Air Chamber Test Method for Certification and Qualification of Formaldehyde Emission Levels) on randomly selected panels initially and at least quarterly thereafter.

(3) The testing laboratory must approve a written quality control plan for each plant where the particleboard is produced or finished or where the plywood is finished. The quality control plan must be designed to assure that all panels comply with subsection (a) of this section. The plan must establish ongoing procedures to identify increases in the formaldehyde emission characteristics of the finished product resulting from the following changes in production.

(A) In the case of plywood:

(i) the facility where the unfinished panels are produced is changed;

(ii) the thickness of the panels is changed so that the panels are thinner; or

(iii) the grooving pattern on the panels is changed so that the grooves are deeper or closer together.

(B) In the case of particleboard:

(i) the resin formulation is changed so that the formaldehyde-to-urea ratio is increased;

(ii) the amount of formaldehyde resin used is increased; or

(iii) the press time is decreased.

(C) In the case of plywood or particleboard:

(i) the finishing or top coat is changed and the new finishing or top coat

has a greater formaldehyde content; or

(ii) the amount of finishing or top coat used on the panels is increased, provided that such finishing or top coat contains formaldehyde.

(4) The testing laboratory shall periodically visit the plant to monitor quality control procedures to assure that all certified panels meet the standard.

(5) To maintain its certification, plywood or particleboard must be tested by the air chamber test specified in 24 Code of Federal Regulations §3280.406 whenever one of the following events occurs:

(A) in the case of particleboard, the resin formulation is changed so that the formaldehyde-to-urea ratio is increased; or

(B) in the case of particleboard or plywood, the finishing or top coat is changed and the new finishing or top coat contains formaldehyde; or

(C) in the case of particleboard or plywood, the testing laboratory determines that an air chamber test is necessary to assure that panels comply with subsection (a) of this section.

(6) In the event that an air chamber test measures levels of formaldehyde from plywood or particleboard in excess of those permitted under subsection (a) of this section, then the tested product's certification immediately lapses as of the date of production of the tested panels or on any day thereafter may be used or certified for use in HUD-code manufactured homes.

(A) Provided, however, that a new product certification may be obtained by testing randomly selected panels which were produced on any day following the date of production of the tested panels. If such panels pass the air chamber test specified in §69.183 of this title (relating to Air Chamber Test Method for Certification and Qualification of Formaldehyde Emission Levels), then the plywood or particleboard produced on that day and subsequent days may be used and certified for use in HUD-code manufactured homes.

(B) Provided further, that plywood or particleboard produced on the same day as the tested panels, and panels produced on subsequent days, if not certified pursuant to subsection (b)(4)(A), may be used in HUD-code manufactured homes only under the following circumstances:

(i) each panel is treated with a scavenger, sealant, or other means of reducing formaldehyde emissions which does not adversely affect the structural quality of the product; and

(ii) panels randomly selected from the treated panels are tested by and pass the air chamber test specified in §69.183 of this title (relating to Air Chamber Test Method for Certification and Qualification of Formaldehyde Emission Levels).

(c) Panel identification. Each plywood and particleboard panel to be installed in manufactured homes which is bonded or coated with a resin system containing formaldehyde, other than an exclusively phenol-formaldehyde resin system, shall be stamped or labeled so as to identify the product manufacturer, date of production and/or lot number, and the testing laboratory certifying compliance with this section.

(d) Treatment after certification. If certified plywood or particleboard subsequently is treated with paint, varnish, or any other substance containing formaldehyde, then the certification is no longer valid. In such a case, each stamp or label placed on the panels pursuant to subsection (c) of this section must be obliterated. In addition, the treated panels may be recertified and reidentified in accordance with subsections (b) and (c) of this section

§69.182. Health Notice on Formaldehyde Emissions.

(a) Each HUD-code manufactured home shall have a health notice on formaldehyde emissions prominently displayed in a temporary manner in the kitchen (i.e., countertop or exposed cabinet face). The notice shall read as follows:

Important Health Notice

Some of the building materials used in this home emit formaldehyde. Eye, nose, and throat irritation, headache, nausea, and a variety of asthma-like symptoms, including shortness of breath, have been reported as a result of formaldehyde exposure. Elderly persons and young children, as well as anyone with a history of asthma, allergies, or lung problems, may be at greater risk. Research is continuing on the possible long term effects of exposure to formaldehyde.

Reduced ventilation resulting from energy efficiency standards may allow formaldehyde and other contaminants to accumulate in the indoor air. Additional ventilation to dilute the indoor air may be obtained from a passive or mechanical ventilation system offered by the manufacturer. Consult your dealer for information about the ventilation options offered with this home.

High indoor temperatures and humidity raise formaldehyde levels. When a home is to be located in areas subject to extreme summer temperatures, an air conditioning system can be used to control indoor temperature levels. Check the comfort cooling certificate to determine if this home has been equipped or designed for the installation of an air conditioning system.

If you have any questions regarding the health effects of formaldehyde, contact your doctor or local health department.

(b) The notice shall be legible and typed using letters at least ¼ inch in size. The title shall be in red and typed using letters at least ¾ inches in size.

(c) The notice shall not be removed by any party until the entire sales transaction has been completed (refer to 24 Code of Federal Regulations Part 3282, manufactured home procedural and enforcement regulations, for provisions regarding a sales transaction).

(d) A copy of the notice shall be included in the consumer manual (refer to Part 24 Code of Federal Regulations Part 3282, manufactured home consumer manual requirements).

§69.183. Air Chamber Test Method for Certification and Qualification of Formaldehyde Emission Levels.

(a) Preconditioning. Preconditioning of plywood or particleboard panels for air chamber tests shall be initiated as soon as practicable but not in excess of 30 days after the plywood or particleboard is produced or surface-finished, whichever is later, using randomly selected panels.

(1) If preconditioning is to be inititated more than two days after the plywood or particleboard is produced or surface-finished, whichever is later, the panels must be dead-stacked or air-tight wrapped until preconditioning is initiated.

(2) Panels selected for testing in the air chamber shall not be taken from the top or bottom of the stack.

(b) Testing. Testing shall be conducted in accordance with the large-scale test method for determining formaldehyde emissions from wood products, large chamber Method FTM 2-1983, NPA/HPMA for manufactured housing components, with the following exceptions for testing conditions for operation of the chambers.

(1) The chamber shall be operated indoors.

(2) Plywood and particleboard panels shall be individually tested in accordance with the following loading ratios:

(A) Plywood—0.29 Ft2/Ft3; and

(B) Particleboard—0.13 Ft2/Ft 3.

(3) Temperature to be maintained inside the chamber shall be 77°F plus or minus 2°F.

(4) The test concentration (C) shall be standardized to a level (C_o at a temperature (t_o) of 77°F and 50% relative humidity (H_o) by the following formula:

$C = C_o \times [1 + A_1(H-H_o)] \times e^{-R(1/t-1/t_o)}$

where:

C = Test formaldehyde concentration

C_o = Standardized formaldehyde concentration (the standardized level (C_o) is the concentration

used to determine compliance with 24 CFR §3280.308(a)).

e = Natural log base

R = Coefficient of temperature (9799)

t = Actual test condition temperature (°K)

t = Standardized temperature (°K)

A = Coefficient of humidity (0.0175)

H = Actual realtive humidity (%)

H = Standardized relative humidity (%)

(5) The air chamber shall be inspected and recalibrated at least annually to insure its proper operation under test conditions.

§69.184. Venting, Ventilation, and Combustion Air.

(a) The venting as required by 24 Code of Federal Regulations §3280.707(b) shall be accomplished by one or more of the methods given in paragraph (1) and paragraph (2) of this subsection:

(1) an integral vent system listed or certified as part of the appliance;

(2) a venting system consisting entirely of listed components, including roof jack, installed in accordance with the terms of the appliance listing and the appliance manufacturer's instructions.

(b) Venting and combustion air systems shall be installed in accordance with the following.

(1) Components shall be securely assembled and properly aligned using the method shown in the appliance manufacturer's instructions.

(2) Draft hood connectors shall be firmly attached to draft hood outlets or flue collars by sheet metal screws or by equivalent effective mechanical fasteners.

(3) Every joint of a vent, vent connector, exhaust duct, and combustion air intake shall be secure and in alignment.

(c) Venting systems shall not terminate underneath a manufactured hood.

(d) Venting system terminations shall be not less than three feet from any motor driven air intake discharging into habitable areas.

(e) The area in which cooking appliances are located shall be ventilated by a metal duct which may be single wall, not less than 12.5 square inches in cross-sectional area (minimum dimension shall be two inches), located above the appliance(s) and terminating outside the manufactured home, or by listed mechanical ventilating equipment discharging outside the home, that is installed in accordance with the terms of listing and the manufacturer's instructions. Gravity or mechanical ventilation shall be installed within a horizontal distance of not more than 10 feet from the vertical front of the appliance(s).

(f) Mechanical ventilation which exhausts directly to the outside atmosphere from the living space of a home shall be equipped with an automatic or manual damper. Operating controls shall be provided such that mechanical ventilation can be separately operated without directly energizing other energy consuming devices.

(g) Ventilation improvement options to improve indoor air quality.

(1) In addition to the minimum ventilation required by 24 Code of Federal Regulations 3280.103 and this section, each manufacturer shall make available in its approved designs and in the marketplace at least one of the following ventilation options to improve indoor air quality:

(A) a passive ventilation system; or

(B) a mechanical ventilation system; or

(C) a combination of a passive and mechanical ventilation system; or

(D) a fresh air inlet (not for cumbustion air) which draws its air from the exterior of the home (not the underside). The inlet shall be continuously connected from a forced-air furnace to the exterior and be capable of providing at least 25 cubic feet per minute with the furnace fan in normal operation. The air inlet shall be listed for use with the installed forced-air furnace.

(2) The ventilation system(s) offered must improve the ventilation of the occupied living space of the manufactured home.

(3) Before any person enters into an agreement to sell a manufactured home to the first purchaser for purposes other than resale, the seller shall deliver a ventilation improvement information sheet to each prospective purchaser. The sheet shall include a description of the available ventilation option(s) and, for mechanical systems, the rated capacity in air changes per hour or cubic feet per minute; and

(4) The manufacturer shall provide, in its instructions, complete information for the installation of each ventilation option(s) being offered for use with its designs, including the ventilation system manufacturer's instructions.

§69.185. Additional Retailer Requirements.

(a) A retailer shall deliver a copy of the "Important Health Notice" prescribed by HUD to the consumer before the execution of any mutually binding sales agreement. If it is a cash sale, the copy of the notice must be delivered before the acceptance of payment or the execution of title transfer documents. An agreement to order a HUD-code manufactured home from the manufacturer, or an agreement to hold a home in inventory for a period of time, which is secured by a forfeitable consumer deposit is a "mutually binding sales agreement" for purposes of this section.

(b) The consumer must sign the copy of the notice. The retailer shall keep the originally signed copy in the permanent sales and shall give a copy to the consumer at the time the original copy is signed. If requested, the retailer shall deliver a copy of the signed notice to the manufacturer of the home.

(c) The copy of the notice to be signed by the consumer may be reduced in size from the notice required to be posted in the home and may be entirely reproduced in either red or black. This copy of the notice must be on a form approved by the department and must be dated and must contain the following certification immediately above the place for the consumer's signature in boldface type which is at least eight points in size:

> I (We) certify that this Important Health Notice was prominently displayed in the kitchen of the manufactured home being purchased and further that this notice was given to me (us) on the date shown and prior to the signing of any binding agreement. I (We) have read the notice and understand it.

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 February 6, 1985

TRD-851200 Robert R. Busse
Assistant Commissioner
Texas Department of
Labor and Standards

Effective date: February 11, 1985
Proposal publication date: N/A
For further information, please call (512) 475-0155

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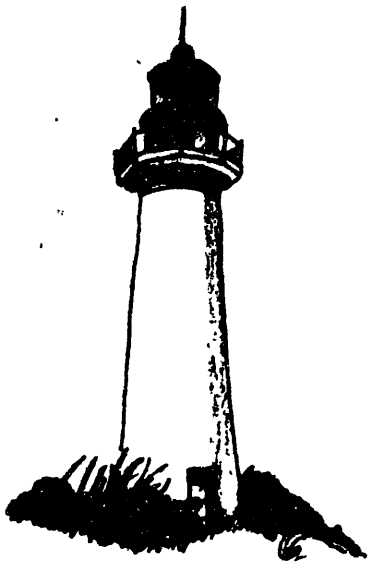

TITLE 19. EDUCATION

Part I. Coordinating Board, Texas College and University System

Chapter 5. Program Development

Subchapter J. Televised Instruction

★19 TAC §§5.191-5.197

The Coordinating Board, Texas College and University System adopts new §5.193, with changes to the proposed text published in the November 16, 1984 issue of the *Texas Register* (9 TexReg 5877). Sections 5.191, 5.192 and 5.194-5.197 are adopted without changes and will not be republished.

This subchapter is designed to encourage the development and use of television for educational purposes while ensuring a level of quality equivalent to that of regular on-campus resident credit instruction. There were minor changes from the proposed text in §5 193(a)(2) for clarity in response to public comment, and in §5 193(a)(3) to avoid confusion.

This new subchapter sets out policies and procedures for the offering of televised instruction for credit by public institutions of higher education.

One comment was received suggesting adding the word "other" before "continuing education courses" in §5.193(a)(2).

The new sections are adopted under the Texas Education Code, §61.051, which provides the Coordinating Board, Texas College and University System with the authority to approve programs and courses at public institutions of higher education.

§5.193. Exemptions.

(a) The following courses shall be exempt from the rules and regulations contained herein:

(1) organized classes offered by television by an institution on its campus or among campuses within its system;

(2) noncredit extension, correspondence, or other continuing education courses; and

(3) credit courses which are self-supporting, paid for entirely by the students, or do not involve state funding.

(b) Other exemptions to all or part of the rules and regulations contained herein may be made by the commissioner and the coordinating board on recommendation of the Advisory Committee on Telecommunications.

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 January 31, 1984.

TRD-851233 James McWhorter
Assistant Commissioner for Administration
Coordinating Board, Texas College and University System

Effective date: March 1, 1985
Proposal publication date: November 16, 1985
For further information, please call (512) 475-2033.

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TITLE 25. HEALTH SERVICES

Part II. Texas Department of Mental Health and Mental Retardation

Chapter 405. Client (Patient) Care

Subchapter FF. Consent to Treatment with Pyschoactive Medications

★25 TAC §§405.801-405.810

The Texas Department of Mental Health and Mental Retardation adopts new §§405.801-405.810, without changes to the proposed text published in the August 7, 1984, issue of the *Texas Register* (9 TexReg 4211).

The new sections provide consent procedures to be followed before administering psychoactive medications to clients served by the department's eight state hospitals.

Public comment was received from Professors George E. Dix and Michael J. Churgin, School of Law, University of Texas at Austin, who remarked that the rules lack an adequate standard for determining when a client's objection to medication can be overridden; the rules fail to provide a limitation on the treating physician's ability to override clients' objections during the first 14 days of commitment; the definition of "emergencies" is imprecise and too broad; and the rules unwisely provide that discharge should be a facility's "first choice" upon a committed client's objection to treatment in a nonemergency situation. Professors Dix and Churgin discussed the legal implications of these matters and concluded that it is questionable whether the rules meet federal constitutional standards.

The department responds that the rules as proposed were the result of extensive negotiation between parties in the RAJ *v.* Miller lawsuit and was approved by Judge Barefoot Sanders in an order on July 11, 1984.

These new sections are adopted under Texas Civil Statutes, Article 5547-202, §2.11(b), which provide the commissioner with the authority to promulgate rules subject to the basic and general policies of the Texas Board of Mental Health and Mental Retardation

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 February 7, 1985.

TRD-851225 Gary E. Miller, M.D.
Commissioner
Texas Department of Mental Health Mental Retardation

Effective date: February 28, 1985
Proposal publication date: August 7, 1984
For further information, please call (512) 465-4670.

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TITLE 28. INSURANCE

Part I. State Board of Insurance

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

Powers and Duties

Examination Expenses and Assessments

059.01.16.004

The State Board of Insurance adopts new Rule 059.01.16.004, without changes to the proposed text published in the December 11, 1984, issue of the *Texas Register* (9 TexReg 6254).

This rule specifies rates of assessment and charges to cover the expenses of examining insurance companies. Rates of assessment are levied against and collected from each domestic insurance company based on admitted assets and gross premium receipts for the 1984 calendar year, and from each foreign insurance company examined during the 1985 calendar year, based on a percentage of the gross salary paid to an examiner for each month or part of a month during which the examination is made.

The expenses and charges assessed under authority of this rule are additional to and not in lieu of any other charges which may be made under law, including the Insurance Code, Article 1.16. The commissioner of insurance has certified the rates of assessment and charges set out in this rule to be just and reasonable.

No comments were received regarding the adoption of the new rule.

The new rule is adopted under the Insurance Code, Article 1.16, which authorizes and requires the State Board of Insurance to make assessments and charges to meet all the expenses and disbursements necessary to comply with the provisions of the laws of Texas relating to the examination of insurance companies and to comply with the provisions of the Insurance Code, Articles 1.16, 1.17, and 1.18.

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 February 8, 1985.

TRD-851278 James W. Norman
Chief Clerk
State Board of Insurance

Effective date: March 1, 1985
Proposal publication date: December 11, 1984
For further information, please call (512) 475-2950

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Rating and Policy Forms

Deviation Procedure

★059.05.03.001

The State Board of Insurance adopts an amendment to Rule 059.05.03.001, with changes to the proposed text published in the December 11, 1984, issue of the *Texas Register* (9 TexReg 6255).

This amendment alters page 9 and adopts new page 9A for the automobile deviation application Form AD-77, which is adopted by reference in Rule 059.05.03.001(1) The amendment to page 9 adds uninsured/underinsured motorists to the heading of the table, and the new page 9A incorporates a new separate expense table for private passenger personal injury protection and medical payments-voluntary coverages. The State Board of Insurance has adopted different expense provisions for personal injury protection and medical payments coverages, and the proposed amendments are necessary to properly reflect these different expense provisions when companies are applying for automobile rate deviations. The only change in the amendment from the proposal is that a March 1, 1985, effective date is substituted for February 1, 1985.

No comments were received regarding the adoption of the amendment.

The amendment is adopted under the Insurance Code, Article 5.03, which provides the State Board of Insurance with the authority to prescribe rules and regulations necessary to accomplish the purposes of Article 5.03.

.001. Deviation Rate Filing for Automoible Insurance. This rule and the form adopted herein by reference apply to all applications for permission to write automobile insurance in Texas on a deviated basis in accordance with Article 5.03, Insurance Code.

(1) Companies shall submit an original and one copy of the Texas Automobile Deviation Application Form AD-77, as revised effective March 1, 1985, to the State Board of Insurance (board), 1110 San Jacinto Boulevard, Austin, Texas 78786, setting out as a minimum the information called for in the form. Texas Automobile Deviation Application Form AD-77 is incorporated herein by reference. Copies of the form may be obtained from the Automobile and Miscellaneous Lines Section, State Board of Insurance, 1110 San Jacinto Boulevard, Austin, Texas 78786.

(2)-(10) (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 February 8, 1985.

TRD-851279 James W. Norman
Chief Clerk
State Board of Insurance

Effective date. March 1, 1985
Proposal publication date· December 11, 1984
For further information, please call (512) 475-2950.

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Inland Marine Insurance, Rain Insurance, or Hail Insurance on Farm Crops

★059.05.53.102

The State Board of Insurance adopts amendments to Rule 059.05.53.102, without changes to the proposed text published in the January 4, 1985, issue of the *Texas Register* (10 TexReg 7).

Rule 059.05.53.102 defines and classifies inland marine insurance in the State of Texas. Furrier's block, furrier's customers policies, and garment contractors floaters are classes of risks which have been classified as "filed," but are by this amendment classified as "nonregulated." Filed classes are subject to rule, rate, and form approval. There are several reasons for the change. One is to provide rate and form flexibility in these classes for insurers and insureds. Another is because these classes are sophisticated risks with unique exposures, and there is insufficient premium volume in Texas to maintain regulation. Moreover, the classes have become nonregulated nationally. No premium increase or decrease is necessarily anticipated because of this rule change.

No comments were received regarding the adoption of the amendment.

The amendments are adopted under the Insurance Code, Article 5.53, pursuant to which the board may define inland marine insurance and which permits and requires board interpretation of which of the classes of inland marine insurance are regulated or nonregulated.

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 February 8, 1985.

TRD-851280 James W. Norman
Chief Clerk
State Board of Insurance

Effective date: March 1, 1985
Proposal publication date: January 4, 1985
For further information, please call (512) 475-2950

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Lloyd's Plan Insurance

Appointment or Substitution of an Attorney in Fact as Actual Attorney in Fact for a Lloyd's Plan Company and Distinction between an Attorney in Fact and a Deputy Attorney in Fact

★059.18.01.001, .002

The State Board of Insurance adopts Rules 059.18.01.001 and .002 without changes to the proposed text published in the November 30, 1984, issue of the *Texas Register* (9 TexReg 6052).

These rules concern requirements respecting attorneys in fact operating for

a Texas lloyd's plan company upon the appointment or substitution of an attorney in fact for a lloyd's and distinguishing between an attorney in fact and a deputy attorney in fact. These rules set out what has been the long-standing administrative interpretation with respect to these issues. These rules are proposed to promote uniformity among lloyd's plan companies and to bring all of the lloyd's plan companies into compliance with the Insurance Code and the attorney general's interpretations thereof.

No comments were received regarding the adoption of the new rules.

The new rules are adopted generally under the Insurance Code, Article 1.04(b) and (c), which mandates that the State Board of Insurance determine rules and regulations; the Insurance Code, Article 1.10, §1, which mandates that the State Board of Insurance see that all laws respecting insurance and insurance companies are faithfully executed; the Insurance Code, Chapter 18, which governs Lloyd's plan insurers; and Texas Civil Statues, Article 6252-13a, which requires the promulgation of 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 February 8, 1985.

TRD-851281 James W. Norman
Chief Clerk
State Board of
Insurance

Effective date: March 1, 1985
Proposal publication date: November 30, 1984
For further information, please call
(512) 475-2950.

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General Provisions
Unfair Practices Based on Sex or Marital Status
059.21.21.107

The State Board of Insurance adopts an amendment to Rule 059.21.21.107, without changes to the proposal published in the December 11, 1984, issue of the *Texas Register* (9 TexReg 6256).

