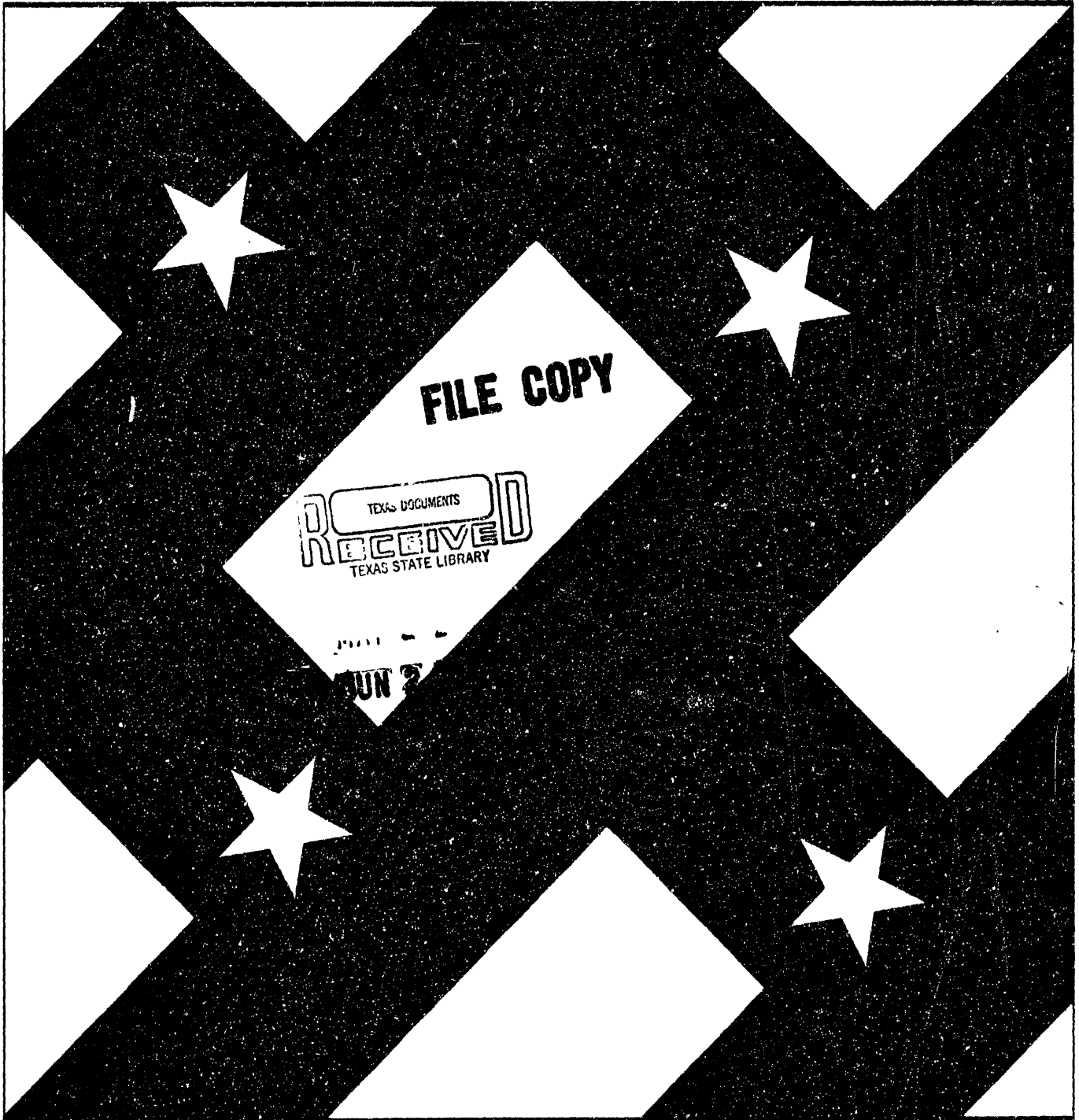


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Texas Register

Volume 11, Number 47, June 20, 1986

Pages 2843-2916



Highlights

The Office of the Governor adopts amendments concerning administration of the Crime Stoppers Assistance Program.
 Effective date of adoption - June 11 . page 2855

The Texas Department of Highways and Public Transportation adopts emergency sections re-

garding the method of fee payment for oversized permits ordered by telephone
 Effective date - June 13 page 2855

The Texas Cosmetology Commission propose new sections concerning sanitary rules.
 Earliest possible date of adoption - July 21 page 2858

Office of
 the Secretary
 of State

Texas Register

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- Emergency Rules—rules adopted by state agencies on an emergency basis
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- Withdrawn Rules—rules withdrawn by state agencies from consideration for adoption, or automatically withdrawn by the *Texas Register* six months after proposal publication date
- Adopted Rules—rules adopted following a 30-day public comment period
- Open Meetings—notices of open meetings
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Texas Administrative Code

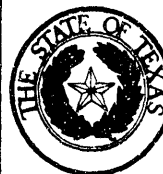
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1 indicates the title under which the agency appears in the *Texas Administrative Code*;

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Attorney General

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

Requests for Opinions

RQ-820. Request from John R. Hale, Commissioner, Credit Union Department, 914 East Anderson Lane, Austin, Texas 78752, concerning whether information regarding a state-chartered credit union is excepted from disclosure under the Open Records Act, Texas Civil Statutes, Article 6252-17a.
TRD-8605902

★ ★ ★

RQ-821. Request from Robert Bernstein, M.D., Commissioner of Health, Texas Department of Health, 1100 West 49th Street, Austin, Texas 78756, concerning whether a self-employed massage therapy instructor who supervises more than two apprentices conducts a massage therapy school for purposes of Texas Civil Statutes, Article 4512K, and related questions.
TRD-8605903

Opinions

JM-498 (RQ-744). Request from Chet Brooks, Chairman, Committee on Health and Human Resources, Texas State Senate, P.O. Box 12068, Austin, Texas 78711, concerning whether Texas Civil Statutes, Article 342-903, which broadens the definition of drive-in/walk-up facility contravenes the constitutional prohibition against branch banking.

Summary of Opinion. The 1985 amendment to Texas Civil Statutes, Article 342-903, which extends the permissible distance separating a drive-in/walk-up facility from the bank's central building to 20,000 feet and permits such facility to be a building having a secured teller lobby is unconstitutional.
TRD-8605821

JM-499 (RQ-750). Request from Sam H. Smith, Executive Director, Board of Tax Professional Examiners, P.O. Box 15920,

Austin, Texas 78761, concerning whether one individual, consistently with the Texas Constitution, Article XVI, §40, may serve as chief appraiser in three different appraisal districts and simultaneously as tax assessor-collector in three school districts and a water control and improvement district.

Summary of Opinion. The chief appraiser of a county appraisal district and the tax assessor-collector of an independent school district or a water control and improvement district are public employees and not officers within the Texas Constitution, Article XVI, §40. The functions assigned to these positions by the Tax Code do not confer upon them any sovereign function of the government to be exercised largely independent of the control of others. *Aldine Independent School District v. Standley*, 280 S.W.2d 578 (Tex. 1955).

TRD-8605820

★ ★ ★

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) 463-1814.

Executive Order MW-38

Reserving for Housing Bonds a Portion of the 1986 State Ceiling on Nonessential Function Bonds Imposed by H.R. 3838 and Allocating Such Portion Among Certain State Agencies and Other Issuing Authorities within the State of Texas

WHEREAS, H.R. 3838, the Tax Reform Act of 1985, as passed by the United States House of Representatives on December 17, 1985 ("H.R. 3838"), if enacted into law, will impose a ceiling on the aggregate principal amount of "nonessential function bonds" (as defined in H.R. 3838) that may be issued within the State of Texas during any calendar year; and

WHEREAS, the State ceiling imposed by H.R. 3838 has an effective date of January 1, 1986, and such effective date, as it applies to nonessential function bonds for housing purposes, is not delayed by the Joint Statement on the Effective Dates of Pending Tax Reform Legislation issued on March 14, 1986; and

WHEREAS, pursuant to Section 701(b) of H.R. 3838:

(i) the amount of the State ceiling for each calendar year is \$175 multiplied by the population of the State of Texas;

(ii) the portion of the State ceiling available to State agencies authorized to issue nonessential function bonds during any calendar year is 50% and the portion of the State ceiling available to issuing authorities other than State agencies during any calendar year is the amount which bears the same ratio to 50% of the State ceiling for such calendar year as the population of the jurisdiction of such issuing authority bears to the population of the entire State of Texas; provided, however, that (A) the State of Texas may by law provide a different formula for allocating the State ceiling among State agencies and other issuing authorities within the State, and (B) the Governor of Texas, on an interim basis, may proclaim a different formula for allocating the State ceiling among State agencies and other issuing authorities within the State;

(iii) not less than 50% of the State ceiling, excluding the portion thereof required to be reserved for qualified 501 (c)(3) bonds, is required to be reserved for "qualified mortgage bonds," "qualified veterans mortgage bonds" and "exempt facility bonds for qualified residential rental projects" (all as defined in H.R. 3838), and, of the amount so reserved, not less than one-third shall be reserved for exempt facility bonds for qualified residential rental projects and not less than one-third shall be reserved for qualified mortgage bonds and qualified veteran's mortgage bonds; provided, however, that (A) the State of Texas may by law override the requirements described in this subparagraph, and (B) the Governor of Texas, on an interim basis, may override the requirements of H.R. 3838 described in this subparagraph so long as, in the aggregate, at least 50% of the State ceiling (excluding the portion required to be reserved for qualified 501 (c) (3) bonds) will be reserved for qualified mortgage bonds, qualified veterans mortgage bonds and exempt facility bonds for qualified residential rental projects; and

WHEREAS, there exists within the State of Texas a need for the issuance of bonds for housing purposes to assist persons of low and moderate income to afford decent, safe and sanitary housing; and

WHEREAS, the January 1, 1986, general effective date provisions of H.R. 3838 are presently inhibiting the ability of certain State agencies and other issuing authorities within the State of Texas to issue such Housing Bonds and provide such assistance, and there is no present expectation that such effective date provisions will be revised or delayed in the immediate future; and

WHEREAS, H.R. 3838, if enacted into law in its current or a similar form will reduce significantly the annual aggregate volume of housing bonds permitted to be issued within the State of Texas, thereby making it imperative that this valuable State resource be preserved and allocated in a manner which will permit maximum flexibility, efficiency, and cost-effectiveness in the utilization thereof; and

WHEREAS, unless action is taken immediately to establish and implement a volume allocation system to reserve a portion of the State ceiling on nonessential function bonds imposed by H.R. 3838 for Housing Bonds and to allocate such portion among such State agencies and other issuing authorities, thereby enabling them to issue bonds in accordance with the provisions of H.R. 3838, a valuable State resource may not be fully utilized during calendar year 1986; and

WHEREAS, until it is known whether and when H.R. 3838 will become effective it is necessary that any reservation and allocation under H.R. 3838 be coordinated and consistent with existing State statutes and procedures governing the allocation of housing bond authority;

NOW, THEREFORE, I, Mark White, Governor of Texas, under the authority vested in me, do hereby order and proclaim that:

Section 1. The following terms, as used herein, shall have the respective meanings set forth below:

"Agency" shall mean the Texas Housing Agency.

"Allocation Statute" shall mean Texas Civil Statutes, Article 12691-8, as amended.

"Executive Administrator" shall mean the Executive Administrator of the Texas Housing Agency.

"Housing Finance Corporation" or "Housing Finance Corporations" shall mean one or more, as the case may be, housing finance corporations created pursuant to Texas Civil Statutes, Article 12691-7, as amended.

"Housing Portion" shall mean the portion of the H.R. 3838 State Ceiling reserved pursuant to Section 2 hereof for qualified mortgage bonds, qualified veterans' mortgage bonds, and exempt facility bonds for qualified residential rental projects.

"Single Family Portion" shall mean the portion of the Housing Portion reserved for qualified mortgage bonds.

"Multi-Family Portion" shall mean the portion of the Housing Portion reserved for exempt facility bonds for qualified residential rental projects.

"H.R. 3838 State Ceiling" shall mean the state ceiling on nonessential function bonds imposed by Section 701(b) of H.R. 3838.

"103A Ceiling" shall mean the ceiling on qualified mortgage bonds imposed by Section 103A(g) of the Internal Revenue Code, as amended.

Section 2. A portion of the H.R. 3838 Ceiling equal to \$75 multiplied by the population of the State of Texas shall be reserved during calendar year 1986 for qualified mortgage bonds, qualified veterans mortgage bonds and exempt facility bonds for qualified residential rental projects (the Housing Portion).

Section 3. For calendar year 1986, the Housing Portion shall be \$1,227,750,000, for which amount is based on the Bureau of Census estimate of the population of the State of Texas of 16,370,000 issued in July 1985.

Section 4. For calendar year 1986, the Housing Portion shall be reserved and allocated as follows:

(a) \$613,875,000 of the Housing Portion is hereby reserved for qualified mortgage bonds (the Single Family Portion) to be issued by the Agency or by Housing Finance Corporations to be made available in accordance with the Allocation Statute.

(b) The remaining balance of the 1986 Housing Portion of \$613,875,000 is hereby reserved for exempt facility bonds for qualified residential rental projects (the Multi-Family Portion) to be issued by the Agency and by Housing Finance Corporations. The amount allocated to the Agency to be used for exempt facility bonds for qualified residential rental projects is \$184,162,500 for calendar year 1986. The amount allocated to Housing Finance Corporations to be used for exempt facility bonds for qualified residential rental projects is \$429,712,500 for calendar year 1986, provided that the following requirements are met with respect to any such issue of bonds:

(1) Upon the determination of the 1986 State Ceiling, a Housing Finance Corporation may reserve a portion of the amount allocated for qualified residential rental projects by filing a reservation request with the Executive Administrator. The reservation request shall:

- (i) identify the issuer of such bonds;
- (ii) identify the bonds which are the subject of the reservation request;
- (iii) state the aggregate principal amount of the bonds;
- (iv) provide a copy of the inducement resolution for the project; and
- (v) provide evidence of having held a TEFRA hearing on the project.

Upon the filing of a reservation request which complies with the requirements set forth herein, and to the extent that the amount allocated to Housing Finance Corporations for qualified residential rental projects has not been exhausted, the Executive Administrator shall promptly issue a Reservation Certificate. The Executive Administrator shall issue certificates according to the date upon which the requests are filed in such calendar year. If two or more reservation requests are filed on the same date, certificates shall be issued in an order determined by lot, unless otherwise agreed by the affected Housing Finance Corporations. No more than one reservation request may be filed on behalf of the same project unless a Reservation Certificate issued with respect to a prior reservation request has lapsed as provided by Section 4(b)(2) of this Executive Order.

(2) Any reservation of a portion of the amount allocated to Housing Finance Corporations for qualified residential rental projects shall lapse and no longer be effective upon the expiration of sixty days following the date of issuance of the Reservation Certificate by the Executive Administrator, if prior thereto the issuer has failed for whatever reason to file with the Executive Administrator a certificate evidencing that the bonds for which the reservation was filed have been delivered and paid for along with a final official statement or disclosure document relating to such bonds.

(c) Notwithstanding the provisions of Sections 4(a) and 4(b) of this Executive Order, the Governor shall in his discretion during the remainder of calendar year 1986 periodically adjust either upward or downward the amounts reserved for qualified mortgage bonds (the Single Family Portion) and for qualified residential rental projects (the Multi-Family Portion) based upon factors including but not limited to the number of reservation requests received and the amount of bonds actually sold as of the date of the adjustment; provided, however, that any adjustment to amounts reserved shall not operate so as to nullify any outstanding reservation certificate, and further provided that in no event shall the sum of amounts reserved for the Single Family Portion and the Multi-Family Portion exceed the amount of the Housing Portion set forth in Section 3 of this Executive Order.

(d) Contingent upon the enactment into law of H.R. 3838 with an effective date prior to January 1, 1987, and notwithstanding any other provision of this Executive Order or the Allocation Statute, all outstanding Reservation Certificates shall lapse and no longer be effective as of 5 p.m. on December 15, 1986, if prior thereto the issuer has failed for whatever reason to file with the Executive Director or the Executive Administrator, as ap-

appropriate, a certificate evidencing that the bonds for which the reservation was filed have been delivered and paid for along with the final official statement or disclosure document relating to such bonds.

Any unused authority remaining as of 5 p.m. on December 15, 1986, shall revert to the Agency. This unused authority may be allocated by the Agency as 1986 carryforward authority or may be utilized for mortgage credit certificates to be issued by the Agency, according to procedures to be set forth in a subsequent amendment to this Executive Order.

(e) Every filing with the Agency shall be mailed or delivered in duplicate originals to the Agency at its office during normal business hours. The Executive Administrator, or his designee, shall

(i) endorse on each original the words "Received for Filing" and the year, month, day, and time of the receipt thereof, and

(ii) certify under penalty of perjury that the endorsement, and the allocation afforded thereby, was not made in consideration of any bribe, gift, gratuity, or direct or indirect contribution of any political campaign. One of such originals shall be filed with the Agency and the other original shall be returned to the Housing Finance Corporation or its representative designated by the Housing Finance Corporation.

(f) The Executive Administrator of the Agency, or his designee, shall compile and cause to be published in the *Texas Register* a monthly summary setting forth:

(i) the unallocated principal amount of Multi-Family Portion bonds authorized to be allocated by this Proclamation;

(ii) a comprehensive listing of Multi-Family Portion bond issues, including the issuer, location of the project, project owner, and the allocated principal amounts, which have received a Reservation Date hereunder since the prior publication in the *Texas Register*; and

(iii) a comprehensive listing of all such bonds which have been issued since the prior publication in the *Texas Register*.

(g) The Executive Administrator of the Agency, or his designee, shall adopt such forms and further procedures, consistent with the intent of this Executive Order, as may be necessary, including the establishment of an appropriate fee system, consistent with the Agency's statutory authority, to promote the efficiency, fairness, and effectiveness of allocations for qualified residential rental projects.

(h) In order to coordinate the implementations of this Section 4:

(i) the Agency is hereby requested and directed to take action, as soon as may be practicable, in accordance with Section 2 of the Allocation Statute, to determine the 103A Ceiling for calendar year 1986 in an amount equal to the amount of the Single Family Portion specified in Section 4(a) hereof, and thereafter to adjust the 103A Ceiling from time to time as necessary to reflect any adjustments in the amount of the Single Family Portion pursuant to Section 4(d) hereof;

(ii) the Texas Department of Community Affairs is requested and directed to take prompt action to implement the provisions of the Allocation Statute by preparing and issuing reservation certificates. The Texas Department of Community Affairs is further directed to enclose a copy of this Executive Order with each reservation certificate issued pursuant to Section 5 of the Allocation Statute during calendar year 1986; and

(iii) the Executive Director of the Texas Department of Community Affairs is hereby authorized and shall provide with each reservation certificate issued pursuant to the Allocation Statute, and the Executive Administrator of the Agency is hereby authorized and shall provide with each reservation certificate issued pursuant to Section 4(b) hereof, a certification to the effect that the bonds described in such reservation certificate comply with the ceiling on nonessential function bonds imposed by Section 701(b) of H.R. 3838.

Section 5. This Executive Order shall have no application or effect with respect to any portion of the H.R. 3838 State Ceiling other than that portion reserved for qualified mortgage bonds, qualified veterans' mortgage bonds, and exempt facility bonds for qualified residential rental projects: such other portions shall be dealt with, to the extent deemed appropriate by the Governor of Texas, in one or more separate executive orders.

Section 6. This Executive Order shall remain in full force and effect until modified, amended, or rescinded by me provided, however, that if the effective date of H.R. 3838, as enacted into law, is January 1, 1987, or thereafter, or if H.R. 3838 is withdrawn from or defeated by the United States Congress, or if the 99th Congress adjourns without having enacted H.R. 3838, then this Executive Order shall automatically terminate and shall be of no further force or effect.

This executive order shall be effective immediately and shall remain in full force and effect until modified, amended, or rescinded by me.

Issued in Austin, Texas, on June 6, 1986.

TRD-8605948

Mark White
Governor of Texas

Emergency

Rules

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

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

TITLE 1.

ADMINISTRATION

Part I. Office of the Governor

Chapter 3. Criminal Justice Division

Subchapter A. Criminal Justice Administration of the Crime Stoppers Assistance Program

★ 1 TAC §3.503, §3.506

The Office of the Governor adopts on an emergency basis amendments to §3.503 and §3.506, concerning the administration of the Crime Stoppers Assistance Program.

Under provisions of the 69th Legislature, 1985, Chapter 589, §2, funds have been allocated for the 1986-1987 biennium for use by local crime stoppers programs. The Criminal Justice Division (CJD) of the Office of the Governor has been designated as the agency responsible for the administration of these funds.

The CJD is now accepting applications from eligible applicants for fiscal year 1987 funding. Applicants must comply with requirements of the *Crime Stoppers Assistance Program; 1987 Plan for Application and Implementation*, adopted by reference in §3.503. Section 3.506 is amended to reflect changes in requirements for new and continuation projects.

The amendments to §3.503 and §3.506 are adopted on an emergency basis to ensure that applicants for funding under the Crime Stoppers Assistance Program will have complete and accurate information essential to the development of their grant applications and are fully aware, prior to the development of the application, of the statutory and administrative requirements that may affect their proposed projects.

The amendments are adopted on an emergency basis under Texas Civil Statutes, Article 4413(32a), §8(a)(11), which provide the Criminal Justice Division of the Office of the Governor with the authority to adopt such rules, regulations, and procedures as may be necessary.

§3.503. Compliance; Adoption by Reference. Grantee/applicants shall comply with all applicable state and federal statutes, rules, regulations, and guidelines. The Criminal Justice Division (CJD) adopts by reference the following documents and forms. Information regarding these adoptions by reference

may be obtained from the Criminal Justice Division, Attention: Texas Crime Stoppers Advisory Council, P.O. Box 12428, Austin, Texas 78711, (512) 463-1919.

(1) *Crime Stoppers Assistance Program: 1987 Plan for Application and Implementation* [of Local Grant Programs];

(2) *Crime Stoppers Assistance Program: Application Kit;*

(2){(3)} Audit guidelines:

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

(3){(4)} *Uniform Grant and Contract Management Standards* developed under directive of the Uniform Grant and Contract Management Act of 1981, Texas Civil Statutes, Article 4413(32g);

(4){(5)} Criminal Justice Division forms for local crime stoppers programs:

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

§3.506. Grant Applications.

(a) (No change.)

(b) Grant applications submitted to the Criminal Justice Division must include:

(1) articles of incorporation as a private nonprofit organization filed with the Texas secretary of state;

(2) bylaws adopted by the applicant;

(3) a state vendor identification number or a copy of an application for a state vendor I.D. number;

(3){(4)} a letter of endorsement from each law enforcement agency participating in the local crime stoppers program; and

(4){(5)} the names, titles, addresses, and telephone numbers of the individuals designated as the authorized official, financial officer, and project director for the grant.

(c) Subsection (b)(1) and (2) of this section shall apply to new applicants only. Applicants for continuation funding shall provide the requirements of subsection (b)(3) and (4).

Issued in Austin, Texas, on June 11, 1986.

TRD-8605831

Gilbert J. Pena
Executive Director
Criminal Justice Division
Office of the Governor

Effective date: June 11, 1986

Expiration date: October 9, 1986

For further information, please call
(512) 463-1919.



TITLE 13. CULTURAL RESOURCES

Part V. Texas Sesquicentennial Commission

Chapter 51. Operating Policy and Program Guidelines

★ 13 TAC §51.12

The Texas Sesquicentennial Commission adopts on an emergency basis an amendment to §51.12, concerning the opening of the promotional products category and sanctioned communities that choose to have products sold within their jurisdiction.

The amendment is adopted on an emergency basis to increase participation in the Promotional Products Program and increase possible revenues to the State of Texas by allowing approved vendors to sell promotional products in communities who do not object, as authorized by the executive committee.

The amendment is adopted on an emergency basis under Texas Civil Statutes, Article 6145, §7, which provide the Texas Sesquicentennial Commission with the authority to adopt rules concerning sesquicentennial products and the jurisdiction of the sale of those products.

Issued in Austin, Texas, on June 11, 1986.

TRD-8602970

Patrick Terry
Executive Director
Texas Sesquicentennial
Commission

Effective date: June 16, 1986

Expiration date: October 14, 1986

For further information, please call
(512) 463-1986.

TITLE 43.

TRANSPORTATION

Part I. Texas Department of Highways and Public Transportation

Chapter 25. Maintenance Division Method of Payment of Fees for Oversize Permits Ordered by Telephone

★ 43 TAC §25.77

The Texas Department of Highways and Public Transportation adopts on an emer-

agency basis new §25.77, concerning establishment and use of permit account cards, credit cards, and cash as methods of payment of fees for oversize permits. In view of the passage of House Bill 797, 69th Legislature, 1985, which specifically provides that the State Highway and Public Transportation Commission may establish rules regarding the method of payment of permit fees, there is an immediate need to make provisions for rules to administer this Act.

The new section is adopted on an emergency basis under Texas Civil Statutes, Article 6666, and House Bill 797, 69th Legislature, 1985, which provide the State Highway and Public Transportation Commission with the authority to promulgate rules in general, and specifically to establish rules regarding the method of payment of oversize permit fees ordered by telephone.

§25.77. Method of Payment of Fees for Oversize Permits Ordered by Telephone. Oversize permits ordered by telephone may be purchased through the means of a credit card, permit account card, or cash under the following criteria.

(1) Fees for oversize permits ordered by telephone through the central permit office may be paid with a valid and current credit card issued by MasterCard or VISA, or a permit account card issued by the financial institution under contract to the Texas Department of Highways and Public Transportation and the Texas Treasury Department.

(2) Permit account cards must be established through a financial agreement executed between the permit card applicant and the financial institution under contract to the Texas Department of Highways and Public Transportation and the Texas Treasury Department.