Rule 059.21.21.107 addresses unfair practices in insurance based on sex or marital status. The rule provides generally that coverage in individual policies must be continued for an individual who loses coverage due to a change in marital status. The rule presently provides that the new coverage will have the same effective date as the policy under which coverage was afforded prior to the change in marital status. This provision is not necessary for insurance coverage other than life and accident and health.

For such other coverage, a provision is added which provides merely that the inception date of the new coverage need not precede the earliest date required to maintain continuity of coverage, and such coverage shall have the same expiration date as the policy under which coverage was issued prior to the change in marital status. This change embodies a long standing interpretation of the rule by the board for insurance coverage other than life and accident and health.

No comments were received regarding the adoption of the amendment.

The amendment is adopted under the Insurance Code, Article 21.21, §3 and §4; which prohibits unfair practices in insurance, and under the Insurance Code, Article 21.21, §13 pursuant to which the State Board of Insurance may prescribe rules appropriate to accomplish the purposes of Article 21.21.

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 February 8, 1985.

TRD-851282 James W. Norman
Chief Clerk
State Board of
Insurance

Effective date: March 1, 1985
Proposal publication date: December 11, 1984
For further information, please call
(512) 475-2950.

★ ★ ★

Credit Insurance
Premium Refunds
★059.53.10.005

The State Board of Insurance adopts an amendment to Rule 059.53.10.005, without changes to the proposed text published in the October 26, 1984, issue of the *Texas Register* (9 TexReg 5531).

This rule concerns a minimum refund of unearned premiums paid by or charged to a debtor for reducing term credit life insurance, or for credit accident and health insurance on which charges to the debtor are payable by other than a single sum, and for level credit term life insurance. The Insurance Code, Article 3.53, §8(B), provides that no refund of less than $3.00 need be made in the event of termination of the indebtedness or the insurance prior to the scheduled maturity date of the indebtedness. However, Attorney General Opinion MW-511 (1982), in response to an opinion request from the Consumer Credit Commission, opines that, for credit transactions covered by the Texas Credit Code, Texas Civil Statutes, Article 5069, Chapters 3-6, 6A, 7, and 15, all unearned credit insurance premiums must be refunded, except for amounts totaling less than $1.00. Accordingly, the board has determined to adopt an amendment to the rule to provide that for transactions covered by Texas Civil Statutes, Article 5069, Chapters 3-6, 6A, 7, and 15, no cash refund shall be required if the amount thereof is less than $1.00

No comments were received regarding the adoption of the amendment.

The amendment is adopted under the Insurance Code, Article 3.53, §12, pursuant to which the State Board of Insurance may, after notice and hearing, issue such rules and regulations as it deems appropriate for the supervision of Article 3.53.

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 February 7, 1985.

TRD-851283 James W. Norman
Chief Clerk
State Board of
Insurance

Effective date: March 1, 1985
Proposal publication date: October 26, 1984
For further information, please call
(512) 475-2950.

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TITLE 31. NATURAL RESOURCES AND CONSERVATION
Part II. Texas Parks and Wildlife Department
Chapter 57. Fisheries
Effective Dates of Shell Dredging Permits
★ 31 TAC §§57.21-57.25

The Texas Parks and Wildlife Department adopts the repeal of §§57.21-57.25, concerning the effective dates of shell dredging permits, without changes to the proposal published in the December 7, 1984, issue of the *Texas Register* (9 TexReg 6168).

Sections 57.21-57.25 are repealed as separate rules and will appear substantially in the same form in §57.51, adopted concurrently with the repeal of these sections.

The repeal allows the new sections to become effective.

No comments were received regarding adoption of the repeal.

The repeal is adopted under the Texas Parks and Wildlife Code, Chapter 86, which provides the Texas Parks and Wildlife Commission with the authority to adopt rules necessary to regulate shell dredging.

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 February 5, 1985.

TRD-851202 Maurine Ray
Administrative Assistant
Texas Parks and
Wildlife Department

Effective date: February 27, 1985
Proposal publication date: December 7, 1984
For further information, please call
(512) 479-4806.

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Shell Dredging on the Texas Gulf Coast

★31 TAC §§57.41-57.45, 57.50, 57.51

The Texas Parks and Wildlife Commission adopts amendments to §§57.41-57.45 and 57.51, and new §57.50, concerning shell dredging on the Texas gulf coast, without changes to the proposed text published in the December 7, 1984, issue of the *Texas Register* (9 TexReg 6168). §57.51 originally was §57.50 but was amended to be §57.51.

These amendments and new section are necessary to administer the issuance of shell dredging permits relating to the removal of shell from state-owned bay bottoms and to specify the conditions for the shell removal.

The director is authorized to issue shell permits. He may request at his discretion, however, that the commission consider the issuance of a permit. Dredging is expressly prohibited in certain areas of coastal waters. Specific provisions are contained in these sections to govern the issuance of shell permits and any resulting dredging activities. Major violations are defined, and provisions for the renewal of a permit are established.

Comments regarding the proposed amendments and new section were made by several individuals who appeared at the regularly scheduled commission meeting on January 10, 1985. Briefly summarized, it was suggested that the commission consider changes in §57.42(1), to authorize the director to allow dredging in more than one state tract at a time; in §57.42(1)(E), to authorize one dredge to operate for each permittee rather than one dredge for each bay system; in §57.42(1)(F), to delete the requirement that dredgers be required to use silt screens during operations; in §57.42(3), to allow dredging within 1,500 feet of any shoreline rather than ½ mile as currently required; in §57.45(b)(2), to retain authority to allow the director to authorize the removal of exposed reefs larger than one acre; in §57.50, change the length of permits to five years rather than two years, and to delete the provision restricting the renewal of permits only to permittees who have dredged in the preceding two-year permit period.

Commenting in favor of the rules were Alan Allen, of Sportsmen's Clubs of Texas, and David L. Steed, of Professionals in Seafood-Concerned Enterprises. Commenting against the rules were Robert D. Palmore, of Radcliff Materials Company, and Claude T. Allen, of Padre Island Materials.

The changes suggested by individuals who appeared at the commission meeting are less restrictive than the agency deems necessary and would result in unacceptable damage to oysters and exposed oyster reefs. The Texas Parks and Wildlife Code, Chapter 86, requires the commission to consider the injurious effect of any permitted dredging on oysters, oyster bends, and fish in or near the water used in the operation, as well as the and the needs of industry for the shell. The proposed amendments have been developed to assure protection of the oysters, exposed oyster reefs, and fish while permitting the removal of submerged oyster deposits when specific conditions are met by the dredger.

The amendments and new section are adopted under the Texas Parks and Wildlife Code, Chapter 86, which provides the Texas Parks and Wildlife Commission with the authority to adopt rules necessary to regulate shell dredging.

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 February 5, 1985.

TRD-851203 Maurine Ray
Administrative Assistant
Texas Parks and
Wildlife Department

Effective date: February 27, 1985
Proposal publication date: December 7, 1984
For further information, please call
(512) 479-4864.

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Part III. Texas Air Control Board

Chapter 116. Permits

★31 TAC §116.6, §116.7

The Texas Air Control Board (TACB) adopts the repeal of §116.6 and §116.7, without changes to the proposal published in the August 7, 1984, issue of the *Texas Register* (9 TexReg 4265).

Section 116.6, concerning exemptions, is repealed to remove material made extraneous by the concurrent adoption of new §116.6, which specifies conditions for applicability of exemptions and incorporates, by reference, the TACB standard exemption list.

Section 116.7, concerning request for exemption, is repealed to eliminate the category of special exemptions. New §116.7, is adopted concurrently and contains specifications for the permitting of facilities which do not qualify for a standard exemption under the new section, but are not large enough to warrant an extensive permit review. Generally, most facility types which would have applied for a special exemption in the past are likely to apply for a special permit in the future. Applications for special exemptions under existing §116.7 may be submitted until the effective date of the new sections, March 15, 1985, and all such applications will be reviewed and acted on by the agency.

No comments were recevied regarding adoption of §116.6, while nine commenters testified concerning adoption of §116.7. The Galveston County Health District commented in favor of the repeal. Texaco Chemical Company; Gas Processors Association; Texas Utilities Generating Company; Mobile Producing Texas & New Mexico, Inc.; Texas U.S.A.; Texas Mid-Continent Oil and Gas Association; Exxon Company, U.S.A.; and Phillips Petroleum Company commented against the repeal. The six companies and two associations which recommended retention of §116.7, concerning request for exemption, noted that the Texas Clean Air Act allows exemptions for insignificant emitters. They contended that the TACB should maintain a procedure for granting a special exemption to a facility which lacks some minor qualification specified for a standard exemption. Since the issuance of the repeal of §116.7 is so closely related to the adoption of new §116.7, all testimony regarding the two will be discussed together in the announcement of adoption of new §116.7, concerning special permits. This discussion is under "Special Permits *v.* Special Exemptions" in the testimony evaluation for §116.7.

The repeal is adopted under Texas Civil Statutes, Article 4477-5, §3.09(a), which provides the TACB with the authority to make rules consistent with the general intent and purposes of the Texas Clean Air Act and to amend any rule the TACB makes.

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 February 6, 1985.

TRD-851204 Bill Stewart, P.E.
Executive Director
Texas Air Control Board

Effective date: March 15, 1985
Proposal publication date: August 7, 1984
For further information, please call (512) 451-5711, ext. 354.

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The Texas Air Control Board (TACB) adopts new §116.6 and §116.7, with changes to the proposed text published in the August 7, 1984, issue of the *Texas Register* (9 TexReg 4265).

New §116.6, concerning exempted facilities, exempts various types of facilities from permit requirements and incorporates, by reference, the agency's list of standard exemptions. This list of exemptions represents types of facilities which will not make a significant contribution of air contaminants to the atmosphere. All other new facilities which may emit air contaminants and all modifications to existing facilities which increase emissions significantly will require a permit.

New §116.7, concerning special permits, authorizes special permits for facilities which have emissions which must be considered significant but which do not warrant the more extensive review accorded large projects. The special permits rule requires limited public notification but excludes applicants from permit fee requirements. Procedures and requirements regarding other permits will remain unchanged.

The Administrative Procedure and Texas Register Act, Texas Civil Statutes, Article 6252-13a, §5(C)(1), requires categorization of comments as being for or against a proposal. A commenter who suggested any changes in the proposal is categorized as against the proposal, while a commenter who agreed with the proposal in its entirety is categorized as being for the proposal.

Twenty-five commenters testified concerning proposed §116.6 (not including the standard exemption list, adopted by reference). The El Paso City-County Health Unit, Tyler Pipe, the Houston Chamber of Commerce, the Galveston County Health District, Texas Utilities Generating Company, Celanese Chemical Company, Texaco U.S.A., Texas Hot Mix Asphalt Pavement Association, and Cities Service Oil and Gas Corporation commented in favor of the new section. The Texas Chemical Council; the Sierra Club Houston Regional Group; George Smith; the League of Women Voters of Texas; Texaco Chemical Company; H. F.Rudenberg, Sierra Club Lone Star Chapter; Marian Foster, Beaumont City Health Department; the Gas Processors Association; Curtis Dickson, Beaumont City Health Department; Richard Lowerre, Sierra Club Lone Star Chapter; the Circle of Friends, Inc.; Monsanto; the U.S. Environmental Protection Agency; Mobil Producing Texas & New Mexico, Inc.; Texas Mid-Continent Oil and Gas Association; and Phillips Petroleum Company commented against the new section.

Twenty-four commenters testified concerning proposed new §116.7. The El Paso City-County Health Unit, the Houston Chamber of Commerce, the Texas Chemical Council, the Galveston County Health District, and the Celanese Chemical Company commented in favor of the new section. Tyler Pipe; the Sierra Club Houston Regional Group; George Smith; the League of Women Voters of Texas; Texaco Chemical Company; the Gas Processors Association, Texas Utilities Generating Company; Richard Lowerre, Sierra Club Lone Star Chapter; the Circle of Friends, Inc.; Texas Oil and Gas Corporation; the U.S. Environmental Protection Agency; Conoco, Inc.; Mobil Producing Texas & New Mexico, Inc.; Texaco U.S.A.; Texas Mid-Continent Oil & Gas Association; the Texas Hot Mix Asphalt Pavement Association; Exxon Company, U.S.A.; Philips Petroleum Company; and the Cities Service Oil and Gas Corporation commented against the new section.

A complete summary of comments and a discussion of issues will follow. Copies of the written testimony and of the transcripts of the six public hearings are available for inspection at the TACB office, 8330 U.S. Highway 290 East, Austin, Texas 78723.

Testimony received concerning the proposed new sections has been divided into two categories: comments on proposed new §116.6 and comments on proposed new §116.7. Some testimony addresses the entire proposals, in general, and is discussed first in the evaluation section.

Summary of Testimony

A total of 39 different individuals, companies, agencies, and organizations, submitted comments into the hearing record. The issues raised varied from general concerns regarding repealing the current §116.7, concerning special exemptions, and adopting proposed new §116.7, concerning special permits, to specific comments about detailed provisions of the standard exemption list of particular interest to individual commenters. Many commenters generally supported incorporation of the standard exemption list into §116.6 and made suggestions for specific changes to the wording of §116.6 with regard to the levels of emissions limitations for applicability and to the extent of enforcement. Several commenters proposed retention of the current special exemption rule (§116.7), citing the rule as the only way to exempt insignificant emitters which do not qualify within provisions of the standard exemption list. Comments on the proposed special permits rule (§116.7) addressed some major effects on industry and the general public: increases in time, paperwork, and manpower for processing; the levels of emissions limitations for applicability; the types and extent of public notification; and the advisability of permit fees for special permits.

The Sierra Club Lone Star Chapter recommended that the TACB revise its permitting structure to meet the specifications of a plan previously submitted to the Sunset Advisory Commission by the club. The club's proposal has three levels of permitting: exemptions for uncontrolled insignificant emitters; combination construction-operation permits for minor sources; and regular, renewable permits for construction and for operation of major sources. The commenter maintained that such a plan would give the TACB a flexible regulatory system. The TACB's permit review process as proposed is a three-level program similar to the one recommended by this group. In the proposal, levels of permitting include exemptions for types of facilities listed on the standard exemption list, special permits for facilities with less than specified limits of emissions, and construction permits for larger facilities. The main differences between the TACB proposal and the club's recommendation are that the latter would require permits for certain types of facilities currently included on the standard exemption list, would not require a separate operating permits for the mid-level review projects, and would require construction permits for larger facilities to be renewed periodically. Experience in review of permit applications has shown that, under the conditions specified in the exemptions, the types of facilities listed on the standard exemption list do not warrant full permit review even though their uncontrolled emissions may be considered to be significant. The other suggested changes may have merit but

differ significantly from previous agency procedures. Thus, a review of the potential impacts would need to be made before any such revisions could be proposed. The permitting structure suggested might add unnecessary complexities to the new source review procedure, increase administrative burdens, and require significant increases in public resource costs.

The Sierra Club suggested that exempted and special permitted facilities be required to maintain an open file of documentation containing applicable exemption language, applications to the TACB, and any other representations made by the company relative to an application. The TACB maintains open files on all exemption and permit applications in the Austin and regional offices with public access during normal working hours. Requiring an applicant to display the same information would seem to constitute unnecessary duplication.

The same group suggested that all exempted and specially permitted facilities be required to report on themselves so that the TACB will know of upsets, conditions of noncompliance, and any changes in operations which may affect emissions levels. Such reports are currently required by TACB rules. Specific requirements for reporting upsets, malfunctions, and maintenance are included in §101.6 and §101.7. Changes in operation that result in emissions increases must be either permitted or exempted.

The Sierra Club Houston Regional Group suggested that the TACB model a "worst case" scenario for facility upsets to determine those areas near a proposed facility which are vulnerable and need additional protection by permit stipulations. This type of modeling is part of the TACB's current permit review. Many years of experience have shown few problems with standard exemption facilities. Accordingly, this method of modeling is not necessary for facility types on the list. If a specific problem should occur, existing regulatory enforcement can be applied through the TACB general rules (§§101.4, 101.6, 101.7, and 101.11) to correct the condition.

The Dallas regional office of the U.S. Environmental Protection Agency (EPA) noted that the emissions limits included in both §116.6 and §116.7 do not conform to the federal new source review emissions limits as stated in the Federal Clean Air Act (FCAA), §110(a)(2)(D), and in 40 Code of Federal Regulations §51.18. The EPA commented that these emission limit differences could result in various federal new source review requirements, such as impact determination, public notification, and permit fees, not being satisfied for certain major sources in nonattainment areas or for prevention of significant deterioriation (PSD) sources. The emissions limits in proposed §116.6 and §116.7 are based on TACB permit review experience and are different from the federal limits. In some cases, the TACB proposed limits are lower than the EPA limits while in other cases these are higher. The following list compares the TACB and EPA emissions limits. (TPY stands for tons per year.)

	TACB (tpy)	EPA (tpy) Major Source	EPA (tpy) Major Modification
carbon monoxide (CO)	250	100*/250	100
nitrogen oxides (NOx)	250	100*/250	40
sulfur dioxide (SO_2)	25	100*/250	40
particulate matter (TSP)	25	100*/250	25
volatile organic compounds (VOC)	25	100*/250	40
lead (Pb)	25	5	0.6

*if source is in named category

A potential problem could occur for those sources with CO, NO_x, or lead emissions less than TACB significance levels but higher than EPA major source/modification levels if these sources were to apply for a special permit or to operate under an exemption, since the federal new source review requirements for major sources and modifications in nonattainment areas are included as provisions of §116.3. The TACB has not yet incorporated the federal PSD requirements into Regulation VI and such permits are currently reviewed by the TACB and issued by the EPA under 40 Code of Federal Regulations §52.21. However, both §116.6 and §116.7 require compliance with applicable attainment and nonattainment area federal new source review requirements. The TACB believes that these requirements, as stated in §116.6(a)(3) and §116.7(e)(3)(C) and (D), have the effect of requiring an application under §116.3(a) for sources or modifications that are major under federal regulations. That effect was intended when the rules were proposed and provisions to clarify this intent have been added. Therefore, the adopted revisions to Regulation VI should be approvable as state implementation plan (SIP) revisions even though the state emissions limits do not correspond to the federal definition of major source and major modification.

The Sierra Club Houston Regional Group recommended that §116.6 be worded to prevent companies from incrementing emissions increases over a period of years. The commenter concluded that, by incrementing, a company could avoid having to place pollution control equipment on some facilities. The Texas Mid-Continent Oil & Gas Association (TMOGA) suggested wording revisions to clarify the meaning of §116.6(a)(1) by deleting "in conjunction with" and by changing "proposed or exempted" to "permitted or exempted." The EPA contended that portions of §116.6(a)(1) are unclear and could not be fully evaluated until certain meanings were understood.

Specifically, the EPA questioned whether emissions decreases, as well as increases, are to be accumulated within one year prior to construction. The EPA commenter asked, further, if "prior to construction," meant prior to the start or the completion of construction. Restrictions were included in proposed new §116.6 to reduce a company's ability to increment emissions growth and thus avoid full permit review. Specifically, proposed new §116.6(a)(1) limited total actual emissions from all related facilities constructed over a one-year period.

However, §116.6(a)(1) was not intended to authorize emissions netting or emissions bubbling (offsetting emissions increases with emissions decreases) in any way. Since the proposed new section could have been misinterpreted to provide for such, its language has been redrafted to clarify the original intent of this section.

The intent of including an accumulation restriction was to provide adequate public notice and opportunity for comment in cases where a combination of facilities is constructed over time under exemptions and where that combination results in the creation of a significant emissions source. The control of emissions from each of the individually constructed facilities would be the same whether these facilities receive exemptions or undergo full permit review since the exempt facilities must meet the control requirements specified for the exemptions. However, in such cases, adequate public notice and opportunity for comment needs to be provided. The provisions of §116.6(a)(1) have been revised to require such public notice.

Two Sierra Club groups recommended that facilities be eligible for exemptions only if they produce insignificant amounts (less than five or 10 tpy) of pollutants in their uncontrolled state. One

commenter suggested this as the only way to assure true insignificance of emission impacts. The other contended that the Texas Clean Air Act (TCAA) does not provide for exemptions based upon use of special conditions, thereby allowing major emitters to be exempted. Neither the TCAA nor the TACB rules require that a source's uncontrolled state be the sole determinant in granting a permit or an exemption. Experience in reviewing the facility types included on the standard exemption list has provided sufficient knowledge and expertise to assure that such facility types, when operating under the conditions listed, will not significantly impact air quality and that case-by-case review of each facility is, therefore, not warranted.

The Texas Chemical Council (TCC), the Gas Processors Association (GPA), and Monsanto recommended adding "increases in" before the word "emissions," and "or modification to an existing facility" after "the proposed facility" in §116.6(a)(1). These commenters argued that the increase in emissions, not the total facility emissions, is the issue addressed in this rule, and that inconsequential emissions increases should not need the same review process as increases above the stated limit. The matter of concern in §116.6(a)(1) is emission levels from the facility for which an exemption is being requested. Addition of the word "increases" would limit applicability of this section to modifications, whereas, items on the standard exemption list (with the exception of exemption 106) are proposed new and not modified older facilities. If a previously exempted facility is modified so that the total amount of an air contaminant emitted exceeds the stated limit, then a permit application will be needed. Once a facility or related facilities on a property have accumulated federal or state significant emissions (250 tpy for CO or NO_x, 25 typ for others), further increases should be handled by permit and, thereafter, by permit amendment. In such cases, the new or modified facility is of sufficient size to warrant full permit review and to require full public notification of any further construction.

Mobil Producing Texas & New Mexico, Inc. (Mobil), suggested an increase of the emissions limit in §116.6(a)(1) to 40 tpy of air contaminants other than CO and NO_x. The commenter stated that the current 25 tpy limit has no basis in Texas law or regulations, or in federal law or EPA regulations, and that it should match the EPA *de minimus* criteria for PSD review of 40 tpy. George Smith argued that the proposed "insignificant" emissions limits really are significant and that the limits in §116.6(a)(1) for CO and NO_x should be 50 tpy and for others, five tpy.

The commenter stated that emissions at the proposed limits would be significant if coming from a plant near a residential area, even if ambient standards were not exceeded. One Sierra Club group contended that the 250 tpy limit for CO and NO_x is significant and should be lowered to 25 tpy. The commenter claimed that such limits must be lowered to help reduce ozone resulting from high CO and acid rain resulting from NO_x. The other Sierra Club group recommended lowering the CO limit from 250 tpy to 50 tpy and lowering the 25 tpy limit for other contaminants to five or 10 tpy.

The TACB's experience in reviewing proposed new facilities has shown that the proposed limits are reasonable and that the ambient impact of this level of emissions from these types of facilities is insignificant. In addition, if an exempted (or permitted) facility causes an emissions impact problem, the existing TACB rules provide adequate authority to correct the problem. There is no demonstrated need to prospectively guarantee no emissions impacts from any facility. The current approach to review and follow-up enforcement has proven to be adequate.

With regard to the CO emissions limits, the TACB has no basis for concern regarding the 250 tpy CO emission limit. In fact, since most CO comes from combustion units, increased CO levels may be a desirable alternative if proper control reduces NO_x levels. If CO emissions are restricted further, NO_x emissions will increase. The threshold limit value (TLV) for CO is typically 10 times higher than the TLV for NO_2 and for many specific VOCs. On this basis, the 250 tpy limit for CO and the 25 tpy limit for VOC is in reasonable balance. There is no known relationship between levels of CO and the formation of ozone.

With regard to the NO_x emissions limits, a relationship between NO_2 emissions levels and acid rain does exist in that these emissions are one type of precursor to acid rain formation. However, since NO_2 typically represents only a small fraction of total NO_x emissions from most types of NO_x emissions sources, the effective emissions limitation for NO_2 is far below the 250 tpy stated NO_x limit. In addition, exemption six is the only exemption under which NO_x emissions levels reasonably may be expected to approach this level and special conditions to safeguard against adverse impacts have been included within this exemption.

Seven commenters from six organizations urged the inclusion in the proposal of provisions for enforcement through monitoring, surveillance, and inspection of exempted and specially permitted facilities.

One Sierra Club group stated that careful scrutiny of facilities on the standard exemption list is needed since many facility types have the potential to create air pollution nuisances or to affect public health and welfare. The League of Women Voters of Texas suggested that a facility which applies for an exemption be inspected to verify that it satisfies the exemption requirements. Since the beginning of the permit review program in 1972, a standard exemption list has been used. This list has evolved into its present form through many reviews of facility types.

Only those facility types with low potentials for emissions of air contaminants and, under conditions specified, for creating nuisance conditions are included on the list. All others are subject to case-by-case review. Experience has shown that compliance with exemption requirements is high. Therefore, field enforcement priorities with regard to exempted facilities are best established to emphasize complaint investigation.

The Beaumont City Health Department; a Sierra Club group; and the Circle of Friends, Inc.; requested provisions for surveillance of exempted facilities be added in order to assure that those sources do not emit significant amounts of contaminants into the air. The EPA requested a description of the TACB's procedures for determining compliance by exempted sources with conditions for exemptions. The commenter noted that surveillance/monitoring is most important for smaller sources which are not inspected periodically. TACB regional office personnel routinely inspect pollution sources and respond to public complaints These field inspections, coupled with the operating and equipment requirements included in the standard exemptions, provide adequate surveillance of exempted facilities. The current TACB surveillance procedures will be maintained for determining compliance by exempted facilities and will not be changed by adoption of the standard exemption list.

The same Sierra Club group suggested that exempted facilities found to be out of compliance should have their exemptions terminated and be required to apply for a special or construction permit within 90 days. The commenter concluded that such a provision would make companies take exemption requirements and limitations seriously. The TACB has written procedures which address this issue. However, experience has shown that invalidating an exemption or a permit may be wasteful of resources if the company will correct the condition of noncompliance in an approvable manner. Therefore, leaving this option open to the company would seem appropriate.

Texaco Chemical Company requested that the word "applicable" be inserted prior to the word "provisions" in §116.6(a)(3) to clarify that exempt facilities must comply only with applicable federal provisions, not with each and every federal provision. Since this was the original intent of the proposal, the word "applicable" was added for clarification.

Cities Servic Oil & Gas Corporation (Cities Service) recommended that §116.6(a) include a provision for future exemption lists to be incorporated into the regulation after suitable public notice. The EPA noted that any procedures developed by the TACB in the future to amend the standard exemption list should be consistent with procedures used in other rule changes which, also, are submitted as proposed SIP revisions. This and any future additions or deletions to the rule, including the standard exemption list, will be accomplished through the agency's rulemaking process in accordance with the Administrative Procedure and Texas Register Act and the federal SIP revision process. The process requires public notice and hearings on all rule revisions. All changes to the proposed standard exemption list are incorporated in the list and the references to the list included in §116.6 reflect the date of adoption.

The TMOGA recommended that the standard exemption list be appended to and published as part of Chapter 116. The commenter noted that an exempted facility constructed between the proposal date and final action date may not be authorized and the recommended change would clearly indicate that the list is dated the effective date of the regulation revision. The commenter also noted that including the list as an appendix would provide better opportunity for public information and eliminate confusion. Although this recommendation may have considerable merit, appendices to rules are not provided for under the publication rules of the *Texas Register* and thus this approach to incorporating the standard exemption list into Regulation VI was not open to the agency. The two approaches that are available to a rule-making agency are to make the list a rule with each exemption thus being a subsection or to incorporate the list by reference. Due to the administrative difficulties of developing each exemption as a rule provision, incorporation by reference was chosen as the appropriate approach. With regard to the two potential problems outlined by the commenter concerning this approach, only adopted revisions to the standard exemption list are in effect. Proposals now or in future revision processes will not be considered valid until adopted by the TACB and filed with the Office of the Secretary of State. Copies of the effective standard exemption list, dated as to date of adoption, will be distributed along with copies of Regulation VI in the future.

A Sierra Club group and the EPA recommended that the term "special permit" be given a specific definition or the definition be clarified. Proposed new §116.7 does not included a labeled definition, as such, but "special permit" is defined, in effect, by the conditions and qualifications for issuance of such a permit

The club suggested that the proximity of a facility to residential or other sensitive areas be considered in a permit application review to prevent possible nuisance or health and welfare problems and to avoid future accidents and conflicts. The TACB does consider during permit review the possibility of nuisance, as well as health-related conditions, and attention is given to the proximity of residences and other sensitive areas to facilities which have been known to cause nuisance conditions.

Also, the club suggested that permits for all sources contain stipulations requiring proper operating and maintenance (O & M) procedures. The commenter cited poor O & M procedures as the cause of many violations of air quality standards. The TACB general rules provide appropriate control authorization to correct faulty O & M procedures which result in excessive emissions. However, for a facility not yet constructed, the details of proper O & M procedures may not be available. The procedures are examined in current new source reviews to the extent that they can be determined for a proposed process or facility.

The Houston Chamber of Commerce asked if previously-granted special exemptions and standard exemptions would receive different treatment under the proposed new sections. The current proposal is not intended to modify previously-issued exemptions. The TACB will review previously exempted facilities only if changes are proposed for those facilities.

The TMOGA argued that, in some cases, facilities which emit more than 25 tpy of any air contaminant (other than CO and NO_x) should be allowed special exemptions and not be required to apply for special permits. The commenter explained that climatic, population density, and land use factors in many areas of Texas make emissions well in excess of the 25 tpy limit insignificant in terms of air quality impact. Currently, the TACB is not able to cite satisfactory criteria for removing sources of greater than 25 tpy emissions from construction permit review. However, both the standard exemption list and the proposed special permits rule are open to revision and expansion in future rule making.

Six companies and two associations argued for retaining existing §116.7, concerning special exemptions, to provide exemptions for those insignificant emitters which do not fit into the standard exemption list and to avoid lengthy application delays and increased paperwork associated with new §116.7, concerning special permits. The TCAA, §3.27 and §3.28, provide for construction and operating permits for all facilities with significant emissions. Those types of facilities considered to be insignificant at this time are included on the standard exemption list and all others not so listed will be required to apply for a special permit or a construction permit. As for any concern over time delays and increased paperwork, the TACB does not envision that the proposed special permits process will be significantly different administratively from the current special exemption process with the exception of the public notification requirements.

Texaco U.S.A. argued that new §116.7 fails to replace the special exemption rule which was proposed for repeal. The commenter noted that standard exemption 106 is not capable of replacing the special exemption process. The TACB has never intended any direct relationships between exemption 106 and special exemptions, and no substitution or replacement is intended in the proposal. The fact remains that only those facilities or types of facilities listed in the standard exemption list are deemed at this time to have insignificant emissions. Such facilities or types of facilities are therefore exempted from further review, while all other types of facilities are considered to have significant emissions and must undergo the case-by-case review of a special permit or a construction permit.

The same company asserted that the TACB's statement that special exemptions have been issued for projects with significant emissions is contrary to the TCAA and to the history of the special exemption process. The commenter explained that the board does not have statutory authority to issue exemptions to facilities with significant emissions and that TACB staff has always granted special exemptions based upon the insignificance of emissions increases at new or modified facilities. The thrust of this comment appears to be that a project covered by new §116.7 may be comparable to a project which was issued a special exemption in the past. This result may well occur and to that extent the new rule may be said to represent a change from past practice. It is believed that any such change will have little practical effect and that the new requirements represent an

improvement to the current program in terms of administration and consistency and, therefore, are a more effective implementation of the TACB new source review obligation.

Five companies and one association opposed the adoption of §116.7, citing several reasons to support their position: the proposed special permits rule would create additional paperwork for the industry and for the TACB; the proposed section would require more review time, thereby slowing TACB staff and causing costly delays in construction starts; adoption of a special permits rule will not improve air quality; the notification of public officials would cause additional delays in the application procedure; the intent of the proposed new section would seem to abrogate the concept of the original permit exemption, that is, to save both the industry and the TACB manpower and paperwork; and the TACB's estimate of $50,000 will be wholly insufficient to pay for processing several hundred new operating permits under this section plus a smaller number of construction permit requests and possible public hearings.

The adoption of §116.7 and the implementation of provisions requiring review and issuance of special permits rather than issuance of special exemptions will increase paperwork and manpower requirements. However, delays, if any, are likely to be minimal since these projects currently receive similar review and determination regarding the effect on air quality control requirements under the provisions for special exemptions. The rule also will serve to reduce some uncertainty by establishing more clearly which licensing requirements apply in a given case and by requiring sufficient data for an expeditious evaluation of the application and to provide better public notification and opportunity for public participation. Timely review of permit applications has been and will remain a high priority responsibility for the agency and all possible attempts will be made to minimize any delays that may result from implementation of these new procedures. Costs of implementing these new procedures will be monitored through the agency budget review and as a part of the current review of the permit fee system.

Texas Utilities Generating Company proposed the addition of a provision which would require the TACB to issue a special permit within 90 days of receipt of a complete application from a qualified source. Mobil proposed a maximum of 45 days for the TACB to process an application, after which time a permit would be automatically granted. The reason given for this suggestion was that small projects usually are on a tighter schedule than large projects and any delay may have serious consequences. The time required to review and issue a permit will depend upon manpower availability and experience as well as workload during the review period. Also, the determination of completeness of an application may require different amounts of time, depending upon the application. Therefore, establishment of a specific deadline for issuance of the permit could result in inadequate review of the application. Expeditious review and issuance of permits has a high priority with the agency. All permit applications will continue to be reviewed and permits issued as quickly as possible with available resources.

The Sierra Club Lone Star Chapter contended that the TACB's determination of significance should include consideration of the distribution of emissions over a given period of time, as well as the tons-per-year limits for contaminants. The commenter asserted that 250 tpy of CO or NO_x may not be significant if evenly distributed over 365 days, whereas, a one-time discharge of that amount would be quite significant. The TACB's experience has shown that sources which emit NO_x and CO usually operate at a steady rate, 24 hours per day, year-round. The likelihood of annual emissions levels being used in a single episode as an operating condition is extremely small.

The TMOGA claimed that provisions stated in the proposed §116.7(e)(2) are unduly restrictive as they tend to eliminate exemptions for minor changes at many existing exempt facilities and they require at least one facility on the property to undergo full public notification of §116.10. The GPA and Cities Service argued that grandfathered facilities with emissions greater than the limits specified in the proposed §116.7(e)(2), planning modifications which will add *de minimus* amounts of emissions, should not be required to satisfy the public notification requirements of §116.10. The GPA contended that such facilities have been in operation for such a period of time as to have given public notice by their existence alone. The public notification requirements for special permits were modified to require a 15-day newspaper notice, and this requirement for full §116.10 notice for certain size properties was removed, since similar notice would already be required as a condition of issuance of any special permit.

In addition, it should be noted that the TACB has no *de minimus* emissions limits established for the purpose of determining exemptions, and the establishment of such limits for every substance reviewed by the agency is not considered reasonable. The task of initially establishing such limits would be monumental. Then each limit value would have to be modified, through the regulatory process, every time an odor threshold, health effects threshold, or ambient standard were changed for a substance. A more practical way to review changes at significant pollution sites is by case-by-case review.

Conoco recommended increasing the 25 tpy limitation to 40 tpy to make it consistent with the EPA's exemption limitation. The commenter contended that the higher rate would be both realistic and practicable and would reduce greatly the requirements for special permits. The TACB's experience in permit review has shown that emissions rates for nearly 95% of the exemptions issued after a case-by-case review, upon reexamination, were below 25 tpy. Increasing this emissions limit to 40 tpy, therefore, cannot be support from review of past experience regarding significance levels. The recommended change would have the effect of deleting the requirements for new facilities with emissions greater than 25 tpy but less than 40 tpy to provide §116.10 public notification and pay §116.11 permit fees while retaining a case-by-case review of the proposed facility. Since these sources are more likely to be significant emitters requiring more detailed review, retaining the requirement for full public notice and fee seems appropriate.

The TMOGA objected to the required use of best available control technology (BACT) for special permitted facilities, saying that BACT is not always the most dependable and maintenance-free technology for unattended, remotely located facilities. Mobil argued, as did the TMOGA, that BACT should not be required for remotely located, unattended facilities. However, this commenter proposed the use of best practicable control technology instead of BACT to help keep such facilities maintenance-free. All facilities not listed by type on the standard exemption list are considered to have significant emissions and must apply for a special permit or a construction permit. Each of these types of permits requires case-by-case review and application of BACT. Except when an applicable NSPS dictates specific control technology application, this BACT review provides an opportunity for the applicant to propose the specific control measures considered to be the best that are technically feasible and economically reasonable. Maintenance costs can be considered in establishing the reasonableness of specific control alternatives.

A total of 10 companies, associations, environmental groups, and individuals commented on the public notification requirements of the new §116.7. The com-

ments ranged in viewpoint from recommendations for full public notification requirements, as for construction permits, to requests for deletion of the requirements for notification of local elected and appointed officials.

The EPA commented that the proposal was not consistent with federal requirements since a major source applying for a special permit could be exempt from the public notification requirements of §116.10. As previously stated, such a source would be required to apply for a construction permit under §116.3(a) or to comply with the requirements of 40 Code of Federal Regulations §52.21 and, thus, the federal public notification requirements would be satisfied.

Those supporting full or more extensive public notification contended that special permits applicants should abide by requirements of §116.10 to maximize input from the public, that construction delays should be of no concern, that the review/comment periods for the TACB and local officials should be lengthened, and that newspapers and the *Texas Register* should be used to notify the public directly. Those supporting changes to the notification requirements of §116.7 recommended that local air pollution agencies and elected officials not be notified, and that newspapers of local circulation be used to provide limited notice to the general public. Cities Service suggested that, if the TACB decided not to delete §116.7(b), then paragraph (2) should require local officials to comment only on air quality considerations if they opt to recommend a full permit review.

The public notification requirements of §116.10 are intended to provide for full public notice and public involvement during the review of a permit application for a large or major facility. However, the special permits category is intended for small projects which do not fit into a standard exemption and which require case-by-case permit application review. Correspondingly, public notice and opportunity for comment should be required for these proposed facilities, but not to the degree required of a larger facility applying for a construction permit. A requirement for a limited newspaper notice with a 15-day comment period, rather than the 30-day provisions of §116.10, provides direct public notification, as requested by the public interest groups submitting comments, without adding unnecessary administrative delays in processing applications, as was the concern of some industrial groups. Deletion of the proposed requirement for notice to local elected officials seems to be reasonable when one considers that the general public may not be notified, in turn, by local elected officials. Also, very few mayors and county judges are staffed with qualified air control personnel who can perform technical reviews of permit applications upon which they may base comments and recommendations to protect the interest of their constituents.

Both the notice to elected officials and a newspaper notice requirement were designed to inform the public of the proposed new facility and to solicit information that should be considered in issuing the permit. The 15-day newspaper notice should provide more direct public notification than was provided in the proposal. A 15-day newspaper notice should not increase the administrative review time for the application since a comparable comment period would be provided under either notification approach. Further, it should be less time-consuming than notification for a construction permit and therefore should better reflect the size of projects covered by special permits.

One additional modification made to proposed §116.7(b) was to delete the requirement, as included in §116.10, for publication of a preliminary determination as to whether or not the permit will be issued. This deviation from the §116.10 requirements, as with the modification to allow 15 days rather than 30 days for comments, seems appropriate considering the smaller size and corresponding impact of the proposed facility and should shorten the administrative processing time by allowing the public comment period to run concurrently with the technical review time. Under this approach, an applicant would be notified when his application was complete and informed that newspaper notice of the proposed construction is required. Final determination to issue or to not issue the permit would be based on the technical review of the application, including control requirements and impact analysis, and the review of comments, if any, received as a result of the newspaper notice. The provision that a source will not cause or contribute to a condition of air pollution was made a condition for final determination of issuances rather than a condition for preliminary determination, as originally proposed.

One additional comment regarding the notification requirements of §116.7 was received from the Texas Hot Mix Asphalt Pavement Association. This commenter requested exemption from the notification requirements for facilities temporarily located to provide materials for public works projects. The commenter noted that asphalt pavement provides must be able to relocate men and equipment from one project to another with a minimum of delay to avoid incurring penalty charges at the beginning of the project. Many of these facilities should fall under the provisions of standard exemption 99 and thus be subject to the requirements for that exemption. Experience has shown that if those requirements are met, the facility will have an insignificant impact and public notice is not needed. For those facilities unable to qualify for this exemption, a special permit or construction permit would be required and public notice would seem appropriate if a case-by-case review to determine impacts is necessary. However, facility relocations and changes of ownership are currently exempted under certain conditions from the public notice requirements for construction permits. Thus, similar exemption provisions were added to the special permits requirements to avoid making these notice requirements more stringent than those for construction permits.

Mobil asked whether the TACB has plans to adopt a permit fee requirement for special permits. The commenter noted that a fee would seem probable in light of the great number of anticipated special permits and the resultant increase in TACB staff time required for review and processing. Both Sierra Club groups recommended that a requirement for fees for special permits be added to §116.7. The commenters noted that special permits will occupy TACB resources which will increase costs to the state and its taxpayers. Although there is no fee proposed at this time for special permits, the Sunset Advisory Commission has recommended revisions to the TCAA to require that the TACB permit fee system recover a specified percentage of expenses for permitting and enforcement. This recommendation and the regulatory changes necessary to implement it are currently under review by the TACB. A revision to the current fee system to require fees for special permtis is one method to be considered in implementing this new requirement. Any change to the current fee requirements would be premature until such time as the current review is completed.

The new sections are adopted under Texas Civil Statutes, Article 4477-5, §3.09(a), which provide the Texas Air Control Board with the authority to make rules consistent with the general intent and purposes of the Texas Clean Air Act, and to amend any rule or regulation the TACB makes.

§116.6. Exempted Facilities.

(a) Pursuant to the Texas Clean Air Act (TCAA), §3.27(a), the facilities or types of facilities listed in the standard exemption list, dated January 11, 1985, as filed in the Office of the Secretary of State and herein adopted by reference, are exempt from the permit requirements of the TCAA, §3.27

and §3.28, because such facilities will not make a significant contribution of air contaminants to the atmosphere; provided, however, that:

(1) actual emissions from the proposed facility shall not exceed 250 tons per year of carbon monoxide or nitrogen oxides or 25 tons per year of any other air contaminant, and, if total emissions from the property where the proposed facility is to be located will exceed 250 tons per year of carbon monoxide or nitrogen oxides or 25 tons per year of any other air contaminant, at least one facility at such property has been subject to public notification and comment as required by §116.10 of this title (relating to Public Notification and Comment Procedure) or §116.7 of this title (relating to Special Permits);

(2) construction or modification of the facility shall be commenced prior to the effective date of a revision of the standard exemption list under which the construction or modification would no longer be exempt;

(3) the proposed facility shall comply with the applicable provisions of the Federal Clean Air Act and regulations promulgated thereunder, §111 or §112, or the new source review requirements of Part C or Part D;

(4) all emissions control equipment shall be maintained in good condition and operated properly during operation of the facility; and

(5) notwithstanding the provisions of this section, any facility which constitutes a major source, or any modification which constitutes a major modification, under any new source review requirement of the Federal Clean Air Act and regulations promulgated thereunder shall be subject to the requirements of §116.3 of this title (relating to Consideration for Granting Permits to Construct and Operate) rather than this section.

(b) Copies of the standard exemption list, dated January 11, 1985, as adopted by reference in subsection (a) of this section, are available from the Texas Air Control Board office at 6330 U.S. Highway 290 East, Austin, Texas 78723, and at all TACB regional offices.

§116.7. Special Permits.

(a) Any person may apply to the executive director for a special permit which authorizes construction of a new facility, modification of an existing facility, or modification of a permitted or exempted facility which is subject to §116.5 of this title (relating to Representations in Application for Permit or Exemption).

(b) Within 20 days of receipt of an application for such special permit which is determined by the executive director of the Texas Air Control Board (TACB) to be complete, the executive director shall mail written notification to the applicant acknowledging receipt of the application and requiring the applicant to provide public notice of the proposed construction which shall include the information specified in paragraph (2) of this subsection. The applicant shall provide such notification using each of the methods specified in paragraph (2) and paragraph (3) of this subsection.

(1) The executive director shall make the completed application (except sections relating to confidential information) available for public inspection during normal business hours at the TACB's Austin office and at the appropriate TACB regional office in the region where construction is proposed throughout the comment period established in the notice published pursuant to paragraph (2) of this subsection.

(2) At the applicant's expense, notice of intent to construct shall be published in the public notice section of two successive issues of a newspaper of general circulation in the county where the proposed facility is to be located. The notice shall contain the following information:

(A) permit application number;
(B) company name;
(C) type of facility;
(D) location of facility;
(E) contaminants to be emitted;
(F) location and availability of copies of the completed permit application;
(G) public comment period; and
(H) procedure for submission of public comments concerning the proposed construction.