(3) The Texas Department of Highways and Public Transportation will require the payment of a discount or service charge, in addition to the permit fee, when the permit is purchased with a credit card or a permit account card.

(4) Permit account cards must be maintained according to the contract provisions stipulated between the permit account card holder and the financial institution under contract to the Texas Department of High-

ways and Public Transportation and Texas Treasury Department.

(5) Cash will be acceptable as payment of fees for oversize permits ordered by telephone; however, before the permit can be issued, the permit applicant will be required to pay the cash to a designated departmental cash collection office, and such office will be required to advise the central permit office that the permit fee has been collected.

Issued in Austin, Texas, on June 13, 1986.

TRD-8605941

Diane L. Northam
Administrative
Technician
Texas Department of
Highways and Public
Transportation

Effective date: June 13, 1986
Expiration date: October 11, 1986
For further information, please call
(512) 463-8630.

★ ★ ★

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 1. ADMINISTRATION Part I. Office of the Governor

Chapter 3. Criminal Justice Division Subchapter A. Criminal Justice Administration of the Crime Stoppers Assistance Program

★1 TAC §3.503, §3.506

(Editor's note: The Office of the Governor proposes for permanent adoption the amendments it adopts on an emergency basis in this issue. The text of the amendments is published in the Emergency Rules section of this issue.)

The Office of the Governor proposes amendments to §3.503 and §3.506, concerning the administration of the Crime Stoppers Assistance Program.

Under provisions of the 69th Legislature, 1986, Chapter 589, §2, funds have been allocated for the 1986-1987 biennium for use by local crime stoppers programs. The Criminal Justice Division (CJD) of the Office of the Governor has been designated as the agency responsible for the administration of these funds.

The proposed amendments incorporate revisions to the application process for the 1987 fiscal year. Applicants for funding under the Crime Stoppers Assistance Program must comply with the requirements of the *Crime Stoppers Assistance Program; 1987 Plan for Application and Implementation*, proposed for adoption by reference in §3.503. The proposed amendments to §3.506 reflect changes in requirements for new and continuation projects.

Larry Janecek, assistant director, has determined that for the first five-year period the proposed sections will be in effect there will be no fiscal implications for state or local government or small businesses as a result of enforcing or administering the sections.

Mr. Janecek also has determined that for each year of the first five years the sections are in effect the public benefit anticipated as a result of enforcing the sections is the assurance that applicants will be fully informed concerning the admin-

istrative policies and procedures and the special requirements for funding under the crime stoppers assistance programs. There is no anticipated economic cost to individuals who are required to comply with the proposed sections.

Comments on the proposal may be submitted to Gilbert Pena, Executive Director, Criminal Justice Division, Office of the Governor, P.O. Box 12428, Austin, Texas 78711, for a period of 30 days following publication in the *Texas Register*.

The amendments are proposed under Texas Civil Statutes, Article 4413(32a), §6(a)(11), which provides the Criminal Justice Division of the Office of the Governor with the authority to adopt rules, regulations, and procedures as may be necessary.

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 June 11, 1986.

TRD-8605832

Gilbert J. Pena
Executive Director
Criminal Justice Division
Office of the Governor

Earliest possible date of adoption:
July 21, 1986
For further information, please call
(512) 463-1919.

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TITLE 13. CULTURAL RESOURCES

Part I. Texas State Library and Archives Commission Chapter 1. Library Development LSCA Annual Program and Long-Range Plan

★13 TAC §1.21

The Texas State Library and Archives Commission proposes an amendment to §1.21, concerning the federal Library Services and Construction Act annual program and long range plan. The proposed amendment adopts a new annual program and long range plan that sets forth criteria,

policies, and projects for the use of 1986 and 1987 federal funds. The documents describe the types of assistance and services that will be available to libraries and systems of libraries. The agency proposes to adopt this plan and program by reference.

Raymond Hitt, director, Library Development Division, has determined that for the first five-year period the proposed section will be in effect there will be fiscal implications for state and local government as a result of enforcing or administering the section. The effect on state government will be an estimated increase in revenue of \$182,871 in 1987 and \$298,893 in 1988. There is no effect estimated for the three years of 1989-1991. The effect on local government will be an estimated increase in revenue of \$8,151,844 in 1987 and \$4,327,303 in 1988. There is no effect estimated for the three years of 1989-1991. There will be no effect on small businesses.

Mr. Hitt also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be enhanced library services, additional library materials, and improved library facilities. There is no anticipated economic cost to individuals who are required to comply with the proposed section.

Comments on the proposal may be submitted to Raymond Hitt, Library Development Division Director, Texas State Library, P.O. Box 12927, Austin, Texas 78711.

The amendment is proposed under Texas Civil Statutes, Article 5438a, which provide the Texas State Library and Archives Commission with the authority to adopt a state plan for improving library services.

§1.21. Adoption by Reference. The Texas State Library and Archives Commission adopts by reference all rules contained in the LSCA Annual Program, 1987 [1986] and Long-range Plan, 1987-1989 [1986-1988]. Copies may be obtained from the Library Development Division of the Texas State Library, P.O. Box 12927, Austin, Texas 78711.

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

Issued in Austin, Texas, on June 12, 1986.

TRD-8605604

William D. Gooch
Assistant State Librarian
Texas State Library and
Archives Commission

Earliest possible date of adoption:

July 14, 1986

For further information, please call
(512) 463-5480.

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Part V. Texas Sesquicentennial Commission

Chapter 51. Operating Policy and Program Guidelines

★ 13 TAC §51.12

(Editor's note: The Texas Sesquicentennial Commission proposes for permanent adoption the amendments it adopts on an emergency basis in this issue. The text of the amendment is published in the Emergency Rules section of this issue.)

The Texas Sesquicentennial Commission proposes an amendment to §51.12, concerning operating policies and program guidelines revising the promotional product program. The opening of the promotional products category is sanctioned communities that choose to have products sold within their jurisdiction.

Patrick Terry, executive director, has determined that for the first five-year period the proposed section will be in effect there will be no fiscal implications for state or local government or small businesses as a result of enforcing or administering the section.

Mr. Terry also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be to make the sesquicentennial year more visible through the sales of promotional products and thus providing more monies to the state. There is no anticipated economic cost to individuals who are required to comply with the proposed section.

Comments on the proposal may be submitted to Patrick Terry, Executive Director, P.O. Box 1986, Austin, Texas 78767.

The amendment is proposed under Texas Civil Statutes, Article 6145-11, §7, which provide the Texas Sesquicentennial Commission with the authority to develop and use an official logo and adopt rules to sanction official sponsors and official commemorative and/or promotional products and license the use of the logo in exchange for either a fee or royalties or both.

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 June 12, 1986.

TRD-8605671

Patrick Terry
Executive Director
Texas Sesquicentennial
Commission

Earliest possible date of adoption:

July 21, 1986

For further information, please call
(512) 463-1988.

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TITLE 22. EXAMINING BOARDS

Part IV. Texas Cosmetology Commission

Chapter 83. Sanitary Rulings

★ 22 TAC §83.1, §83.14

The Texas Cosmetology Commission proposes the repeal of §83.1 and §83.14, concerning the enforcement of sanitary rules and the definition of wet and dry sterilizers required in cosmetology establishments. The repealed sections deal with sanitation requirements that must be followed by all cosmetology establishments.

Jo Ann Reeves, executive director, has determined that for the first five-year period the proposed repeals 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 repeals.

Ms. Reeves also has determined that for each year of the first five years the repeals are in effect the public benefit anticipated as a result of enforcing the repeals will be clarification of the statutes and prevention of misinterpretation. There is no anticipated economic cost to individuals who are required to comply with the proposed repeals.

Comments on the proposal may be submitted to Jo Ann Reeves, Executive Director, Texas Cosmetology Commission, 1111 Rio Grande, Austin, Texas 78701, (512) 463-5542.

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

§83.1. *Enforcement.*

§83.14. *Definition of Wet and Dry Sterilizers.*

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 June 5, 1986.

TRD-8605671

Jo Ann Reeves
Executive Director
Texas Cosmetology
Commission

Earliest possible date of adoption:

July 21, 1986

For further information, please call
(512) 463-5542.

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The Texas Cosmetology Commission proposes new §83.1 and §83.14, concerning the enforcement of sanitary rule, and the definition of wet and dry sterilizers required in all cosmetology establishments. These new sections deal with sanitation requirements that must be followed by all cosmetology establishments.

Jo Ann Reeves, executive director, has determined that for the first five-year period the proposed sections will be in effect there will be no fiscal implications for state or local government or small businesses as a result of enforcing or administering the sections.

Ms. Reeves also has determined that for each year of the first five years the sections are in effect the public benefit anticipated as a result of enforcing the sections will be clarification of the statutes and prevention of misinterpretation. There is no anticipated economic cost to individuals who are required to comply with the proposed sections.

Comments on the proposal may be submitted to Jo Ann Reeves, Executive Director, Texas Cosmetology Commission, 1111 Rio Grande, Austin, Texas 78701, (512) 463-5542.

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

§83.1. *Enforcement.*

(a) The holder or holders of a salon or school license and the person in charge of any school or salon shall be liable for implementing and maintaining the sanitary rules in such salon or school individually and jointly with all persons engaged in, or employed by, or working in or on the premises of, such salon or school. All licensees under this Act, and students attending school under this Act, shall be held liable individually for maintenance and implementation of the sanitary rules applicable to the performance of their profession as such licentiates.

(b) To assure compliance with the statutes and regulations governing the operation of schools and salons, the Texas Cosmetology Commission, or its authorized representatives, shall have the right to access to any school or salon at any time that the instruction or practice of cosmetology is being conducted for the purpose of inspecting the premises, and the equipment, supplies, licenses, and all books and records relating to the training or practice of cosmetology.

(c) Refusal to permit, or interference with an inspection constitutes a cause for disciplinary action, as set forth in Article 8451a, §§29, 36, and 37.

(d) Every cosmetology school or salon, as defined by the statutes to regulate the practice of cosmetology in the State of Texas, shall be given a sanitary rating covering the entire establishment according to the filed floor plan, and must meet the following requirements.

(1) The rating given said school or salon shall be posted in a place conspicuous to the public at all times.

(2) No cosmetology school or salon shall be permitted to operate with a grade of less than 80%.

(3) Violation of any of these rules and regulations, or operating a hair dressing establishment which fails to receive a sanitary rating of at least 80%, shall be of sufficient cause for the revocation of the license. If not corrected within 10 days from the date of issuance, a show cause hearing shall be initiated by the executive director, in accordance with the provisions as established by the statutes regulating cosmetology, codified as Article 8451a, §36(2).

§83.14. Definition of Wet and Dry Sterilizers.

(a) A wet sanitizer is anything that is large enough to hold a disinfectant solution in which the objects to be sanitized are completely immersed. This type of sanitizer must have a cover to prevent contamination of the solution. Before immersing objects in a wet sterilizer containing a disinfectant solution, be sure to:

- (1) remove hair from the object;
- (2) wash thoroughly with hot water and soap;
- (3) rinse thoroughly with clean water; and
- (4) after immersion, wipe dry with a clean towel and store in a dry cabinet sterilizer or receptacle.

(b) A dry sanitizer is in an airtight cabinet containing an active fumigant. The sanitized implements are kept clean by placing them in the cabinet until ready for use.

(c) Ultraviolet electrical sanitizers are permissible for use as dry sanitizers.

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 June 5, 1986.

TRD-8605875

Jo Ann Reeves
Executive Director
Texas Cosmetology
Commission

Earliest possible date of adoption:

July 21, 1986

For further information, please call
(512) 463-5542.

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★ 22 TAC §83.29

The Texas Cosmetology Commission proposes new §83.29, concerning the requirement to post a sign in cosmetology es-

tablishments stating shirts and shoes must be worn in the establishments. The new section is proposed to better clarify the statutes.

Jo Ann Reeves, executive director, has determined that for the first five-year period the proposed section will be in effect there will be no fiscal implications for state or local government or small businesses as a result of enforcing or administering the section.

Ms. Reeves also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be clarification of the statutes and prevention of misinterpretation. There is no anticipated economic cost to individuals who are required to comply with the proposed section.

Comments on the proposal may be submitted to Jo Ann Reeves, Executive Director, Texas Cosmetology Commission, 1111 Rio Grande, Austin, Texas 78701, (512) 463-5542.

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

§83.29. Shirts and Shoes Required. All licensed cosmetology establishments must post in a conspicuous place at the entrance to the establishment a sign in letters no smaller than one inch in height which states that no services will be performed unless shoes and shirts are worn. The expense of such a sign is the responsibility of each establishment.

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

Issued in Austin, Texas, on June 10, 1986.

TRD-8605874

Jo Ann Reeves
Executive Director
Texas Cosmetology
Commission

Earliest possible date of adoption:

July 21, 1986

For further information, please call
(512) 463-5542.



Chapter 89. General Provisions

- ★ 22 TAC §§89.1-89.4, 89.6, 89.8-89.15, 89.17, 89.18, 89.21-89.26, 89.28, 89.30, 89.32, 89.34, 89.35, 89.37, 89.39-89.41, 89.46, 89.47, 89.51-89.54, 89.67, 89.70, 89.71

The Texas Cosmetology Commission proposes the repeal of §§89.1-89.4, 89.6, 89.8-

89.15, 89.17, 89.18, 89.21-89.26, 89.28, 89.30, 89.32, 89.34, 89.35, 89.37, 89.39-89.41, 89.46, 89.47, 89.51-89.54, 89.67, 89.70, and 89.71, concerning the requirements that must be met by all cosmetology establishments and licensees. The repeals are proposed to better clarify the statutes.

Jo Ann Reeves, executive director, has determined that for the first five-year period the proposed repeals 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 repeals.

Ms. Reeves also has determined that for each year of the first five years the repeals are in effect the public benefit anticipated as a result of enforcing the repeals will be the clarification of statutes and prevention of misinterpretation. There is no anticipated economic cost to individuals who are required to comply with the proposed repeals.

Comments on the proposal may be submitted to Jo Ann Reeves, Executive Director, Texas Cosmetology Commission, 1111 Rio Grande, Austin, Texas 78701, (512) 463-5542.

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

- §89.1. *Barbers and Cosmetologists Working in the Same Establishment.*
- §89.2. *Public School Cosmetology Programs.*
- §89.3. *Beauty Culture School Licenses.*
- §89.4. *Instructor on Duty.*
- §89.8. *Student Registration.*
- §89.9. *Student Permit.*
- §89.10. *Monthly Hour Report.*
- §89.11. *Daily Attendance Register.*
- §89.12. *Rules and Regulations.*
- §89.13. *Deduction or Increase of Hours.*
- §89.14. *Concurrent Enrollments.*
- §89.15. *Definitions of License Authorizations.*
- §89.17. *Instructor Applicants.*
- §89.18. *Student Instructor—Instructor Ratio.*
- §89.21. *Thirty-six Month Valid Hours.*
- §89.22. *Transfer of Hours (Out-Of-State Students).*
- §89.23. *Transfer of Hours Between Courses.*
- §89.24. *Grounds for Denial of Student Hours.*
- §89.25. *Health Certificate.*
- §89.26. *Re-entry Students.*
- §89.28. *Withdrawal from School.*
- §89.30. *Examination Applications.*
- §89.32. *Models for Examinations.*
- §89.34. *Applicants for Licensure Through Reciprocity.*
- §89.35. *Uniforms.*
- §89.37. *Picture on License or Certificate.*
- §89.39. *New Shop.*
- §89.40. *Cosmetology Establishment Transfer.*

- §89.41. *Change of Location or Temporary Closure.*
- §89.46. *Itinerant Beauty Salons.*
- §89.47. *Definition of a Facial Specialty Salon.*
- §89.51. *Cosmetology Services for the Incapacitated.*
- §89.52. *Definition of Complaint.*
- §89.53. *Minimum Requirements for Both Private and Public Beauty Culture Schools.*
- §89.54. *Cosmetology Commission Inspector Requirements.*
- §89.67. *Enforcement.*
- §89.70. *New Private Beauty Culture School.*
- §89.71. *New Secondary or Post-secondary Public Cosmetology Certification.*

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

Issued in Austin, Texas, on June 5, 1986.

TRD-8805872

Jo Ann Reeves
Executive Director
Texas Cosmetology
Commission

Earliest possible date of adoption:
July 21, 1986
For further information, please call
(512) 463-5542.

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The Texas Cosmetology Commission proposes new §§89.1-89.4, 89.6, 89.8-89.15, 89.17, 89.18, 89.22, 89.23, 89.25, 89.28, 89.30, 89.32, 89.34, 89.35, 89.38-89.41, 89.48, 89.47, 89.51-89.53, 89.67, 89.70, and 89.71, concerning the requirements that must be met by all cosmetology licensees and establishments. The new sections are proposed to better clarify the statutes.

Jo Ann Reeves, executive director, has determined that for the first five-year period the proposed sections will be in effect there will be no fiscal implications for state or local government or small businesses as a result of enforcing or administering the sections.

Ms. Reeves also has determined that for each year of the first five years the sections are in effect the public benefit anticipated as a result of enforcing the sections will be clarification of the statutes and prevention of misinterpretation. There is no anticipated economic cost to individuals who are required to comply with the proposed sections.

Comments on the proposal may be submitted to Jo Ann Reeves, Executive Director, Texas Cosmetology Commission, 1111 Rio Grande, Austin, Texas 78701, (512) 463-5542.

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

§89.1. *Barbers and Cosmetologists Working in the Same Establishment.* Establishments employing both barbers and cosmetologists must be licensed for both entities. No work area separation is required.

§89.2. *Public School Cosmetology Programs.* Public school cosmetology programs include public high school, public junior college, or any other nonprofit tax-exempt institution conducting a cosmetology program. Public school students receiving cosmetology instruction in private beauty culture schools under contract or agreement in accordance with 19 TAC §78.21 (relating to Occupational Education for Public School Students by Contract), are to be considered to be public high school students enrolled in a public school cosmetology program for the purposes of this title.

§89.3. *Beauty Culture School Licenses.* A beauty culture school license which has expired for less than 30 days may be renewed by filing an application as prescribed by the commission, payment of the \$200 renewal fee, and a \$10 delinquency fee. A school license that has been expired for more than 30 days may not be renewed. The school may apply for an original license under the current requirements and fees. Schools may not continue to operate after 30 days of license expiration or they will be subject to court action as authorized in Texas Civil Statutes, Article 8451a, §38.

§89.4. *Instructor on Duty.*

(a) Public school cosmetology programs must have one licensed instructor on duty for each 25 students, or part thereof, in attendance at a given time.

(b) Private beauty culture schools shall maintain on staff and on duty during normal business hours, not less than two full-time licensed instructors to a maximum of 50 students in attendance. One instructor is sufficient should the attendance of students fall below 15. One instructor will be required for each additional 25 students, or part thereof, in attendance over 50.

(c) Schools conducting evening classes for students other than those enrolled during normal business hours shall maintain the instructor-student ratio described in subsection (a) or (b) of this section. The evening class instructor-student ratio is determined without regard to the normal business hour enrollments.

(d) No credit for instructional hours can be granted to a cosmetology student unless such hours are accrued under the supervision of a licensed instructor.

(e) Private beauty culture schools who contract with public schools for the purposes of providing opportunities for public school students to become licensed cosmetologists must comply with §89.2 of this title (relating to Public School Cosmetology Programs).

(f) Private beauty culture schools that provide regularly scheduled instruction on Mondays for public school contracted instruction students only are required to meet

the instructor-student ratio prescribed in subsection (a) of this section on such days. If private beauty culture students are in attendance on such days, to make up hours, they must be included in the student count to determine the appropriate instructor-student ratio.

(g) Public school contracted instruction students in attendance to make up hours on Saturdays shall be included in the student count to determine the appropriate instructor-student ratio in accordance with subsection (b) of this section.

§89.6. *New Location or Change in Floor Plan of School.*

(a) To be approved for continued operation on a current license, facilities shall be inspected and approved. A private beauty school moving to a new location or altering the floor plan will submit the following:

(1) detailed floor plan showing not less than 3,500 square feet, separate restrooms for male and female, and divided into three areas: classroom, junior department, and senior department;

(2) inspection report of fire marshal and electrical inspector;

(3) notarized statement which must include equipment established by the commission sufficient to instruct a minimum of 50 students. Upon receipt of the notarized statement in the commission office, temporary authorization to begin operations in the new facility may be granted pending inspection. Should the inspection determine deficiencies, a reasonable amount of time will be given to correct the deficiencies;

(4) proof of ownership of building or proof of a lease for the first 12 months of operation.

(b) To be approved for continued operation on a current permit, facilities shall be inspected and approved. A public secondary cosmetology program moving to a new location or altering the floor plan will submit the following:

(1) detailed floor plan showing not less than 2,200 square feet, including office, dispensary, locker room, and classroom. At least 1,200 square feet must be laboratory space;

(2) inspection report of fire marshal and electrical inspector;

(3) notarized statement which must include equipment established by the commission in §89.53(b) of this title (relating to Minimum Requirements for both Private and Public Beauty Culture Schools). Upon receipt of the notarized statement in the commission office, temporary authorization to begin operations in the new facility may be granted pending inspection. Should the inspection determine deficiencies, a reasonable amount of time will be given to correct the deficiencies;

(4) proof of a lease for the first 12 months of operation, if off-campus facilities are used.

§89.8. Student Registration.

(a) Each student enrolling in a school of cosmetology must submit a registration blank and \$25 student permit fee on enrollment. The registration must be filed within 10 days of enrollment in order to receive credit for hours accrued. The health certificate must be dated on or prior to the date of enrollment.

(b) A student may be enrolled in only one school of cosmetology at any one time. See §89.14 of this title (relating to Concurrent Enrollments and Make-up Hours).

§89.9. Student Permit. The \$25 nonrefundable permit shall include one examination fee and a transcript of hours fee. Each student must have a permit with a picture affixed displayed in an album or another reasonable manner in the school in which they are enrolled.

§89.10. Monthly Hour Report. On a form prescribed by the commission, the school will post in a conspicuous place, no later than the 10th day of the month following, a record of hours acquired by each student during the preceding month. Each student enrolled must be given the opportunity to sign or initial the report. The report will be kept available for inspection by the student or a representative of the Texas Cosmetology Commission. One copy of the monthly hour report will be given to the commission inspector each month. The copy must be signed by the school official. Students are not allowed to prepare hour reports. Student instructors may prepare hour reports.

§89.11. Daily Attendance Register.

(a) Each cosmetology school or program shall maintain a daily record of attendance with each student personally punching the time clock. Attendance records will be maintained in the school and available to authorized personnel of the Texas Cosmetology Commission for a period of 24 months after the student completes or terminates attendance. All schools will be required to use a time clock to track student hours. All schools shall be required to post a sign at the time clock which states:

(1) the Texas Cosmetology Commission statutes prohibit the clocking in or out of a student by anyone other than that individual;

(2) no credit shall be given for any times written in except in documented cases of time clock failure;

(3) initialing will be accepted in limited occurrences, i.e., no more than two times per month per student; and

(4) students leaving the facility for any reason must clock out, except if an instructional area on a campus is located outside the approved facility, those areas must be approved by the commission and the students must be under the supervision of an instructor.

(b) Documentation of time clock failure must be submitted to the Texas Cosmetology Commission office, and a copy at-

tached to the hour report and include a work order for repair indicating dates of failure.

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

§89.13. Reduction, Increasing or Withholding of Hours.

(a) Hours of instruction that have been properly acquired by the student may not be deducted or increased for any reason. This statement will appear on school registrations immediately preceding the signatures of student and instructor. Increase or decrease of credit hours earned on any basis other than clock hours actually completed is prohibited.

(b) When a student withdraws or graduates from a beauty culture school, earned hours may not be withheld for any reason. The hours must be reported to the Texas Cosmetology Commission within 10 days of withdrawal or graduation.

§89.14. Concurrent Enrollments and Make-up Hours.

(a) Enrollment of a student in two or more schools of cosmetology at the same time is prohibited.

(b) For purposes of making up hours, a student may receive instruction in a second school without being concurrently enrolled. Upon completion of this instruction, the time card used at the second school and a notarized statement from the school official certifying the approvable activities engaged in by the student will be submitted to the student's primary school and be attached to the monthly hour report for audit by the commission inspector. The total number of hours earned by a student in any manner cannot exceed eight hours in any one day or more than 48 hours in any one calendar week.

§89.15. Definitions of License Authorizations.

(a) Instructor license. An instructor license authorizes the holder to instruct in any approved cosmetology school or program and practice all phases of cosmetology in a beauty salon or practice any of the specialties in a licensed specialty salon. A photograph approximately 1½ inches by 1½ inches shall be attached to the front of the license.

(b) Cosmetologist. A cosmetologist (operator) license authorizes the holder to practice all phases of cosmetology in a beauty salon or any specialties in a specialty salon. A photograph approximately 1½ inches by 1½ inches shall be attached to the front of the license.

(c) Wig specialists. A wig specialist certificate authorizes the holder to practice wiggery, hairweaving, or perform eye tabbing in a beauty or specialty salon. A photograph approximately 1½ inches by 1½ inches shall be attached to the front of the license. No other services may be performed. To do so will lead to revocation of a specialty license.

(d) Manicurist. A manicurist license authorizes the holder to practice manicuring and pedicuring in a licensed beauty or specialty salon. A manicurist shall not treat or remove calluses, soft calluses, or ingrown nails. A photograph approximately 1½ inches by 1½ inches shall be attached to the front of the license. No other services may be performed. To do so will lead to revocation of a specialty license.

(e) Shampoo-conditioning specialist. A shampoo specialist certificate authorizes the holder to practice the art of shampooing, application of conditioners and rinses, scalp manipulation, and shampooing hair goods in a licensed beauty salon. A photograph approximately 1½ inches by 1½ inches shall be attached to the front of the license. No other services may be performed. To do so will lead to revocation of a specialty license.