(3) Another notice with a size of at least 96.8 square centimeters (15 square inches) and whose shortest dimension is at least 7.6 centimeters (three inches) shall be published in a prominent location elsewhere in the same issues of the newspaper and shall contain the information specified in paragraph (2)(A)-(D) of this subsection and note that additional information is contained in the notice published pursuant to paragraph (2) of this subsection in the public notice section of the same issue.

(4) When newspaper notices are published in accordance with paragraph (2) and paragraph (3) of this subsection, the permit applicant shall furnish a copy of such notices and dates of publication to the TACB in Austin and all local air pollution control agencies with jurisdiction in the county in which the construction is to occur.

(5) Upon written request by the owner or operator of a facility which previously has received a permit from the TACB, the executive director or his designated representative may exempt the relocation or change of ownership of such facility from the requirements of this subsection if he finds that the conditions for exemption specified in §116.10(a)(6) of this title (relating to Public Notification and Comment Procedure) have been met.

(c) Interested persons may submit written comments on the special permit application to the executive director. All such comments must be in writing and postmarked within 15 days of the last publication date of the notices specified in subsection (b)(2) and (3) of this section. All written comments submitted to the executive director pursuant to this subsection shall be considered in determining whether to issue or not to issue the permit.

(d) If the executive director determines that the emissions from the proposed facility (the new facility or modification for which a special permit is requested) may cause or contribute to a condition of air pollution, he shall so advise the applicant.

(e) The executive director shall issue the special permit, after considering any written comments submitted pursuant to subsection (c) of this section, if he determines that:

(1) the emissions from the proposed facility will be less than 250 tons per year of carbon monoxide or nitrogen oxides or 25 tons per year of any other air contaminant;

(2) the emissions from the proposed facility will not cause or contribute to a condition of air pollution; and

(3) the proposed facility will operate in compliance with all rules and regulations of the TACB, will utilize the best available control technology (with consideration given to the technical praticability and economic reasonableness of reducing or eliminating the emissions resulting from the facility), and will comply with and submit to the TACB all reports required by the following federal regulations to the extent applicable:

(A) National Emission Standards for Hazardous Air Pollutants, 40 Code of Federal Regulations Part 61, as amended;

(B) Standards of Performance for New Stationary Sources, 40 Code of Federal Regulations Part 60, as amended;

(C) Prevention of Significant Deterioration, 40 Code of Federal Regulations Part 52, as amended;

(D) 40 Code of Federal Regulations §51.18(j), as amended; and

(E) notwithstanding the provisions of this section, any facility which constitutes a major source, or any modification which constitutes a major modification, under any new source review requirement of the Federal Clean Air Act and regulations promulgated thereunder shall be subject to the requirements of §116.3 of this title (relating to Consideration for Granting Permits to Construct and Operate) rather than this section.

(f) Section 116.10 of this title (relating to Public Notification and Comment Procedure) and §116.11 of this title (relating to Permit Fees) shall not apply to applications submitted under this section.

(g) An operating permit shall be issued for a facility permitted under this section upon submission of a complete application by the owner or operator within 60 days after the facility has begun operation and which demonstrates that the facility meets the requirements of §116.3(b)(1)-(4) of this title

(relating to Consideration for Granting Permits to Construct and Operate).

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 February 6, 1985.

TRD-851205 Bill Stewart, P.E
Executive Director
Texas Air Control Board

Effective date: March 15, 1985
Proposal publication date: July 26, 1984
For further information, please call (512) 451-5711, ext. 354.

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TITLE 34. PUBLIC FINANCE

Part VII. State Property Tax Board

Chapter 155. Tax Record Requirements

★34 TAC §155.31

The State Property Tax Board adopts an amendment to §155.31, without changes to the proposed text published in the December 21, 1984, issue of the *Texas Register* (9 TexReg 6421).

The amendment concerns the bank rendition of taxable property. The amendment deletes references to the bank rendition form and the adoption by reference of the bank rendition form, V-22.05, because of the repeal of provisions of the Property Tax Code regarding the taxation of certain property of banks, effective January 1, 1984, passed as House Bill 122, 68th Legislature, 2nd Called Session, 1984.

The board adopts this amended rule to comply with legislation making a special rendition form for banks unnecessary. Under the amended provisions, no specialized rendition form would be required by banks.

No comments were received regarding adoption of the amendment.

The amendment is adopted under the Texas Property Tax Code, §5.07(a), which provides the State Property Tax Board with the authority to prescribe the contents of all forms necessary for the administration of the property tax system, and the Texas Property Tax Code, §22.24, which empowers the board to prescribe different forms for different kinds of property.

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 February 8, 1985.

TRD-851271 Ron Patterson
Executive Director
State Property Tax Board

Effective date: March 1, 1985
Proposal publication date: December 21, 1984
For further information, please call (512) 834-4802.

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TITLE 40. SOCIAL SERVICES AND ASSISTANCE

Part I. Texas Department of Human Resources

Chapter 16. ICF/SNF Compliance with State and Local Laws

★40 TAC §16.1503

The Texas Department of Human Resources adopts an amendment to §16.1503, with changes to the proposed text published in the September 14, 1984, issue of the *Texas Register* (9 TexReg 4863).

The proposed amendment required each Title XIX (Medicaid) contracted skilled nursing facility or distinct part to participate as a skilled nursing facility under Title XVIII (Medicare). Because of public comments, the department has revised the amendment to require that each Medicaid skilled nursing facility (SNF) maintain Medicare certification for a number of its beds that equals or exceeds 25% of the facility's Medicaid contracted SNF beds.

The amendment to §16.1503 is consistent with federal intent that Medicaid be a payor of last resort. Also, the amendment provides for an additional supportive service to patients in long-term care facilities.

The Medicare skilled nursing facility program provides skilled services, including therapies, to individuals who are recovering from certain illnesses following at least three days of hospitalization.

Certification for Medicare participation requires skilled nursing facilities or distinct parts to create a utilization review committee in each facility and create a dual bookkeeping system to separate Medicare patient costs from Medicaid patient costs. The Medicare system is a cost reimbursement payment system which requires and encourages strict cost accounting. Patient care rates are determined by costs of the previous year.

Medicare rules require that facilities adhere strictly to medical guidelines which define lengths of stay. If patients are retained on Medicare payment longer than deemed necessary by the Department of Health and Human Services (DHHS) or the fiscal agent, retroactive recoupment of payment for unnecessary days of care is imposed on the facility. Medicare allows eligible recipients 100 days of care per spell of illness. The average length of stay under Medicare payment, however, is 10 to 25 days, depending on the recipient's diagnosis.

Sixteen written comments were received during the comment period. In addition, eight verbal comments were made at a public hearing held on October 10, 1984, in Austin. With the exception of two comments, a written comment from an individual and one from the Texas Department of Health, all comments, including those from the Texas Health Care Association, Texas Association of Homes for the Aging, Beverly Enterprises, and Arthur Young and Associates, were negative.

The following is a summary of the comments received and the department's response to each comment.

Some commenters stated that requiring a percentage of beds less than 100%, such as 25%, would give them more flexibility in adjusting to the requirement.

The department agrees with this suggestion since the department's primary concern is to have at least some beds certified for Medicare participation in each Medicaid SNF contracted facility. The department has reworded the text of the rule to require that each Title XIX (Medicaid) skilled nursing facility maintain Medicare certification for a number of its beds that equals or exceeds 25% of the facility's Medicaid contracted SNF beds. By setting a minimum amount of participation in Medicare by facilities, the department anticipates that this revised rule may reduce some of the unfavorable reaction many commenters expressed. Also, the revised text allows facilities an option to have the minimum 25% requirement to be either dually certified Medicaid (Title XIX)/Medicare (Title XVIII) beds or Medicare only beds. The department anticipates that higher Medicare reimbursement will occur if Medicare only beds are utilized to fulfill the required participation.

Most commenters stated that dual certification would reduce the availability of skilled beds in Texas since many current Medicaid contracted skilled providers would drop out of the Medicaid skilled program. Commenters also stated that if providers dropped out of the Medicaid skilled program in rural areas, access by patients to needed skilled care in these locations would be severely impacted.

The department anticipates that some facilities will drop out of the Medicaid skilled program There appears, however, to be a demonstrated need to provide additional skilled Medicare facility beds to accommodate the type of patient currently being discharged from hospitals as a result of Medicare's new prospective payment system—diagnostic related groups (DRGs) Hospital patients are no longer recuperating fully before discharge or transfer to nursing care facilities. Statistics from the Health Care Financing Administration (HCFA) and the Texas Hospital Association indicate that already there is a 21% decline in hospital length of stay (a decline of two full days) as a result of the DRGs. Patients discharged as a result of DRGs often require a more intense level of skilled nursing or rehabilitative services than many nursing facilities are currently equipped to provide. By requiring each Title XIX Medicaid skilled nursing facility to maintain Medicare certification for a number of its beds, these patients will be afforded the additional supportive services necessary to meet their more intensive care needs and Medicare will be utilized more frequently for these services.

Some commenters stated that reimbursement rates paid by Medicare are too low.

The department disagrees with this comment. Medicare, like Medicaid, is a cost reimbursement system. If facilities document properly, Medicare will appropriately reimburse them for the care given. If facilities familiarize themselves with the Medicare provisions and properly complete the Medicare cost reports, the department anticipates that complete and proper reimbursement will be made. Although Medicare patients require more skilled nursing hours, supplies, and services than non-Medicare patients, if a facility will do a departmental cost study to analyze the proportion of Medicare utilization for each service, appropriate reimbursement will be made. If only Medicare utilizes a service, then Medicare will reimburse 100% of the reasonable and allowable costs.

Several commenters stated that retroactive denials by the Title XVIII intermediary are too frequent.

The department disagrees with this comment. Retroactive denials should not pose a problem if the facility maintains an effective utilization review process. In recent years, fewer denials are occurring. Since 1974, all Medicare facilities are covered by a provision called waiver of liability, which provides Medicare payment for noncovered days as long as the facility's denial rate does not exceed 5.0% of the covered days during the quarter. Also, there is an appeals process whereby the attending physician may further explain under separate cover letter, with copies of the patient's medical record, the patient's need for skilled care. It is not unusual for the intermediary to reverse the denial decision with this additional documentation.

Some commenters suggested that difficulties exist with in-house utilization review committees.

The department does not anticipate major difficulties with securing and maintaining utilization review committees. Facilities currently participating in Medicare have not expressed difficulty with their utilization review committees.

A few commenters stated that lost work time for facility staff would occur as a result of the duplications of inspections and surveys.

The department does not anticipate any major loss of staff work time as a result of mandating Medicare participation.

Some commenters stated that access to skilled care in rural areas may be severely impacted since Medicare utilization in rural areas is typically very low.

Some facilities, including some rural facilities, may choose to leave the Medicaid skilled program. The need for Medicare services, however, has increased as a result of the Medicare prospective payment system currently operational in hospitals. It is estimated that few facilities will elect to leave the skilled Medicaid program as a result of this rule.

A few commenters stated that Medicare participation would increase costs to the state.

The department disagrees with this comment. Facilities participating in Medicare bill the Medicare-determined interim rate for nursing services, medications billed to the facility for use by the patient, physical therapy, speech therapy, occupational therapy, and supplies. These are reimbursed to the facility at 100% coverage of all reasonable and necessary services for the first 20 days and then at 100%, less the Medicare co-payment amount, for the remaining 21st through 100th day.

One commenter stated that some Medicare patients continue to need nursing home care after their Medicare benefits run out.

This may be true. Those patients that qualify for Medicaid may apply for benefits under that program or they may choose to pay private rates.

Some commenters stated that facilities designated as 1861(j)(1) could not break a spell of illness.

Any patient transferring to an intermediate care facility can break a spell of illness. This is true even if the intermediate care facility is designated 1861(j)(1). Transfer to another skilled facility will not break a spell of illness A clear explanation of this issue is in a regional health standards and quality Letter 84-13, Reference SC-110, dated June 1, 1984, from the Health Care Financing Administration, Regional Office VI, 1200 Main Tower Building, Dallas, Texas 75202.

One commenter asked if the Texas Department of Health would approve the Medicare levels of care.

The answer is no. Each facility must have its own utilization review committee to make determinations about each patient's medical need for care and the length of stay the patient requires in the facility.

One commenter requested a waiver for a physician since they currently have a waiver for a medical director.

Requests for waivers must be directed to the Medicare fiscal intermediary, Mutual of Omaha, in Dallas.

Two commenters stated that the requirement for a physical therapist would be expensive.

This requirement is reimbursable by Medicare. Rehabilitation services under Medicare Part A are provided at 100% reimbursement rather than 80% reimbursement when billed on Part B as outpatient services.

One commenter requested information on how the cost savings to the state were derived.

The estimated cost savings to the state were based on a sample of Medicaid patients entering a SNF level of care. A team of experienced nurses reviewed the sample cases to estimate the percentage of patient days that should have been paid by Medicare if the skilled nursing facility had been certified for Medicare participation.

Finally, a number of commenters stated that Medicare participation would require a burdensome dual accounting system and increased paperwork which would

lead to additional administrative expenses.

The department agrees that a dual accounting system and some additional paperwork will be necessary. Appropriate reimbursement from Medicare, however, is made for these functions. It was partly in response to this issue of additional administrative expenses that the requirement was changed from the proposed 100% Medicare participation of all Medicaid contracted skilled beds. Several providers indicated that a lesser percentage of participation, such as 25%, than the total required in the original proposal would allow other providers to concentrate Medicare reimbursable costs into a smaller and more efficient Medicare unit.

The following is a schedule of projected time frames for implementation of this rule change. This schedule is included to give providers a step-by-step description of the tasks and time frames involved in becoming a Medicare provider.

Step	Estimated Time Frames	Tasks
1	5 months before expiration of present Title XIX (Medicaid) SNF provider contract	Medicaid SNF providers make application to the Department of Health and Human Services (DHHS) for participation in the Medicare Program.
2		Prospective Medicare providers develop utilization review (UR) plans and acquire staff for UR committees.
3		Provider packets are prepared including certification of UR plans and committees
4	4 months before expiration of present Title XIX (Medicaid) SNF provider contract.	Provider packets are returned to the Texas Department of Health (TDH) for review and forwarding to DHHS
5		TDH begins survey process TDH submits to DHHS findings and recommendations for facility participation in Title XVIII. TDH surveys facilities for Medicare participation according to the annual Title XIX (Medicaid) SNF survey and certification schedule for each facility.
6		DHHS notifies the intermediary insurance carrier of the facility's participation in Medicare
7		Providers are notified of Title XVIII certification.
8	July 1, 1985	Rule is effective.*

*SNF providers whose Medicaid contracts are due for renewal on or after July 1, 1985, must be in compliance with the requirements of this rule when their Title XIX (Medicaid) SNF contract is renewed.

The amendment is adopted under the Human Resources Code, Title 2, Chapter 22 and Chapter 32, which authorizes the department to administer public assistance programs.

§16.1503. Participation Requirements.

(a) (No change.)

(b) Each Medicaid skilled nursing facility (SNF) must maintain Medicare certification for a number of its beds that equals or exceeds 25% of the facility's Medicaid contracted SNF beds.

(c) Each nursing facility must comply with the state standards for participation and the facility's contract on a continuing basis. Normally, the facility may be given not more than 30 days to correct deficiencies. The facility must immediately correct deficiencies affecting the health and safety of recipient-patients to continue participating. Failure to correct deficiencies under the contract or the standards within the specified time period is cause for immediate suspension of vendor payment and may result in contract cancellation, suspension, or other action. Action may include, but is not limited to:

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

(d) A facility may not participate in the Texas Medical Assistance Program if it has restrictive policies or practices, including:

(1)-(9) (No change.)

(e) If the Texas Department of Human Resources has documentation showing good cause, it reserves the right to reject the facility's participation or to cancel an existing contract if the facility charges the Title XIX recipient-patient, any member of his family, or any other source for supplementation or for any item except as allowed within department policies and regulations.

(f) State statutes and Title XIX nursing facility contracts provide for appeal procedures for aggrieved providers whose vendor payments may be or have been suspended or whose contracts have been canceled by the Texas Department of Human Resources. A facility must send a written request for a contract appeals hearing within 10 calendar days after receipt of a department letter notifying the facility of the proposed action. The facility must send the request for a hearing to the general counsel, Texas Department of Human Resources, P.O Box 2960, Austin, Texas 78769. Hearings will be held in Austin, Texas.

(g) The department's interpretations of the standards for participation or the contract may not be appealed to the department's contract appeals hearing committee unless the interpretation has caused an adverse action for the facility.

(h) Representatives of the Texas Department of Human Resources, the Texas Department of Health, the Medicaid Fraud Control Unit, and the Department of Health and Human Services may enter the premises of the participating facility at any time to make inspections or to privately interview the recipient-patients receiving assistance from the Texas Department of Human Resources. For visits after 7 p.m., all reasonable efforts will be made to avoid disturbing the recipient-patients' rest.

(i) Each facility must be in compliance with the rules of the Texas Health Facilities Commission.

(j) Facilities must supply the Texas Department of Human Resources complete information according to federal and state requirements about the identity of:

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

(k) If a profit-making corporation operates the facility, a copy of the following material is required:

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

(l) Nonprofit corporations must furnish a copy of:

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

(m) Facilities other than those described in subsection (k) and subsection (l) of this rule, must furnish a copy of:

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

(n) Facilities must disclose business transaction information. A facility must send to the Texas Department of Human Resources, within 35 days after the date of a written request, complete information on:

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

(o) The facility must report changes in the required information promptly to the Texas Department of Human Resources.

(p) Failure to provide this information may result in suspension, termination, or other contract action including, but not limited to, holding vendor funds. Payment to the facility is denied beginning on the day after the date information was due, and ending on the day before the date the information is received by the department.

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 February 8, 1985.

TRD-851253 Marlin W. Johnston
Commissioner
Texas Department of
Human Resources

Effective date: July 1, 1985
Proposal publication date:
September 14, 1984
For further information, please call
(512) 450-3766

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(Editor's note: The following adopted repeals were inadvertently omitted from the February 5, 1985, issue of the Register. The preamble was published at 10 TexReg 408).

Chapter 37. Hearing Aid Program

Subchapter U. Provider Qualifications

★40 TAC §37.2001

The repeal is adopted under the Human Resources Code, Title 2, Chapter 22 and Chapter 32, which authorizes the department 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 January 24, 1985.

TRD-850768 Marlin W. Johnston
Commissioner
Texas Department of
Human Resources

Effective date: February 14, 1985
Proposal publication date: November 6, 1984
For further information, please call
(512) 450-3766.

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Subchapter V. Contracts

★40 TAC §§37.2101-37.2103

The repeal is adopted under the Human Resources Code, Title 2, Chapter 22 and Chapter 32, which authorizes the department 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 January 24, 1985.

TRD-850769 Marlin W. Johnston
Commissioner
Texas Department of
Human Resources

Effective date: February 14, 1985
Proposal publication date: November 6, 1984
For further information, please call
(512) 450-3766

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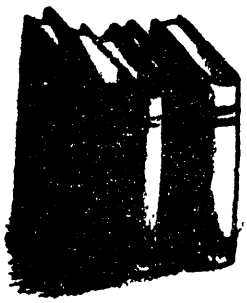

State Board of Insurance Exempt Filings

State Board of Insurance 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 approved a filing by the St. Paul Fire and Marine Insurance Company proposing a revision of the standard data processors errors and omissions liability protection—claims made—policy form.

This revision is to clarify coverage intent, incorporate the Texas required endorsement PEG27 May, 1985 edition, into the coverage form, and to add various coverage, some of these being prejudgment interest and fast judgment interest, worldwide coverage, and a 30-day extended reporting period.

This filing is approved to become effective April 1, 1985.

This notification is filed pursuant to the Insurance Code, Article 5.97, which exempts it from the requirement of the Administrative Procedure and Texas Register Act.

Issued in Austin, Texas, on February 8, 1985.

TRD-851284 James W Norman
Chief Clerk
State Board of
Insurance

Effective date: April 1, 1985
For further information, please call
(512) 475-2950.

The State Board of Insurance has approved a filing by the Hartford Insurance Group proposing a revision of the governmental units endorsement forms and guide "A" rate procedure for providing general liability insurance policies issued to governmental subdivisions.

This revision is to comply with Senate Bill 470, which amended the Tort Claims Act to make each unit of government in the state liable for money damages for property damage limited to $100,000 for any single occurrence for injury to or destruction of property arising from the operation of certain motor-driven vehicles or equipment.

This filing is approved to become effective April 1, 1985.

This notification is filed pursuant to the Insurance Code, Article 5.97, which exempts it from other requirements of the Administrative Procedure and Texas Register Act.

Issued in Austin, Texas, on February 8, 1985.

TRD-851285 James W. Norman
Chief Clerk
State Board of
Insurance

Effective date: April 1, 1985
For further information, please call
(512) 475-2950

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Open Meetings

Agencies with statewide jurisdiction must give at least seven days notice before an impendi meeting Institutions of higher education or political subdivisions covering all or part of four more counties (regional agencies) must post notice at least 72 hours prior to a scheduled meeting time Some noti may be received too late to be published before the meeting is held, but all notices are published in the *Register*

Emergency meetings and agendas. Any of the governmental entities named above must have notice of an emerg cy meeting, an emergency revision to an agenda, and the reason for such emergency posted for at least two hours bef the meeting is convened Emergency meeting notices filed by all governmental agencies will be published

Posting of open meeting notices. All notices are posted on the bulletin board outside the Office of the Secretar State on the first floor of the East Wing in the State Capitol, Austin These notices may contain more detailed agenc than what is published in the *Register*

Texas Department of Agriculture

Friday, February 22, 1985, 10 a.m. The Texas Department of Agriculture will meet at its office on Expressway 83, two blocks west of Morningside Road, San Juan. According to the agenda, the department will conduct an administrative hearing to review a possible violation of the Texas Agriculture Code, failure to pay on demand, by Marvin A. Schwartz, as petitioned by Alberto Ortega.

Contact: Dolores Alvarado Hibbs, P.O. Box 12847, Austin, Texas 78711, (512) 475-6686.

Filed: February 11, 1985, 1:46 p.m.
TRD-851319

Friday, February 22, 1985, 10 a.m. The Family Farm and Ranch Advisory Council of the Texas Department of Agriculture will meet in Conference Room 930A, Stephen F. Austin Building, 1700 North Congress Avenue, Austin. According to the agenda, the council will consider and possibly take action on an application for a loan guaranty under the program, review the status of the program, and discuss and possibly make recommendations on the proposed beginning farmer program.