(f) Facial specialist. A facial specialist certificate authorizes the holder to practice facial, application of facial cosmetics, manipulations, eye tabbing, arches, lash and brow tints, and the temporary removal of superfluous hair by the use of depilatory, mechanical tweezers, or wax in a licensed beauty or specialty salon. A photograph approximately 1½ inches by 1½ inches shall be attached to the front of the license. No other services may be performed. To do so will lead to revocation of a specialty license.

(g) Hairweaving specialist. A hairweaving specialist certificate authorizes the holder to practice the art of hairweaving in a licensed beauty or specialty salon. A photograph approximately 1½ inches by 1½ inches shall be attached to the front of the license. No other services may be performed. To do so will lead to revocation of a specialty license.

(h) Temporary license. A temporary license authorizes the holder of a valid license from another state or nation to practice cosmetology in the State of Texas for 60 days while waiting for reciprocity clearance or waiting to take the commission examination. A temporary license is not renewable. A photograph approximately 1½ inches by 1½ inches shall be attached to the front of the license.

(i) Student permit. A student permit authorizes the holder to practice cosmetology only in an approved school, and only after 10% of the required hours for graduation (150 hours for public high school students) are accrued. A photograph approximately 1½ inches by 1½ inches shall be attached to the front of the permit.

(j) Exemption. Persons licensed in this state to practice medicine, surgery, dentistry, podiatry, osteopathy, chiropractic, or nurs-

ing who practiced any phase of cosmetology prior to August 1, 1985, as authorized by Texas Civil Statutes, Article 8451a, §39(2), may no longer continue this practice without a current license from the Texas Cosmetology Commission, unless they are operating within the scope of their license. (Texas Civil Statutes, Article 8451a, §39(2), revised August 1, 1985). Persons in this category may apply to take a Texas Cosmetology Commission certification examination one time prior to January 1, 1987, after which time formal training in a licensed beauty culture school will be required.

§89.17. Instructor Applicants. The student instructor must have a valid Texas operator's license before re-entering beauty school to complete additional 750 hours in cosmetology courses and methods of teaching, and must provide a high school diploma or a GED equivalent prior to enrollment. A licensed cosmetologist who can verify three years operator experience in a licensed beauty salon may also qualify for the instructor examination, provided they meet the other instructor requirements.

§89.18. Student Instructor—Instructor Ratio. Schools may enroll three student instructors for each licensed instructor teaching in the school on a full-time basis. The student instructor shall at all times work under the direct supervision of the full-time licensed instructor and may not service patrons, but will concentrate on teaching skills. Violations of this rule will lead to disciplinary action.

§89.22. Transfer of Hours (Out-of-state Students). Any student of a private licensed or certified beauty culture school may submit a request to the Texas Cosmetology Commission to transfer the completed hours of instruction to a Texas school. A transcript must be submitted on the prescribed form and certified by the school in which the instruction was given. Portions of the curriculum of the Texas Cosmetology Commission not taught in another state must be taken in an approved Texas school prior to taking the Texas examination.

§89.23. Transfer of Hours Between Courses. A student enrolled for a specialty course may withdraw and transfer hours acquired to the operator course not to exceed the amount of hours of that subject in the operator curriculum. Students enrolled in the operator course may take the examination for one of the specialties provided that the school certifies that the student has completed required hours in the particular course in which the student seeks licensure.

§89.25. Health Certificate.

(a) When a student applies to take a licensing or certification examination a health certificate not over one year old which includes a tuberculosis test must accompany the application. This will normally be at the completion of the operator, instructor, or specialty course.

(b) Applicants for a renewal operator, instructor, or specialty license must submit a health certificate not over one year old which includes a tuberculosis test.

§89.28. Withdrawal from School. Within 10 days of withdrawal or graduation of a student, the school must notify the commission. Effective as of the date of the adoption of this section a record of hours completed in a school in this state will be retained by the commission. Prior to the adoption of this section, records were destroyed after 36 months. If a student withdraws from school prior to completion of the required course of instruction and wishes to re-enroll at later date, a certified transcript from the commission must be requested and furnished to the re-enrolling school.

§89.30. Examination Applications. Application for examination must be filed 10 days prior to the first date set by law for examination and verify the applicant has completed the total hours required in the particular course of instruction at that time. The examination application consists of the front portion of the permit with photograph, the second portion labeled application, and a health certificate not over one year old which includes a tuberculosis test. A copy of the student permit and photograph must be posted in the school should the student continue to attend and accrue hours between the time of application and date scheduled for exam. The applicant will be required to furnish valid proof of identification prior to admittance for examination. The examination application may not be withheld for the purpose of tuition collection. Schools failing to submit the examination application in a timely manner are subject to disciplinary action. Students holding dates scheduled for exam who do not appear without a seven-day notice to the commission of cancellation may be denied scheduling for at least 60 days.

§89.32. Models for Examination. Applicants for operator examination will furnish an adult model, a slip-on hairpiece, or mannequin. Applicants for the instructor examination will furnish at least one mannequin for the haircut. An adult model may be used for the other portions of the examination. Models will wear appropriate street clothes.

§89.34. Applicants for Licensure Through Reciprocity.

(a) Any person who seeks licensure in the State of Texas through reciprocity from another state shall:

(1) furnish his valid license or certificate from another state;

(2) furnish a certified transcript of hours from the state board in the state from which the applicant is applying;

(3) complete his application for reciprocity on a form provided by the commission and submit a \$100 reciprocity fee, plus a license fee; and

(4) furnish notarized letters of employment from past employers or employ-

ment records to prove work experience if applicant does not have required number of hours for license he is applying for. One year of work experience will equal 250 hours of training.

(b) Any person who seeks licensure in the State of Texas through reciprocity from another nation shall:

(1) furnish his valid license or certificate from another nation;

(2) furnish a certified transcript of training from school or nation;

(3) furnish a copy of the nation's laws, rules, or regulations which set out the standards for licensure in that country;

(4) furnish English translation and acknowledgement of statutes and other documentation written in another language;

(5) furnish notarized letters of employment from past employers or employment records to prove work experience if applicant does not have required number of hours for license he is applying for (one year of work experience will equal 250 hours of training); and

(6) complete his application for reciprocity on a form provided by the commission and submit a \$100 reciprocity fee, plus a license fee.

(c) An applicant who can meet all of the requirements in subsections (a) and (b) of this section, with the exception of a current license or certificate, may take the examination.

(d) An applicant who holds current license or certificate from another state or nation and meets all requirements in subsections (a) and (b) of this section, with the exception of the required number of hours or equivalent work experience, may be examined to prove competence for licensure. An applicant who successfully completes the examination will be issued a license upon submission of the fee required for reciprocity. An applicant who fails to successfully complete the examination will be required to accrue the needed hours in a licensed or approved school of beauty culture. Upon completion of the training, the applicant will be eligible for examination. Upon successful completion of the examination and payment of the reciprocal fee, the applicant may be issued a license.

(e) An applicant who is aggrieved by the decision of the commission not to grant reciprocity may request a formal commission hearing to review the decision. Such request must be in writing and submitted to the commission within 15 days of the decision not to grant reciprocity.

(f) Any commission hearings held as a result of a request for a review shall be conducted in accordance with §89.57 of this title (relating to Disciplinary Hearings), §89.58 of this title (relating to Administrative Procedure and Texas Register Act (APTRA)), §89.61 of this title (relating to Record of Hearing), §89.63 of this title (relating to Findings and Final Orders), §89.64 of this title (relating to Proceedings for Review), §89.65

of this title (relating to Transmission of Record to Reviewing Court), §89.66 of this title (relating to Informal Disposition), and §89.67 of this title (relating to Enforcement).

§89.35. Uniforms.

(a) Cosmetology school students shall wear a uniform of washable material with the armpits covered as prescribed by the school.

(b) Salon employees shall wear an attire of washable material with armpits covered. Tank tops and bare feet are not allowed.

(c) Applicants for a commission examination must appear in a professional uniform of washable material with the armpits covered, provided that such attire shall not bear any writing or other identifying marks.

§89.39. New Salon. Before a beauty or specialty salon may open for business, the facility must obtain a license. The application and fees should be submitted to the Texas Cosmetology Commission at least 45 days in advance of the anticipated opening date. The facility must be inspected for approval as near to the opening date as possible. If the facility is licensed and receives permission to open pending the inspection approval, the facility will be given a reasonable amount of time to correct any deficiencies.

§89.40. Cosmetology Establishment Transfer. Whenever a cosmetology establishment changes ownership, the establishment shall be officially closed and the new owner shall apply for an original license and meet all necessary current requirements. In the case of school ownership transfers, all facilities must be inspected and approved prior to a student's hours being accepted for credit. Notwithstanding the provisions of this section, the next of kin of a cosmetology establishment owner who is deceased may operate that salon or school without further licensing requirements until that license is up for renewal.

§89.41. Change of Location of a Salon. A salon may move and continue to operate with the current license, but must be inspected and approved under the current requirements in the new location. The salon owner must notify the commission office at least 45 days prior to moving and give change of address.

§89.46. Itinerant Beauty Salons. A beauty salon shall have a permanent and definite location in which the art of cosmetology is practiced and which meets all of the requirements of the Texas Cosmetology Commission. Mobile homes or trailers may not be licensed as beauty salons unless they meet all other requirements and are anchored to the ground with wheels detached.

§89.47. Definition of a Facial Specialty Salon. A facial specialty salon is defined as an establishment where only the following services may be performed. Any other services performed will lead to disciplinary action:

- (1) facial massage and facial treatments;
- (2) skin diagnosis—how to recognize skin conditions and disorders;
- (3) cosmetic chemistry and formulation (makeup);
- (4) eye tabbing;
- (5) arch, lash, and brow dyes;
- (6) removing of superfluous hair by mechanical tweezers, wax, or depilatory;
- (7) manicuring (must be performed by a manicurist, instructor, or operator).

§89.51. Cosmetology Services for the Incapacitated. Cosmetology services may be performed on incapacitated persons provided that the licensee is operating out of a licensed salon, and the appointment made through the salon. Licensee must have her operator's license in her possession while performing the service.

§89.52. Definition of Complaint. In order for the commission to act on complaints against cosmetologists or cosmetology establishments filed with the commission by persons other than the commission's licensed inspectors or the commission's enforcement staff, the complaint shall be submitted in writing, and acknowledged before a notary public.

§89.53. Minimum Requirements for Both Private and Public Beauty Culture Schools.

(a) The following are the requirements for a private beauty culture school as authorized by the Texas Cosmetology Commission as approved on June 1, 1985.

(1) A building to house a beauty culture school must be fireproof and of permanent type of construction, and contain a minimum of 3,500 square feet of floor space, with separate restrooms for male and female students. The building must be divided into three separate areas: one for instruction of theory, one for practice work of seniors, and one for practice work of juniors.

(2) The classroom must be separate and apart from the junior and senior work rooms, and must have walls extending to the ceiling and must include:

- (A) desks or chairs and table space for a minimum of 10 students (plus one desk or chair and table space for each additional student enrolled and in attendance per theory class);
- (B) one chalkboard;
- (C) charts covering bones, muscles, nerves, skin, and nails;
- (D) medical dictionary.

(3) The following equipment is designated for the junior and/or senior departments of the school and could be used by all students:

- (A) eight shampoo bowls;
- (B) eight shampoo chairs;
- (C) one heat cap or therapeutic lamp;
- (D) 24 dozen cold wave rods;
- (E) three electric irons or three marcel irons with stove (professional salon type);

- (F) one pair hair clippers (professional);
- (G) three hand dryers (professional);
- (H) one electric time clock;
- (I) four manicure hand bowls;
- (J) 12 mannequins with sufficient hair;
- (K) one closed container for soiled towels;
- (L) one closed cabinet for clean towels;
- (M) visual aid equipment;
- (N) lockers for each student (minimum 25).

(4) The junior department must contain the following:

(A) mannequin table(s), styling stations, or styling bar to accommodate a minimum of 10 students;

- (B) two hair dryers with chairs;
- (C) two manicure tables;
- (D) two manicure stools;
- (E) four covered trash cans;
- (F) at least one large wet sterilizer.

(5) The senior department must contain the following:

- (A) 25 hair styling stations with mirrors;
- (B) 25 styling chairs (swivel or hydraulic);
- (C) 10 hair dryers with chairs;
- (D) two manicure tables;
- (E) two manicure stools;
- (F) six covered trash cans;
- (G) wet sterilizer.

(6) The school shall have one semi-private facial area with two facial chairs and adequate sterilization (patron must be protected from public view).

(7) The school shall have a dispensary of not less than 50 contiguous square feet with a double sink with hot and cold running water and space for storage and dispensing of supplies and equipment.

(8) The school shall have at least one dry sterilizer (large enough to accommodate junior and senior departments).

(9) All top surfaces such as hairdressing stations, dispensary shelves, etc., must be covered with formica or a similar material. All buildings approved for schools must be adequately heated and air conditioned.

(10) The equipment in a beauty culture school shall not be changed after approval without notifying the Texas Cosmetology Commission.

(11) All equipment in a beauty culture school shall be of professional type in new or excellent condition.

(12) All facilities must be inspected and approved.

(13) The school shall have a textbook for each student enrolled.

(14) As enrollment increases, required equipment is subject to increase.

(b) The following are the requirements for a public school cosmetology program.

(1) A vocational cosmetology department is required to have an area of not less than 2,200 square feet, including office, dispensing, locker room, restrooms, and with an adjacent classroom. At least 1,200 square feet of the above shall be laboratory space.

(2) The classroom must be separated from the laboratory area by walls extending to the ceiling and equipped with the following:

- (A) one chalkboard;
- (B) desks and chairs or table space for a minimum of 10 students (plus one desk or chair or table space for additional student enrolled and in attendance per theory class);
- (C) textbook for each student enrolled;
- (D) charts covering bones, muscles, nerves, skin, and nails;
- (E) medical dictionary.

(3) A vocational cosmetology department is required to have a dispensary of not less than 50 contiguous square feet with a double sink with hot and cold running water and space for storage and dispensing of supplies and equipment (applicable for schools approved after August 21, 1985).

(4) Lockers and dressing rooms are to be provided.

(5) The school equipment list shall contain:

- (A) six shampoo bowls and six shampoo chairs;
- (B) eight hair dryers with chairs;
- (C) one heat cap or therapeutic light;
- (D) eight dozen cold wave rods;
- (E) three electric irons, or three marcel stoves and irons;
- (F) 16 styling stations covered with formica or similar material, with mirror;
- (G) 12 mannequins with sufficient hair, with table or attached to styling stations;
- (H) one electric time clock;
- (I) one pair of professional hand clippers;
- (J) three professional hand held hair dryers;
- (K) four manicure tables and four stools;
- (L) one closed cabinet for clean towels;
- (M) one closed container for soiled towels;
- (N) four covered trash cans in lab area.

(6) As enrollment increases, required equipment is subject to increase; all equipment must be new or in excellent condition.

§89.67. Enforcement.

(a) A person who is in violation of the Cosmetology Act, the general rules and regulations of the commission, or the sanitary rulings of the commission may be enjoined and restrained by a district court from violating said Act or commission rules.

(b) Refusal to permit, or interference with, an inspection constitutes a cause for disciplinary action as set forth in Texas Civil Statutes, Article 8451a, §§29, 36, and 37.

§89.70. *New Private Beauty Culture School.* An applicant for a private beauty culture school license must submit, at least 45 days prior to the tentative opening date, the following:

- (1) a detailed floor plan of the school;
- (2) proof of ownership of the building or proof of a lease for the first 12 months of operation;
- (3) an application on a form prescribed by the commission;
- (4) payment of the \$500 original license fee;
- (5) payment of a \$200 initial inspection fee;
- (6) a good and sufficient surety bond;
- (7) inspection report of fire marshal and electrical inspector available on or before the inspection; and
- (8) copy of the curriculum for each course offered.

§89.71. *New Secondary or Post-secondary Public Cosmetology Certification.* An institution making application for public school cosmetology certification must submit at least 45 days prior to the tentative opening date:

- (1) a detailed floor plan of the school;
- (2) proof of lease for the first consecutive 12 months of operation, if off-campus facilities are used;
- (3) an application on a form prescribed by the commission;
- (4) payment of a \$200 initial inspection fee;
- (5) an inspection report of fire marshal and electrical inspector; and
- (6) a copy of the curriculum for each course offered.

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 June 5, 1986.

TRD-8605876

Jo Ann Reeves
Executive Director
Texas Cosmetology
Commission

Earliest possible date of adoption:

July 21, 1986

For further information, please call
(512) 463-5542.

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★ 22 TAC §§89.72-89.75

The Texas Cosmetology Commission proposes new §§89.72-89.75, concerning the requirements that must be met by all cosmetology establishments. The new sections are proposed to better clarify the statutes.

Jo Ann Reeves, executive director, has determined that for the first five-year period the proposed sections will be in effect there will be no fiscal implications for state or local government or small busi-

nesses as a result of enforcing or administering the sections.

Ms. Reeves also has determined that for each year of the first five years the sections are in effect the public benefit anticipated as a result of enforcing the sections will be clarification of the statutes and prevention of misinterpretation. There is no anticipated economic cost to individuals who are required to comply with the proposed sections.

Comments on the proposal may be submitted to Jo Ann Reeves, Executive Director, Texas Cosmetology Commission, 1111 Rio Grande, Austin, Texas 78701, (512) 463-5542.

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

§89.72. *Curriculum.* The curricula listed in paragraphs (1)-(2) have been established by the Texas Cosmetology Commission and must be followed by all beauty culture schools. The curriculum shall be posted in a conspicuous place in the school. A current syllabus and lesson plans for each course shall be maintained by the school and be available for inspection.

(1) Operator Curriculum.

(A) Private beauty culture schools.

- (i) Orientation (Theory)—100 Hours;
- (ii) Shampoo and Related Theory—150 Hours;
- (iii) Hair and Scalp Treatment and Related Theory—50 Hours;
- (iv) Cold Waving and Related Theory—200 Hours;
- (v) Chemical Hair Relaxing and Related Theory—50 Hours;
- (vi) Hair Coloring and Related Theory—200 Hours;
- (vii) Manicuring and Related Theory—100 Hours;
- (viii) Facials and Related Theory—50 Hours;
- (ix) Haircutting, Styling, and Related Theory—600 Hours;
- (x) Total—1,500 Hours.

(B) Public School Vocational Program. The principal or vocational administrator must certify that each student has successfully completed 500 hours of approved academic courses before credit can be granted by the Texas Cosmetology Commission.

- (i) Orientation (Theory)—75 Hours;
- (ii) Shampoo and Related Theory—75 Hours;
- (iii) Hair and Scalp Treatment and Related Theory—25 Hours;
- (iv) Cold Waving and Related Theory and Related Theory—100 Hours;
- (v) Chemical Hair Relaxing and Related Theory—50 Hours;
- (vi) Hair Coloring and Related Theory—150 Hours;
- (vii) Manicuring and Related Theory—100 Hours;

(viii) Facials and Related Theory—25 Hours;

(ix) Haircutting, Styling, and Related Theory—400 Hours;

(x) Total—1,000 Hours.

(2) Instructor curriculum.

(A) Orientation (Theory)—50 Hours;

(B) Instruction and Theory and Lab/Clinic Operation—350 Hours;

(C) Teaching and Lab/Clinic Management—350 Hours;

(D) Total—750 Hours.

§89.73. Continuing Education. Continuing education programs in the practical skills of cosmetology may be offered to individuals holding valid cosmetology licenses under the following guidelines.

(1) The course is offered in a licensed and approved private beauty culture school or a certified and approved public secondary or postsecondary cosmetology facility outside of normal hours of student instruction.

(2) The Texas Cosmetology Commission (TCC) must be notified by certified mail 15 days in advance of all training sessions to be held.

(3) The TCC must be provided with a list of all licensees in attendance, a curriculum, and a lesson plan for each session.

(4) No unlicensed person may participate in any continuing education session.

(5) A licensee shall not attend more than 15 days of continuing education in any calendar month period.

(6) Models/patrons may not be required to compensate the facility or licensee for services or products.

(7) Each trainee must be issued a certificate of attendance by the continuing education organization.

(8) Each licensee in attendance must complete a session evaluation to be submitted to the TCC.

(9) Each continuing education session must be conducted by at least one trainer during lecture and at least one trainer for each eight licensees participating during practical training.

(10) All participants must hold a license relevant to the continuing education.

(11) The facility providing the continuing education must have sufficient equipment for each participant.

(12) To assure compliance with laws and regulations governing cosmetology and continuing education, the Texas Cosmetology Commission or its authorized representative shall have the right to access of any continuing education facility or continuing education session for the purpose of inspecting the premises, equipment, supplies, licenses, all books and records relating to the training or practice of cosmetology.

(13) Violations of any of the guidelines shall result in disciplinary action under Texas Civil Statutes, Article 8451a, §36, against the facility, school, and/or trainers.

§89.74. Continuing Education Trainers. To act as a trainer for continuing cosmetology education, an individual must hold a valid cosmetology license or certificate in Texas.

§89.75. Field Trips. Field trips are permitted under the following conditions for students enrolled in the operator course. The following guidelines are to be strictly adhered to.

(1) A maximum of 32 hours out of the 1,500 hours is permitted per student.

(2) The activities of field trips are limited to hands-on learning experiences, except that up to eight hours of the 32 hours may be used for attendance at shows, trips to salons, and supply houses, at the discretion of the school official.

(3) Students must be under the supervision of their own instructor at all times during the field trip. The instructor-student ratio required in a school is required on a field trip.

(4) Complete documentation is required, including student names, instructor names, activity, place of activity, date, and time frame.

(5) No hours are allowed for travel.

(6) Prior approval from the commission is not required. The report of hours earned and the documentation will be attached to the monthly hour report for the inspector to audit.

(7) Allowable activities are limited to:

(A) performing services to nursing home residents, patients confined to hospitals, senior citizen's centers, and mental health and mental retardation centers;

(B) contests for only those students actually participating, and only for the time they are performing;

(C) hands-on workshops;

(D) attendance at shows, trips to salons, and supply houses (maximum of eight hours).

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 June 10, 1986.

TRD-8605873

Jo Ann Reeves
Executive Director
Texas Cosmetology
Commission

Earliest possible date of adoption:

July 21, 1986

For further information, please call
(512) 463-5542.

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TITLE 25. HEALTH SERVICES

Part I. Texas Department of Health

Chapter 139. Abortion Facilities

★25 TAC §139.2, §139.4

The Texas Department of Health proposes amendments to §139.2 and §139.4, concerning definitions and standards for licensure of an abortion facility. The amendment to §139.2 adds two definitions. The amendments to §139.4 prohibits the solicitation of referrals or division of fees; requires that a patient's post-abortion care instructions and information be in English and Spanish; adds additional equipment to the list of emergency equipment required in a facility; includes requirements on anesthesia, IV sedation, physician examinations, and the patient's response to allergies to drugs; and adds the requirement that a facility's license and a sign on how complaints may be registered be displayed.

Stephen Seale, chief accountant III, has determined that for the first five-year period the proposed sections will be in effect there will be fiscal implications for state government and small businesses as a result of enforcing or administering the sections. The effect on state government is an estimated additional cost and an increase in revenue of \$35,000 per year for the years 1986-1990. The cost of compliance for small businesses will be the cost to purchase and maintain the emergency equipment. The estimated cost of compliance per employee for a small business is \$1,875 compared to the estimated cost of compliance per employee for a large business which is \$328.09. Abortion facilities currently using general anesthesia are subject to a loss of revenue due to the prohibitive administration of general anesthesia in abortion facilities. There will be no effect on local government.

Mr. Seale also has determined that for each year of the first five years the sections are in effect the public benefit anticipated as a result of enforcing the sections will be increased patient health and safety due to emergency equipment and greater consumer awareness due to the reporting of complaints. There is no anticipated economic cost to individuals who are required to comply with the proposed sections. The license is issued to a business rather than an individual.

Comments on the proposal may be submitted to Juanita Carrall, R.N., Ed.D., Director, Health Facility Licensure and Certification Division, Texas Department of Health, 1100 West 49th Street, Austin, Texas 78756, (512) 458-7245. Comments will be received for 30 days from the date of publication of the amendments. In addition, a public hearing will be held on the

proposed amendments at 9 a.m., July 2, 1986, in the auditorium, Texas Department of Health, 1100 West 49th Street, Austin, Texas.

The amendments are proposed under the Texas Abortion Facility Reporting and Licensing Act, Texas Civil Statutes, Article 4612.8, §3, which provides the Texas Board of Health with the authority to adopt rules to implement the Texas Abortion Facility Reporting and Licensing Act.

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

General anesthesia—A controlled state of unconsciousness accomplished by partial or a complete loss of protective reflexes including a loss of ability to independently maintain an airway and respond purposefully to physical stimuli or verbal command produced by a pharmacological or non-pharmacological method or combination thereof.

IV sedation—A depressed level of consciousness that retains the patient's ability to independently or continually maintain an airway and to respond appropriately to physical stimuli or verbal command produced by a pharmacological or nonpharmacological method or a combination thereof.

§139.4. Standards for Licensure of an Abortion Facility. In addition to complying with all applicable, federal, state, and local laws and regulations, a licensed abortion facility and its staff shall meet the following standards.

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

(5) The solicitation of referrals or division of fees under any guise by an abortion facility from other facilities, organizations, or individuals shall be prohibited and will be considered a violation of these rules.

(6)(5) The facility shall maintain a daily patient roster of all patients receiving abortion services. This daily patient roster shall be retained for a period of two years.

(7)(6) The facility shall maintain a clinical record for each patient which is maintained according to professional standards. Identifying information required for the annual abortion report should be readily retrievable from the clinical record.