Contact: Larry Strange, P.O. Box 12847, Austin, Texas 78711, (512) 475-6686.

Filed: February 11, 1985, 1:48 p.m.
TRD-851320

Friday, February 22, 1985, 11 a.m. The Texas Department of Agriculture will meet at its office on Expressway 83, two blocks west of Morningside Road, San Juan. According to the agenda, the department will conduct an administrative hearing to review a possible violation of the Texas Agriculture Code, failure to pay on demand, by Coastal Produce, Inc., as petitioned by Edinburg Fruit & Vegetable Company.

Contact: Dolores Alvarado Hibbs, P.O. Box 12847, Austin, Texas 78711, (512) 475-6686.

Filed: February 11, 1985, 1:47 p.m.
TRD-851321

Friday, February 22, 1985, 1:30 p.m. The Texas Department of Agriculture will meet at its office on Expressway 83, two blocks west of Morningside Road, San Juan. According to the agenda, the department will conduct an administrative hearing to review possible violations of the Texas Agriculture Code, §76.116(a)(1) and (4) by W. J. Tiller, doing business as W.J T., Inc., holder of a commercial applicator license.

Contact: Dolores Alvarado Hibbs, P.O. Box 12847, Austin, Texas 78711, (512) 475-6686.

Filed: February 11, 1985, 1:46 p.m.
TRD-851322

Friday, February 22, 1985, 2:30 p.m. The Texas Department of Agriculture will meet at its office on Expressway 83, two blocks west of Morningside Road, San Juan. According to the agenda, the department will conduct an administrative hearing to review a possible violation of the Texas Agriculture Code, §103.013, by Holly Produce Company, Inc., as petitioned by Valley Central Sales, Inc.

Contact: Dolores Alvarado Hibbs, P.O Box 12847, Austin, Texas 78711, (512) 475-6686.

Filed: February 12, 1985, 9:34 a.m.
TRD-851363

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State Banking Board

Tuesday, February 19, 1985, 2 p.m. The State Banking Board will meet at 2601 North Lamar, Austin. According to the agenda, the board will conduct a voting session to include reconsideration of Interstate Bank North, Houston, charter application; charter applications for Allied Bank Arlington, Arlington, and Lakeland State Bank, unincorporated area of Travis County; interim charter applications for West Belt Bank, Houston, new First Western Bank, Carrolton, new Gladewater State Bank Gladewater, and request to rescind new Mc ran Bank, Moran; domicile change appli cations for First Bank and Trust, Bryan and Bank of the West, Lubbock; and review of applications approved but not y open.

Contact: William F. Aldridge, 2601 Nort Lamar Boulevard, Austin, Texas 7870: (512) 475-4451.

Filed: February 11, 1985, 2:02 p.m.
TRD-851326

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Texas Commission for the Deaf

Saturday, February 16, 1985, 8:30 a.m. Th Board for Evaluation of Interpreters of th Texas Commission for the Deaf reschedule a meeting to be held meet in Room 212, 5: South Congress Avenue, Austin. Items o the agenda include action on previous mee ing minutes, review of applications fc direct consultant with SEE Sign System and hearing of the chairperson's report. Th board also will meet in executive session t review alternate evaluation materials, cer tification applications and evaluations, anc appeals. The meeting originally was sche uled for January 12, 1985.

Contact: Fred R. Tammen, 510 South Con gress Avenue, Suite 300, Austin, Texa 78704, (512) 475-2492.

Filed: February 8, 1985, 2:44 p.m.
TRD-851259

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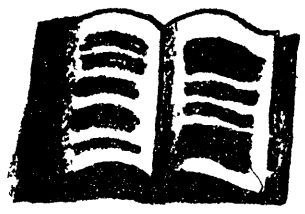

Texas School for the Deaf

Friday, February 15, 1985, 6 p.m. The Student Life and Curriculum Committee of the Texas School for the Deaf (TSD) will meet in the boardroom, Administration Building, 1102 South Congress Avenue, Austin. According to the agenda, the committee will review student life from August 1984 to the present.

Saturday, February 16, 1985, 10 a.m. The Governing Board of TSD will meet in the boardroom, Administration Building, 1102 South Congress Avenue, Austin. Items on the agenda include approval of the December 8, 1984, minutes and a professional contract; a second reading of a policy adoption; consideration of policy EI-academic achievement, policy EIAA-examinations, policy EIAB-progress reports to parents, policy EMH-class interruptions, the NSBA national convention, a board meet schedule, the election of officers, board communications, consultant contracts, a cooperative agreement between TSD and LEA's, the School Planning Committee report and discussion, a legal update from the Office of the Attorney General, the health services report, the special services annual report, a Chapter 75 and House Bill 72 update, an Interim Code of Student Conduct update, the maintenance annual report, individuals from the audience wishing to make a report, and reports from board members.

Contact: Sheila O'Leary, 1102 South Congress Avenue, Austin, Texas 78704, (512) 442-7821, ext. 303.

Filed: February 7, 1985, 3:48 p.m.
TRD-851229, 851230

Saturday, February 16, 1985, 10 a.m. The Governing Board of the Texas School for the Deaf will meet in the board room, Administration Building, 1102 South Congress Avenue, Austin. Items on the agenda include approval of the December 8, 1984 minutes; business requiring board action, including professional contract approval, policy adoption—second reading, Policy EI-Academic Achievement, Policy EIAA-examinations, Policy EIAB-progress reports to parents, Policy EMH-class interruptions, the NSBA national convention, board meeting schedule, election of officers, board communications, consultant contracts, a cooperative agreement for TDS and LEA's, school planning committee report and discussion, a legal update from the attorney general's Office, personnel matters; business for information purposes, including health services report, special services annual report, Chapter 75 and House Bill 72 updates, interim code of student conduct update, maintenance annual report; and reports from the individuals from the audience.

Contact: Sheila O'Leary, 1102 South Congress Avenue, Austin, Texas 78704, (512) 442-7821, ext. 303.

Filed: February 8, 1985, 3:27 p.m.
TRD-851268

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Texas Employment Commission

Tuesday, February 19, 1985, 9 a.m. The Texas Employment Commission (TEC) will meet in Room 644, TEC Building, 15th Street and Congress Avenue, Austin. According to the agenda summary, the commission will consider prior meeting notes and internal procedures of the Office of Commission Appeals, consider and act on tax liability cases and higher level appeals in unemployment compensation cases listed on commission Docket 8, and set the date of the next meeting.

Contact: Courtenay Browning, TEC Building, Room 608, 15th Street and Congress Avenue, Austin, Texas, (512) 397-4415.

Filed: February 11, 1985, 3:50 p.m.
TRD-851349

Wednesday, February 20, 1985, 9 a.m. The Advisory Council of the TEC will meet in Room 644, TEC Building, 15th Street and Congress Avenue, Austin. According to the agenda summary, the council will approve the November 30, 1984, meeting notes; hear administrative reports, a legislative update, and Comprehensive Language Services Program update, a United Farm Workers *v.* TEC update, and committee reports; and consider a Planning and Evaluation Unit presentation and the tentative date and agenda items for the next meeting.

Contact: C. Ed Davis, TEC Building, Room 660, 15th Street and Congress Avenue, Austin, Texas, (512) 397-4400.

Filed: February 11, 1985, 3:50 p.m.
TRD-851350

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Office of the Governor

The Science and Technology Council of the Office of the Governor met in emergency session on the third floor Ninth and Congress Avenue, Austin. Days, times, and agendas follow.

Thursday, February 14, 1985, 1:30 p.m. The council discussed it long-term role and scope, and additional issues to tackle, and a Texas Science Policy. The emergency status was necessary because the meeting was based on the chairman's ability to meet with the governor.

Friday, February 15, 1985, 9 a.m. The council considered an overview of current legislation and summary of the budget, an education committee report, discussion of Mr. Shepherd's white paper Technology Development Committee report, and Venture Capitol Subcommittee report, a review of the SSC, and other business. The emergency status was necessary because the meeting was based on the chairman's ability to meet with the governor.

Contact: Meg Wilson, Sam Houston Building Room 412, 201 East 14th Street, Austin, Texas 78701, (512) 475-1147.

Filed: February 11, 1985, 4:24 p.m.
TRD-851357, 851358

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Texas Department of Health

Friday, February 15, 1985, 1 p.m. The Advisory Board of Athletic Trainers of the Texas Department of Health will meet in Room T-507, 1100 West 49th Street, Austin. According to the agenda summary, the board will approve the previous meeting minutes; consider individual hearings/cases regarding disapproved applications, revocation of licenses for delinquent renewals and delinquent continuing education; and other matters relating to the licensure of athletic trainers; discuss test results and the time allowed after the exam for temporary licensees to submit the initial licensing fee and the time allowed after graduation for applicants to submit the initial licensing fee; elect officers; and appointment of committees by the chairman.

Contact: Maurice B. Shaw, 1100 West 49th Street, Austin, Texas 78756, (512) 458-7538.

Filed: February 7, 1985, 4:15 p.m.
TRD-851231

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Texas Department of Human Resources

Friday, February 22, 1985, 8:30 a.m. The Advisory Council on Child Care Administration of the Texas Department of Human Resources will meet in Conference Room 4E, Winter's Human Services Complex, 701 West 51st Street, Austin. Items on the agenda include approval of minutes; election of officers; review of proposed rule changes; a report from the director of administrator's licensing; goals and objectives for 1985; and a summary.

Contact: Michael O. Doughty, P.O. Box 2960, Austin, Texas 78769, (512) 450-3255.

Filed: February 8, 1985, 3:27 p.m.
TRD-851269

Friday, February 22, 1985, 8:30 a.m. The Vendor Drug Formulary Subcommittee of the Medical Care Advisory Committee will meet in the DHR boardroom, first floor, East Tower, 701 West 51st Street, Austin. Items on the agenda include approval of minutes; review of Zantac approval and related issues regarding Tagamet; review of appeals of denied applications for Nitrol TSAR and Nicorette; and a status report on Texas maximum allowable cost and estimated acquisition cost. At 1 p.m., a panel will convene for a previously announced public hearing to accept comments on proposed policy changes concerning reimbursement to pharmaceutical providers for acquisition cost of covered drugs and the proper reporting of prescription price on pharmacy claims. An executive session will follow the public hearing for the purpose of reviewing the comments received.

Contact: Robert P. Harriss, P.O. Box 2960, Austin, Texas 78769, (512) 450-3188.

Filed: February 8, 1985, 3:28 p.m.
TRD-851270

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State Board of Insurance

Tuesday, February 19, 1985, 10 a.m. The State Board of Insurance will meet in Room 414, 1110 San Jacinto Street, Austin. According to the agenda summary, the board will consider a decision in the appeal of Mary P. Hurter from action of the Texas Catastrophe Property Insurance Association; a decision in the appeal of David P. Ritter from action of the Texas Catastrophe Property Insurance Association; the commissioner's and fire marshal's reports, including personnel matters; and board orders on several different items.

Contact: Pat Wagner, 1110 San Jacinto Street, Austin, Texas 78786, (512) 475-2950.

Filed: February 11, 1985, 2:48 p.m.
TRD-851329

Wednesday, Feburary 20, 1985, 1:30 p.m. The Commissioner's Hearing Section of the State Board of Insurance will meet in Room 353, 1110 San Jacinto Street, Austin. According to the agenda, the section will conduct a public hearing in Docket 7939—application for approval of the articles of agreement of Nowlin Lloyds, Fort Worth, to engage in the business of property and casualty insurance.

Contact: J. C. Thomas, 1110 San Jacinto Street, Austin, Texas 78786, (512) 475-4353.

Filed: February 12, 1985, 9:49 a.m.
TRD-851369

Thursday, February 21, 1985, 9 a.m. The State Board of Insurance will meet in the hearing room, DeWitt Greer Building, 11th and Brazos Streets, Austin. According to the agenda summary, the board will conduct a public hearing to consider revision of the commercial automobile insurance rates (including rates applicable to public garage, nonowned, and miscellaneous classes and coverages) and other rate items.

Contact: Pat Wagner, 1110 San Jacinto Street, Austin, Texas 78786, (512) 475-2950.

Filed: February 8, 1985, 4:10 p.m.
TRD-851288

Thursday, February 21, 1985, 9 a.m. The State Board of Insurance will meet in Room 342, 1110 San Jacinto Street, Austin. According to the agenda, the board's designate will conduct a public hearing to consider the Texas Catastrophe Property Insurance Association's (TCPIA) plea to the jurisdiction in the appeal of Ruby Rowden, doing business as Aloha Motel, from action of the TCPIA.

Contact: Pat Wagner, 1110 San Jacinto Street, Austin, Texas 78786, (512) 475-2950.

Filed: February 8, 1985, 4:10 p.m.
TRD-851289

Thursday, February 21, 1985, 9 a.m. The Commissioner's Hearing Section of the State Board of Insurance will meet in Room 353, 1110 San Jacinto Street, Austin. According to the agenda, the section will conduct a public hearing in Docket 7934—application of Emin Ernest Kuhn, Colleyville, for a legal reserve life insurance agent's license and for a life, health, and accident insurance agent's license.

Contact: J. C. Thomas, 1110 San Jacinto Street, Austin, Texas 78786, (512) 475-4353.

Filed: February 12, 1985, 9:49 a.m.
TRD-851370

Friday, February 22, 1985, 9 a.m. The State Board of Insurance will meet in Room 414, 1110 San Jacinto Street, Austin. According to the agenda, the board will hear a research and information services report.

Contact: Pat Wagner, 1110 San Jacinto Street, Austin, Texas 78786, (512) 475-2950.

Filed: February 11, 1985, 2:48 p.m.
TRD-851330

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Texas Board of Land Surveying

Tuesday and Wednesday, February 19 and 20, 1985, 8 a.m. daily. The Texas Board of Land Surveying will meet Tuesday at the Marriott Hotel, 6121 IH 35 North, Austin, and Wednesday in Suite 210W, 1106 Clayton Lane, Austin. Items on Tuesday's agenda include conducting examinations for registered public surveyor, licensed state land surveyor, and surveyor in training; on Wednesday, the board will grade and evaluate the examination papers and consider any other business to come before the board.

Contact: Betty J. Pope, 1106 Clayton Lane, Suite 210W, Austin, Texas 78723, (512) 452-9427.

Filed: February 11, 1985, 10:22 a.m.
TRD-851306

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Legislative Education Board

Tuesday, February 19, 1985, 8:30 a.m. The Legislative Education Board will meet in Room 309, State Capitol, Austin. According to the agenda, the board will consider recommendations for legislation by the State Board of Education and other business.

Contact: Melinda Terry, P.O. Box 2910, Austin, Texas 78769, (512) 475-3311.

Filed: February 11, 1985, 4:36 p.m.
TRD-851359

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Texas State Board of Medical Examiners

Thursday, February 21, 1985. Committees of the Texas State Board of Medical Examiners will meet in Suite 201, 1101 Camino LaCosta, Austin. Times, committees, and agendas follow.

3 p.m. The Standing Orders Committee will discuss proposed Chapter 186 in the Texas Administrative Code, Title 22, and requests for exceptions to rules. The committee also may meet in executive session under authority of Texas Civil Statutes, Article 6252-17, as related to Article 4495b, §4.05(d) and §5.06(e)(1), and Attorney General Opinion H-484, 1974.

5 p.m. The Legislative Committee will discuss pending legislation affecting the board and the practice of medicine. The committee also may meet in executive session under authority of Texas Civil Statutes, Article 6252-17, as related to Article 4495b, §4.05(d) and §5.06(e)(1), and Attorney General Opinion H-484, 1974.

8 p.m. The Reciprocity Committee will consider a possible change to 22 TAC §163.1(6) and review applications. The committee also may meet in executive session under authority of Texas Civil Statutes, Article 6252-17, as related to Article 4495(b), §4.05(d) and §5.06(e)(1), and Attorney General Opinion H-484, 1974.

Friday-Sunday, February 22-24, 1985, 8 a.m. daily. The Texas State Board of Medical Examiners will meet at 1101 Camino LaCosta, Austin. Items on the agenda include committee and other reports; discussion of licensure applications, acceptance of orders, the minutes, meeting dates, medical schools, voting delegate, a resolution, prescription filling, inquiry responses, possible rule changes, a legislative summary, a management letter, fellowship programs, and the national board examination; hearings on possible Medical Practice Act violations; probationary and special request appearances; reinstatements; and public hearings on proposed 22 TAC Chapters 187, 175, 163, 171, and 186. The board also may meet in executive session under authority of Texas Civil Statutes, Article 6252-17, as related to Article 4495b, §4.05(d) and §5.06(e)(1), and Attorney General Opinion H-484, 1974.

Contact: Jean Davis, 1101 Camino LaCosta, Austin, Texas 78701, (512) 452-1078.

Filed: February 12, 1985, 9:54 a.m.
TRD-851365, 851366, 851364, 851367

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Midwestern State University

Thursday, February 14, 1985. Committees of the Board of Regents of Midwestern State University (MSU) met in the boardroom, Hardin Administration Building, MSU, Wichita Falls. Times, committees, and agendas follow.

4 p.m. The Executive Committee considered ratification and recommendations concerning construction projects and building and grounds of MSU.

4:30 p.m. The Finance Committee considered recommendations concerning allocations and transfers of MSU funds.

5 p.m. The Personnel and Curriculum Committee considered the enrollment report, the small class report, an emeritus faculty recommendation, an admissions standards recommendation, the role and scope table ratifications, and conducted a discussion of and recommendation on the financial exigency policy.

5:30 p.m. The Athletics Committee authorized the administration to pursue possible membership in the Lone Star Conference and heard a report on MSU affiliation in NCAA Division II and a women's sports recommendation.

Contact: Louis J. Rodriguez, 3400 Taft Boulevard, Wichita Falls, Texas 76308, (817) 692-6551.

Filed: February 11, 1985, 10:35 a.m.
TRD-851371, 851308-851310

Friday, February 15, 1985, 9 a.m. The Board of Regents of MSU will meet in the boardroom, Hardin Administration Building, MSU, Wichita Falls. According to the agenda summary, the board will approve the minutes, financial reports, and recommendations by the Executive Committee, Finance Committee, Personnel and Curriculum Committee and Athletics Committee and hear report by the Student Affairs Committee, the University Development Committee, and the president. The board also will meet in executive session to discuss personnel and contractual matters.

Contact: Louis J. Rodriguez, 3400 Taft Boulevard, Wichita Falls, Texas 76308, (817) 692-6551.

Filed: February 11, 1985, 10:35 a.m.
TRD-851311

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North Texas State University

Friday, February 15, 1985, 9 a.m. The Board of Regents of the North Texas State University (NTSU)/Texas College of Osteopthic Medicine (TCOM) will meet in the boardroom, Administration Building, North Texas State University, Denton. According to the agenda, the board will consider NTSU items, including approval of the minutes, the end of semester enrollment report for fall 1984, a faculty workload report for 1984-1985, a bachelor of science degree with a major in labor and industrial relations, personnel transaction, appointments to the board of trustees of the Professional Development Institute, signature authority, a gift report, fire protection systems of various buildings, paving of parking Lot 10, remodeling of the lab school gym, hazardous waste holding and flammable liquid storage buildings, parking garage, and a small class report; and TCOM items, including approval of the minutes, personnel transactions, honorary degree, signature authorization, amendment to MSRDP board by laws, and gift report. The board also will meet in executive session to consider NTSU items.

Contact: Jan Dobbs, P.O. Box 13737, Denton, Texas 76203, (817) 565-2198.

Filed: February 11, 1985, 1:40 p.m.
TRD-851323

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Board of Pardons and Paroles

Tuesday-Friday, February 19-22, 1985, 1:30 p.m. daily Tuesday-Thursday and 11 a.m. Friday. A three-member panel of the Board of Pardons and Paroles will meet at 8610 Shoal Creek Boulevard, Austin. According to the agenda summary, the panel will recieve, review, and consider information and reports concerning prisoners and inmates and administrative releasees subject to the board's jurisdiction and initiate and carry through with appropriate action.

Contact: Mike Roach, 8610 Shoal Creek Boulevard, Austin, Texas, (512) 459-2713.

Filed: February 8, 1985, 10:22 a.m.
TRD-851240

Tuesday, February 19, 1985, 1:30 p.m. The Board of Pardons and Paroles will meet at 8610 Shoal Creek Boulevard, Austin. According to the agenda, the board will consider executive clemency recommendations and related actions, other than out-of-country additional pardons, including full pardons and restoration of civil rights of citizenship; emergency medical reprieves; commutations of sentence; and other reprieves, remissions, and executive clemency actions.

Contact: Gladys Sommers, 8610 Shoal Creek Boulevard, Austin, Texas, (512) 459-2704.

Filed: February 8, 1985, 10:22 a.m.
TRD-851241

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Texas Parks and Wildlife Department

Wednesday, February 13, 1985, 9 a.m. The Texas Parks and Wildlife Commission of the Texas Parks and Wildlife Department made an emergency addition to the agenda of a meeting held in Building B, Parks and Widlife Headquarters Complex, 4200 Smith School Road, Austin. The addition concerned a presentation by Citizens Concerning Waterfowl. The emergency status was necessary to be able to manage better the waterfowl resources of the state.

Contact: Charles D. Travis, 4200 Smith School Road, Austin, Texas 78744, (512) 479-4802.

Filed: February 8, 1985, 2:14 p.m.
TRD-851258

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State Pension Review Board

Wednesday, February 20, 1985, 8:30 a.m. The Legislative Advisory Committee of the

State Pension Review Board will meet in Room G-35-B, State Capitol, Austin. According to the agenda, the committee will discuss upcoming legislation.

Contact: Benette Meadows, P.O. Box 13498, Austin, Texas 78711, (512) 475-8332.

Filed: February 11, 1985, 1:13 p.m.
TRD-851307

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Texas Public Building Authority

Tuesday, February 19, 1985, 10 a.m. The Texas Public Building Authority will meet in Room 503-G, Sam Houston Building, 201 East 14th Street, Austin. Items on the agenda include approval of the December 19, 1984, minutes; the budget and expenditure report; a report on testimony before budget committees; an update on the Texas Employment Commission project and pending mandamus action; discussion of any decisions made in executive session; and the setting of the time and place for the next meeting. The authority also will meet in executive session to discuss pending litigation.

Contact: Gayle Colby, Sam Houston Building, Room 907, 201 East 14th Street, Austin, Texas 78711, (512) 475-0290.

Filed: February 8, 1985, 1:13 p.m.
TRD-851254

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Public Utility Commission of Texas

Friday, February 15, 1985, 9 a.m. The Hearings Division of the Public Utility Commission of Texas will meet in Suite 450N, 7800 Shoal Creek Boulevard, Austin. According to the agenda summary, the division will consider the following dockets: 5965, 5947, 5700, 5916, 5911, 5897, 5800, 5905, 5948, 5779, 5900, 6034-6036, 6013, 5989, 6096, 5571, 5639, 5651, 5874, 5946, 5803, 5703, 5997, 4845, 4996, 5315, and 5766. The division also will meet in executive session to consider pending litigation and personnel matters.

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

Filed: February 7, 1985, 2:58 p.m.
TRD-851228

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

Friday, February 22, 1985, 9 a.m. A hearing on interim rate relief in Docket 5860—application of Log Cabin Estate Water Department, Inc., for a rate increase in Henderson County.

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

Filed: February 11, 1985, 1:48 p.m.
TRD-851324

Monday, February 25, 1985, 9 a.m. A prehearing conference in Docket 6095—application of AT&T Communications of the Southwest, Inc., for a rate increase.

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

Filed: February 8, 1985, 3:01 p.m.
TRD-851260

Tuesday, February 26, 1985, 10 a.m. A prehearing conference in Dockets 4674, 5270, 5679, and 5938—applications of Hawley Investments/Clear Creek Water for a certificate of convenience and necessity within Henderson County.

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

Filed: February 12, 1985, 9:35 a.m.
TRD-851368

Monday, March 4, 1985, 9 a.m. A rescheduled prehearing conference in Docket 6008—complaint of South Grayson Water Supply Corporation against the City of Anna. The meeting originally was scheduled for 10 a.m. on January 28, 1985, as published at 10 TexReg 256.

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

Filed: February 8, 1985, 1:37 p.m.
TRD-851255

Tuesday, March 26, 1985, 10 a.m. A rescheduled hearing on the merits in Docket 6081—application of General Telephone Company of the Southwest for authority to change rates for customers at the Dallas/Fort Worth Airport. The meeting originally was scheduled for March 12, 1985, as published at 10 TexReg 344.

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

Filed: February 8, 1985, 3:01 p.m.
TRD-851261

Monday, April 1, 1985, 10 a.m. A hearing on the merits in Docket 5860—application of Log Cabin Estate Water Department, Inc., for a rate increase in Henderson County.

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

Filed: February 11, 1985, 1:48 p.m.
TRD-851325

Wednesday, April 17, 1985, 10 a.m. A rescheduled hearing on the merits in Docket 5871—application of the City of Cedar Park to amend a water and sewer certificate of convenience and necessity within Travis County and Williamson County. The meeting originally was scheduled for March 13, 1985, as published at 9 TexReg 6339.

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

Filed: February 8, 1985, 3 p.m.
TRD-851262

Monday, May 6, 1985, 9 a.m. A hearing on the merits in Docket 5992—application of Bear Creek Water Supply Corporation for a water and sewer certificate of convenience in Travis County and Hays County.

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

Filed: February 8, 1985, 1:37 p.m.
TRD-851256

Tuesday, July 16, 1985, 9 a.m. A hearing on the merits in Docket 5708—application of Lakewind Water Supply Corporation to purchase Doss Investments, Inc.

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

Filed: February 8, 1985, 3 p.m.
TRD-851263

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Railroad Commission of Texas

Monday, February 11, 1985, 9 a.m. The Transportation Division of the Railroad Commission of Texas made an emergency addition to the agenda of a meeting held in Room 309, 1124 IH 35 South, Austin. The addition concerned consideration of various matters falling within the commission's regulatory jurisdiction. The emergency status was necessary because these items were properly posted for the February 4, 1985, meeting and were passed.

Contact: Michael A. James, 1124 IH 35 South, Austin, Texas 78704, (512) 445-1330.

Filed: February 8, 1985, 3:06 p.m.
TRD-851264

Tuesday, February 19, 1985, 1:30 p.m. The Oil and Gas Division submitted an agenda for a Railroad Commission of Texas meeting in Room 309, 1124 IH 35 South, Austin. According to the agenda, the commission will consider a subpoena *duces tecum* of Robert P. Lammerts to produce information relevant to Oil and Gas Docket

3-84,411—application of B.W.O.C., Inc., for approval of the Bryan (Woodbine) Unit and for secondary recovery operations in the Bryan (Woodbine) Field, Brazos County.

Contact: Sandra Joseph, P.O. Box 12967, Austin, Texas 78711, (512) 445-1293.

Filed: February 8, 1985, 3:06 p.m.
TRD-851265

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Texas Rehabilitation Commission

Thursday and Friday, February 21 and 22, 1985, 9:30 a.m. and 9 a.m. respectively. The Governor's Committee for Disabled Persons of the Texas Rehabilitation Commission will meet at the Criss Cole Rehabilitation Center, 4800 North Lamar Boulevard, Austin. According to the agenda summary, on Thursday the committee will hear the chairman's comments, conduct subcommittee meetings, and hear subcommittee and special reports. On Friday, the committee will conduct an employment symposium program and a reception.

Contact: Virginia Roberts, 118 East Riverside Drive, Austin, Texas 78704, (512) 445-8276.

Filed: February 8, 1985, 1:37 p.m.
TRD-851257

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Texas Savings and Loan Department

The Texas Savings and Loan Department will meet at 1004 Lavaca Street, Austin. Days, times, and agendas follow.

Tuesday, February 26, 1985, 9 a.m. The department will accumulate a record of evidence regarding the application of Republic Savings Association for a savings and loan association charter to be located at 8929 Shoal Creek Boulevard, Austin, Travis County, from which record the commissioner shall determine whether to grant or deny the application.

Thursday, February 28, 1985, 9 a.m. The department will accumulate a record of evidence regarding the application of Live Oak Savings Association for a savings and loan association charter to be located at 1107 Main Street, Georgetown, Williamson County, from which record the commissioner shall determine whether to grant or deny the application.

Monday, March 4, 1985, 10 a.m. The department will call all applications on the agenda and, if no protest is registered and existing when called, further hearing will be dispensed. If a protest is registered and existing when called, hearing on the application(s) will be continued to a later date.

Contact: Angela M. Demerle, 1004 Lavaca Street, Austin, Texas 78701, (512) 475-7991.

Filed: February 8, 1985, 10:32 a.m.
TRD-851242-851244

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Teachers' Professional Practices Commission

Monday, February 18, 1985, 9 a.m. A three-member panel of the Teachers' Professional Practices Commission will meet in Hearing Room 111, Texas Education Agency North Building, 1200 East Anderson Lane, Austin. According to the agenda, the panel will hear a complaint filed by an active, certified member of the teaching profession against another active, certified member of the teaching profession pursuant to the Texas Education Code, §§13.201-13.218.

Contact: James Salmon, 201 East 11th Street, Austin, Texas 78701, (512) 834-4091.

Filed: February 8, 1985, 4:10 p.m.
TRD-851277

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Commission on Standards for the Teaching Profession

The nominating committee of the Commission on Standards for the Teaching Profession and the full commission will meet at the Texas Education Agency North Building, 1200 East Anderson Lane, Austin. Times, rooms, and agendas follow.

8:15 a.m. In Room 105, the Nominating Committee will nominate officers for 1985.

9 a.m. In Room 101, the commission will hear a report of the Nominating Committee, concerning possible election of officers, and a summary of State Board of Education actions; discuss review/response requested by Commissioner Kirby, review programs from Baylor University, Hardin-Simmons University, and Stephen F. Austin State University; and discuss commission interpretations concerning elementary, Option IV and elementary, and combination of subjects.

Contact: Dr. Edward M. Vodicka, 201 East 11th Street, Austin, Texas 78701, (512) 834-4042.

Filed: February 11, 1985, 4:19 p.m.
TRD-851352, 851353

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University of Texas System

Thursday and Friday, February 14 and 15, 1985, 1 p.m. and 9 a.m. respectively. Standing committees of the Board of Regents of the University of Texas System and the full board met in the regents' meeting room, ninth floor, Ashbel Smith Hall, 201 West Seventh Street, Austin. According to the agenda summary, the board and committees considered a memorial resolution; the issuance and sale of Permanent University Fund bonds, Series 1985; buildings and grounds matters concerning approval of final plans and award of contracts; oil and gas leases; budgetary amendments; the chancellor's docket (index submitted by the system administration); appointments to endowed positions, development boards, and advisory councils; amendment of the Senior Cabinet constitution for the University of Texas at Austin; affiliation agreements; leases; land and investment matters; acceptance of gifts and bequests and estates; establishment of endowed positions and funds; pending litigation; personnel matters; land acquisition; and negotiated contracts.

Contact: Arthur H. Dilly, P.O. Box N, Austin, Texas 78713-7328, (512) 499-4402.

Filed: February 8, 1985, 4:01 p.m.
TRD-851272

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Texas State University System

Thursday, February 21, 1985. Committees of the Board of Regents of the Texas State University System will meet in the courtroom, Criminal Justice Center, Sam Houston State University, Huntsville. Times, committees, and agendas follow.

1:30 p.m. The Curriculum Committee will review curriculum needs and requests for the four universities in the system.

2:30 p.m. The Finance Committee will review financial matters of the system office and the four universities in the system.

3 p.m. The Building Committee will review construction projects and documents for the four universities in the system.

Contact: Lamar Urbanovsky, Sam Houston Building, Room 505, 201 East 14th Street, Austin, Texas 78701, (512) 475-3876.

Filed: February 8, 1985, 4:05 p.m.
TRD-851276, 851275, 851274

Thursday and Friday, February 21 and 22, 1985, 4 p.m. and 9 a.m. respectively. The Board of Regents of the Texas State University System will meet in the courtroom, Criminal Justice Center, Sam Houston State University, Huntsville. According to the agenda summary, the board will review matters concerning the board and the four universities in the system.

Contact: Lamar Urbanovsky, Sam Houston Building, Room 505, 201 East 14th Street, Austin, Texas 78711, (512) 475-3876.

Filed: February 8, 1985, 4:05 p.m.
TRD-851273

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Texas Water Commission

The Texas Water Commission will conduct public hearings at the Stephen F. Austin Building, 1700 North Congress Avenue, Austin. Days, times, rooms, and agendas follow.

Tuesday, February 19, 1985, 10 a.m. In Room 118, the commission will consider water district bond issues, release from escrow, contract for street improvements, water quality proposed permits, amendments and renewals, a production area authorization amendment, and the filing and setting of hearing dates.

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

Filed: February 7, 1985, 3:21 p.m.
TRD-851402

Monday, March 4, 1985, 10 a.m. In Room 124A, application 4526 of James Schawe, Marilyn Schawe Elliott, and Florence Schawe Wolff seeking a permit to divert and use 70 acre-feet of water per annum from Yegua Creek, tributary of the Brazos River, Brazos River Basin, for irrigation use in Burleson County.

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

Filed: February 11, 1985, 3:02 p.m.
TRD-851331

Addition to the previous agenda:

Application 4529 of Cecil and Wanda Hogg, seeking a permit to divert and use seven acre-feet of water per annum from Johnson Fork, tributary of the Llano River, tributary of the Colorado River, Colorado River Basin, for irrigation use in Kimble County.

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

Filed: February 11, 1985, 3:02 p.m.
TRD-851332

Friday, March 8, 1985, 10 a.m. In Room 618, Application 4527 of Edd Melton seeking a permit to divert and use 85.5 acre-feet of water per annum from the Lampasas River, tributary of the Little River, tributary of the Brazos River, Brazos River Basin, for irrigation use in Bell County.

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

Filed: February 11, 1985, 3:02 p.m.
TRD-851333

Addition to the previous agenda:

Application 4528 of Carl R. Moody, Linda Moody, and W. C. Moody, Sr., seeking a permit to divert and use 300 acre-feet of water per annum from the Little River, tributary of the Brazos River, Brazos River Basin, for irrigation use in Milam County.

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

Filed: February 11, 1985, 3:02 p.m.
TRD-851334

Monday, March 11, 1985, 10 a.m. In Room 124A, Application 4530 of Don A. Culwell and Leslie L. Appelt seeking a permit to divert 750 acre-feet of fresh water per annum from Buttermilk Slough via canal into a proposed reservoir with an impounding capacity of 31.28 acre-feet on an unnamed tributary of Turtle Bay, Colorado-Lavaca Coastal Basin, for industrial (redfish farming) purposes in Matagorda County. The applicants also seek authority to divert 1,500 acre-feet of saltwater per annum from Turtle Bay into a proposed reservoir with an impounding capacity of 79.45 acre-feet on an unnamed tributary of Turtle Bay, Colorado-Lavaca Coastal Basin, for industrial purposes. The applicants further seek to utilize existing levees or dams located on the unnamed tributary of Turtle Bay and impound therein an estimated 370 acre-feet of water for recreational use, all in Matagorda County.

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

Filed: February 11, 1985, 3:02 p.m.
TRD-851335

Addition to the previous agenda:

Application 4533 of Texas United Fisheries, Inc., seeking a permit to authorize construction of, and impoundment of water in, a concrete off-channel reservoir containing 15 12-acre-foot capacity reservoirs alongside Redfish Bay, tributary of Laguna Madre, Nueces-Rio Grande Coastal Basin, for industrial (shrimp farming) purposes in Willacy County. The applicant further proposes to divert 3,250 acre-feet of water per annum for industrial (shrimp farming) purposes from Redfish Bay.

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

Filed: February 11, 1985, 3:02 p.m.
TRD-851336

Wednesday, March 13, 1985, 2 p.m. In Room 118, the commission will conduct a hearing on a petition for creation of Williamson-Travis Counties Municipal Utility District 1, containing 546.53 acres of land.

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

Filed: February 7, 1985, 3:21 p.m.
TRD-851380

Friday, March 15, 1985, 10 a.m. In Room 618, Application 4531 of Miriam M. and Jeanette Bounds, seeking a permit to divert and use 70 acre-feet of water per annum from an existing 90 acre-foot capacity reservoir on an unnamed tributary of Socagee Creek, tributary of the Sabine River, Sabine River Basin, for irrigation use in Panola County.

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

Filed: February 11, 1985, 3:03 p.m.
TRD-851337

Addition to the previous agenda:

Application 4532 of Richardson Country Club Corporation, doing business as Canyon Creek Country Club, seeking a permit to authorize the maintenance of three existing dams and reservoirs with a total capacity of 65 acre-feet on Canyon Creek, tributary of Spring Creek, tributary of Rowlett Creek, tributary of the East Fork Trinity River, Trinity River Basin, for recreation purposes and to divert therefrom 153.45 acre-feet of water per annum for irrigation use in Dallas County.

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

Filed: February 11, 1985, 3:03 p.m.
TRD-851338

Monday, March 18, 1985, 10 a.m. In Room 124A, Application 4534 of David H. Schultz seeking a permit to divert 240 acre-feet of water per annum from Austin Bayou, tributary of Bastrop Bayou, San Jacinto-Brazos Coastal Basin, for storage in an existing off-channel reservoir complex with a total impounding capacity of 200 acre-feet for industrial purposes (fish farming) in Brazoria County.

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

Filed: February 11, 1985, 3:03 p.m.
TRD-851339

Addition to the previous agenda:

Application 4535 of Anna Kolacny seeking a permit to maintain an existing dam and reservoir on Austin Bayou, tributary of Bastrop Bayou, tributary of the Intracoastal Waterway, San Jacinto-Brazos Coastal Basin, and impound therein one acre-foot of water; maintain an existing off-channel reservoir adjacent to an above on-channel reservoir and impound therein not to exceed 250 acre-feet of water and use water in both reservoirs for recreational purposes; and divert and use 650 acre-feet per annum from Austin Bayou reservoir into an off-channel reservoir where not to exceed 300 acre-feet per annum to be used for industrial purposes and use not to exceed 350 acre-feet of water per annum from an off-channel reservoir for irrigation use, all in Brazoria County.

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

Filed: February 11, 1985, 3:03 p.m.
TRD-851340

Thursday, March 21, 1985, 9 a.m. In Room 618, the commission will consider an application of the City of Austin, P.O. Box 1088, Austin, Texas 78767, to the Texas Department of Water Resources for an amendment to Permit 10543-10 to authorize an increase in the discharge of treated domestic wastewater effluent from a volume not to exceed a monthly average flow of 2.2 million gallons per day to six million gallons per day annual average and to authorize disposal of treated domestic wastewater effluent by irrigation onto 491 acres of agricultural land in addition to the currently authorized irrigation of the Jimmy Clay golf course. The wastewater utilized for irrigation is to be treated in a series of stabilization ponds and wastewater to be discharged will be treated by the extended aeration modification of the activated sludge process. Application rates for the irrigated land shall not exceed 2.7 acre-feet per acre per year. It is proposed that this permit shall expire two years from the date of issuance or upon completion of the Onion Creek facility (Permit 10543-12), whichever occurs first.

Contact: Carl X. Forrester, P.O. Box 13087, Austin, Texas 78711, (512) 475-1418.

Filed: February 11, 1985, 3:04 p.m.
TRD-851341

Friday, March 22, 1985, 10 a.m. In Room 618, application of Ed Wiseman seeking to amend Certificate of Adjudication 19-2165, which authorizes the owner to divert and use not to exceed 50 acre-feet of water per annum from the San Antonio River, San Antonio River Basin, for irrigation use in Wilson County. The applicant seeks to amend the certificate to authorize a deletion of the special condition which states the certificate shall expire on December 31, 1984, to either authorize the certificate in perpetuity or at least to extend the term for as long as possible.

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

Filed: February 11, 1985, 3:04 p.m.
TRD-851342

Addition to the previous agenda:

Application of Fred J. Lyssy, Leo V. Lyssy, and Vincent K. Lyssy seeking to amend Certificate of Adjudication 19-2181, which authorizes diversion and use of 64 acre-feet of water per annum from the San Antonio River, San Anontio River Basin, for irrigation use in Wilson County. The applicant seeks to amend the certificate to increase the authorized annual diversion to 221 acre-feet of water, to increase the maximum irrigated acreage to 204 acres of land, and to decrease the maximum diversion rate to 2.67 cubic feet per second (1,200 gallons per minute).

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

Filed: February 11, 1985, 3:04 p.m.
TRD-851343

Monday, March 25, 1985, 10 a.m. In Room 124A, application of Edwin L. Cox seeking to extend the time for commencement of repair of two dams (Bass Haven Lake Dam and Fisherman's Paradise Lake Dam) on unnamed tributaries of Coon Creek, tributary of Catfish Creek, tributary of the Trinity River, Trinity River Basin, in Anderson County, under Permit 3773. The primary use of the reservoirs is for recreational and irrigation purposes.

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

Filed: February 11, 1985, 3:05 p.m.
TRD-851344

Addition to the previous agenda:

Application 4536 of James M. Bailey and Nancy W. Bailey, seeking a permit to divert and use 100 acre-feet of water per annum from the San Antonio River, San Antonio River Basin, for irrigation use in Karnes County.

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

Filed: February 11, 1985, 3:06 p.m.
TRD-851345

Wednesday, March 27, 1985, 10 a.m. The Texas Water Commission will meet in Conference Room 4100A, City Hall Annex, 900 Bagby Street, Houston. According to the agenda summary, the commission will consider an application of Fred R. Holste, in care of Fred R. Holste and Associates, 10101 Fondren, Suite 430, Houston, Texas 77036, to the Texas Department of Water Resources for proposed Permit 12828-01 to authorize a discharge of treated domestic wastewater effluent at a volume not to exceed an average flow of 76,000 gallons per day from the proposed John F. Kennedy-Aldine Wastewater Treatment Plant, which is to serve a proposed apartment complex.

Contact: William G. Newchurch, P.O. Box 13087, Austin, Texas 78711, (512) 475-2678.

Filed: February 11, 1985, 3:06 p.m.
TRD-851346

The Texas Water Commission will meet in Room 618, Stephen F. Austin, Building, 1700 North Congress Avenue, Austin. Days, times, and agendas follow.

Thursday, March 28, 1985, 10 a.m. Application 4537 of the Angelina and Neches River Authority seeking a permit to construct and maintain a dam and reservoir on Mud Creek, tributary of the Angelina River, tributary of the Neches River, Neches River Basin, in Cherokee County, to impound therein 195,500 acre-feet of water and divert therefrom 55,507 acre-feet per annum for municipal purposes and 30,000 acre-feet per annum for industrial use as well as a right to recreational use of impounded water. The applicant also seeks authorization for interwatershed transfer of 2,200 acre-feet per annum of the municipal diversion request from the Neches River Basin to the Sabine River Basin and authorization to divert 600 acre-feet of water per annum over a three-year period to use in construction of the dam and related facilities.

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

Filed: February 11, 1985, 3:06 p.m.
TRD-851347

Friday, June 28, 1985, 10 a.m. Application 3059B of Vincenzo and Margarita Ansa Giustino, and Paul L. Rains seeking an amendment to Permit 2811 to extend or delete the term of the permit by deleting or amending Special Condition 4(a), which provides that the authorized use of water impounded expire on December 31, 1985. Permit 2811 authorizes the diversion and use of 50 acre-feet of water per annum from a reservoir on Jimmys Creek, tributary of Sweetwater Creek, tributary of the Leon River, tributary of the Little River, tributary of the Brazos River, Brazos River Basin, for irrigation use in Comanche County.

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

Filed: February 11, 1985, 3:06 p.m.
TRD-851348

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Regional Agencies
Meetings Filed February 7

The Angelina and Neches River Authority, Industrial Development Corporation Board of Directors, met at the Crown Colony Country Club, 900 Crown Colony Drive, Lufkin, on February 12, 1985, at 11 a.m. The Board of Directors met at the same lo-

cation on the same day at the same time. Information may be obtained from William A. Elmore, P.O. Box 387, Lufkin, Texas 75901, (409) 632-7795.

The Austin-Travis County Mental Health and Mental Retardation Center, Board of Trustees Personnel Committee, met in the boardroom, 1430 Collier Street, Austin, on February 13, 1985, at 7:30 a.m. Information may be obtained from Sharon Taylor, 1430 Collier Street, Austin, Texas 78704, (512) 447-4141, ext. 240.

The Cass County Appraisal District, Board of Directors, met at 208 West Houston, Linden, on February 12, 1985, at 10 a.m. Information may be obtained from Janelle Clements, P.O. Box 167, Linden, Texas 75563, (214) 756-7545.