(8)(7) The clinical record shall contain: patient identifying information; name of physician; diagnosis; history and physical; laboratory reports; tissue reports; allergies; drug reactions; physician's orders; clinical notes; counseling notes; signed patient consent form; medication administration records; and discharge summary. If the results of a medical examination and/or written referral is obtained, the document(s) will be incorporated in the clinical record. All pharmaceutical agents administered shall be timed, dated, and signed by the person making the entry.

(9)(8) Clinical records for adults shall be retained for five years from the time

of discharge and clinical records for minors shall be retained for five years past the age the patient reaches majority. All clinical records shall be safeguarded against loss and unofficial use.

(10)(9) An abortion shall be performed only by a physician as defined by the provisions of the Texas Medical Practice Act, Texas Civil Statutes, Article 4495b.

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

(11)(10) The attending physician shall be responsible for obtaining and documenting an adequate preoperative history, physical exam, and appropriate laboratory studies, including verification of pregnancy.

(12)(11) Counselors must be qualified by education and/or training to provide counseling services. Appropriate counseling shall be provided to each patient to:

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

(13)(12) Operative care shall be provided according to acceptable surgical standards.

(14)(13) The recovery room(s) at the facility must be supervised by a physician or registered nurse.

(15)(14) A physician must be immediately available for the facility while any patient is in the recovery room.

(16)(15) A patient must be fully reactive and her vital signs must be stable before she can be discharged from the facility by written order of the attending physician.

(17)(16) Prior to discharge, a patient shall receive adequate post-abortion care instructions and information regarding possible complications in English and Spanish.

(18)(17) The facility shall make provision for a post-abortion examination or referral.

(19)(18) All fetal tissue must be examined grossly at the time of the procedure by the attending physician or a trained assistant under the supervision of a physician. The results of the tissue examination shall be recorded in the patient's chart.

(20)(19) In the absence of visible fetal parts or placenta, the tissue may be examined under a low power microscope for the detection of villi. If this examination is inconclusive, the tissue shall be sent to a pathology lab.

(21)(20) Tissue not sent to a laboratory shall be disposed of according to state and local regulations and ordinances.

(22)(21) The facility must have a readily accessible written protocol for managing medical emergencies and/or the transfer of patients requiring further emergency care to a licensed hospital. The abortion facility shall ensure that the physicians who practice at the facility have admitting privileges or have a working arrangement with a physician(s) who has admitting privileges at a local hospital in order to ensure the necessary back-up for medical complications.

(23)(22) The facility must be in compliance with all state and federal laws pertaining to handling of drugs.

(24)(23) The facility must have the

necessary equipment and gases for artificial ventilation and for cardio and pulmonary resuscitation.

(25)(24) The facility must have [at a minimum,] the following emergency equipment]:

(A) (No change.)

(B) cardiac monitor [airways and manual breathing bag]; and

(C) defibrillator; [emergency drugs and supplies, as specified by the physician(s).]

(D) mechanical ventilatory assistance equipment that includes airways, manual breathing bag, and ventilator;

(E) laryngoscopes and endotracheal tubes;

(F) oral suction equipment;

(G) tracheotomy set and tracheotomy tubes; and

(H) emergency drugs as specified by the physicians on staff.

(i) The cardiac monitor, defibrillator, and ventilator must be of the size and specification that can be transported with the patient to a hospital when necessary.

(ii) Personnel trained in the use of all emergency equipment must be present on the premises of the facility when there is a patient in the operating room or recovery room.

(iii) The facility must have an effective policy and procedure for inspection and maintenance of emergency equipment and supplies.

(26) The facility must comply with the following.

(A) Anesthetics administered in an abortion facility shall be limited to local infiltration of the cervix and pre-operative sedation.

(B) IV sedation may be administered as defined in these regulations.

(C) General anesthesia as defined in these regulations may not be administered.

(D) A physician must examine the patient immediately before the procedure to evaluate the condition of the patient for any possible risks relating to the procedure to be performed.

(E) The patient's record must indicate a negative or positive response to allergies to drugs prescribed and used before, during, or after the procedure.

(F) Post-abortion exam must be performed by a physician before the patient is dismissed.

(27)(25) Surgical instruments must be sufficient in number to permit individual sterilization of the instruments used for each procedure and adequate to perform conventional cervical dilatation and curettage. Written procedures shall be maintained for current acceptable practices regarding processing, sterilizing, storing, and distribution of clean and sterile supplies and equipment.

(28)(26) Equipment for vacuum aspiration must be electrically safe and designed to prevent reverse pump action.

(29)(27) The physical plant must

be clean and in good repair at all times. To promote a functional and sanitary environment, the facility must:

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

(30)(28) Complications that result in the death of a patient must be reported immediately by phone to the director, but not later than two business days after the incident.

(31) Each facility shall prominently and conspicuously post the following for display in a public area of the facility that is readily accessible to patients, employees, and visitors:

(A) the license issued under this Act; and

(B) the following sign that specifies how complaints may be registered:

COMPLAINT REPORTS

THE TEXAS DEPARTMENT OF HEALTH HOPES THAT YOU ARE SATISFIED WITH THE CARE BEING GIVEN AT THIS FACILITY. HOWEVER, IF YOU ARE DISATISFIED, WE URGE YOU TO VOICE YOUR COMPLAINTS TO THE ADMINISTRATOR OF THIS FACILITY, OR YOU MAY WRITE TO:

DIRECTOR, HEALTH FACILITY LICENSURE AND CERTIFICATION DIVISION, TEXAS DEPARTMENT OF HEALTH, 1100 WEST 49TH STREET, AUSTIN, TEXAS 78756

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 June 13, 1986.

TRD-8605942 Robert A. MacLean, M.D.
Deputy Commissioner
Professional Services
Texas Department of
Health

Proposed date of adoption: August 16, 1986
For further information, please call
(512) 458-7245.

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Chapter 205. Product Safety

The Texas Department of Health proposes the repeal of existing §§205.1-205.13 and new §§205.1-205.10, concerning bedding. The new sections update and clarify the existing sections and describe the terms, definitions, nomenclature, and conditions concerning the manufacture, sale, and distribution of bedding, furniture products, and filling material in bedding.

Stephen Seale, chief accountant III, has determined that for the first five-year period the proposed repeals and new sections will be in effect there will be no fiscal implications for state or local government or small businesses as a result of enforcing or administering the repeals and new sections.

Mr. Seale also has determined that for each year of the first five years the repeals and new sections are in effect the public benefit anticipated as a result of enforcing the repeals and new sections will be to up-date and clarify the existing rules and to implement requirements of recent legislation (Senate Bill 803, 69th Legislature, 1985). There is no anticipated economic cost to individuals who are required to comply with the proposed repeals and new sections.

Comments on the proposal may be submitted to Mackie Lawrence, R.S., Director, Product Safety Division, 1100 West 49th Street, Austin, Texas 78756, (512) 458-7519. Comments will be accepted for 30 days after publication of the repeals and new sections in the *Texas Register*. In addition, a public hearing on the proposed rules will be held at 9 a.m., Thursday, July 10, 1986, in the Texas Department of Health auditorium, 1100 West 49th Street, Austin, Texas.

Bedding Rules

★ 25 TAC §§205.1-205.13

The repeals are proposed under Texas Civil Statutes, Article 4476a, §5, which provides the Texas Board of Health with the authority to adopt rules covering bedding, furniture products, and filling material in bedding.

§205.1. *Scope.*

§205.2. *Definitions.*

§205.3. *General Requirements.*

§205.4. *Definitions and Designations of Filling Materials.*

§205.5. *Felt.*

§205.6. *Tags.*

§205.7. *Germicidal Treatment.*

§205.8. *Sanitary Premises.*

§205.9. *Permits.*

§205.10. *Adhesive Revenue Stamps.*

§205.11. *Stamp Exemption and Reporting.*

§205.12. *Identification of Materials.*

§205.13. *Formats of Different Types of Tags Required.*

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

Issued in Austin, Texas, on June 13, 1986.

TRD-8605943 Robert A. MacLean, M.D.
Deputy Commissioner
Professional Services
Texas Department of
Health

Proposed date of adoption: August 16, 1986
For further information, please call
(512) 458-7519.

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★ 25 TAC §§205.1-205.10

The new sections are proposed under Texas Civil Statutes, Article 4476a, §5, which provide the Texas Board of Health with the authority to adopt rules covering bedding, furniture products, and filling material in bedding.

§205.1. *Purpose and Scope.* The purpose of these sections is to designate the terms, definitions, nomenclature, and conditions as commonly used and recognized in the manufacture, sale, and distribution of bedding and furniture products and filling materials. Classifications of materials in these rules and regulations are intended to have understandable meaning to the ultimate consumer. The definitions used are in conformity with those adopted by the majority of the states in the union, Canada, the Federal Trade Commission, and by the Association of Bedding and Furniture Law Officials.

§205.2. *Definitions.*

(a) The following words and terms, when used in this chapter, shall have the following meanings, unless the context otherwise specifically requires:

(1) Act—Texas Civil Statutes, Article 4476a.

(2) Department—Texas Department of Health.

(3) Filling materials—Materials used as filling in the manufacture, repair, or renovation of bedding and shall include materials used as filling in quilted borders and quilted ticking. Stiffening materials such as fiberboard, corrugated fiberboard, paper, etc., shall be considered to be filling material.

(4) Label, labeled, tag and tagged—May be used interchangeably and means any label or tag required to be on or affixed to finished bedding products and processed filling material and on which the information required is to appear.

(5) Pillows and cushions—Any bag, case, or covering which has been stuffed or filled and which is not an integral part of another item of bedding or furniture but which can be used by human beings for sleeping, resting, or reclining purposes. The terms do not apply to pillows or cushions which do not exceed 10 inches in their greatest dimension or to which is permanently affixed figurines, statuettes, dolls, etc.

(6) Processed filling material—Felt, batting, pad, foam product, quilted product, or any other filling material which has been prepared, manufactured, or processed into a form in which it can be used in articles of bedding.

(7) Secondhand—Product which has had prior use but does not apply to new materials subjected to manufacturing processes or to new materials which are the by-product of manufacturing processes.

(8) Sell—Sell, offer, or expose for sale, include in a sale, barter, trade, deliver, consign, lease, possess with intent to sell, or dispose of in any other commercial manner. For purposes of these sections, lease shall

also include the term "rent" when used for commercial purposes.

(b) Other definitions are listed in §205.5 and §205.6 of this title (relating to Definitions and Designations of Filling Materials and Adjunctive Terms) rather than in this section because the definitions are a necessary part of those sections.

§205.3. General Requirements.

(a) The Act and these sections shall apply to all persons, partnerships, corporations, and associations engaged in the business of manufacturing, renovating, wholesaling, processing, germicidally treating, and selling items of bedding or processed filling materials. These regulations do not apply to persons who make, renovate, or germicidally treat bedding for their own use.

(b) These regulations shall apply to each separate manufacturing plant facility regardless of name or ownership.

(c) Each item of bedding and processed filling material shall be labeled in conformity with the requirements of the Act and regulations.

(d) No person shall position, arrange, or display an article of bedding in such a manner as to obstruct the view of the law label from the purchaser and/or department representatives.

(e) To allow for unintentional variations, a tolerance or variation not in excess of 10% by weight from the amount stated on the label shall be allowed. A tolerance not to exceed 20% shall be allowed for feather and down except when the species is stated, in which case the 10% tolerance applies.

(f) The terms "all", "pure", "100%", or terms of similar import are permitted only if the material is as stated. No tolerance is allowed where such terms are used.

(g) If an article of bedding contains more than one kind of material, the percentage, by weight, of each material shall be clearly stated on the label in descending order. Wood frames, metal parts, and springs shall be excluded when calculating percentages. Burlap, muslin, webbing, and tape, when less than 10% of the filling material, need not be stated on the label.

(h) The presence of a metal spring unit in an article of bedding must be stated as the last item in the statement of content section. Stating the number of coils is not required, but if stated it must be true and correct.

(i) Any filling material containing more than 5.0% oil shall be designated on the label as oily.

(j) The presence of silicates in excess of 5.0% in any filling material shall be designated on the label as clay and the actual percentage thereof shall be stated.

(k) Identification and storage of secondhand bedding articles and filling materials shall be as follows.

(1) Persons engaged in the manufacture, renovation, processing, and/or ger-

micidal treatment shall keep new and secondhand articles and/or materials segregated and shall tag or mark all secondhand articles and materials to show name and address of owner and reason for possession.

(2) Persons engaged in the business of selling or storing articles of bedding shall keep new and secondhand articles segregated prior to germicidal treatment of the secondhand articles. Secondhand articles which have not been germicidally treated and properly labeled, shall not be displayed on the sales floor unless there has been affixed thereto a tag, label, or marking to indicate not for sale.

(3) When new and secondhand filling materials or new and untreated secondhand articles of bedding have been mixed, the entire mixture shall be regarded as secondhand.

§205.4. Labeling Requirements.

(a) It shall be unlawful to make any false or misleading statement on any label or tag required by the Act and regulations; it shall be unlawful for any person to remove, deface, alter, or position any label or tag or statement thereon for the purpose of defeating the provisions of the Act and regulations, except that the label or tag may be removed by the consumer.

(b) All labels, tags, or markings required by this Act shall be attached by the registered manufacturer at the factory.

(c) Labels and tags must be printed on substantial white cloth or a material of equal quality. Material must be resistant to tear and have prior departmental approval. Paper stock is not allowed except in the tagging of processed materials.

(d) Information required on the label must be printed, typed, or stamped in black ink unless otherwise specified for an individual label. Printing must be legible and be resistant to smudging and smearing.

(e) Required printed matter on the label shall not be concealed, in whole or in part, by any other label, tag, or printed matter not required by this Act.

(f) No printed matter shall appear on the back side of the label. No advertisements, insignias, or endorsements shall appear on the label.

(g) The terms used on the label to describe materials used in filling shall be restricted to those defined in the regulations. Only generic terms shall be used; trade names, trademarks, or registered terms shall not be used in describing filling material. No information or wording other than descriptions of filling material shall appear in the statement of content section.

(h) It is permitted, as the last item on the label, to include size, weight, country of origin, or any federal/state requirements relating to flammability or fiber identification information.

(i) Labels shall be affixed to the outer covering of bedding articles and must be so located as to make the label and the information thereon completely and clearly visible to the purchaser at all times. Germicidal treatment label attachment methods must have prior approval by the department. Specific locations for label attachments shall be as follows.

(1) Mattresses, box springs, pillows, pads, sleeping bags, and most infant bedding articles shall have the label attached on the end/side border or top panel and in proximity of any advertising labels, company logos, streamers, or any other labels not required by the Act. In the absence of any private labels, the law label should be attached at the location most likely to be prominently displayed to the purchaser.

(2) Articles such as quilted bedspreads, mattress protectors, quilts, etc., packaged in clear or see through packaging material must be folded in such a manner so that the label and printed matter thereon is visible to the purchaser.

(3) Articles of bedding packaged in concealed packaging must have a label affixed to both the article and an exact duplicate label attached to the outside of the package.

(4) Processed filling material identification tag location is optional except that it be securely attached where clearly visible.

(5) Reclining chairs shall have the label attached to the underside of the foot rest in such a way as to allow the label to be unfolded for easy access. Chairs with detachable cushions may have the label attached to the front part of the platform under the cushion.

(6) Upholstered furniture articles with detachable cushions (e.g., sleeper sofas, sofa beds, chair beds) shall have the label attached to the front part of the platform under the cushions. Upholstered furniture articles without detachable cushions shall have the label attached to the front part of the article in such a way as to make it accessible and visible.

(7) The practice of attaching the label to the dust cover or bottom of large articles, to the back side of railings or support braces, to the outside back, or in any other location which is not easily accessible to the purchaser, is not allowed.

(8) Attaching the label in a location or manner which, while the article of bedding is on display for sale, conceals the label from open view to the purchaser shall be considered as a willful act to intentionally defeat the intent of the Texas Bedding Act.

(j) The different types of required labels and illustrations of each are as follows.

(1) The all new material label shall have a minimum size of six square inches and shall be in the following form.

(2) The renovate label shall have a minimum size of 12 square inches and shall be in the following form.

Space to Attach	
UNDER PENALTY OF LAW THIS TAG MUST NOT BE REMOVED EXCEPT BY THE CONSUMER	
ALL NEW MATERIAL Consisting of	
REG. NO.	
SPACE FOR STAMP When Required	CERTIFICATION IS MADE BY THE MANUFACTURER THAT THE MATERIALS IN THIS ARTICLE ARE DE- SCRIBED IN ACCORD- ANCE WITH LAW.
Made By - or - Sold By	

Space to Attach	
UNDER PENALTY OF LAW THIS TAG MUST NOT BE REMOVED EXCEPT BY THE CONSUMER	
NOT FOR SALE OWNER'S OWN MATERIAL WHICH IS SECOND-HAND MATERIAL New Material Added in Remaking: _____	
Stamp When Required	RENOVATED or REPAIRED BY:
	FIRM _____
	STREET _____
	CITY _____
FOR	
Name _____	
Street _____	
City _____	
Date Renovated _____	
REG. NO.	

(3) The secondhand material label shall have a minimum size of 12 square inches, the tag shall be printed in red ink on white background, and the label shall be in the following form.

UNDER PENALTY OF LAW THIS TAG MUST NOT BE REMOVED EXCEPT BY THE CONSUMER
<p>THIS ARTICLE CONTAINS</p> <h1 style="margin: 0;">SECOND HAND MATERIAL</h1>
<div style="border: 1px solid black; width: 100px; height: 50px; margin: 0 auto; display: flex; align-items: center; justify-content: center;"> <p style="font-size: 8px; margin: 0;">STAMP WHEN REQUIRED</p> </div>
<p>REG. NO. _____</p>

(4) The germicidal treatment label shall have a minimum size of 12 square inches and shall be in the following form.

UNDER PENALTY OF LAW THIS TAG MUST NOT BE REMOVED EXCEPT BY THE CONSUMER	
<h1 style="margin: 0;">SANITIZED</h1> <p style="margin: 0;">This Article of Bedding Treated by a Germicidal Process Approved by the Texas State Department of Health</p>	
<p style="font-size: 8px; margin: 0;">Stamp When Required</p>	<p>Method _____</p> <p>Lot No. _____</p> <p>Tag No. _____</p> <p>Date _____</p>
<p>Article Treated For:</p>	
<p>Name _____</p>	
<p>Street _____</p>	
<p>City _____</p>	
<p>REG. NO. _____</p>	

(5) The processed filling material label is an identification label. The type and material of this label is optional. However, the label shall be visible, the printed matter shall be legible, and generic terms shall be used as the descriptive terminology. Illustrations of this label are as follows:

ADHESIVE LABEL

<p>ALL NEW MATERIAL</p> <p>Sisal Pads</p> <p>REG. NO. _____</p>
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TAGS

<p>ALL NEW MATERIALS</p> <p>Blended Cotton Felt</p> <p>REG. NO. _____</p>
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§205.5. Definitions and Designations of Filling Materials.

(a) Cotton.

(1) The term "cotton" by itself shall not be used.

(2) Staple cotton is the fibrous growth as removed from the cottonseed in the usual process of ginning (first cut from the seed).

(3) Cotton linters are the fibrous growth removed from the cottonseed subsequent to the usual process of ginning. The term "linters" alone shall not be used.

(4) Cotton by-product is a loose filling material consisting of cotton fibers which have been removed from the various machine operations in the preparation and manufacture of cotton yarn up to, but not including, the process of spinning, and shall include only the following materials commonly known in cotton mill terms as:

- (A) cotton card or vacuum strips;
- (B) cotton comber;
- (C) cotton fly;
- (D) cotton picker or notes.

(5) The term "blended cotton felt" or "blended cotton batting" shall be used when a mixture of cotton fiber is made into felt form.

(b) Down.

(1) The term "down" by itself may be used for the soft undercoating of waterfowl consisting of the light fluffy filaments grown from one quill-point but without any quill shaft. It is permissible to use the name of the fowl from which the down is obtained, such as goose down, duck down, etc.

(2) Plumules are downy waterfowl plumage with underdeveloped soft and flaccid quill with barbs indistinguishable from those of down.

(3) Down fiber is the detached barbs from down plumes and plumules separated from the quill point.

(4) Nestling down is a down not fully developed with a short sheath with relatively long soft barbs emanating from sheath.

(5) The tolerance levels for the labeling of down are as follows:

(A) a minimum of 80% down, plumules, and down fiber:

- (i) consisting of down and plumules—minimum 70%;
- (ii) consisting of down fiber—maximum 10%;

(B) the remaining 20% may consist of a combination of the following:

- (i) natural waterfowl feathers;
- (ii) down fiber;
- (iii) damaged feathers—maximum 3.0%;
- (iv) chicken feather and fiber—maximum 2.0%;
- (v) residue—maximum 2.0%;
- (vi) waterfowl feather fiber.

(6) Species designation tolerance. If the down product is labeled as to the waterfowl (goose or duck), a minimum of 90% of the waterfowl plumage contained therein must be of that species.

(c) Feathers.

(1) The term "feathers" by itself shall not be used.

(2) Goose feathers are feathers of any kind of goose, which are whole in physical structure, with the natural form and curvature of the feather.

(3) Duck feathers are feathers of any kind of duck, which are whole in physical structure, with the natural form and curvature of the feather.

(4) Waterfowl feathers may be used to designate any mixture of goose and duck feathers.

(5) Turkey feathers are feathers of any kind of turkey, which are whole in physical structure.

(6) Chicken feathers are feathers of any kind of chicken, which are whole in physical structure.

(7) Damaged feathers in conjunction with the name of the fowl from which the feathers come, shall mean feathers which have been broken, injured by insects, or depreciated from the original value in any manner and which exceeds the 10% allowable tolerance.

(8) Crushed feathers in conjunction with the name of the fowl from which the feathers come, shall mean feathers which have been processed by a curling, crushing, or chopping machine.

(9) Feather mixtures when from two or more species shall be designated by name, character, and percentage by weight of each constituent in order of predominance, or mixtures may be designated by lowest grade as to specie of origin (grades in descending order: goose, duck, turkey, chicken).

(d) Foam.

(1) The term "foam" by itself shall not be used.

(2) Foam is polymerized material consisting of a mass of thin walled cells produced chemically or physically which is created by the interaction of an ester or an ether and carbamic acid derivative.

(3) The term "synthetic foam" may be used as a definition in lieu of the following generic terms:

- (A) polyurethane foam;
- (B) urethane foam;
- (C) polyester foam;
- (D) polyether foam;
- (E) vinyl foam; and
- (F) polystyrene foam.

(4) Urethane foam high resilience is a permissible term for urethane foam with a minimum density of 2.5 pounds per cubic foot, a minimum resilience of 60%, and a minimum support ratio of 2.4 pounds per cubic feet.

(5) Polystyrene foam beads are a filling material which has been processed into small round droplets usually from 0-1/2 inches in diameter.

(6) If generic terms are used for foam products, they must be true and correct.

(e) Hair.

(1) Hair—the coarse filamentous

epidermal outgrowth of such mammals as horses, cattle, hogs, and goats when used in the manufacture of bedding, upholstered furniture, and filling materials. It shall be clean, properly cured, free from epidermis, excreta, and other foreign or objectionable substances and odors.

(2) Hair mixtures—the hair of different animal origin used in a blend or mixture. The kind and percentage, by weight of each, shall be stated on the law label. Where materials other than hair are used with hair in a mixture, the kind and percentage by weight of each material shall be stated on the law label.

(f) Manufactured fibers.

(1) Acetate fiber—manufactured fiber in which the fiber-forming substance is cellulose acetate. Where not less than 92% of hydroxyl groups are acetylated, the term triacetate may be used as generic description of the fiber.

(2) Acrylic fiber—manufactured fiber in which the fiber-forming substance is any long chain synthetic polymer composed of at least 85% by weight of acrylonitrile units.

(3) Azlon fiber—manufactured fiber in which the fiber-forming substance is composed of any regenerated naturally occurring proteins.

(4) Glass fiber—manufactured fiber in which the fiber-forming substance is glass.

(5) Metallic fiber—manufactured fiber composed of metal, plastic-coated metal, metal-coated plastic, or core completely covered by metal.

(6) Modacrylic fiber—manufactured fiber in which the fiber-forming substance is any long chain synthetic polymer composed of less than 85%, but at least 35% by weight, or acrylonitrile units.

(7) Nylon fiber—manufactured fiber in which the fiber-forming substance is any long chain synthetic polyamide having recurring amide groups.

(8) Nitril fiber—manufactured fiber containing at least 85% of long chain polymer of vinylidene dinitrile when the vinylidene dinitrile content is no less than every other unit in the polymer chain.

(9) Olefin fiber—manufactured fiber in which the fiber-forming substance is any long chain synthetic polymer composed of at least 85% by weight of ethylene, propylene, or other olefin units.

(10) Polyester fiber—manufactured fiber in which the fiber-forming substance is any long chain synthetic polymer composed of at least 85% by weight of any ester of a dihydric alcohol and terephthalic acid.

(11) Rayon fiber—manufactured fiber composed of regenerated cellulose, as well as manufactured fibers composed of regenerated cellulose in which substituents have replaced not more than 15% of the hydrogens of the hydroxyl groups.

(12) Saran fiber—manufactured fiber in which the fiber-forming substance is any long chain synthetic polymer compos-

ed of at least 80% by weight of vinylidene chloride units.

(13) Spandex fiber—manufactured fiber in which the fiber-forming substance is a long chain synthetic polymer comprised of at least 85% of a segmented polyurethane.

(14) Vinyl fiber—manufactured fiber in which the fiber-forming substance is any long chain synthetic polymer composed of a least 50% by weight of vinyl alcohol units, and in which the total of the vinyl alcohol units and any one or more of the various acetal units is at least 85% by weight of the fiber.

(15) Vinyon fiber—manufactured fiber in which the fiber-forming substance is any long chain synthetic polymer composed of at least 85% by weight of vinyl chloride units.