The Dallas Area Rapid Transit Authority, Service Plan/Work Program Committee, met in emergency session and made an emergency addition to the agenda of a meeting held at 601 Pacific Avenue, Dallas, on February 8, 1985, at 1:30 p.m. The Legal Committee met at the same location on February 12, 1985, at 8 a.m. The Search Committee met at the same location on Februrary 12, 1985, at 6 p.m. Information may be obtained from Nancy McKethan, 601 Pacific Avenue, Dallas, Texas 75202, (214) 748-3278.

The South Plains Association of Governments, Executive Committee, met at 3424 Avenue H, Lubbock, on February 12, 1985, at 9 a.m. The Board of Directors met at the same location on the same day at 10 a.m. Information may be obtained from Jerry D. Casstevens, P.O. Box 2787, Lubbock, Texas, 79408, (806) 762-8721.

The Trinity River Authority of Texas, Devers Advisory Committee, met at the Devers canal offices, U.S. Highway 90, Devers, Liberty County, on February 12, 1985, at 2 p.m. Information may be obtained from Jack C. Worsham, P.O. Box 60, Arlington, Texas 76004-0060, (817) 467-4343.

TRD-851226

Meetings Filed February 8

The Dallas Area Rapid Transit Authority, Budget and Finance Committee, met at 601 Pacific Avenue, Dallas, on February 11, 1985, at 4 p.m. The Special Needs Committee met at the same location on February 12, 1985, at 4 p.m. The Board met at the same location on February 12, 1985, at 6:30 p.m. Information may be obtained from Nancy McKethan, 601 Pacific Avenue, Dallas, Texas 75202, (214) 748-3278.

The Central Appraisal District of Rockwall County, Board of Directors, met in the small courtroom, first floor, Rockwall County Courthouse, Rockwall, on February 12, 1985, at 7:30 p.m. Information may be obtained from Betty Lofland, 106 North San Jacinto, Rockwall, Texas 75087, (214) 722-2034.

The West Texas Council of Governments, Board of Directors, will meet in the conference room, eighth floor, Two Civic Center Plaza, El Paso, on February 15, 1985, at 9:30 a.m. M.S.T. Information may be obtained from Cecile C. Gamez, Two Civic Center Plaza, El Paso, Texas 79999.

TRD-851239

Meetings Filed February 11

The Brown County Appraisal Review Board met at 403 Fisk Avenue, Brownwood, on February 14, 1985, at 1 p.m. The Board also will meet at the same location on February 28, 1985, at 1 p.m. Information may be obtained from Alvis Sewalt, 403 Fisk Avenue, Brownwood, Texas 76801, (915) 643-5676.

The Central Plains Mental Health and Mental Retardation Center, Board of Trustees, met in a rescheduled emergency session at 2601 Dimmit Road, Plainview, on February 12, 1985, at 7 p.m. Information may be obtained from Rick Van Hersh, 2700 Yonkers, Plainview, Texas 79072, (806) 296-2726.

The Clear Creek Watershed Authority, Board, met at the Wilson Land Company Building, 101 IH 35, Sanger, on February 14, 1985, at 7 p.m. Information may be obtained from Prentice Preston, Route 1, Box 305, Sanger, Texas 76266, (817) 458-7843.

The Dewitt County Appraisal District, Board of Directors, will meet at 103 Bailey Street, Cuero, on February 19, 1985, at 7:30 p.m. Information may be obtained from Wayne K. Woolsey, RPA, P.O. Box 4, Cuero, Texas 77954, (512) 275-5753.

The East Texas Council of Governments, Executive Committee, met at 3800 Stone Road, Kilgore, on February 14, 1985, at 2 p.m. Information may be obtained from Glynn J. Knight, 3800 Stone Road, Kilgore, Texas 75662, (214) 984-8641.

The Region II Education Service Center, Board of Directors, will meet in the administrative conference room, 209 North Water, Corpus Christi, on February 26, 1985, at 6:30 p.m. Information may be obtained from Gerald V. Cook, 209 North Water, Corpus Christi, Texas 78401-2599, (512) 883-9288.

The Region III Education Service Center, Board of Directors, will meet at 1905 Leary Lane, Victoria, on February 18, 1985, at 1 p.m. Information may be obtained from Dr. Dennis Grizzle, 1905 Leary Lane, Victoria, Texas 77901, (512) 573-0731.

The Grayson Appraisal District, Board of Directors, will meet at 205 North Travis, Sherman, on February 20, 1985, at noon. Information may be obtained from Sandra Bollier, 124 South Crockett, Sherman, Texas 75090, (214) 893-9673.

The Hansford County Appraisal District, Board, met in emergency session at 13 West Kenneth Avenue, Spearman, on February 13, 1985, at 9 a.m. Information may be obtained from Alice Peddy, Box 567, Spearman, Texas 79081, (806) 659-5575.

The Hickory Underground Water Conservation District 1, Board of Directors, met at 1708 South Bridge Street, Brady, on February 14, 1985, at 7 p.m. Information may be obtained from Rick Illgner, P.O. Box 1214, Brady, Texas 76825, (915) 597-2785.

The Hockley County Appraisal District, Board of Directors, will meet at 913 Austin Street, Levelland, on February 18, 1985, at 7 p.m. Information may be obtained from Keith Toomire, P.O. Box 1090, Levelland, Texas 79336, (806) 894-9654.

The Lampasas County Appraisal District met in emergency session at 403 East Second, Lampasas, on February 13, 1985, at 3 p.m. Information may be obtained from Dana Ripley, P.O. Box 175, Lampasas, Texas 76550, (512) 556-8058.

The Middle Rio Grande Development Council, Regional Alcoholism Advisory Committee, met in emergency session at the city council chambers, Uvalde, on February 13, 1985, at 10 a.m. Information may be obtained from Ramon S. Johnston, P.O. Box 702 Carrizo Springs, Texas 78834, (512) 876-3533.

The Nortex Regional Planning Commission, Executive Committee, will meet in the Clipper Room, Trade Winds Motor Hotel, 1212 Broad Street, Wichita Falls, on February 21, 1985, at noon. Information may be obtained from Edwin B. Daniel, 2101 Kemp Boulevard, Wichita Falls, Texas 76309, (817) 322-5281.

The Northeast Texas Municipal Water District, Board of Directors, met at 1003 Linda Drive, Daingerfield, on February 14, 1985, at 2 p.m. Information may be obtained from Homer Tanner, P.O. Box 680, Daingerfield, Texas 75638, (214) 645-2241.

The Sabine River Authority of Texas, Board of Directors, will meet at the Hilton Palacio del Rio Hotel, San Antonio, on February 21, 1985, at 8 a.m. Information may be obtained from Sam F. Collins, P.O. Box 579, Orange, Texas 77630, (409) 883-2531.

The West Central Texas Council of Governments, Regional Advisory Council on Aging, met at the Kiva Inn, 5403 South First, Abilene, on February 14, 1985, at 10 a.m. Information may be obtained from Kayla Fowler, P.O. Box 3195, Abilene, Texas 79604, (915) 672-8544.

TRD-851296

Meetings Filed February 12

The Region VI Education Service Center, Board and Executive Committee, will meet jointly at the Ramada Tower, College Station, on February 21, 1985, at 5 p.m. Information may be obtained from M. W. Schlotter, 3332 Montgomery Road, Huntsville, Texas 77340, (409) 295-9161.

The Ellis County Tax Appraisal District will meet at 406 Sycamore Street, Waxahachie, on February 21, 1985, at 10:30 a.m. and 7 p.m. Information may be obtained from Gray Chamberlain, P.O. Box 878, Waxahachie, Texas 75165, (214) 937-3552.

The Henderson County Appraisal District, Board of Directors, will meet in the conference room, 101 East Corsicana, Athens, on February 18, 1985, at 7:30 p.m. Information may be obtained from Ron Groom, 101 East Corsicana, Athens, Texas 75751, (214) 675-9296.

The Lamb County Appraisal District, Board of Directors, will meet at 318 Phelps Avenue, Littlefield, on February 21, 1985, at 7:30 p.m. Information may be obtained from Jack Samford, P.O. Box 552, Littlefield, Texas 79339, (806) 385-6474.

The Lone Star Municipal Power Agency will meet in the council chambers, City Hall, 107 South Elizabeth, Kirbyville, on February 18, 1985, at 5:30 p.m. Information may be obtained from Cathy Locke, P.O. Box 9960, College Station, Texas 77840, (409) 764-3515.

The Nueces-Jim Wells-Kleberg Soil and Water Conservation District, Board of Directors, will meet in Suite Two, 2287 North Texas Boulevard, Alice, on February 19, 1985, at 2 p.m. Information may be obtained from Wilbur F. Erck, Route 2, Box 325, Alice, Texas 78332, (512) 664-1325.

The Palo Pinto Appraisal District, Board of Directors, will meet at the Palo Pinto Courthouse, Palo Pinto, on February 20, 1985, at 3 p.m. Information may be obtained from Edna Beaty, P.O. Box 250, Palo Pinto, Texas 76072, (817) 659-3651, ext. 208.

The San Antonio River Industrial Development Authority, Board of Directors, will meet in the conference room, 100 East Guenther Street, San Antonio, on February 20, 1985, at 9 a.m. and 10:30 a.m. The Board of Trustees Employees Retirement Trust will meet at the same location on the same day at 11:30 a.m. Information may be obtained from Fred N. Pfeiffer, 100 East Guenther Street, San Antonio, Texas 78204, (512) 227-1373.

TRD-851360

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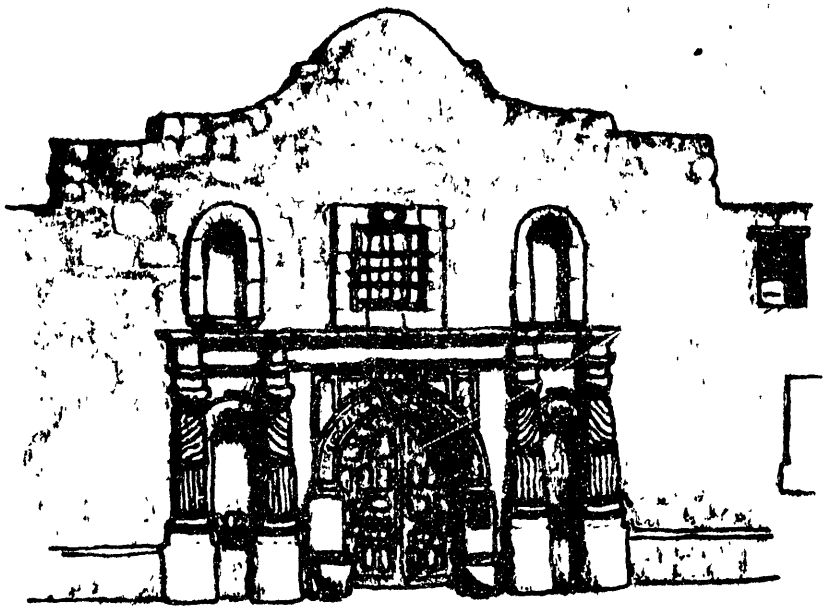
The Legislature

For the purpose of public information, the *Register* publishes a listing of the bills that have been submitted to the governor during each legislative session and the status of these bills. A bill will be listed after the bill has passed both the House and the Senate and again when the Governor acts upon it



Bills Submitted to the Governor

February 4

SB 90 Relating to elections creating navigational districts, authorizing a maintenance tax, and authorizing the issuance of bonds.

Sponsor: Uribe.

Bills Signed by the Governor

February 5

SB 90 Relating to elections creating navigational districts, authorizing a maintenance tax, and authorizing the issuance of bonds.

Effective Date: immediately

In Addition

The *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.

Office of Consumer Credit Commissioner

Rate Bracket Adjustment

Pursuant to the provisions of House Bill 1228, 67th Legislature, 1981, the consumer credit commissioner of Texas has ascertained the following dollar amounts of the brackets and ceilings in Texas Civil Statutes, Article 5069, by use of the formula and method described in Texas Civil Statutes, Title 79, Article 2.08, as amended (Texas Civil Statutes, Article 5069-2.08).

The ceiling amount in Article 3.01(1) is changed to $7,500.

The amounts of the brackets in Article 3.15(1) are changed to $900 and $7,500, respectively.

The ceiling amount in Article 3.16(6) is changed to $300.

The amounts of the brackets in Article 6.02(9)(a) are changed to $1,500 and $3,000, respectively.

The amount of the bracket in Article 6.02(3) is changed to $1,500.

The ceiling amount in Article 51.12 is changed to $7,500.

The amounts of the brackets in Article 51.12 are changed to $90, $300, and $900, respectively.

The dollar amounts of the brackets and ceilings shall govern all applicable credit transactions and loans made on or after July 1, 1985, and extending through June 30, 1986.

Issued in Austin, Texas, on February 2, 1985.

TRD-851234 Sam Kelley
Consumer Credit Commissioner

Filed: February 8, 1985
For further information, please call (512) 475-2111.

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Rate Ceilings

The consumer credit commissioner of Texas has ascertained the following rate ceilings by use of the formulas and methods described in Texas Civil Statutes, Title 79, Articles 1.04, 1.05, 1.11, and 15.02, as amended (Texas Civil Statutes, Articles 5069-1.04, 1.05, 1.11, and 15.02).

Type of Rate Ceilings Effective Period (Dates are Inclusive)	Consumer[3]/Agricultural/Commercial[4] thru $250,000	Commercial[4] over $250,000
Indicated (Weekly) Rate—Article 1.04(a)(1) 02/18/85-02/24/85	18.00%	18.00%
Monthly Rate—Article 1.04(c)[1] 02/01/85-02/28/85	18.00%	18.00%
Standard Quarterly Rate—Article 1.04(a)(2) 01/01/85-03/31/85	19.60%	19.60%
Retail Credit Card Quarterly Rate—Article 1.11[3] 01/01/85-03/31/85	19.60%	N/A
Lender Credit Card Quarterly Rate—Article 15.02(d)[3] 01/01/85-03/31/85	19.60%	N/A
Standard Annual Rate—Article 1.04(a)(2)[2] 01/01/85-03/31/85	19.60%	19.60%
Retail Credit Card Annual Rate—Article 1.11[3] 01/01/85-03/31/85	19.60%	N/A
Annual Rate Applicable to Pre-July 1, 1983, Retail Credit Card and Lender Credit Card Balances with Annual Implementation Dates from 01/01/85-03/31/85	19.74%	N/A
Judgment Rate—Article 1.05, §2 02/01/85-02/28/85	10.00%	10.00%

(1) For variable rate commercial transactions only
(2) Only for open-end credit as defined in Texas Civil Statutes, Article 5069-1.01(f).
(3) Credit for personal, family, or household use
(4) Credit for business, commercial, investment, or other similar purpose

Issued in Austin, Texas, on February 11, 1985.

TRD-851298 Sam Kelley
Consumer Credit Commissioner

Filed: February 11, 1985
For further information, please call (512) 475-2111.

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Texas Department of Health
Impoundment Orders

Larry Thompson's Logging and Perforating, Inc., P. O. Box 5982, San Angelo, Texas 76902, holder of Radioactive Material License 4-3197, having stored a three curie americium/beryllium source at an unauthorized storage location with an individual not authorized to possess radioactive material, was ordered by the Bureau of Radiation Control to surrender for impoundment all radioactive material in its possession. The issued order follows.

In accordance with the *Texas Regulations for Control of Radiation*, Part 13.10(f)(1), the person receiving the order has been given opportunity for hearing if the person makes a written application to the agency within 30 days of the order date.

A copy of all relevant material is available for public inspection at the Bureau of Radiation Control, 1212 East Anderson Lane, Austin, from 8 a.m. to 5 p.m., Monday through Friday (except holidays).

Texas Department of Health
The Texas Radiation Control Agency
Order to:
Larry Thompson's Logging and Perforating, Inc.
P. O. Box 5982
San Angelo, Texas 76902
Texas Radioactive Materials License 4-3197

Emergency Impoundment Order

WHEREAS on July 5, 1984, an inspector of the Bureau of Radiation Control, Texas Department of Health (the agency), attempted to conduct a radioactive material license inspection of Larry Thompson's Logging and Perforating, Inc. (the licensee), at 922 Arroyo Drive, San Angelo, (the licensed storage location); and

WHEREAS, the inspector, determined that the licensee no longer occupied the licensed storage location and that the licensed source of radiation (a three Curie AmBe source, serial number T-841) was no longer stored at the licensed storage location; and

WHEREAS, in a letter from the licensee to the agency postmarked December 3, 1984, and in a phone conversation with an agency representative on December 20, 1984, the licensee stated that he was storing the licensed source of radiation with a friend, R. L. (Richard) Gray on Highway 87 near San Angelo; and

WHEREAS, Highway 87 near San Angelo, is not a licensed storage location; and

WHEREAS, R. L. (Richard) Gray is not authorized to possess radioactive material; and

WHEREAS, the possession of a source of radiation by any person who is not equipped to observe or fails to observe the provision of Texas Civil Statutes, Article 4590f (the Radiation Control Act), or any rules issued thereunder constitutes a hazard threatening the health and safety of the people of Texas; and

WHEREAS, the agency finds that an emergency exists requiring immediate action to protect the public health and safety and the environment;

NOW THEREFORE, premises considered, and pursuant to Texas Civil Statutes, Article 4590f, §11(c) and §14, it is hereby ORDERED that:

The licensee shall immediately SURRENDER FOR IMPOUNDMENT all radioactive material in its possession including the three Curie AmBe source, serial number T-841.

Done this the 16th day of January, 1985, by Richard A. Ratliff, P. E., Director, Division of Compliance and Inspection, Bureau of Radiation Control, Texas Department of Health.

Issued in Austin, Texas, on February 11, 1985.

TRD-851291 Robert A. MacLean, M.D.
Deputy Commissioner
Professional Services
Texas Department of Health

Filed: February 11, 1985
For further information, please call (512) 835-7000.

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Cheyenne Services, Inc., 8303 Southwest Freeway, Suite 700, Houston, Texas 77074, having unauthorized and illegal possession of a 10 curie cesium-137 source, was ordered by the Bureau of Radiation Control to impound in place the described radiation source and any other radioactive material possessed by Cheyenne Services, Inc. in the State of Texas. The issued order follows.

In accordance with the *Texas Regulations for Control of Radiation*, Part 13.10(f)(1), the person receiving the order has been given opportunity for hearing if the person makes a written application to the agency within 30 days of the order date.

A copy of all relevant material is available for public inspection at the Bureau of Radiation Control, 1212 East Anderson Lane, Austin, from 8 a.m. to 5 p.m., Monday through Friday (except holidays)

Texas Department of Health
the Texas Radiation Control Agency
Order to:
Jerry K. Atkins
Agent for Service
Cheyenne Services, Inc.
8303 Southwest Freeway, Suite 700
Houston, Texas 77074

Emergency Impoundment Order

WHEREAS, the Bureau of Radiation Control, which is the Radiation Control Program (the agency), has found that Cheyenne Services, Incorporated (the company), possesses radioactive material (source of radiaction) described as approximately 10 curies of Cesium-137 in a William B. Wilson Model 2200 Pipe Inspection Unit (on a trailer assembly with Louisiana Trailer License DO25782); and

WHEREAS, it is unlawful for any person to use, manufacture, produce, transport, transfer, receive, acquire, own, possess, process, or dispose of any source of radiation unless licensed, registered, or exempted by the agency in accordance with the provisions of Texas Civil Statutes, Article 4590f (the Radiation Control Act, §13); and

WHEREAS, the possession of said source by any person who is not equipped to observe or fails to observe the provisions of said Act or any rules issued thereunder constitutes a hazard threatening to the health and safety of the people of Texas; and

WHEREAS, Cheyenne Services, Inc., is not licensed for possession of said source; and

WHEREAS, the continued unauthorized and illegal possession of this source by Cheyenne Services, Inc., is deemed by the agency to constitute an emergency;

NOW THEREFORE, pursuant to authority contained in Section 14 of Texas Civil Statutes, Article 4590f (the Radiation Control Act), the agency declares an emergency and hereby orders that the described radiation source and any other radioactive material possessed by the company in the State of Texas be, and hereby is, impounded, in-place, effective immediately.

Done this 30th day of January, 1985, by Edgar D. Bailey, P. E., Director, Division of Licensing, Registration and Standards, Radiation Control Program, Texas Department of Health.

Issued in Austin, Texas, on February 11, 1985.

TRD-851290 Robert A. MacLean, M.D.
Deputy Commissioner
Professional Services
Texas Department of Health

Filed: February 11, 1985
For further information, please call (512) 835-7000.