(16) Polyester pneumacel—a generic term for a polyester pneumatic cellular product.

(17) Synthetic fiber—may be used to designate any of the above generic named fibers in this subsection.

(g) Miscellaneous fibers.

(1) Cellulose fiber—generic term for any wood or other vegetable growth reduced to a fibrous state.

(2) Coconut husk fiber or coir—generic term for fibers obtained from the outer shell of coconut.

(3) Excelsior—generic term for shredded wood fibers but does not include waste such as shaving, sawdust, or similar wastes.

(4) Flax fiber—generic term for fiber derived from the plant of the genus *Linum usitatissimum*.

(5) Jute fiber—generic term for fiber obtained from various species (corchorus) of plants of the linden family.

(6) Kapok—generic term for fibers from the seed of kapok trees.

(7) Sisal fiber—generic term for fibers obtained from leaves of agave plants (*Agave sisalana*).

(h) Rubber.

(1) Rubber—natural rubber and the following synthetic rubber-like materials: chloroprene, styrene-butadiene copolymers, butadiene-acrylonitrile copolymers, polymerized isobutylene, with or without comonomers present and thioplasts (any of the polysulfide rubbers consisting of organic radicals linked through sulfur).

(2) Latex foam rubber—generic term for rubber latex which previously has not been coagulated or solidified.

(3) Sponge rubber—generic term for rubber which has previously been coagulated or solidified.

(i) Wool or virgin wool. This term includes a fleece of sheep or lamb, which has been scoured or scoured and carbonized and shall be free of kemp and vegetable matter.

(j) Universal definitions. The following terms are common industry definitions for fibers obtained as by-products during the various machine operations necessary in the

manufacture of cotton yarn up to but not including the process of spinning. These terms must be preceded by the name of the textile fiber from which it is produced.

(1) Card, strip or stripping—a tangled or matted mass of fibers removed from the carding cloth during the carding process.

(2) Comber or noils—tangled fibers removed during the combing process of textile fibers.

(3) Fly—fibers removed from the machines during carding, drawing or similar textile operations.

(4) Napper—lint removed during the process of raising the face of a cloth.

(5) Picker, picker motes, or motes—matted or tangled masses of fiber resulting from the opening and cleaning of fibers in opener room of the textile mill.

(6) Sweepings—the fibrous sweepings from the floors of the textile mill.

§205.6. *Adjunctive Terms.*

(a) The terms in this section are required to be used with definitions when applicable for descriptive terminology.

(b) Batting, blended, felt are materials which have been carded in layers or sheets by a garnett or felting machine. Shall not be used as an all inclusive term for material of different genera. (e.g., blended cotton felt, polyester batting).

(c) Boric acid treated—must be used in connection with filling material that has been treated with a boric acid solution as a flame retardant treatment (e.g., blended cotton felt—boric acid treated).

(d) By-product are vegetable and synthetic fibers recovered from various machine operations up to, but not including, the process of spinning. Term may be used in lieu of generic terms for a mixture of like material (e.g., synthetic fiber by-product).

(e) Garnetted clippings are materials which have been made into thread, yarn, or fabric and subsequently reduced to a fibrous state (e.g., garnetted polyester clippings, garnetted textile clippings).

(f) Pad is a material which has been interwoven, punched, pressed, formed, shaped, or otherwise fabricated into a pad (e.g., sisal pad, coir fiber pad).

(g) Pieces are urethane foam and rubber products which have been cut or broken into pieces of indefinite shape, size, or form, but not shredded. The term applies to loose as well as cemented or bonded filling material (e.g., urethane foam pieces, latex foam rubber pieces).

(h) Resinated must precede the generic material which has received a resin application (e.g., resinated cotton fiber pad).

(i) Rubberized must precede the generic material which has received a latex application (e.g., rubberized hair pad).

(j) Shredded is material which has been subjected to a shredding process (e.g., shredded urethane foam).

(k) Shredded clippings are materials which have been made into thread, yarn, or

fabric and subsequently cut up, torn up, broken up, or ground up (e.g., shredded polyester clippings, shredded textile clippings).

(l) Waste is by-products or reclaimed materials which have the following characteristics:

(1) cotton waste—cotton origin containing more than 10% of hull, leaf, stem, and pulp;

(2) material which contains bits of paper, cardboard, string, etc.

(m) Extraneous terms such as "covered with", "hardwood frame", "wire gage", "filled with", etc. are not allowed.

§205.7. *Suggested Terminology for Various Fiber By-products.*

(a) The provision covering adjunctive terms in §205.6 of this title (relating to Adjunctive Terms) must be included where applicable.

(b) Examples of terminology for blended filling materials consisting of various unknown kinds and percentages of fibers, threads, fabric pieces, etc., and which has been processed into a pad or felt form are as follows:

(1) blended felt;

(A) % cotton by-products;

(B) % shredded textile clippings;

(2) resinated pad;

(A) % shredded textile clippings;

(B) % garnetted cotton clippings;

(3) blended felt;

(A) % cotton linters;

(B) % polyester fibers;

(4) shredded textile clippings pad;

(c) Examples of terminology for loose blended filling materials consisting of various unknown kinds and percentages of fibers, threads, fabric pieces, etc., are as follows:

(1) miscellaneous waste fibers;

(2) man made fibers;

(3) manufactured fibers;

(4) synthetic fiber by-product;

(5) textile fibers of unknown kind;

and

(6) shredded textile clippings.

§205.8. *Germicidal Treatment Methods.*

(a) Chemical spray.

(1) Only those products specifically approved by the department may be used as a germicidal treatment method.

(2) Mechanical, compressed air, hand pump, or electric sprayers must be used and they must be of the continuous spray type. No intermittent spray devices are allowed.

(3) Chemicals must be in liquid form. Aerosol sprays shall not be used.

(4) Liquid sprays must include a simple but positive means of detection or verification by means of an ultra-violet lamp unit.

(5) Liquid sprays requiring pre-mixing or dilution shall not be approved.

(6) Spray area must be in such a location as to be protected from wind.

(7) Manufacturers specifications such as amount of coverage, operator safety precautions, and other warning labels must be followed.

(b) Dry heat.

(1) A minimum temperature of 230°F for a period of one hour, within a closed container is required for proper germicidal treatment.

(2) The dry heat chamber shall be equipped with a recording clock to accurately record the time and temperature. The clock shall be attached on the outside of the chamber and the heat bulb sending unit must be installed within the chamber at the furthest point practical from the entry of heat.

(3) The chamber and automatic circulating heat devices shall be constructed to maintain equal and uniform temperatures in all sections of the chamber.

(4) All articles of bedding shall be spaced within the chamber to allow for not less than four inches on all sides of each article for full circulation of heat or air.

(c) Steam.

(1) Treatment by the steam method shall consist of steam under pressure of 15 pounds maintained for 30 minutes or a pressure of 20 pounds maintained for 20 minutes.

(2) An alternate method may consist of two applications of streaming steam, maintained for a period of one hour each, to be applied at intervals of not less than six nor more than 24 hours.

(d) Washing and drying. Down and feather pillows will be considered as having been germicidally treated when the feathers and ticking are kept intact without opening, and washed by a commercial laundry method and subsequent drying to remove moisture.

(e) Other methods. Any other method of germicidal treatment may be used provided it has first been approved by the department.

(f) Records. All records as may be required by the Act and the department shall be kept as part of the operator's records for a period of not less than two years. The records shall be available to the department. The lot numbers and tag numbers as set forth under the Act, §4c, shall apply only to approved germicidal treatment methods which utilize a permanent recording device.

§205.9. Sanitary Premises. Every person engaged in the business of manufacturing, renovating, or processing bedding and/or bedding materials shall keep his place of business in a sanitary condition by complying with the following requirements.

(1) Adequate housing and floor space shall be provided to prevent crowding of materials and equipment and to allow for the practice of cleanliness and sanitation.

(2) All work rooms shall be well ventilated, and high dust counts, odors, and stale air shall not be permitted. Dust control measures may include the housing or partitioning of dust producing machinery from other work rooms and the installation of metal hoods and extraction fans over dust producing machinery.

(3) All work rooms shall be well lighted.

(4) The floors of all rooms in which materials are stored, processed, or otherwise used in the manufacturing or renovating of bedding, shall be of such construction as to be easily cleaned, shall be smooth, and shall be kept clean and in good repair.

(5) Walls and ceilings of all rooms where materials are stored, processed, or otherwise used in the manufacturing or renovating of bedding, shall be of tight, smooth construction, shall be painted, and kept clean and in good repair; cracks or recesses which would tend to harbor vermin and bacteria shall not be allowed.

(6) All buildings, rooms therein, and immediate surroundings shall be kept in neat and clean condition. All rooms and surroundings shall be free of rubbish, trash, discarded equipment, or other unnecessary articles which may promote unsanitary conditions.

(7) There shall be no living quarters in the rooms, or opening directly into the rooms where materials are stored, processed, or otherwise used in the manufacturing or renovating of bedding.

(8) Clean toilet facilities of a type acceptable to the department shall be provided.

(9) Adequate and clean hand washing facilities shall be provided. One lavatory (wash basin) with adequate and acceptable water supply shall be provided for every 20 employees or portion thereof up to 100 persons and one lavatory (wash basin) for each additional 25 persons or portions thereof. Soap or a suitable cleaning agent shall be provided at each lavatory.

(10) A water supply and drinking fountain acceptable to the department shall be provided. Paper cups with dispenser may be used instead of a fountain. The common drinking cup is prohibited.

§205.10. Adjustments to the Minimum Requirements. The department shall, through its authorized representatives, have the right to require adjustments in the minimum requirements as set forth in the sections when such adjustments are deemed necessary for the protection of the public health and the public welfare.

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-8605944

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

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For further information, please call
(512) 458-7519.

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Chapter 229. Food and Drug Registration of Manufacturers of Food

★25 TAC §229.182

The Texas Department of Health proposes an amendment to §229.182, concerning registration fees. The amendment reduces fees for the registration of certain manufacturers of food.

Stephen Seale, chief accountant III, has determined that for the first five-year period there will be fiscal implications for state government and small businesses as a result of enforcing or administering the section. The effect on state government will be an estimated decrease in revenue of \$200,000 each year for the years 1986-1990. The cost of compliance for small businesses will be as set forth in the schedule of fees. The cost of compliance for a small business having \$25,000 in gross annual volume would be \$.10 for every \$100 in sales. The cost of compliance for a large business having \$5,000,000 in gross annual volume would be \$.01 for every \$100 in sales. There will be no effect on local government.

Mr. Seale also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be reduced registration costs for small businesses. The costs will be more appropriate and reasonable for manufacturers of food with low gross annual income. The anticipated economic cost to individuals who are required to comply with the proposed section will be set forth in the schedule of fees.

Comments on the proposal may be submitted to Robert L. Henna, R.Ph., Director, Division of Food and Drugs, Texas Department of Health, 1100 West 49th Street, Austin, Texas 78756, (512) 458-7248. Comments will be accepted for a period of 30 days following publication in the *Texas Register*. In addition, a public hearing on the proposed amendments will be held at 9 a.m., Thursday, July 17, 1986, in the Texas Department of Health auditorium, 1100 West 49th Street, Austin, Texas.

The amendment is proposed under Texas Civil Statutes, Article 4476-5, §23, as amended by House Bill 1732, 69th Legislature, 1985, which provides the Texas Board of Health with the authority to adopt rules covering fees for the registration of food manufacturers.

§229.182. Registration Fees and Procedures.

(a) Registration fees and exemptions.

(1) All manufacturers of food in Texas shall register annually on or before September 1 with the Texas Department of Health and shall pay registration fees as follows:

(A) \$25 per establishment having a gross annual volume of \$0.00—\$24,999.99 for food products manufactured at that es-

establishment;

(B) \$50 per establishment having a gross annual volume of \$25,000—\$99,999.99 for food products manufactured at that establishment;

(C)(A) \$100 per establishment having a gross annual volume of \$100,000 [\$0.00]—\$199,999.99 for food products manufactured at that establishment;

(D)(B) \$200 per establishment having a gross annual volume of \$200,000—\$999,999.99 for food products manufactured at that establishment;

(E)(C) \$300 per establishment having a gross annual volume of \$1,000,000—\$2,999,999.99 for food products manufactured at that establishment;

(F)(D) \$400 per establishment having a gross annual volume of \$3,000,000—\$4,999,999.99 for food products manufactured at that establishment; and

(G)(E) \$500 per establishment having a gross annual volume of \$5,000,000 or more for food products manufactured at that establishment.

(2) (No change.)

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

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

Issued in Austin, Texas, on June 13, 1986.

TRD-8605945

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

Proposed date of adoption: August 16, 1986
For further information, please call
(512) 458-7248.

★ ★ ★

TITLE 40. SOCIAL SERVICES AND ASSISTANCE

Part I. Texas Department of Human Services Chapter 2. Medically Needy Program

Program Requirements

★ 40 TAC §2.1006

The Texas Department of Human Services (DHS) proposes an amendment to §2.1006, concerning requirements for application in the Medically Needy Program (MNP). Because of regulations issued by the United States Department of Health and Human Services, DHS is adding an exception to its Medically Needy Program resource policy. The exception concerns certification pending the sale of real property, which does not apply to the Medically Needy Program.

Brian Packard, associate commissioner for budget, planning and economic analysis, has determined that for the first five-year period the proposed section will be in effect there will be no fiscal implications for state or local government or small businesses as a result of enforcing or administering the section.

Mr. Packard also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be an extension of medical benefits to those most in need. There is no anticipated economic cost to individuals who are required to comply with the proposed section.

Comments on the proposal may be submitted to Cathy Rossberg, Administrator, Policy Development Support Division-363, Department of Human Services 153-E, P.O. Box 2960, Austin, Texas 78769, within 30 days of publication in the *Texas Register*.

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

§2.1006. Requirements for Application.

(a) (No change.)

(b) Resources. Resource limits and types of countable and exempt resources for MNP are the same as those outlined in the AFDC rules, except the AFDC policy of receiving benefits up to six months pending a good faith effort to sell real property does not apply to the MNP.

(c)-(e) (No change.)

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

Issued in Austin, Texas, on June 13, 1986.

TRD-860589E

Marlin W. Johnston
Commissioner
Texas Department of
Human Services

Proposed date of adoption: October 1, 1986
For further information, please call
(512) 450-3766.

★ ★ ★

Chapter 4. Medicaid Programs—Children and Pregnant Women Eligibility Requirements

★ 40 TAC §4.1006

The Texas Department of Human Services (DHS) proposes an amendment to §4.1006, concerning determining eligibility in the Medicaid Programs for Children and Pregnant Women (CPW). Because of regulations issued by the United States Department of Health and Human Services, the DHS is adding a new paragraph (5), concerning certification pending the sale of

real property which does not apply to the CPW Program.

Brian Packard, associate commissioner for budget, planning, and economic analysis, has determined that for the first five-year period the proposed section will be in effect there will be no fiscal implications for state or local government or small businesses as a result of enforcing or administering the section.

Mr. Packard also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be an extension of medical benefits to those most in need. There is no anticipated economic cost to individuals who are required to comply with the proposed section.

Comments on the proposal may be submitted to Cathy Rossberg, Administrator, Policy Development Support Division—363, Department of Human Services 153-E, P.O. Box 2960, Austin, Texas 78769, within 30 days of publication in the *Texas Register*.

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

§4.1006. Determining Eligibility. Eligibility is determined using all AFDC eligibility requirements except in the following situations.

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

(5) The AFDC policy of receiving benefits up to six months pending a good faith effort to sell real property does not apply to the CPW Program.

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 June 13, 1986.

TRD-8605897

Marlin W. Johnston
Commissioner
Texas Department of
Human Services

Proposed date of adoption: October 1, 1986
For further information, please call
(512) 450-3766.

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Chapter 49. Child Protective Services Subchapter B. Children's Trust Fund

★ 40 TAC §§49.201-49.209

The Texas Department of Human Services (DHS) proposes new §§49.201-49.209, concerning the Children's Trust Fund Program. The Human Resources Code, Chapter 74, (Senate Bill 371, 69th Legislature, 1985) established the children's trust fund (CTF). CTF monies are to be used to fund community-based programs to prevent child

abuse and neglect. The law creates the Council on Child Abuse and Neglect Prevention and gives the council responsibility for establishing grant application requirements; funding priorities; and guidelines for selecting proposals, determining grant amounts, distributing grants, and monitoring expenditures of funds. The council developed and recommended the proposed sections to implement the provisions of Chapter 74.

Brian Packard, associate commissioner for budget, planning, and economic analysis, has determined that for the first five-year period the sections are in effect there will be fiscal implications for state government as a result of enforcing or administering the sections. There will be no cost to state government in fiscal year 1986; however, the cost will be \$1,393,349 in fiscal year 1987, \$2,315,914 in fiscal year 1988, \$2,819,667 in fiscal year 1989, and \$3,119,347 in fiscal year 1990. There will be no fiscal implications for local government or small business.

Mr. Packard also has determined that for each year of the first five years the sections are in effect the public benefit anticipated as a result of enforcing the sections will be the well-being of all family members because the availability of programs that provide parenting education, anti-victimization training for children, assistance to families in crisis, and community awareness campaigns is expected to reduce the incidence of abuse and neglect. There is no anticipated economic cost to individuals who are required to comply with the proposed sections.

The department has scheduled a public hearing on Tuesday, July 8, 1986, at 1 p.m. in the DHS public hearing room, 701 West 51st Street, Austin, to receive oral comments on the new sections. Written comments may be submitted to Cathy Rossberg, Administrator, Policy Development Support Division-322, Texas Department of Human Services, 153-E, PO Box 2960, Austin, Texas 78769, within 30 days of publication in the *Texas Register*.

The new sections are proposed under the Human Resources Code, Title 2, Chapter 22, which authorizes the department to administer public assistance programs and the Human Resources Code, Title 3, Chapter 74, which directs the department to issue sections according to the recommendations of the Council on Child Abuse and Neglect Prevention.

§49.201. *Children's Trust Fund Council.*

(a) The Children's Trust Fund (CTF) Council must establish its own annual administrative budget within the requirements of the law.

(b) If a position on the council becomes vacant, the presiding officer (hereafter called the chair) may submit recommendations to the governor for his approval; the council must approve all recommendations before they are submitted.

(c) The council may recommend to the governor that any member who misses two consecutive council meetings without notifying the chair beforehand may be asked to resign.

§49.202. *Applicant Eligibility.*

(a) CTF grant funds must be used only in Texas and only for the benefit of Texas children.

(b) Applicants must have a Texas office where financial records and documentation of services are available for review.

(c) Programs receiving CTF monies must develop procedures for meeting legal requirements for reporting suspected child abuse or neglect.

§49.203. *Grant Applications Procedures.*

(a) The council must establish a procedure for accepting applications and the criteria for reviewing the applications. Each applicant must follow the procedures described in the request for proposal and published in the *Texas Register*.

(b) The council must publicize the application procedures and criteria.

§49.204. *Selection Procedures.* All proposed programs to prevent child abuse and neglect must be directed toward primary and/or secondary prevention. Funds may not be expended for treatment programs.

§49.205. *Payment Method.*

(a) The grant payment procedures must meet DHS and state comptroller requirements; they must be negotiated by the applicant, DHS, and the council.

(b) The state vendor identification number assigned by the Texas Comptroller's Office is required.

§49.206. *Payment Procedures.* To receive payment, contracting organizations must comply with the payment schedule specified in the grant document. All required forms and reports specified in the grant document must be submitted.

§49.207. *Council/DHS Special Reports.* The council must submit an annual report to the governor, the legislature, and the DHS board. DHS must provide council staff with monthly financial reports. Council staff must submit quarterly financial reports to the council.

§49.208. *Evaluation.*

(a) The council must establish procedures for an annual evaluation of funded programs.

(b) The chair must be responsible for evaluating staff performance semiannually.

§49.209. *Confidentiality.* DHS staff, service providers, or council members may not disclose information that identifies clients served by CTF programs. Fiscal and statistical information that does not identify clients is not confidential.

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 June 13, 1986.

TRD-8605888

Marlin W. Johnston
Commissioner
Texas Department of
Human Services

Earliest possible date of adoption.

July 21, 1986

For further information, please call
(512) 450-3766.

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Part IX. Texas Department on Aging Chapter 289. Direct Services Statutes and Regulations

★ 40 TAC §§289.1, 289.3, 289.5,
289.7, 289.9, 289.11, 289.13, 289.15

The Texas Department on Aging proposes new §§289.1, 289.3, 289.5, 289.7, 289.9, 289.11, 289.13, 289.15, and 289.17, concerning providing direct services by area agencies on aging. This chapter establishes policies and procedures for the approval by the Texas Department on Aging of applications by area agencies on aging that desire to provide direct services for the elderly. It promulgates conditions that must exist before a waiver can be submitted, how a waiver is to be submitted, and the documentation that must accompany a request for a waiver to provide direct services.

Russell Gregorczyk, director for fiscal management, has determined that for the first five-year period the proposed sections will be in effect there will be no fiscal implications for state or local government or small businesses as a result of enforcing or administering the sections.

Tim Shank, deputy executive director, has determined that for each year of the first five years the sections are in effect the public benefit anticipated as a result of enforcing the sections will be standardization of waiver applications submitted by area agencies on aging for consideration to perform direct services. This will provide greater consistency in development of the waiver request and uniform criteria to judge the merits of the waiver request based on data required by these sections. There is no anticipated economic cost to individuals who are required to comply with the proposed sections.

Comments on the proposal may be submitted to Edwin R. Floyd, Chief of Administrative Services, Texas Department on Aging, P.O. Box 12786, Austin, Texas 78711.

The new sections are proposed under the Human Resources Code, Chapter 101, which provides the Texas Department on Aging with the authority to adopt rules governing the function of the department.

§289.1. Purpose. This chapter establishes policies and procedures for the Texas Department on Aging to approve waiver requests by area agencies on aging who desire to provide direct services for the elderly. It promulgates conditions which must exist before a waiver can be submitted, how a request for waiver is to be submitted, and what documentation must accompany the request for waiver as justification to perform direct services.

§289.3. Scope. This chapter applies only to area agencies on aging who desire to provide services normally provided by contract service providers within the planning and service area.

§289.5. Applicability. This chapter applies to all activities providing services to older Texans under the Older Americans Act, Title III.

§289.7. Implementation Date. It is the intent of the Texas Department on Aging that procedures and policies specified in this chapter will be followed by area agencies on aging submitting waiver requests on or after May 31, 1987.

§289.9. State and Federal Guidance for Direct Service Provision.

(a) The Older Americans Act contains the following language regarding direct service provision by area agencies on aging: "§307(a)(10) Each such [state] plan shall provide that no supportive services or nutrition services, will be directly provided by the state agency or an area agency on aging, except where, in the judgement of the state agency, provision of such services by the state agency or an area agency on aging is necessary to assure an adequate supply of such services, or where such services are directly related to such state or area agency on aging's administrative functions or where such services of comparable quality can be provided more economically by such state or area agency on aging."

(b) The quotation in subsection (a) of this section describes three conditions when a waiver to provide services directly by an area agency on aging can be granted. These are when:

(1) it is necessary to assure that an adequate supply of the service/s is/are available in the planning and service area; or,

(2) the service/s is/are directly related to the area agency on aging's administrative functions; or,

(3) comparable quality of service can be provided more economically.

(c) If it is determined that grounds as specified in subsection (a) of this section exist, area agencies will:

(1) complete and submit the appropriate form. These are available from the department and will be provided upon request;

(2) submit the request at the time of submission of the two year area plan or area plan amendment (if at any time during the

project period it becomes necessary for the area agency to provide a direct service on a temporary basis, a waiver must be requested 30 days in advance of the start of the direct service concerned. For example, if a subcontractor notifies the area agency of intent to terminate a contract, the area agency may request a waiver under §289.11 of this title (relating to Adequate Supply of Services) 30 days prior to the termination of the contract using the form provided by the Texas Department on Aging); and

(3) consider the impact that providing a direct service would have on the advocacy, planning, and coordination functions of the area agency on aging.

§289.11. Adequate Supply of Services.

(a) The area agency may wish to provide a service directly when it has been determined that there is not an adequate supply of a service in the planning and service area and that the failure to do so would jeopardize the availability of the service/s to the elderly in the region. To make this determination, the area agency will consider, as a minimum:

(1) information gained in the needs assessment process about the level of need for that service in the region;

(2) information about the providers in the region and the level of the service(s) they provide; and

(3) availability of other provider/s in the region with which to contract.

(b) If the area agency wishes to request a waiver to assure that an adequate supply of services is available, the area agency must provide the following information for each proposed service:

(1) a list of the providers in the region who are currently providing the service and the level of service being provided by each provider (i.e., the number of units of service and the unduplicated number of older persons receiving the service. Whenever possible, include unit costs and the source and level of funding for each service);

(2) analysis of the needs assessment included in the area plan which led to the determination that it is necessary for the area agency to provide the service to assure that an adequate supply of the service continues to be available; and

(3) documentation of the efforts made by the area agency on aging to find any other provider who would provide this service. This may include, but is not limited to:

(A) publication date and places for the request for proposals;

(B) copies of letters sent to agencies announcing the publication of the RFP; and

(C) the log or roster of agencies submitting proposals;

(4) a copy of the proposal/s submitted by other service providers for the services; and

(5) the area agency's proposed service delivery plan using the same proposal

format indicated in the area agency's request for proposals (RFP).

§289.13. Services Directly Related to Administrative Functions.

(a) The Older Americans Act, §306, provides the basis for the following list of functions performed by an area agency on aging. To assure that these functions are accomplished, it is sometimes necessary for the area agency to provide a direct service. When direct provision is necessary in the planning and service area, development and submission of a waiver may be appropriate to:

(1) provide a comprehensive and coordinated system of supportive and nutrition services, and multipurpose senior centers;

(2) determine the need for supportive and nutrition services, multipurpose senior centers, and identification, prevention, and treatment services for abuse, neglect, and exploitation of older persons;

(3) evaluate the effectiveness of the use of resources in meeting such needs;

(4) enter into agreements with providers of such services for the provision of services to meet the need;

(5) conduct periodic evaluations of activities and services funded under the area plan;

(6) furnish appropriate technical assistance to providers of supportive and nutrition services, and multipurpose senior centers;

(7) serve as the advocate and focal point for the elderly in the service area;

(8) establish and utilize an advisory council;

(9) develop and publish methods by which priority of services is determined;

(10) establish effective and efficient procedures for coordination of services in the community;

(11) conduct efforts to facilitate the coordination of community based long-term care services designed to retain individuals in their homes, and designed to emphasize the development of case management systems as a component of such services; and

(12) ensure community awareness of and involvement in addressing the needs of residents of long-term care facilities.

(b) If the area agency wishes to request a waiver to provide a service that is related to the administrative functions of the area agency, the following must be provided for each proposed service:

(1) documentation of the efforts made by the area agency on aging to find another provider who would provide this service. (This description may include publication date and places of posting the request for proposal, letters sent to agencies announcing the publication of the RFP, the log or roster of agencies submitting proposals, and the written report of the review by the area agency on aging of proposals for the service/s which were found to be inadequate for contracting);

(2) a list of the providers in the

region who are currently providing the service and the level of service being provided by each provider (i.e., the number of units of service and the unduplicated number of older persons receiving the service; whenever possible, include the amount and source of funding for each service);

(3) a description of the area agency's plan for service delivery to indicate how the service/s will be integrated into the administrative functions of the area agency (include a description of how the service will enhance the functions of the area agency);

(4) a copy of the proposal/s submitted by other service providers for the service/s; and

(5) the area agency's proposed service delivery plan using the same proposal format indicated in the area agency's request for proposals (RFP).

§289.15. Comparable Quality Provided More Economically

(a) The area agency may wish to provide a service directly when it has determined that it can provide the service with comparable quality in a more economical manner. To determine this, the area agency would consider the following:

(1) proposal/s submitted in response to the RFP issued by the area agency for the service;

(2) staff and community resources, particularly area agency staff support, available to provide the service/s;

(3) for request for waiver to continue to provide the service, current unit cost relative to comparable service provided in the region; and

(4) availability of other provider/s in the region with which to contract.

(b) To determine if the request for waiver can be approved, the area agency must provide the following for each proposed service:

(1) documentation of the efforts made by the area agency on aging to find any other provider who would provide this service, (for example, publication date and places for the requests for proposals, letters sent to agencies announcing the publication of the RFP, the log or roster of agencies submitting proposals);

(2) a list of the providers in the region who are currently providing the service and the level of service being provided by each provider (i.e., the number of units of service and the unduplicated number of older persons receiving the service, and unit cost information for each service provider);

(3) a copy of the proposal/s submitted by other service providers for the service/s;

(4) a comparative analysis to indicate that a substantial increase in the number of service units provided while either maintaining relative cost or reducing these costs, (where appropriate, past program performance information for the proposed contract and/or the area agency on aging should be used for comparison purposes); and

(5) the area agency's proposed service delivery plan using the same proposal format indicated in the area agency's request for proposals (RFP). This service delivery plan should indicate that a service of the quality supplied by the area agency will be comparable to that of other proposers of the service/s. Factors to be considered in determining quality include, but are not limited to:

(A) intake procedures;
(B) method/s of service delivery;
(C) client/staff ratio;
(D) service delivery schedule;
(E) response time to request for services;

(F) frequency of service provision;
(G) timeliness of follow-up services;

(H) methods of follow-up services;
(I) referral procedures;
(J) staff supervision;
(K) staff training;
(L) record keeping for clients;

and
(M) volunteer support, where appropriate.

§289.17. Action by the Texas Department on Aging.

(a) The Texas Department on Aging has approval authority for all requests submitted under §§289.11, 289.13, and 289.15 of this title (relating to Adequate Supply of Services; Services Directly Related to Administrative Functions; and Comparable Quality Provided More Economically) by an area agency on aging for a waiver to provide a direct service/s.

(1) In those cases when an area agency requests a waiver under this chapter to provide direct services at the beginning of a new planning period, or at the beginning of the second year of that planning period, TDoA will review all documentation and competing proposals submitted in accordance with this chapter and prepare a written report of the findings. The report will be submitted to the Texas Board on Aging for consideration and approval/disapproval during the review process of the area plan or area plan amendments. All documentation will become a part of the area plan or area plan amendment official record.

(2) In those cases where an area agency on aging requests a waiver under this chapter to provide temporary direct services for 90 days or less, the TDoA will review all documentation submitted in accordance with this chapter and prepare a written report of the findings. The report will be submitted to the executive director for consideration and approval or disapproval. Such action by the executive director will be reported to the Texas Board on Aging at the next meeting of the board following approval or disapproval of the temporary direct service waiver request. A copy of the waiver request findings and a letter will be sent to the requesting area agency detailing the executive director's decision. All documentation will become a

part of the area plan or area plan amendment official record.

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 June 13, 1986.

TRD-8805906

O. P. (Bob) Bobbit
Executive Director
Texas Department on
Aging

Earliest possible date of adoption:

July 21, 1986

For further information, please call
(512) 444-2727.

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TITLE 43.

TRANSPORTATION

Part I. Texas Department of Highways and Public Transportation

Chapter 21. Right of Way Division

Disposal of Real Estate Interests

★43 TAC §21.101

The Texas Department of Highways and Public Transportation proposes an amendment to §21.101, concerning disposal of real estate interests. The proposed amendment increases service fees which are required to meet costs involved in disposition of surplus real estate interests held by the state.

L. E. Clarke, right of way engineer, has determined that for the first five-year period the proposed section will be in effect there will be fiscal implications for state government and small businesses as a result of enforcing or administering the section. The effect on state government will be an estimated increase in revenue of \$12,436 each year in 1987-1991. The cost of compliance for small businesses will be that the owner purchasing surplus right of way or other surplus real estate interests is required to pay the same service fees, consideration, and/or costs as required of any other purchaser of the same type and value property interests. The cost of compliance will be the same for all purchasers. There will be no effect on local government.

Mr. Clarke also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be that the state is able to more efficiently determine needs, use, and potential transfer of interests in property held by the state. The anticipated economic cost to individuals who are required to comply with the proposed section cannot be assessed due to unknown number and values of surplus properties to be sold.

Comments on the proposal may be submitted to L. E. Clarke, Right of Way Engineer, Texas Department of Highways and Public Transportation, P.O. Box 5075, Austin, Texas 78763.

The amendment is proposed under Texas Civil Statutes, Articles 6666 and 6673a, which provide the State Highway and Public Transportation Commission with the authority to promulgate rules in general and specifically for disposition of surplus real estate interests and to collect all expenses incurred by the department in connection with such disposals made under said statute.

§21.101. Disposal of Real Estate Interests. Policies for the disposal of real property, or interest therein, acquired for state highway purposes but no longer needed for such purposes, are based on requirements of law and the need to protect and preserve the integrity of the title to the property and property rights owned or used by the state. In order to cover the basic costs of handling such disposals, a service fee is charged as follows.

(1) For quitclaims where the state holds no record title, holds easement title only, or holds title subject to a reversionary clause, a service fee of \$300 [\$100] will be charged to cover the costs of handling each quitclaim.

(2) For sales, a service fee will be charged in the amount of \$300 [\$100] or 2.0% [1.0%] of the sale price, whichever is the most. The service fee shall not exceed \$1,600.

(3) The above service fees shall not apply where the conveyance is being made to correct a previous error, or where property or property interest is being exchanged for other property interests needed for highway purposes. Also, no service fee will be charged where a property or property interest is being sold, quitclaimed, or transferred to a county, city, state, or federal governmental agency or where the commission determines the service fee to be unjust, or unwarranted.

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 June 11, 1986.

TRD-8605933 Diane L. Northam
Administrative Technician
Texas Department of
Highways and Public
Transportation

Earliest possible date of adoption:
July 14, 1986
For further information, please call
(512) 463-8830.

★ ★ ★

Chapter 25. Maintenance Division Method of Payment of Fees for Oversize Permits Ordered by Telephone

★43 TAC §25.77

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

The Texas Department of Highways and Public Transportation proposes new §25.77, concerning the method payment of fees for oversize permits ordered by telephone. The new section provides for using certain major credit cards and permit account cards, issued by a financial institution under contract to the State Treasury Department and the State Department of Highways and Public Transportation, as methods for paying oversize permits.

Milton M. Dietert, chief engineer of safety and maintenance operations, has determined that for the first five-year period the proposed section will be in effect there will be fiscal implications for state government and small businesses as a result of enforcing or administering the section. The effect on state government will be that in using credit cards as a method of permit fee payment reduces accounting costs for issuance because accounting steps are automated instead of performed manually. The amount of reduction cannot be calculated due to an inability to predict volume of permits to be purchased by credit cards. The cost of compliance for small businesses is minimal because the service charge for each permit, which does not exceed \$1.00, is offset by reducing the amount of time needed to obtain the permit. There is no effect on local government.

Mr. Dietert also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be the uniform issuance of oversize permits through a central permit issuing office; allowing payment of the permit fee with a permit account card or credit card; and providing for the collection of a service charge when the permit is purchased with a credit card or permit account card. The anticipated economic cost to individuals who are required to comply with the proposed section that the permit applicant will be required to pay a service charge (not to exceed \$1.00) for each permit purchased by a credit card or permit account card; however, this fee will be offset by reduced time required to obtain the permit.

Comments on the proposal may be submitted to Milton M. Dietert, Chief Engineer, Safety and Maintenance Operations Division, 11th and Brazos Streets, Austin, Texas 78701.

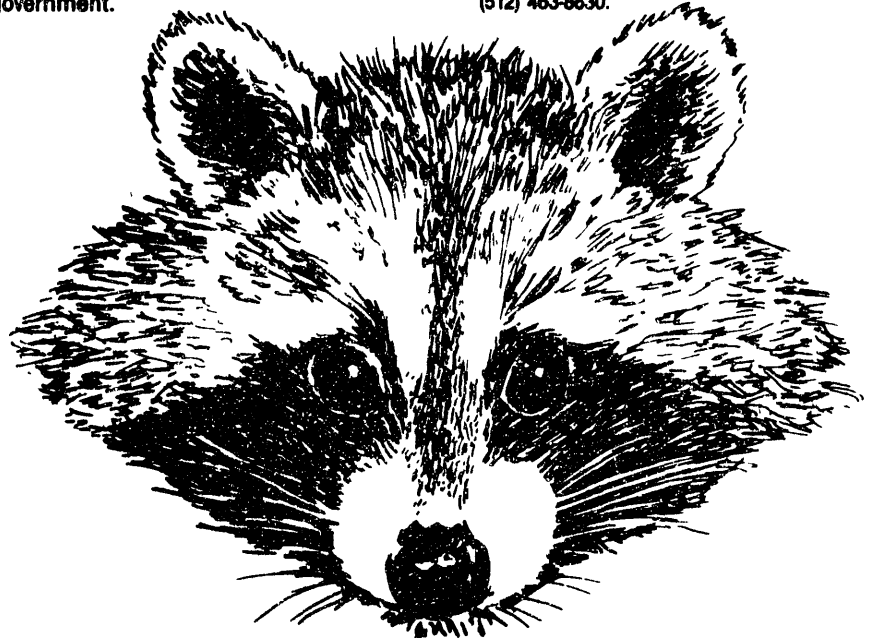
The new section is proposed under Texas Civil Statutes, Article 6666 and Article 6701a, which provide the State Highway and Public Transportation Commission with the authority to promulgate rules in general and specifically to establish rules regarding the method of payment of oversize permit fees ordered by telephone.

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 June 13, 1986.

TRD-8605940 Diane L. Northam
Administrative Technician
State Department of
Highways and Public
Transportation

Earliest possible date of adoption:
July 31, 1986
For further information, please call
(512) 463-8830.



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 10. COMMUNITY DEVELOPMENT

Part I. Texas Department of Community Affairs

Chapter 5. Job Training

Subchapter C. Financial Management

★ 10 TAC §§5.313, §5.315

The Texas Department of Community Affairs has withdrawn from consideration the emergency effectiveness of §§5.313 and §5.315, concerning financial management. The text of the new sections appeared in the December 27, 1985, issue of the *Texas Register* (10 TexReg 4995). The effective date of the new sections is July 3, 1986.

Issued in Austin, Texas, on June 12, 1986.

TRD-8605861 Douglas C. Brown
General Counsel
Texas Department of
Community Affairs

Filed: June 12, 1986
For further information, please call
(512) 834-8080.

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TITLE 31. NATURAL RESOURCES AND CONSERVATION

Part IX. Texas Water Commission

Chapter 305. Consolidated Permits

Subchapter A. General Provisions

★ 31 TAC §§305.1, §305.2

The Texas Water Commission has withdrawn from consideration the emergency effectiveness of §§305.1 and §305.2, concerning general provisions. The text of the new sections appeared in the March 7, 1986, issue of the *Texas Register* (11 TexReg 1190). The effective date of the new sections is June 19, 1986.

Issued in Austin, Texas, on June 11, 1986.

TRD-8605768 James K. Rourke, Jr.
General Counsel
Texas Water Commission

Filed: June 11, 1986
For further information, please call
(512) 463-8087.

Subchapter B. Emergency Orders, Temporary Orders, and Executive Director Authorizations

★ 31 TAC §§305.21-305.30

The Texas Water Commission has withdrawn from consideration the emergency effectiveness of §§305.21-305.30, concerning emergency orders, temporary orders, and executive director authorizations. The text of the new sections appeared in the March 7, 1986, issue of the *Texas Register* (11 TexReg 1191). The effective date of the new sections is June 19, 1986.

Issued in Austin, Texas, on June 11, 1986.

TRD-8605769 James K. Rourke, Jr.
General Counsel
Texas Water Commission

Filed: June 11, 1986
For further information, please call
(512) 463-8087.

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Subchapter C. Application for Permit

★ 31 TAC §§305.41-305.53

The Texas Water Commission has withdrawn from consideration the emergency effectiveness of §§305.41-305.53, concerning application for permit. The text of the new sections appeared in the March 7, 1986, issue of the *Texas Register* (11 TexReg 1193). The effective date of the new sections is June 19, 1986.

Issued in Austin, Texas, on June 11, 1986.

TRD-8605770 James K. Rourke, Jr.
General Counsel
Texas Water Commission

Filed: June 11, 1986
For further information, please call
(512) 463-8087.

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Subchapter D. Amendments, Renewals, Transfers, Corrections, Revocation, and Suspension of Permits

★ 31 TAC §§305.61-305.65

The Texas Water Commission has withdrawn from consideration the emergency effectiveness of §§305.61-305.65, concerning amendments, renewals, transfers, corrections, revocation, and suspension of permits. The text of the new sections ap-

peared in the March 7, 1986, issue of the *Texas Register* (11 TexReg 1195). The effective date of the new sections is June 19, 1986.

Issued in Austin, Texas, on June 11, 1986.

TRD-8605771 James K. Rourke, Jr.
General Counsel
Texas Water Commission

Filed: June 11, 1986
For further information, please call
(512) 463-8087.

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Subchapter E. Actions, Notice, and Hearing

★ 31 TAC §§305.91-305.105

The Texas Water Commission has withdrawn from consideration the emergency effectiveness of §§305.91-305.105, concerning actions, notice, and hearing. The text of the new sections appeared in the March 7, 1986, issue of the *Texas Register* (11 TexReg 1198). The effective date of the new sections is June 19, 1986.

Issued in Austin, Texas, on June 11, 1986.

TRD-8605772 James K. Rourke, Jr.
General Counsel
Texas Water Commission

Filed: June 11, 1986
For further information, please call
(512) 463-8087.

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Subchapter F. Permit Characteristics and Conditions

★ 31 TAC §§305.121-305.128

The Texas Water Commission has withdrawn from consideration the emergency effectiveness of §§305.121-305.128, concerning permit characteristics and conditions. The text of the new sections appeared in the March 7, 1986, issue of the *Texas Register* (11 TexReg 1199). The effective date of the new sections is June 19, 1986.

Issued in Austin, Texas, on June 11, 1986.

TRD-8605773 James K. Rourke, Jr.
General Counsel
Texas Water Commission

Filed: June 11, 1986
For further information, please call
(512) 463-8087.

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Subchapter G. Additional Conditions for Solid Waste Storage, Processing, or Disposal Permits

★31 TAC §§305.141-305.146

The Texas Water Commission has withdrawn from consideration the emergency effectiveness of §§305.141-305.146, concerning additional conditions for solid waste storage, processing, or disposal permits. The text of the new sections appeared in the March 7, 1986, issue of the *Texas Register* (11 TexReg 1201). The effective date of the new sections is June 19, 1986.

Issued in Austin, Texas, on June 11, 1986.

TRD-8605774 James K. Rourke, Jr.
General Counsel
Texas Water Commission

Filed: June 11, 1986
For further information, please call
(512) 463-8087.

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Subchapter H. Additional Conditions for Injection Well Permits

★31 TAC §§305.151-305.159

The Texas Water Commission has withdrawn from consideration the emergency effectiveness of §§305.151-305.159, concerning additional conditions for injection well permits. The text of the new sections appeared in the March 7, 1986, issue of the *Texas Register* (11 TexReg 1202). The effective date of the new sections is June 19, 1986.

Issued in Austin, Texas, on June 11, 1986.

TRD-8605775 James K. Rourke, Jr.
General Counsel
Texas Water Commission

Filed: June 11, 1986
For further information, please call
(512) 463-8087.

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Subchapter I. Hazardous Waste Incinerator Permits

★31 TAC §§305.171-305.174

The Texas Water Commission has withdrawn from consideration the emergency effectiveness of §§305.171-305.174, concerning hazardous waste incinerator permits. The text of the new sections appeared in the March 7, 1986, issue of the *Texas Register* (11 TexReg 1205). The effective date of the new sections is June 19, 1986.

Issued in Austin, Texas, on June 11, 1986.

TRD-8605776 James K. Rourke, Jr.
General Counsel
Texas Water Commission

Filed: June 11, 1986
For further information, please call
(512) 463-8087.

Subchapter J. Permit for Land Treatment Demonstrations Using Field Tests or Laboratory Analyses

★31 TAC §§31 5.181-305.184

The Texas Water Commission has withdrawn from consideration the emergency effectiveness of §§305.181-305.184, concerning permits for land treatment demonstrations using field tests or laboratory analyses. The text of the new sections appeared in the March 7, 1986, issue of the *Texas Register* (11 TexReg 1207). The effective date of the new sections is June 19, 1986.

Issued in Austin, Texas, on June 11, 1986.

TRD-8605777 James K. Rourke, Jr.
General Counsel
Texas Water Commission

Filed: June 11, 1986
For further information, please call
(512) 463-8087.

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Subchapter K. Research, Development, and Demonstration Permits

★31 TAC §§305.191-305.194

The Texas Water Commission has withdrawn from consideration the emergency effectiveness of §§305.191-305.194, concerning research, development, and demonstration permits. The text of the new sections appeared in the March 7, 1986, issue of the *Texas Register* (11 TexReg 1208). The effective date of the new sections is June 19, 1986.

Issued in Austin, Texas, on June 11, 1986.

TRD-8605778 James K. Rourke, Jr.
General Counsel
Texas Water Commission

Filed: June 11, 1986
For further information, please call
(512) 463-8087.

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Subchapter L. Groundwater Compliance Plan

★31 TAC §305.401

The Texas Water Commission has withdrawn from consideration the emergency effectiveness of §305.401, concerning groundwater compliance plan. The text of the new section appeared in the March 7, 1986, issue of the *Texas Register* (11 TexReg 1208). The effective date of the new section is June 19, 1986.

Issued in Austin, Texas, on June 11, 1986.

TRD-8605779 James K. Rourke, Jr.
General Counsel
Texas Water Commission

Filed: June 11, 1986
For further information, please call
(512) 463-8087.

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Subchapter M. Waste Treatment Inspection Fee Program

★31 TAC §§305.501-305.506

The Texas Water Commission has withdrawn from consideration the emergency effectiveness of §§305.501-305.506, concerning waste treatment inspection fee program. The text of the new sections appeared in the March 7, 1986, issue of the *Texas Register* (11 TexReg 1209). The effective date of the new sections is June 19, 1986.

Issued in Austin, Texas, on June 11, 1986.

TRD-8605780 James K. Rourke, Jr.
General Counsel
Texas Water Commission

Filed: June 11, 1986
For further information, please call
(512) 463-8087.

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TITLE 40. SOCIAL SERVICES AND ASSISTANCE

Part I. Texas Department of Human Services

Chapter 49. Child Protective Services

Subchapter C. Eligibility for Child Protective Services

★40 TAC §49.337

The Texas Department of Human Services has withdrawn from consideration the emergency effectiveness of §49.337, concerning eligibility for child protective services. The text of the amendment appeared in the May 9, 1986, issue of the *Texas Register* (11 TexReg 2178). The effective date of this amendment is June 13, 1986.

Issued in Austin, Texas, on June 13, 1986.

TRD-8605934 Cathy Rossberg
Administrator
Texas Department of
Human Resources

Filed: June 13, 1986
For further information, please call
(512) 441-3355.

★ ★ ★

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 10. COMMUNITY DEVELOPMENT

Part I. Texas Department of Community Affairs

Chapter 5. Job Training

Subchapter C. Financial Management

★ 10 TAC §§5.303, 5.305, 5.307, 5.309, 5.311

The Texas Department of Community Affairs adopts new §§5.303, 5.305, 5.307, 5.309, and 5.311. New §§5.303, 5.307, and 5.311 are adopted with changes to the proposed text published in the December 27, 1985, issue of the *Texas Register* (10 Tex-Reg 4995). New §5.305 and §5.309 are adopted without changes and will not be republished.

The sections concern the administration of the Texas Job Training Partnership Act (JTPA) by the adoption of guidelines and procedures relating to the deobligation and reobligation of unspent JTPA funds. Pursuant to Department of Labor guidance, Texas Department of Community Affairs adopts the sections to ensure compliance with the requirements set forth in JTPA, §164, Public Law 97-300 and to ensure accountability for JTPA funds.

The sections pertain to agencies and organizations that receive funding under the Job Training Partnership Act. The sections adopt uniform guidelines and procedures governing the deobligation and reobligation of unspent JTPA funds. The sections provide a description of the procedures under which JTPA funds may be deobligated, both voluntarily and involuntarily, and the formula for reobligating the funds to other service delivery areas. Sections 5.313 and 5.315, relating to Title IIA, §123, and Title III, are withdrawn.

Comments were received from the Texas Association of SDA Administrators and the Texas Association of Regional Councils. Both organizations objected to the requirements of the sections as published. Both TASA and TARC requested that, at a minimum, each SDA contractor should be allowed to carry over, for a 12-month period, 20% of Title IIA 78% funds; Title IIB funds and §123 funds. The TDCA concurs and revises its carry-over requirements subject to restrictions. In program year 1985, under Title IIA, service delivery areas that spent 80% or more of their con-

tract funds are allowed to retain all their unspent funds. Service delivery areas spending less than 80% of their contract funds retain required carryover of 20% of their contract funds, whichever amount is greater. For program year 1986, the carry-over amount is reduced to 10% of contract funds. These requirements are outlined in §5.307(h) and (i). Under Title IIB, service delivery areas that spend 90% or more of program year funds are allowed a carryover amount of 10%. These requirements are outlined in §5.311(c)(1) and (2). Section 123 funds are not addressed by the proposed policy. The amount of carryover under Title IIA and Title IIB is restricted because of the potentially large amount of unspent funds that would remain obligated if a higher percentage was utilized.

TASA and TARC also requested that a service delivery area that does not meet appropriate cost limitations be allowed to carry over all required carryover funds to bring them into compliance. TDCA concurs and a procedure for ensuring sufficient carryover to assure cost limitation compliance through the end of program year 1985 is provided. Subsequently, the 10% limitation on carryover, as discussed, will apply.

TASA and TARC also requested that incentive funds be available on a 12-month basis and be subject to the deobligation/reobligation policy. TDCA concurs and §5.307(j) is changed to include incentive grants.

No other comments were received regarding adoption of the new sections. TDCA is withdrawing §5.313 and §5.315, which provided a deobligation/reobligation policy for Title IIA, §124, and Title III of JTPA. TDCA determined that a separate policy is more appropriate to deobligation/reobligation policy under these titles.

§5.303. Deobligation/Reobligation Policy for Unspent Job Training Partnership Act Contract Funds Under Titles II and III.

(a) Purpose. To provide JTPA Contractors with Texas Department of Community Affairs policy regarding unspent contract funds subject to deobligation and subsequent reobligation.

(b) Implementation. The underexpenditure of contract funds has necessitated the development of a deobligation policy to maximize the use of available program funds. Deobligated funds will be reallocated to contractors meeting expenditure and performance

criteria. This policy details the procedures to be followed in identifying funds available for deobligation and the criteria for reobligation of such funds. This policy will be implemented upon the termination of program year 1985 contracts.

§5.307. Deobligation of Funds Under Title IIA.

(a) Based upon the requirements in the Job Training Partnership Act and interpretations provided by the Department of Labor (DOL), the process for determining the amount of funds to be deobligated for each Service Delivery Area (SDA) must begin with a determination of whether a contractor is in compliance or noncompliance.

(b) This review, while based on the two-year plan period (program year 1984-1985), must first take into account program year 1983 funds (nine-month transition period), since these funds are not available for expenditure past program year 1985.