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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 following table. 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	Amendment #	Date of Action
Denver City	IES, Inc.	02-3694	Denver City	0	01/16/85
El Paso	Alan W. Pittle, Podiatrist	03-3744	El Paso	0	01/16/85
Odessa	RAM Inspection, Inc.	12-3741	Odessa	0	01/16/85
San Antonio	South West Diagnostic Clinic	09-3763	San Antonio	0	01/23/85
Throughout Texas	Sergent, Hauskins & Beckwith Engineers	99-3622	Albuquerque, NM	0	11/26/84
Throughout Texas	C. Construction Co., Inc. & Lone Star Structures, Inc	07-3749	Tyler	0	01/23/85

AMENDMENTS TO EXISTING LICENSES ISSUED:

Location	Name	License #	City	Amendment #	Date of Action
Amarillo	Phillips Pipe Line Company	01-1984	Amarillo	4	01/16/85
Arlington	Arlington Community Hospital	05-2228	Arlington	12	01/25/85
Atascosa County	San Miguel Electric Cooperative, Inc	09-2347	Jourdanton	11	01/24/85
Austin	Holy Cross Hospital	06-2751	Austin	14	01/25/85
Childress	Childress General Hospital	04-2784	Childress	9	01/23/85
Corpus Christi	Champlin Petroleum Company	08-243	Corpus Christi	19	01/16/85
Dallas	Medical City Dallas Hospital	05-1976	Dallas	40	01/22/85
Dallas	Optic-Electronic Corporation	05-2155	Dallas	10	01/30/85
Dallas	Medical City Dallas Hospital	05-1976	Dallas	41	01/25/85
Denison	Texoma Medical Center	05-1600	Denison	10	01/24/85
El Paso	American Pharmaseal Company	03-2407	El Paso	11	01/16/85
El Paso	Southwestern General Hospital	03-2338	El Paso	15	01/24/85
Fort Worth	John Peter Smith Hospital	05-2208	Fort Worth	12	01/16/85
Friendswood	Iso-Tex, Inc.	11-1937	Friendswood	31	01/21/85
Galveston	Saint Mary's Hospital	11-138	Galveston	25	01/24/85
Galveston	The University of Texas Medical Branch	11-1299	Galveston	22	01/10/85
Grapevine	Grapevine Medical Center	05-3320	Grapevine	2	01/11/85
Houston	Sharpstown General Hospital	11-1737	Houston	16	01/16/85
Houston	Resource Engineering, Inc	11-3195	Houston	3	01/16/85
Houston	Greens Bayou Terminal, Inc.	11-2946	Houston	3	01/23/85
Irving	Nuclear Medical Laboratories	05-1376	Irving	39	01/24/85
Littlefield	Littlefield Medical Center	02-3241	Littlefield	5	01/24/85
Mansfield	Mansfield Community Hospital	05-3490	Mansfield	4	01/23/85
Mesquite	Mesquite Community Hospital	05-2733	Mesquite	9	01/17/85
Odessa	Odessa Diagnostic Imaging Center Ltd	12-3687	Odessa	2	01/16/85
Odessa	Medical Center Hospital	12-1223	Odessa	31	01/22/85
San Angelo	Saint John's Hospital	04-2343	San Angelo	10	01/25/85
San Antonio	Saint Luke's Lutheran Hospital	09-3309	San Antonio	6	01/23/85
Stafford	Texas Instruments, Inc.	11-714	Houston	28	01/24/85
Sweetwater	Geustar Building Materials Company	04-1144	Sweetwater	10	01/24/85
Three Rivers	Intercontinental Energy Corporation	08-2538	Three Rivers	21	01/24/85
Throughout Texas	PRO-TAG Services	12-3561	Midland	1	01/16/85
Throughout Texas	Patterson Inspection Services, Inc	11-3148	Lafayette, LA	5	01/16/85
Throughout Texas	Alamo Testing Laboratories	09-3463	San Antonio	1	01/16/85
Throughout Texas	Onion Creek Gravel, Inc.	06-3723	Del Valle	1	01/16/85
Throughout Texas	RAE Medical Corporation	11-3702	Houston	1	01/15/85
Throughout Texas	Odell Geer Construction Company, Inc	06-1804	Harker Heights	7	01/16/85
Throughout Texas	The Western Company of North America	05-1323	Fort Worth	35	01/16/85
Throughout Texas	CRC Wireline, Inc	05-315	Grand Prairie	52	01/16/85
Throughout Texas	Exxon Production Research Company	11-205	Houston	21	01/16/85
Throughout Texas	William B. Wilson Manufacturing Company	09-2630	San Antonio	22	01/23/85
Throughout Texas	Snuffco Electric Wireline	08-3645	Victoria	1	01/23/85
Throughout Texas	NL McCullough	11-374	Houston	33	01/23/85
Throughout Texas	Caldwell Logging & Perforating Company, Inc.	06-2709	Caldwell	4	01/23/85
Throughout Texas	Allen Engineering and Testing, Inc.	11-2863	Friendswood	3	01/23/85
Throughout Texas	Select Wireline Services, Inc.	04-2748	Snyder	6	01/23/85
Throughout Texas	McBride-Ratcliff & Associates, Inc.	11-2346	Houston	5	01/24/85
Throughout Texas	Superior Wireline, Inc.	08-3242	Victoria	1	01/24/85
Throughout Texas	Karl F. Edmonds, Inc.	07-1607	Kilgore	17	01/30/85

Throughout Texas	M & M Wireline Services, Inc.	06-3604	San Marcos	3	01/30/85
Throughout Texas	Schlumberger Well Services	11-1833	Houston	40	01/29/85
Throughout Texas	Tracer Service, Inc	07-3526	Kilgore	5	01/29/85
Throughout Texas	Perry Equipment Corporation	05-330	Mineral Wells	23	01/30/85
Throughout Texas	Richmond Q. C Services, Inc.	11-3329	Houston	2	01/30/85
Throughout Texas	Technical Service Laboratory	11-2419	Greenville, SC	11	01/30/85
Throughout Texas	H & H X-Ray Services, Inc	07-2516	Tyler	7	01/30/85
Throughout Texas	Nuclear Sources and Services, Inc	11-2991	Houston	8	01/30/85
Tyler	The University of Texas Health Science Center	07-1796	Tyler	22	01/25/85
Winnsboro	Presbyterian Hospital of Winnsboro	07-333	Winnsboro	3	01/25/85

TERMINATIONS OF LICENSES ISSUED:

Location	Name	License #	City	Amendment #	Date of Action
Dallas	Wellington Resources Corporation	05-3069	Dallas	2	01/23/85
Dallas	Pacific Scientific Company	05-1620	Dallas	11	01/30/85
Houston	Trunkline Gas Company	11-1806	Houston	5	01/16/85
Houston	Hermann Hospital	11-1020	Houston	21	01/22/85
Longview	Wellman Industries	07-2162	Longview	6	01/16/85
Lubbock	Stafford Construction, Inc	02-2680	Lubbock	4	01/24/85
Throckmorton	Throckmorton County Memorial Hospital	04-3256	Throckmorton	2	01/16/85
Throughout Texas	Edward F Williamson	06-2532	Somerset	2	01/30/85
Throughout Texas	National Soil Services, Inc	11-2686	Houston	3	01/30/85
Van	Bonanza Wireline Service, Inc	07-3028	Van	5	01/30/85

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 through Friday (except holidays).

Issued in Austin, Texas, on February 11, 1985.

TRD-851292 Robert A MacLean, M.D
Deputy Commissioner
Professional Services
Texas Department of Health

Filed: February 11, 1985
For further information, please call (512) 835-7000.

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Public Hearings

The Texas Department of Health and the Texas Department on Aging will conduct public hearings for Health Promotion Initiative with Older Texans, as follows:

Tuesday, February 19, 1985, at 9:30 a.m. in the Jewish Community Center, 5601 South Braeswood, Houston.

Tuesday, March 5, 1985, at 9:30 a.m. in the Senior Citizens Center, 1915 Garden Valley, Tyler.

Tuesday, March 19, 1985, at 9:30 a.m. at the Dallas City Health Department, 1936 Amelia Court (at Harry Hines Boulevard), Dallas.

Wednesday, March 20, 1985, at 9:30 a.m. at the Amarillo Senior Citizens Association, 1311 South Tyler, Amarillo.

For details, contact Donna Nichols, Bureau of Chronic Disease Prevention and Control, Texas Department of Health, 1100 West 49th Street, Austin, Texas 78756, (512) 458-7534.

Issued in Austin, Texas, on February 11, 1985.

TRD-851294 Robert A. MacLean, M.D
Deputy Commissioner
Professional Services
Texas Department of Health

Filed: February 11, 1985
For further information, please call (512) 458-7534.

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Texas Statewide Health Coordinating Council

Public Hearing

The Texas Statewide Coordinating Council will conduct a public hearing at 10 a.m. on Friday, March 8, 1985, in the auditorium, Texas Department of Health, 1100 West 49th Street, Austin, concerning the proposed magnetic resonance imaging (MRI) guidance which is intended to provide assistance to health care providers who plan to provide MRI guidance services to Texas residents. Magnetic resonance imaging has been determined by the council to be a highly innovated and technological diagnostic

procedure of great potential for positively affecting the quality of medical care for the residents of Texas. In addition to the public hearing, there will be a public comment period beginning Friday, February 8, 1985, and ending Sunday, March 10, 1985, during which time interested persons may submit written comments to the department. Following the review period and the public hearing, the MRI guidance will be resubmitted to the council for its approval as a revision to and inclusion in the 1985 state health plan.

Copies of the guidance are available for review at the office of the Bureau of State Health Planning and Resource Development, Texas Department of Health, 1100 West 49th Street, Austin. In addition, further information regarding the guidance, the hearing, or the public comment period may be obtained from the same office.

Issued in Austin, Texas, on February 11, 1985.

TRD-851293 Robert A. MacLean, M.D.
Deputy Commissioner
Professional Services
Texas Department of Health

Filed: February 11, 1985
For further information, please call (512) 458-7261.

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Texas Health Facilities Commission

Application Accepted for Amendment, Declaratory Ruling, Notice of Intent, and Petition for Reissuance of Certificate of Need

Notice is hereby given by the Texas Health Facilities Commission of an application accepted as of the date of this publication. In the following list, the applicant is listed first, file number second, the relief sought third, and a description of the project fourth. DR indicates declaratory ruling; AMD indicates amendment of previously issued commission order; CN indicates certificate of need; PFR indicates petition for reissuance; NIE indicates notice of intent to acquire major medical equipment; NIEH indicates notice of intent to acquire existing health care facilities; NIR indicates notice of intent regarding a research project; NIE/HMO indicates notice of intent for exemption of HMO-related project; and EC indicates exemption certificate.

Should any person wish to become a party or interested person to the application, that person must file a proper request to become a party or interested person to the application within 10 days after the date of this publication of notice. If the 10th day is a Saturday, Sunday, or state holiday, the last day shall be extended to 5 p.m. of the next day that is not a Saturday, Sunday, or state holiday. A request to become a party or interested person should be mailed to the chair of the commission at P.O. Box 50049, Austin, Texas 78763, and must be received at the commission no later than 5 p.m. on the last day allowed for filing of a request to become a party or interested person.

The contents and form of a request to become a party or interested person to the application must meet the criteria set out in 25 TAC §515.9. Failure of a party or interested person to supply the necessary information in the correct form may result in a defective request to become a party or interested person.

South Texas Home Health and Hospice Services, Inc., Corpus Christi
AS85-0128-063
DR—Request for a declaratory ruling that a certificate of need is not required for South Texas Home Health and Hospice Services, Inc., to operate community health centers in four counties in the Coastal Bend region Clinic sites include Beeville, Bee County, Alice, Jim Wells County; Robstown, Nueces County; and Mathis, San Patricio County. The community health centers project has been in operation and serving the counties of Bee, Jim Wells, Nueces, and San Patricio since 1973. The applicant proposes to become the successor sponsor of the previously cited community health centers.

Issued in Austin, Texas, on February 11, 1985.

TRD-851304 John R. Neel
General Counsel
Texas Health Facilities Commission

Filed: February 11, 1985
For further information, please call (512) 475-6940.

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Texas Department of Human Resources

Consultant Contract Awards

In accordance with Texas Civil Statutes, Article 6252-11c, the Texas Department of Human Resources (DHR) is publishing this notice of contract award. The notice for request for proposals for this contract appeared in the January 1, 1985, issue of the *Texas Register* (10 TexReg 61).

Description of Contract. This contract will provide for coordination and joint planning among the many public and private Texas agencies involved in child care and placement to help ensure that children in need of placement services receive appropriate placement.

Selected Contractor. The contractor selected is Regional Network for Children, Inc., P.O. Box 14541, Austin, Texas 78761.

Contract Amount and Effective Dates. The total value of the contract is $20,000. The contract began February 1, 1985, and ends August 31, 1985.

Due Dates for Reports. There are no reports required under this contract.

Issued in Austin, Texas, on February 8, 1985.

TRD-851236 Marlin W. Johnston
Commissioner
Texas Department of Human Resources

Filed: February 8, 1985
For further information, please call (512) 450-3766.

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In accordance with Texas Civil Statutes, Article 6252-11c, the Texas Department of Human Resources (DHR) is filing this notice of contract award. The notice for request for proposals for this award appeared in December 7, 1984, issue of the *Texas Register* (9 TexReg 6208).

Description of Contract. The service to be provided is a spring 1985 conference focusing on the issues of child abuse and neglect, primarily as related to the role of the child welfare board member and the interaction of DHR staff and child welfare board members. The primary purpose of the conference is both orientation and continuing education for child welfare board members and must offer content for both new child welfare board members and individuals who have served as board members for some time. The conference is to include at least one keynote address and multiple workshops. The conference may be either a one or two day conference, but must be a minimum of eight hours of actual training (keynote and workshops).

The contractor will be responsible for developing program brochures; conference publicity; coordination of the conference, including securing a site, speakers, and audiovisual equipment; ensuring that any handouts are printed and available; coordination of conference topics with other conferences aimed at similar audiences; gaining involvement of individuals in the field of child abuse and neglect as workshop leaders; and encouraging conference attendance by child welfare board members, DHR child protective services staff, and other volunteers and professionals involved in child abuse and neglect. The contractor must plan the conference in conjunction with an advisory committee selected by the department.

Contractor Selected. The contractor selected is Texas Council of Child Welfare Boards, P.O. Box 430, Spur, Texas 79370.

Total Value and Dates of Contract. The total value of the contract is $11,500. The contract began February 1, 1985 and ends May 31, 1985.

Due Dates for Reports. All reports are due June 30, 1985.

Issued in Austin, Texas, on February 8, 1985.

TRD-851237 Marlin W. Johnston
Commissioner
Texas Department of
Human Resources

Filed: February 8, 1985
For further information, please call (512) 450-3766.

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In compliance with Texas Civil Statutes, Article 6252-11c, the Texas Department of Human Resources (DHR) furnishes this notice of consultant contract award. The consultant proposal request was published in the September 28, 1984, issue of the *Texas Register* (9 TexReg 5073).

Description of Services. The contractor will consult with and train regional staff to facilitate a program of family education developed at the University of Michigan Institute of Gerontology. This program, titled "As Parents Grow Older" (APGO), concerns the aging process and provides information regarding support services for families experiencing stress in caring for an elderly family member.

Contractor Selected. The contractor selected is Family Eldercare, Inc., 2813 Rio Grande Street #205, Austin, Texas 78755.

Value of Contract and Effective Dates. The contract began January 1, 1985, and ends August 31, 1985. The value of the contract is $107,811.26.

Due Dates of Reports. An interim report will be due on may 30, 1985, and a final compilation of intangible results will be completed and furnished to DHR by September 30, 1985.

Issued in Austin, Texas, on February 8, 1985.

TRD-851238 Marlin W. Johnston
Commissioner
Texas Department of
Human Resources

Filed: February 8, 1985
For further information, please call (512) 450-3766.

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Consultant Proposal Request

In accordance with Texas Civil Statutes, Article 6252-11c, the Texas Department of Human Resources (DHR) is requesting proposals for consulting services.

Description of Services. Service will be provided between March 21, 1985, and October 31, 1985, focusing on programming the conversion of Region 10's computer systems and the analysis, development, and programming of the Automated Performance Tracking and Productivity Improvement Project. Completion of the project within time frames will rely heavily on the contractor's ability to quickly become familiar with Region 10's Protective Services System, some prior knowledge of the goals and objectives of social services, particularly child protective services, and knowledge of the Hewlett Packard 3000 Operating System. The contractor will be responsible for writing and documenting all code relating to the previously mentioned project as well as serving as technical consultant to the project director on procedure and system analysis.

Contract Limitations. The contract period will be March 21, 1985, through October 31, 1985, and funding will not exceed $15,000.

Contact Person. For further information, contact Judy Templin, Contract Manager, Texas Department of Human Resources, P.O. Box 767, Nacogdoches, Texas 75963-0767, (409) 569-7931, ext. 274.

Evaluation and Selection Criteria. Procedures to be used to evaluate offers will include evaluation of the following criteria:

(a) previous relevant experience with protective services programming;
(b) plan for provision of procured services;
(c) cost;
(d) contractor accessibility.

Final selection will be based upon the department's evaluation of the previously mentioned criteria. This proposal for consultant services is a continuation of a current program and the department intends to contract with the current provider unless a substantially better offer is received.

Closing Date for Receipt of Offers. The closing date for receipt of offers is February 25, 1985.

Issued in Austin, Texas, on February 8, 1985.

TRD-851238 Marlin W. Johnston
Commissioner
Texas Department of
Human Resources

Filed: February 8, 1985
For further information, please call (512) 450-3766.

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Texas Historical Commission
Consultant Contract Award

The Texas Historical Commission, under the provisions of Texas Civil Statutes, Article 6252-11c, announces a contract for consulting services. The consultant proposal request appeared in the June 15, 1984, issue of the *Texas Register* (9 TexReg 3275).

The consultant is Linda Flory, 808 Baylor, Austin, Texas 78701.

Ms. Flory will write and produce camera-ready copy for a handbook on downtown redevelopment in smaller communities in cooperation with the Texas Main Street Center at the Texas Historical Commission. The contract for this project began September 25, 1984, and ends August 31, 1985, with the completion date of the project being August 31, 1985. The contract amount is $15,000.

Issued in Austin, Texas, on February 6, 1985.

TRD-851201 Curtis Tunnell
Executive Director
Texas Historical Commission

Filed: February 6, 1985
For further information, please call (512) 475-3092.

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Texas Department of Mental Health and Mental Retardation
Consultant Contract Award

The Texas Department of Mental Health and Mental Retardation (TDMHMR) files this award of consulting services pursuant to the provisions of Texas Civil Statutes, Article 6252-11c. The notice of the consultant proposal request appeared in the September 14, 1984, issue of the *Texas Register* (9 TexReg 4897). The consultant is to provide the following services.

(1) integrate existing TDMHMR case management system components and training requests/need information into curricula;

(2) develop a case management training package which provides consituency-specific knowledge about elements of case management to all staff who will be impacted in their service roles by case management. The curricula will assure a unified system implementation process. The end products required include a total content curriculum for case managers covering all aspects of the knowledge, skills, and abilities required to perform the case management function and a total content curriculum for case management supervisors covering all aspects of the knowledge, skills, and abilities required to perform first-line supervision of case management. The total content curricula will include participant manuals (self-contained); instructor manuals; audio/visual support packages (including videotaped and slide sound synchronized productions); and learner tests, exercises, readings, and other materials;

(3) develop a case management system implementation manual which fully meets the needs of the department;

(4) provide a complete and comprehensive case management training plan which specifies target groups, time frames, format, basic content, activities, general training goals, and outcome measures;

(5) assist in training decentralized core trainers and providing technical assistance to core trainers. Travel to all areas of the state may be necessary;

(6) develop a formal trainee evaluation-feedback instrument, evaluating the effectiveness of the program, and integrating revised and additionally developed materials into the final products.

(7) include in the curricula content areas such as definition, philosophy, purpose and target population of the case management system and current system; differences between the case management on continuity-of-care; policy and procedures; implementation process; case management functions; documentation procedures; evaluation and feedback; and other relevant topics.

The TDMHMR central office gives notice that it contracted with Instructional Systems Design, Inc., to provide the described services. This contract was entered in on February 6, 1985, and will be in effect until July 30, 1985. The consultant's address is P.O. Box 1456, Tallahassee, Florida 323201. The total value of the contract is $28,385, and the contractor will provide a final report to the central office on or before July 30, 1985.

Issued in Austin, Texas, on February 6, 1985.

TRD-851211 Gary E. Miller, M.D.
Commissioner
Texas Department of Mental Health
and Mental Retardation

Filed: February 6, 1985
For further information, please call (512) 465-4305.

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Texas Savings and Loan Department
Application for Change of Control of an Association

Texas Civil Statutes, Article 852a, §11.20, require any person who intends to acquire control of a state-chartered savings and loan association to file an application with the savings and loan commissioner for approval of the transaction. A hearing may be held if the application is denied by the commissioner.

On February 5, 1985, the savings and loan commissioner received an application for approval of the acquisition of control of Certified Savings Association, Georgetown, by D. W. Morton of Plano and Charles J. Wilson of Dallas.

Any inquiries may be directed to the Texas Savings and Loan Department, 1004 Lavaca Street, Austin, Texas 78701, (512) 475-7991.

Issued in Austin, Texas, on February 8, 1985.

TRD-851246 Russell R. Oliver
General Counsel
Texas Savings and Loan Department

Filed: February 8, 1985
For further information, please call (512) 475-7991.

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Application to Establish Remote Service Units

Application has been filed with the savings and loan commissioner of Texas by San Antonio Savings Association, for approval to establish and operate remote service unit(s) at the following location(s): Methodist Plaza Building, 4499 Medical Drive, San Antonio; and Oak Hills Medical Building, 7711 Louis Pasteur Drive, San Antonio.

The applicant association asserts that security of the association's funds and that of its account holders will be maintained, and the proposed service will be a substantial convenience to the public.

Anyone desiring to protest the application must file a written protest with the commissioner within 10 days following this notice. The commissioner may dispense with a hearing on this application.

This application is filed pursuant to 7 TAC §§53.11-53.16 of the rules and regulations of the Texas Savings and Loan Department. Such rules are on file with the Office of the Secretary of State, Texas Register, or may be seen at the department's offices at 1004 Lavaca, Austin.

Issued in Austin, Texas, on February 5, 1985.

TRD-851245 L. L. Bowman III
Commissioner
Texas Savings and Loan Department

Filed: February 8, 1985
For further information, please call (512) 475-7991.

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Veterans Land Board
Consultant Contract Award

Pursuant to Texas Civil Statutes, Article 6252-11c, the Veterans Land Board has awarded a consultant contract to the Lomas and Nettleton Company, 2001 Bryan Tower, Dallas, Texas 75265.

The consultant proposal request was published in the October 26, 1984, issue of the *Texas Register* (9 TexReg 5565). Under the terms of the contract, the consultant is to serve as administrator of the Veterans Housing Assistance Program, insofar as it entails the initial $500 million in authorized bonds, and will:

(1) draft for the board's review and approval the application form, application guidelines, and participation guidelines;

(2) draft for the board's review and approval the contract to be executed by the board and the approved lending institutions;

(3) conduct an annual review of the performance of all participating lending institutions;

(4) solicit participation in the program by Texas mortgage lenders, real estate professionals, and veterans;

(5) draft for the board's review and approval loan application forms for use by potential veteran loan applicants;

(6) review program loan files for the board and recommend purchase or rejection of loans to the board;

(7) monitor and police the servicing activities of the participating lending institutions to assure conformance with all provisions of the Veterans Housing Assistance Act;

(8) accept assignments of all servicing agreements upon request by any participating lending institution if necessary to insurance that all loans made by the board shall have a continuing servicer; and

(9) consult with the board on all relevant matters pertaining to prevalent practices of the residential mortgage lending industry.

The total value of this contract is $15,802,870. The contract began January 29, 1985, and ends December 31, 2017.

Issued in Austin, Texas, on February 6, 1985.

TRD-851207 Garry Mauro
Chairman
Veterans Land Board

Filed: February 6, 1985
For further information, please call (512) 475-5561.

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