(c) The compliance review will be initiated in 1985 and focus on program year 1983-1984 expenditures. This review will first look at the program year 1983 70-30-15 requirement and ensure that the expenditure limitations have been met or identify any deficits that have to be addressed. The 70-30-15 requirement will then be applied to program year 1984 funds. This requirement will be based on funds spent through June 30, 1984, and identify the amount of funds by cost category that had to be spent in order to come into line with the 70-30-15 requirement. This will be based on actual expenditures and not allotment. Program year 1984 carry-over funds will thus fall into two funds:

(1) required carryover to make up deficits in spending; and

(2) excess carryover that could be spent on a 70-30-15 basis. This second amount will be available for voluntary deobligation.

(d) A similar review procedure will be conducted to determine compliance or non-compliance with the 40% youth expenditure requirement.

(e) At the end of program year 1985, the compliance review will examine program year 1984-1985 expenditures. The 70-30-15 requirement will first be applied to program year 1984 funds, and then to program year 1985 funds. Program year 1984 carryover would again be split into two funds:

(1) required carryover to make up deficits in spending within the 70-30-15 cost categories; and

(2) excess carryover, to be spent on a 70-15-15 basis. This would bring the contractor into line based on actual expenditures through June 30, 1986.

(f) Excess carryover will be subject to deobligation.

(g) A compliance review will also be conducted for the 40% youth expenditure requirement against program year 1984 and program year 1985 funds. Any deficits identified will be applied against the required carryover amount.

(h) SDA's that spent 80% or more on their contract funds would be allowed to retain all of their unspent funds.

(i) SDA's spending less than 80% of their contract funds would retain their required carryover or 20% of their contract funds, whichever amount was greater. Any remaining excess carryover would be deobligated.

(j) For program year 1985, only contract funds would include 78% funds (carryover and program year 1985 funds). Beginning in program year 1986, contract funds would also include any incentive funds received by an SDA. In addition, SDAs would only be allowed to carry over 10% of their contract funds in program year 1986 (or the required carryover amount).

(k) During a given program year, but no later than the third quarter, an SDA may voluntarily deobligate funds which it has determined will not be expended during that program year. These funds must be the latest program year funds obligated and be available within the full 70-30-15 cost limitations. Funds will be deobligated only if SDAs have been identified who will qualify for and accept such funds. The SDA's contract will be reduced accordingly for purposes of determining the 80% expenditure requirement.

(l) As such funds become available, SDAs will be notified of the amount of these funds. In order for an SDA to apply for these funds, it must demonstrate that they are projected to spend 100% of their present contract funds, as well as having met the required performance standards that previous program year. Eligible SDAs may apply for these funds by submitting a plan for expenditure. Such plans must project full expenditure within the current program year. The minimum/maximum amount of funds that may be applied for will be determined by TDCA based on fund availability.

(m) An SDA receiving such additional funds will have its contract increased accordingly for purposes of determining the 80% expenditure requirement.

§5.311. Deobligation/Reobligation of Funds under Title IIB.

(a) The Department of Labor (DOL) allots Title IIB program funds on a yearly basis. The Title IIB program year is from October 1st through September 30th. The 1986 DOL Appropriations Act authorized

DOL to reserve an amount of up to 15% of each year's appropriation. The remaining 85% will be allotted along with excess carryover funds to the states. The states' new obligational authority is thus equal to the difference between the total allotment and the excess carryover funds. Excess carryover is defined as excess of 10% of the state allotment for the prior year.

(b) The reserve 15% will then be used to bring the SDAs up to the allocation of the prior year to the extent possible.

(c) Given the fact that the Department of Labor will use excess carryover funds as part of the allotment for each subsequent year's summer program, the following deobligation procedures will be followed.

(1) SDAs who spend 90% or more of their program year allocation as of September 30th will be allowed to carry over the balance of their contract funds.

(2) SDAs who spend less than 90% of their program year allocation as of September 30th will only be allowed to carry over 10% of their allocation. Unexpended funds in excess of 10% of the allocation will be deobligated.

(d) Deobligated excess 10% carryover funds will be served by the state and allocated on the Title IIB formula along with new obligational authority in the subsequent program year. This reobligation procedure duplicates DOL's allotment procedures.

(e) Title IIB funds may voluntarily be deobligated by SDAs who determine that they cannot expend 100% of the funds allocated within the current summer program year.

(f) Funds may only be deobligated after they have been allocated to an SDA as per Department of Labor's interpretation of the state's reallocation authority. Funds available for reallocation must be identified by SDAs prior to contracting. Such funds must be available within the 15-85% cost limitation.

(g) SDAs will be notified of the availability of funds for reallocation. SDAs may apply for such funds by submitting an expenditure plan. Preference will be given to SDAs who may have been allocated less than their previous years funding level and expended 90% or more of their funds. The minimum/maximum amount of funds that may be applied for will be determined by TDCA based on fund availability.

(h) SDAs who receive reallocated funds must conform to the involuntary deobligation procedures upon the completion of the summer program.

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

Issued in Austin, Texas, on June 11, 1986.

TRD-8805860

Douglas C. Brown
General Counsel
Texas Department of
Community Affairs

Effective date: July 3, 1986
Proposal publication date: December 27, 1985
For further information, please call
(512) 834-6060.

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TITLE 16. ECONOMIC REGULATIONS

Part I. Railroad Commission of Texas

Chapter 5. Transportation Division

Subchapter H. Tariffs and Schedules

★ 16 TAC §5.136

The Railroad Commission of Texas adopts an amendment to §5.136, without changes to the proposed text published in the March 28, 1986, issue of the *Texas Register* (11 TexReg 1545).

Currently, the motor carriers operating under the Building Materials Carriers Bureau Motor Freight Commodity Tariff Number 4 are authorized to accept shipper's weight and count when assessing freight charges. The amendment authorizes the acceptance of shipper's weight and count by those carriers operating under the Building Materials Carriers Bureau Motor Freight Commodity Tariff Number 5. The amendment relieves the carriers of having to weigh certain shipments. When assessing freight charges under Tariff Number 5, the motor carrier will be authorized to use the weights printed by the shipper on the packages or units being transported; and the shipper shall certify on the bill of lading the accuracy of the weight and count.

No comments were received regarding adoption of the amendment.

The amendment is adopted under Texas Civil Statutes, Article 911b, §4(a), which authorize the Railroad Commission of Texas to prescribe all rules and regulations necessary for the governance of motor carriers.

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

Issued in Austin, Texas, on June 9, 1986.

TRD-8805909

Mack Wallace
Commissioner
Railroad Commission of
Texas

Effective date: July 4, 1986
Proposal publication date: March 28, 1986
For further information, please call
(512) 483-7149.

★ ★ ★

TITLE 19. EDUCATION
Part II. Texas Education
Agency
Chapter 109. Budgeting,
Accounting, and Auditing
Subchapter D. Adoptions by
Reference

★19 TAC §109.61

The Texas Education Agency adopts an amendment to §109.61, without changes to the proposed text published in the May 9, 1986, issue of the *Texas Register* (11 TexReg 2152).

The amendment is necessary to ensure that the *Financial Accounting Manual, Bulletin 679*, provides the most detailed and accurate information available on the cost of educational programs. The amendment also deletes an obsolete reference to the agency's old address.

The amendment reflects changes in the bulletin made necessary by editing, new terminology, updated budget form and audit report illustrations, and the provisions of House Bill 72, 68th Legislature, 1984, which require school districts to account for general fund expenditures for major program instructional areas.

No comments were received regarding adoption of the amendment.

The amendment is adopted under the Texas Education Code, §11.52(d), which authorizes the Commissioner of Education to prescribe a uniform system of forms, reports, and records necessary to secure information from county school officers and local school districts, and the Texas Education Code, §23.48, which authorizes the State Board of Education to require each district to report management, cost accounting, and financial information by district, campus, and program.

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

Issued in Austin, Texas, on June 9, 1986.

TRD-8605885 W. N. Kirby
 Commissioner of Education

Effective date: July 3, 1986
Proposal publication date: May 9, 1986
For further information, please call
(512) 463-9212.



TITLE 25. HEALTH
SERVICES
Part I. Texas Department of
Health
Chapter 241. Shellfish
Sanitation
Texas Shellfish

★25 TAC §241.21, §241.23

The Texas Department of Health adopts amendments to §241.21 and §241.23, without changes to the proposed text published in the March 21, 1986, issue of the *Texas Register* (11 TexReg 1433).

The public benefits are that oysters which are unsafe for human consumption can be gathered and cleansed under controlled conditions to make them acceptable. This has two benefits: the quantity of unsafe oysters available for illegal harvesting and direct marketing is reduced, thus reducing the hazard to public health from this illegal activity; and this oyster resource, which would otherwise be lost due to it being unsafe for consumption, can be treated and utilized.

The amendments add definitions concerning certified laboratory evaluation officers and depuration processors in §241.21, and the amplification and clarification of the depuration process in §241.23.

No comments were received regarding adoption of the amendments.

The amendments are adopted under Texas Civil Statutes, Parks and Wildlife Code, §76.203, which authorizes the Texas Board of Health to adopt rules concerning the regulation of Texas shellfish.

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 June 13, 1986.

TRD-8605946 Robert A. MacLean, M.D.
 Deputy Commissioner
 Professional Services
 Texas Department of
 Health

Effective date: September 1, 1986
Proposal publication date: March 21, 1986
For further information, please call
(512) 458-7510.

TITLE 28. INSURANCE
Part I. State Board of
Insurance
Chapter 7. Corporate and
Financial
Subchapter A. Examination and
Corporate Custodian and Tax

★28 TAC §7.54

The State Board of Insurance adopts new §7.54, without changes to the proposed

text published in the May 6, 1986, issue of the *Texas Register* (11 TexReg 2066).

This new section provides forms and instructions which will facilitate compliance with statutory requirements for reporting and payment of taxes to the State Board of Insurance.

This new section specifies forms and instructions for the preparation and filing of tax returns for insurers and other entities required to file tax returns with the State Board of Insurance for the 1985 calendar year, or required to file quarterly premium tax returns with the board during the 1986 calendar year. The forms and instructions include requirements for information respecting gross premium taxes, maintenance taxes, and other taxes, and certain incidental fees, and provide a form to be used in determining and reporting the amount owed.

No comments were received regarding adoption of the new section.

This new section is adopted under the Insurance Code, Articles 1.04, 1.10, §9, 4.07, 4.10, 4.11, 5.12, 5.24, 5.49, 5.68, 9.46, and 23.08; the Texas Health Maintenance Organization Act §22 and §33; and Texas Civil Statutes, Article 6252-13a, §4, and 8306, §28. The Insurance Code, Article 1.04, places original jurisdiction on the adoption of rules in the board. Article 1.10, §9, requires the board to furnish to companies required to report to the board the necessary forms for the statements required. Article 4.07 specifies the charges for certain fees. Articles 4.10 and 4.11 authorize the board to establish rules for the implementation of those articles, which require payment of taxes on premiums. The Insurance Code, Articles 4.10 and 4.11; the Texas Health Maintenance Organization Act, §33; and Texas Civil Statutes, Article 8306, §28; require the payment of taxes on gross premiums by entities regulated by the board or on gross amounts of similar revenue by health maintenance organizations. The Insurance Code, Articles 5.12, 5.24, 5.49, 5.68, 9.46, and 23.08, require the payment of maintenance taxes by certain entities regulated by the board. The Texas Health Maintenance Organization Act, §22, authorizes the board to promulgate rules to carry out the provisions of that Act. Texas Civil Statutes, Article 6252-13a, §4, requires and authorizes the board to adopt rules of practice setting forth the nature and requirements of all procedures available.

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 June 13, 1986.

TRD-8605931 Nicholas Murphy
 Chief Clerk
 State Board of Insurance

Effective date: July 4, 1986
Proposal publication date: May 6, 1986
For further information, please call
(512) 463-8327.

★28 TAC §7.64

The State Board of Insurance adopts new §7.64, without changes to the proposed text published in the May 6, 1986, issue of the *Texas Register* (11 TexReg 2067).

This new section provides forms and instructions which will facilitate compliance with statutory requirements that insurance carriers must report annually information concerning their operations and financial condition.

This new section specifies annual statement blanks, instructions, and other reporting forms to be used by insurers and certain other entities regulated by the board in reporting their operations in the 1985 calendar year. Detailed information is required by these forms from such insurers and entities to show their activities during 1985. The information required relates to the financial condition and business operations of such insurers.

No comments were received regarding adoption of the new section.

This new section is adopted under the insurance Code, Articles 1.04, 1.10, §9, 1.11, 1.24, 3.07, 6.11, 6.12, 8.07, 8.08, 8.21, 8.24, 9.22, 9.47, 10.30, 11.06, 11.19, 14.15, 14.39, 15.15, 15.16, 16.18, 16.24, 17.22, 17.25, 18.12, 19.08, 20.02, 21.21, 21.43, 22.06, 22.18, and 23.26; the Texas Health Maintenance Organization Act, §10 and §22; and Texas Civil Statutes, Article 6252-13a, §4. The Insurance Code, Article 1.04, places original rulemaking jurisdiction in the board. The Insurance Code, Article 1.10, §9, requires the board to furnish the blank forms for companies to complete necessary statements. The insurance Code, Article 1.11, authorized the board to change the forms of annual statements. The Insurance Code, Article 1.24, authorizes the board to address inquiries to insurance companies and requires the companies to promptly answer. The Insurance Code, Article 21.21, requires that all statements made by persons in the business of insurance be truthful and not misleading. The Insurance Code, Article 21.43, requires foreign insurers to comply with provisions of the Insurance Code. The Insurance Code, Articles 3.07, 6.11, 6.12, 8.07, 8.08, 8.21, 8.24, 9.22, 9.47, 10.30, 11.06, 11.19, 14.15, 14.39, 15.15, 15.16, 16.18, 16.24, 17.22, 17.25, 18.12, 19.08, 20.02, 22.06, 22.18, and 23.26, and the Texas Health Maintenance Organization Act, §10 and §22, require the filing of annual reports and other information by certain specific entities regulated by the board, applying particular statutory law respecting reports of those entities, and specifying particular rulemaking authority relating to those specific entities. Texas Civil Statutes, Article 6252-13a, §4, authorizes and requires the State Board of Insurance to adopt rules of practice setting forth the nature and requirements of available procedures.

This agency hereby certifies that the rule as adopted has been reviewed by legal

counsel and found to be a valid exercise of the agency's legal authority.

Issued in Austin, Texas, on June 13, 1986.

TRD-8605660 Nicholas Murphy
Chief Clerk
State Board of Insurance

Effective date: July 7, 1986
Proposal publication date: May 6, 1986
For further information, please call
(512) 463-6327.



Subchapter E. Admission
Procedures for Foreign
Companies

★28 TAC §7.504

The State Board of Insurance adopts an amendment to §7.504, with changes to the proposed text published in the February 7, 1986, issue of the *Texas Register* (11 TexReg 690).

This section concerns a procedure for the disposition of applications by foreign insurance companies for admission to do business in Texas. After changes to the proposed text in response to comments received from parties interested in the rule, the amendment provides for a hearing prior to action by the commissioner of insurance whenever a hearing can provide useful additional development of questions of fact or of any issues on which a written application has not presented a clear basis for approving the application. The board has determined that a formal record containing the application together with the recommendations of hearings officer can be a useful method for developing a clear basis for action by the commissioner on such an application. Changes to the proposed text in subsection (a) provide a procedure for approval by the commissioner without a formal hearing, after review of an application has presented a clear basis that the application be approved in all respects. This procedure is similar to the procedure by which the commissioner has entered orders approving applications under §7.504 prior to adoption of the amendment. Changes to the proposed text in subsection (b) provide that the commissioner shall issue an order approving or disapproving the application subsequent to the procedure specified in subsection (a) of this section, rather than subsequent to the hearing.

Against the amendment were Jim Shawn, attorney-at-law, and Tom Bond, attorney-at-law, who have submitted comments objecting to the amendment as published. Mr. Shawn and Mr. Bond each submitted a comment that the amendment should retain some provision for approval by the commissioner not requiring a hearing in cases where the written application presents a clear basis for approval. The board agrees with this comment that changes to the proposed text should pro-

vide a method for approval by the commissioner without a formal hearing where appropriate, because requiring a hearing on all applications can impose unnecessary costs on foreign insurance companies when a review of an application provides clear evidence that the application should be approved. Mr. Shawn also submitted a comment that the amendment should require that an application should be approved or a hearing should be set within 60 days from the date that the application is filed. The board disagrees with this comment, because the submission of sufficient information for a complete application has taken many applicants longer than 60 days from the date of the original filing.

The amendment is adopted pursuant to the Insurance Code, Article 1.04, and Texas Civil Statutes, Article 6252-13a, §4, which provide that the board may enact procedural rules necessary for the board to carry out its statutory functions.

§7.504. Disposition of Applications.

(a) The commissioner shall appoint an admissions examiner to review applications for admission. After review, if the admissions examiner can recommend that the application be approved in all respects, the admissions examiner shall prepare and forward to the commissioner a memorandum specifying a recommendation. A copy of the memorandum shall be sent to the applicant. If unable to recommend that the application should be approved based on all relevant information, the admissions examiner shall cause a hearing to be set on the commissioner's hearings docket for determination of the application. The commissioner may cause a hearing to be set on his own motion.

(b) Subsequent to the procedure specified in subsection (a) of this section, the commissioner shall enter an order approving or disapproving the application.

(c) The commissioner's order may be appealed to the board as provided in Chapter 1, Subchapter A of this title (relating to Rules of Practice and Procedure) and the Insurance Code, Article 1.04(d).

(d) (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 June 9, 1986.

TRD-8605519 Nicholas Murphy
Chief Clerk
State Board of Insurance

Effective date: June 22, 1986
Proposal publication date: February 7, 1986
For further information, please call
(512) 463-6327.



**Subchapter J. Examination
Expenses and Assessments**

★ 28 TAC § 7.1004

The State Board of Insurance adopts new § 7.1004, without changes to the proposed text published in the May 6, 1986, issue of the *Texas Register* (11 TexReg 2068).

This new section provides rates of assessment and charges sufficient to meet the expenses of performing the board's statutory responsibilities for examining insurance companies.

The new section specifies rates of assessments and charges to meet the expenses of examining insurance companies. Under this new section, the board levies rates of assessment and collects from each domestic insurance company on the basis of admitted assets and gross premium receipts for the 1985 calendar year, and from each foreign insurance company under examination during the 1986 calendar year on the basis of actual expenses and a percentage of the gross salary which the board paid to an examiner for each month or part of a month during the examination. The expenses and charges assessed under authority of this section are additional to and not in lieu of any other charge 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 section to be just and reasonable.

No comments were received regarding adoption of the new section.

This new section is adopted under the Insurance Code, Articles 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 June 13, 1986.

TRD-8805830 Nicholas Murphy
 Chief Clerk
 State Board of Insurance

Effective date: July 4, 1986
Proposal publication date: May 6, 1986
For further information, please call
(512) 483-8327.

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**TITLE 31. NATURAL
RESOURCES AND
CONSERVATION**

**Part IX. Texas Water
Commission**

**Chapter 303. Operation of the
Rio Grande**

Introductory Provisions

★ 31 TAC § 303.1, § 303.2

The Texas Water Commission adopts new §§ 303.1, 303.2, 303.11-303.17, 303.21-303.23, 303.31-303.34, 303.41-303.44, 303.51-303.55, 303.61, and 303.71. Sections 303.2, 303.12, and 303.55 are adopted with changes to the proposed text published in the April 18, 1986, issue of the *Texas Register* (11 TexReg 1808). The other sections are adopted without changes and will not be republished.

During the last year and a half, the Texas Water Commission (TWC) and its predecessor agency, the Texas Department of Water Resources (TDWR), solicited from water-rights holders in the Rio Grande Basin comments on proposed Rio Grande sections governing the watermaster operation. Those sections were published in the June 18, 1985, issue of the *Texas Register*. No action was taken by the Texas Water Development Board within six months from that date, and the proposed sections were automatically withdrawn by the *Texas Register*.

The new proposed sections incorporate into the set of sections originally proposed many of the changes suggested by the public. These changes are explained in the paragraphs which follow. Because an additional comment period was required, no summary of the original comments is made, but a summary of the comments received during the most recent (second) comment period is included.

Due to the reorganization of the TDWR on September 1, 1985, the TWC assumed jurisdiction over the watermaster program (Texas Water Code, §§ 11.325-11.333 (Supplement 1986)). All references to the TDWR are removed and the TWC inserted. The TWC sections are renumbered so that the watermaster sections are contained in Chapter 303 and not Chapter 345, as originally published on June 18, 1985.

The new sections are designed to establish a single set of rules for watermaster regulation in the Rio Grande Basin, excluding the Devils River and Pecos River watersheds. The new sections are designed to expand, clarify, and improve the operations of the watermaster based upon the experience of the TWC and the watermaster since the sections were originally adopted in 1973. These modifications strengthen the sections by clarifying and expanding the operations of the watermaster, which enhances the management and distribution of surface water in the

Rio Grande Basin. These sections also are designed to assist the watermaster's drought management by providing clear guidelines to protect senior and superior rights.

Since certificates of adjudication are issued on the Upper Rio Grande below Fort Quitman, except for the Pecos and Devils Rivers Watershed, and on the Middle Rio Grande and its tributaries, the watermaster operation on the Lower Rio Grande is expanded under § 303.1 to regulate the diversion of state water in these segments under Texas Water Code §§ 11.326-11.333. Additionally, this section recognizes that water diverted from the Rio Grande is often used in the portion of the Nueces-Rio Grande Coastal Basin in Starr, Cameron, Hidalgo, and Willacy Counties and that the watermaster jurisdiction covers that use of the water.

In essence, two different types of water rights must be managed and protected by the watermaster. Water-rights holders on the mainstem of the Lower and Middle Rio Grande rely on releases made by the watermaster from Amistad and/or Falcon Reservoirs. As a result of the Lower Rio Grande Valley Water Suit, water-rights claimants in both the Lower and Middle Rio Grande were awarded water rights under a unique priority system. Instead of a time priority, two priorities were devised based on type of use—municipal being the highest priority, and irrigation next, with irrigation rights further divided into Class A and Class B priority. The watermaster controls the nonflood releases of the Texas share of water from these reservoirs and, therefore, regulates the flow and diversion by Texas permittees from Amistad to the Gulf of Mexico. By contrast, water-rights holders on the Upper Rio Grande and on all adjudicated tributaries of the Rio Grande rely exclusively on the run of the river flow to meet their annual water rights since releases from storage are not available. The priority system for these water rights claimants is based on the filing date of the original permit, certified filing, or the date of first use under a riparian claim. As between these appropriators, the first in time is the first in right. The watermaster, in these segments, does not control the flow of the watercourse. These sections are therefore devised to secure the best protection for both types of water rights while affording the most economical, practical, and consistent supervision on the part of the state.

Twenty-three terms are defined in § 303.2. The definitions clarify the operations of the watermaster program. Based on comments received during the first comment period, the definition of prorotation period is changed to expand the period of time prorotation is in effect from when the United States' share of water in the Amistad-Falcon system is less than 1.3 million acre feet or 50% of total storage. Additionally, the definition of usable balance is expanded to include the amount of water an

allottee purchases and uses under a water supply contract. This change conforms the definition to §§303.51-303.55.

The primary service of the watermaster is to allocate the available supply to authorized water users. Any water-rights holder who wishes to divert and use state water must request a certification from the watermaster in advance of the use. Sections 303.11-303.17 specify how authorized water users request the use of water. Certification is based upon compliance with the conditions in each water right. Each diverter specifies the water right under which each certification is requested. Based on comments received, §303.11(b) is expanded to include requests by diverters or carriers who deliver water to non-diverters under the nondiverter's certificate of adjudication. The diverter is able to request water under either the diverter's or nondiverter's certificate of adjudications, as long as proper reporting is made. This approach affords flexibility to the diverter and allows proper accounting of water use. Additionally, §303.11(b) allows certification for delivery of water to tracts covered by an approved contractual sale. This change allows farmers flexibility in their irrigation program within the confines of their water rights and the watermaster rules.

Certifications are limited to a maximum time period of one-calendar month for water rights on the mainstem of the Rio Grande below Amistad, and one year for run of the river water rights. Certifications must be posted by the diverter at the authorized diversion point prior to any diversion, unless verbal watermaster approval is obtained. Under §303.12, each diverter is responsible for requesting a certification in advance to allow the appropriate number of days for travel time to be met. The amount of water requested by a diverter is presumed picked up after its release; if not diverted, the diverter is still charged with 90% of the full amount requested.

Section 303.11 states that every diverter is responsible for installing and maintaining an accurate measuring device which can be conveniently and safely checked by the watermaster. Every diverter, and not the watermaster, is responsible for insuring that the diversion facilities are capable of diverting the amount of water requested even in low and high water levels. At the end of every certification period, the diverter must submit to the watermaster a pump operation report (part of the certification) with the beginning and ending meter readings or the number of hours spent pumping. The watermaster has the authority to check the measuring devices to verify that accurate diversion rate and use quantities are being recorded.

Certification can be denied for a variety of reasons, including failure to send in complete pump operation reports, failure to provide complete water-right ownership information to the TWC, and failure to in-

stall or maintain an accurate measuring device. Without certification, the water-right holder is not authorized to divert and use state water and will be in violation of the Texas Water Code §§11.081, 11.082, and 12.141.

Important changes in the certification program under §303.11 include requiring certification requests be made to specific certificates of adjudication for accounting purposes, making the certification period variable, and expanding the watermaster's powers to refuse or modify requests for certification or to cancel certifications. Based on comments received during the first comment period, the time within which a diverter can return the pump operation report is extended. The new section defines a timely pump operation report as one received by the watermaster within seven days or postmailed within five days from the termination of the certification period. Many diverters felt a five-day period is too short a time for filling out the paperwork but agreed that seven days is fair. Without these time limits, the watermaster would find it difficult to maintain an up-to-date accounting for each diverter and also mail out a complete monthly report. Additionally, §303.11(f) is changed to reflect that some diverters do not pump continuously during the certification period. The pump operation report is acceptable even if any period of nonoperation is not shown. The need for complete and up-to-date ownership information is aided by new requirements clearly placing on the person claiming water-right ownership, rather than on the watermaster, the burden to establish such ownership with the TWC. Failure to submit complete water right ownership or transfer records is grounds for refusing certification. Additionally, under §303.15, each water-right owner is responsible for submitting documentation to prove that a third party is authorized to act as an agent for the water-right owner.

Section 303.12 pertains to special procedures for certification on the mainstem of the Middle and Lower Rio Grande. Since storage accounts are set up for these water right holders (allottees), and since releases are made by the watermaster, additional rules are necessary to explain storage and allocation procedures. The watermaster keeps an accurate inventory of the amount of water in Amistad and Falcon Reservoirs as well as accurate accounts for every water right holder. The watermaster mails a monthly report in a timely manner to allottees showing the current status of their water use account. Several comments were received during the initial comment period that complained about the travel time requirements for released water. Section 303.12(c) is drafted so the watermaster has flexibility in waiving travel time requirements whenever there is sufficient water in the Rio Grande. However, when water is released based on a diverter's request, it is the diverter's

responsibility to see that the water is diverted without waste.

Section 303.13 relates to the records of diversions in the Upper Rio Grande and all adjudicated tributaries. Since releases are not made by the watermaster, no storage accounts will be established. Instead, each diverter must report the actual diversions on a periodic basis and cannot exceed the yearly authorization defined by the specific water right. The watermaster protects senior and superior water rights by a variety of procedures, including ordering diversions to cease, alternating pumping time or days, and imposing streamflow restrictions. Under §303.23, distribution of water is based on the annual authorized amount and priority date.

During the initial comment period, many diverters requested that more than one agent be allowed to request certification since their practice usually involves more than one person pumping and irrigating at a time. Because of these comments, §303.15 is changed to remove the limit of one agent except for the payment of annual assessments.

Under §303.21, the accounting system on the mainstem of the Middle and Lower Rio Grande is based on the United States' share of water in the Amistad-Falcon system. Separate accounts are maintained for each certificate of adjudication and not for each diverter. All accounts are measured in acre-feet. No longer is the word "acres" used in designating water rights in the accounting system, and the term "acre rights" is converted to "acre-feet." The U.S. share of water is distributed monthly to storage accounts with domestic, municipal, and industrial uses having the highest storage priority. Section 303.21 increases the domestic, municipal, and industrial reserve from a monthly total of 125,000 acre-feet to 225,000 acre-feet. This change reflects the trend of conversion of irrigation rights to municipal rights, with the 225,000 acre-feet reserve designed to meet the total domestic, municipal, and industrial rights for a one-year period. The maximum operating reserve is increased from 375,000 to 380,000 acre-feet. One important change to the operating reserve is based on public comment during the initial comment period. The public felt that the 380,000 acre-feet operating reserve is too large and should fluctuate based on the amount of water in storage, while several diverters called for an absolute reduction in the operating reserve. The new §303.21(b)(2) establishes a fluctuating operating reserve between 380,000 and 275,000 acre-feet of water. The amount fluctuates as the monthly United States' share of conservation storage fluctuates. Likewise, the negative allocation scheme in §303.22(e) is changed to require negative allocations only when the operating reserve falls below 150,000 acre-feet. This change in the operating reserve allows more water allocated to water-rights holders and yet maintains a prudent amount of

water for the known operating losses experienced in the Amistad-Falcon system. Irrigation accounts, which include all other uses, are maintained with the remaining water.

Since the Lower Class A and Middle Class A water rights have the same priority right, they are labeled simply Class A. The same holds true for Lower Class B and Middle Class B water rights. Class A allottees receive 1.7 times as much water as Class B allottees per allocation. Neither class priority right is allowed to accumulate in storage more than 1.41 times the annual authorization in acre-feet. This irrigation storage limit is increased to minimize the amount of unallocated water when the system is full (i.e., at conservation level in both reservoirs).

Several other important changes are made to the accounting system. First, storage accounts are reduced to zero if there was no use for two consecutive years. Allottees in this situation must request water and thereafter will receive water only when new allocations are made. Second, floating water rights (place of use not specified) receive no allocations until the TWC authorizes use on a particular tract. Third, a system of proration is established to comply with special conditions in four certificates of adjudication. Several irrigation districts disagreed with the proposed proration system. The proration system under §303.22(f) is modified to expand the period proration is in effect. While the proration section is changed, the section does not impose proration during all times that allocations are being made. The court in the Valley Water suit never defined proration period, so the commission proposed a definition to carry out the administration of the four water rights subject to proration on a fair basis.

Finally, a method of protecting the operating reserve and higher priority rights during drought conditions is set up in §303.22 (e) through a negative allocation system. One of the basic criticisms of the negative allocation system is that it did not include a method of replenishing accounts from which water had been taken. In response to this, §303.22(e)(2) is expanded to include the method of replenishing any amounts of water deducted from storage accounts before the normal method of allocating water is resumed.

The enforcement regulations in §303.31 and §303.32 are designed to broaden and strengthen the watermaster's authority. The watermaster may take a wide variety of enforcement actions to protect senior and superior water rights as quickly and efficiently as possible.

Sections 303.41-303.44 are expanded and clarified, dealing with amendments to and sales of water rights. They remove the prohibition of the sale of certificates of adjudication between the Middle and Lower Rio Grande, thus allowing water rights to be moved up and down the entire main-

stem of the Rio Grande below Amistad Reservoir. Instead of an absolute prohibition on sales of water, the TWC adopts new §§303.51 and 303.52 dealing with contractual sales of water. These changes allow greater beneficial use of state water held in storage.

Ownership changes continually pose a problem to the TWC; so new §303.41 and §303.44 make it clear that the owner or alleged owner is the party responsible for informing the TWC of ownership changes. The watermaster does not certify or approve ownership changes. If correct ownership documentation is not presented to the TWC within a certain time period, the alleged owner is not allowed to divert.

In §303.42, the notice requirements for amendments to certificates of adjudication are significantly lessened to reduce the expenses of publication and mailed notice.

Under §303.43, conversion of irrigation to municipal priority rights is on an acre-foot to acre-foot basis, instead of acres to acre-feet, to achieve consistency among the Middle and Lower Rio Grande water rights.

Sections 303.51-303.55 allow sales of water in the Lower and Middle Rio Grande. Water-rights holders are allowed to sell water in excess of their needs to other allottees. These sections provide that the use of purchased water will only perfect the buyer's water right since the buyer is the party putting the water to beneficial use. These sections allow greater beneficial use of water by allowing free market transfers that are regulated by the TWC in the form of contract approval. All contracts must be sent in to the TWC, not the watermaster, and meet the stated requirements before water may be used under a water scale contract.

These contractual water sales sections are revised based directly upon comments received by Rio Grande water rights holders. While several water-rights holders insist that a process called pooling of water rights should be allowed. The commission believes the water contract regulations afford the water rights holders sufficient flexibility to use water beneficially. Moreover, these sections ensure that the state has continuing review of transactions involving state water. The commission is charged with ensuring that the water rights granted by the courts are not abused or used in violation of the Texas Water Code and court orders. While water-rights holders generally need authority from the commission to use water on a different tract, these sections make it easy for water purchasers to use water on different tracts. Instead of obtaining an amendment to the seller's water right to use water on the buyer's tract, the buyer need only send in a map which sufficiently identifies the tract or tracts to be irrigated. Additionally, a buyer's use of purchased water can extend for one year after

the purchase of the water, instead of expiring at the end of the calendar year. This provision reflects that the growing season is not determined by a calendar year, and, in fact, water may be used beyond the end of the year. The 12-month limit, however, is necessary to ensure that contractual sales do not substitute for the purchase of permanent water rights, by the buyer.

Section 303.61 defines excess flow permits and sets the operating procedure for these rights. Because the term "surplus" water permits has been used in the Rio Grande for three different circumstances, the need to redefine the permits issued for use below the Brownsville gaging station was evident. No permits in existence, even those for industrial and municipal use, will lose any of their stature because of this redesignation.

Section 303.71 describes the financing of the watermaster operation by water-rights holders through annual assessments. Failure to pay assessment fees results in the watermaster's curtailing the use of the holder's water.

The TWC received seven letters containing written comments on the proposed sections subsequent to their publication in the *Texas Register* on April 18, 1986. The City of Edinburg and the City of McAllen requested that the term "water right holder" as defined in §303.2 be expanded to include the rights of municipalities under existing certificates of adjudication held by irrigation districts wherein a district is authorized to divert water and deliver it to a municipality pursuant to a stipulation of water rights approved by the Court of Civil Appeals for the 13th Judicial District as a part of the Lower Rio Grande Valley Water suit. The commission feels that to do so would be to expand the legal status of these rights through the rulemaking power entrusted to it by the Texas Legislature and would go beyond the commission's duty of "administration and enforcement of the rights adjudicated by . . . [the] decree." (See "Judgement on Rehearings" and "Schedule of Municipal, Industrial, and Domestic Allocations Under Stipulation Approved January 11, 1988," Texas Water Commission, Lower Rio Grande Valley Water Documents (June 1971)). The cities also recommended that §303.51 be amended to allow "water-rights holders," rather than "verified owners" to be able to contractually sell all or part of their annual authorized amounts. Beyond the problem just discussed, the commission believes that "verified owner" is the preferable term because it refers to a person who has provided proper documentation of ownership of a water right.

The cities also commented that §303.52 should be amended to lessen the filing requirements for contractual sales between municipalities, or to exempt municipalities from the requirement to obtain commission approval of the contractual sale. The commission believes that requiring its approval of a contractual sale is nec-

ecessary for its duty to administer water rights in the Rio Grande in a knowledgeable fashion and that the filing requirements provide essential information for carrying out that task.

The cities also pointed out that although §303.21(b)(1) provides for a reserve of 225,000 acre-feet of water for domestic, municipal, and industrial uses, the section does not specify how that reserve would be distributed during proration periods. The commission believes that logically this would have to be done on a pro rata basis, just as is provided for during periods of negative allocations under §303.22. The cities also assert that 225,000 acre-feet is an inadequate reserve for the growing needs of the cities. The commission calculated that that amount is adequate to provide a one-year supply to the cities and notes that the reserve is increased from 125,000 acre-feet in the former rules.

The cities recommended allowing temporary transfers of water rights from one holder and type of use to another holder and different type of use, either without a conversion factor being applied or with the conversion factor being automatically applied. The commission feels that allowing such transfers would upset the balance of the water rights accounting system and discourage permanent conversions of irrigations rights to municipal rights. The commission also believes that reconversion of a temporary municipal right back to an irrigation right would serve to devalue other existing rights because the municipal right would expand when reconverted to an irrigation right and thereby decrease the likelihood that the existing right will be able to divert its full allocation during a given year.

The City of Mission joined the cities of Edinburg and McAllen in requesting that the definition "water rights holder" be expanded to include those cities that received water from a water district pursuant to the stipulation approved by the court in the Valley Water suit. (See previous discussion regarding the stipulation entered in the Valley Water suit.) The city also asks that municipal uses be given priority during times of proration. While the commission believes that this would be a desirable policy, the classification system ordered by the court places municipal, domestic, and industrial uses into the same category, thereby giving those uses the same priority. Also, proration only affects the four water rights singled out by the court.

The Lower Rio Grande Group of the Lone Star Sierra Club commented that allowing diversions of excess flows, being unanticipated flow below the gaging station at Brownsville which would pass unused to the Gulf of Mexico, reduces the freshwater inflows needed for wildlife, plant life, and fish habitat at the mouth of the river. The commission is aware of the need for freshwater inflows and will consider

the impact of such diversions on fish and wildlife habitats and the bays and estuaries as is required by statute upon the receipt of an application for an excess flow permit, Texas Water Code, §11.147.

Maverick County Water Control and Improvement District 1 commented that since reports of its diversions from the International Boundary and Water Commission are received approximately 45 days after the diversions, it is impossible for it to correct its diversion rates to avoid the penalties for excessive or inadequate appropriations contained in §303.12(e). The commission believes that no change in these sections is necessary to address this potential problem since it does not intend that the watermaster penalize water rights holders whose errors in diversions are beyond their control.

The district also asked that storage amounts be adjusted monthly for reservoir losses on a pro rata basis, and that the operating reserve then be reduced by an equal amount. The accounting procedure in these sections is a relatively simple, flexible procedure whereby all losses are compensated for by inflows until such time that the U.S. storage is significantly lowered by drought. At such a time, irrigation accounts are debited to maintain the operating reserve. A procedure to assign losses proportionately to users is rather inflexible and can only be done effectively by computer. This requires an expensive modification of the present accounting program. Using a "loss system" also introduce an inconsistency in regard to assigning losses to different type of users. Irrigation storage accounts are reduced to account for losses, with the largest adjustments being for those with the most water. The same type of adjustment is not possible for municipal, domestic, or industrial users since they do not have individual storage accounts. And, if such adjustments are possible, it reduces the amount of available municipal water—water which is already inadequate or marginal in some cases.

The comment was made by the district that water necessary to maintain dormant accounts could be made available for allocation to other users. However, most accounts that are not used are relatively small.

Valley Onions, Inc., requested that the rules be amended to allow it to purchase large amounts of water (1,000-5,000 acre-feet) in a single contract and not have the purchased amount exceed its storage rights (1.41 times the authorized water right). Valley Onions asked that portions of the purchased water not be transferred to its account until designated delivery dates in the contract. To alleviate this potential problem, the §303.55(a) is changed to state that "[t]he watermaster will transfer the full amount of water, or portion thereof, specified in an approved con-

tract from the seller's to the buyer's amount upon contract approval."

Attorney Neal King submitted comments on behalf of 13 irrigation and water control and improvement districts. Mr. King argues that a legal basis is lacking for the system in §303.22(g) whereby proration for the four named water rights begins when the United States share of storage in the Amistad-Falcon system is less than 50% of its total storage capacity and continues incrementally with each 1.0% drop in storage until the four rights reach a fully-prorated base amount. The commission believes that the system it is implementing is administratively proper and legally valid since the court in the Valley Water suit never specified the point at which proration was to begin, and because when the four water rights reach full proration there will be remaining in the system one year of storage for authorized rights. In response to comments made by Mr. King at the adoption hearing before the commission on June 5, 1986, an ambiguity in the definition of "proration period" in §302.2 is clarified and the definition now reads, "[t]he period determined on a monthly basis, when the United States' share of water in the Amistad-Falcon system is less than 50% of the total United States conservation storage."

Mr. Ray Prewett, on behalf of the Lower Rio Grande Valley Diversifiers Association, commented at the adoption hearing before the commission that diversifiers who divert relatively small amounts of water will have difficulty pumping in precise enough quantities to avoid the penalties for excessive or inadequate pumping contained in §303.12(e). In response, the commission adds a new paragraph (4) which states: "[t]he watermaster shall have the discretion to waive the penalties contained herein for excessive or inadequate diversions due to circumstances beyond the control of the diverter"

The new sections are adopted under the Texas Water Code, §5.103, which provides the Texas Water Commission with the authority to adopt rules necessary to carry out its powers and duties under the code and the laws of the state.

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

Account—The record of municipal and operating reserves; or the record of an allottee's water in storage in the Amistad-Falcon system, and the diversion of such water.

Accounting period—From the last Saturday of a month at midnight to the last Saturday of the following month at midnight.

Agent—A person designated by a water right holder to have the authority to request certification to divert, make diversions, and/or pay assessment charges.

Allocation—The distribution of the United States' share of water stored in the Amistad-Falcon system to the various accounts.

Allottee—A water right holder who has an account and who has the right to call on releases of water from the associated accounts.

Assessment—The authorized charges against water rights holders levied by the commission to finance watermaster operations.

Certification—Written authorization issued by the watermaster to divert water from the Rio Grande or its tributaries for a specific period of time.

Diversion facility—Any pump, canal system, or other device.

Diverter—A water right holder, an agent, or an exempt domestic and livestock user who takes water from the Rio Grande or its tributaries.

Hydroelectric rights—A water right that authorizes the use of available flow for hydroelectric power generation. No account will be established for the holders of hydroelectric rights.

Lower Rio Grande Valley—That portion of the Rio Grande Basin, including tributaries, in Texas from Falcon Dam downstream to the Gulf of Mexico, including that portion of the Nueces-Rio Grande Coastal Basin located in Starr, Hidalgo, Willacy, and Cameron Counties, Texas, whose source of water is the Rio Grande.

(A) Reach I is that portion of the Lower Rio Grande between Falcon Dam and the International Boundary and Water Commission streamflow gage at Fort Ringgold.

(B) Reach II is that portion of the Lower Rio Grande between the International Boundary and Water Commission streamflow gage at Fort Ringgold and Anzalduas Dam.

(C) Reach III is that portion of the Lower Rio Grande between Anzalduas Dam and the Progresso Bridge.

(D) Reach IV is that portion of the Lower Rio Grande between the Progresso Bridge and the International Boundary and Water Commission streamflow gage near San Benito.

(E) Reach V is that portion of the Lower Rio Grande between the International Boundary and Water Commission streamflow gage near San Benito and the Cameron County Water Control and Improvement District 6 river pumps.

(F) Reach VI is that portion of the Lower Rio Grande between Cameron County Water Control and Improvement District 6 river pumps and the International Boundary Commission streamflow gage near Brownsville.

(G) Reach VII is that portion of the Lower Rio Grande between the International Boundary and Water Commission streamflow gage near Brownsville and the Gulf of Mexico.

Measuring device—A device designed to indicate flow rate and amount, with instantaneous readout in cfs or gpm and a flow totalizer with a readout in acre-feet or gallons, to be accurate within 5.0%, said device to be approved by the watermaster. Any device operated and maintained by the International Boundary and Water Commission is considered satisfactory. On tributaries, any device approved by the watermaster is sufficient.

Middle Rio Grande—That portion of the Rio Grande Basin, including tributaries, in Texas upstream from Falcon Dam to Amistad Dam.

(A) Reach I is that portion of the Middle Rio Grande between Amistad Dam and the International Bridge at Del Rio.

(B) Reach II is that portion of the Middle Rio Grande between the International Bridge at Del Rio and the International Bridge at Eagle Pass.

(C) Reach III is that portion of the Middle Rio Grande between the International Bridge at Eagle Pass and the International Boundary and Water Commission streamflow gaging station at San Antonio Crossing.

(D) Reach IV is that portion of the Middle Rio Grande between the International Boundary and Water Commission streamflow gaging station at San Antonio Crossing and the International Bridge at Laredo.

(E) Reach V is that portion of the Middle Rio Grande between the International Bridge at Laredo and San Ygnacio.

(F) Reach VI is that portion of the Middle Rio Grande between San Ygnacio and Falcon Dam.

No charge water—Storm and flood water in the Rio Grande downstream from Amistad Dam that is designated by the watermaster, in accordance with the Texas Water Code, §11.0871, and with Texas Water Commission order dated August 4, 1981, and any subsequent orders, as being available for diversion and use by water rights holders.

Nondiverter—An agent or a water right holder who has water delivered to him by a diverter.

Proration period—The period determined on a monthly basis, when the United States' share of water in storage in the Amistad-Falcon system is less than 50% of the total United States conservation storage.

Pump operation report—That part of the certification which the diverter returns to the watermaster after recording the amount of water actually diverted during the certification period.

Travel time—The time for released water to travel downstream to designated reaches on the Middle or Lower Rio Grande.

Tributary diverter—A water right holder, an agent, or an exempt domestic and livestock user on the Rio Grande below Fort Quitman and above Amistad Reservoir or on a tributary of the Rio Grande with no

right to call for releases from Amistad or Falcon Reservoirs.

Upper Rio Grande—That portion of the Rio Grande Basin, including tributaries, in Texas from Amistad Dam upstream to Fort Quitman, excluding the Pecos and Devils watersheds.

Usable balance—The quantity of water in acre-feet an allottee has available for use, and is based upon whichever is less:

(A) the sum of allottee's annual authorized amount of water minus actual use for the year to date, plus the allottee's contract water balance; or

(B) the amount in the allottee's storage account.

Water right—A right acquired under the laws of the state to impound, divert, and/or use water.

Water right holder—One who owns a water right.

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 June 9, 1986.

TRD-8805787

James K. Rourke, Jr.
General Counsel
Texas Water Commission

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For further information, please call
(512) 463-8070

★ ★ ★

Watermaster-Regulatory Functions

★ 31 TAC §§303.11-303.17

The new sections are adopted under the Texas Water Code, §5.103, which provides the Texas Water Commission with the authority to adopt rules necessary to carry out its powers and duties under the code and the laws of the state.

§303.12. *Records—Mainstem Middle and Lower Rio Grande.*

(a) The watermaster shall maintain an accurate inventory of water in Falcon and Amistad Reservoirs and shall maintain records and institute necessary procedures with the International Boundary and Water Commission as may be appropriate to perform this function.

(b) The watermaster shall timely submit a monthly report to each allottee, or his designated agent, showing the current status of each allottee's account. The period of time covered by each report shall be from the last Saturday of a month at midnight to the last Saturday of the following month at midnight. The report shall designate the date for the end of the watermaster's next reporting period. Each allottee shall apply in writing to the watermaster for correction of any alleged errors in the report within 20 consecutive days following distribution of the monthly report.

(c) A diverter shall request written certification in advance to allow travel time for the released water to reach the river diversion point as scheduled. Each reach of the river shall constitute one day of travel time from Amistad Dam downstream. Whenever there is a flow of water in the Rio Grande in excess of downstream requirements, the watermaster may waive travel time requirements to allow immediate diversions, provided that the diverter shall post the certification at or near his diversion facility.

(d) Nondiversers who have water diverted and transported for them from the Rio Grande by an authorized diverter or carrier shall have the diverter place the order with the watermaster for the amount of water desired. Each diverter or carrier furnishing water to a nondiverter is required to furnish a report within five days of the last Saturday of the month to the watermaster, showing the amount of water in acre-feet delivered to the nondiverter, including transportation losses. If a nondiverter uses in excess of the amount to which he is entitled, the excess amount shall be charged against the account of the diverter.

(e) Diversions shall be charged against the appropriate accounts as follows.

(1) A diverter shall be charged with the actual amount diverted, without being penalized, if the total diversion is within plus or minus 10% of the amount requested pursuant to certification.

(2) A diverter shall be charged with 90% of the certification amount if the total diversion is less than 90% of the amount requested pursuant to certification.

(3) If the quantity of water diverted is more than 110% of the amount requested pursuant to certification, then the diverter will be charged with the actual amount of water diverted and the provisions of §303.31 of this title (relating to General) will apply.

(4) The watermaster shall have the discretion to waive the penalties contained herein for excessive or inadequate diversions due to circumstances beyond the control of the diverter.

(5) In accordance with Texas General Law, §2, Chapter 35, 1981, at page 75, water diverted by Maverick County Water Control and Improvement District 1 through its gravity irrigation diversion system that is returned to the stream from which it was taken at specific metered points or places operated by the International Boundary and Water Commission is surplus water as defined in said law and is not appropriated water. For water accounting and reporting purposes, surplus water shall not be counted as a part of the total amount of water authorized to be diverted for beneficial use under the district's water rights. Surplus water does not include water flowing into the Rio Grande from tributaries which flow into the Maverick system.

(f) The burden shall be upon the diverter on the Middle and Lower Rio Grande to satisfy the watermaster that the diverter

could not receive his total requested amount of water during the certification period because of the acts of other diversers or because of other clearly shown extenuating circumstances, and if such is shown, appropriate adjustments may be made by the watermaster.

(g) If an allottee on the Middle or Lower Rio Grande has to terminate pumping before the end of the certification period, the allottee shall notify the watermaster as soon as possible. The effect of the termination in pumping is a termination in the certification. A new certification must be issued before the diverter may renew pumping.

(h) Use of no charge water shall not be charged against the allottee's annual surface water use limit or against the allottee's account. The total amount of no charge water diverted must be stated separately in the annual surface water use report sent to the commission.

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.

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TRD-8605789 James K. Rourke, Jr.
General Counsel
Texas Water Commission

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For further information, please call
(512) 463-8070.

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Allocation and Distribution of Waters

★ 31 TAC §§303.21-303.23

The new sections are adopted under the Texas Water Code, §5.103, which provides the Texas Water Commission with the authority to adopt rules necessary to carry out its powers and duties under the code and the laws of the state.

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.

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TRD-8605788 James K. Rourke, Jr.
General Counsel
Texas Water Commission

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For further information, please call
(512) 463-8070.

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Enforcement Regarding Watermaster Operations

★ 31 TAC §§303.31-303.34

The new sections are adopted under the Texas Water Code, §5.103, which provides the Texas Water Commission with the au-

thority to adopt rules necessary to carry out its powers and duties under the code and the laws of the state.

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.

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TRD-8605786 James K. Rourke, Jr.
General Counsel
Texas Water Commission

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For further information, please call
(512) 463-8070.

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Amendments To and Sales of Water Rights

★ 31 TAC §§303.41-303.44

The new sections are adopted under the Texas Water Code, §5.103, which provides the Texas Water Commission with the authority to adopt rules necessary to carry out its powers and duties under the code and the laws of the state.

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.

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TRD-8605785 James K. Rourke, Jr.
General Counsel
Texas Water Commission

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For further information, please call
(512) 463-8070.

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Contractual Sales

★ 31 TAC §§303.51-303.55

The new sections are adopted under the Texas Water Code, §5.103, which provides the Texas Water Commission with the authority to adopt rules necessary to carry out its powers and duties under the code and the laws of the state.

§303.55. *Accounting for Contract Sale Water.*

(a) The watermaster will transfer the full amount, or portion thereof, of water specified in an approved contract from the seller's to the buyer's account upon contract approval.

(b) Upon transfer of contract sale water to buyer's account, subsequent use of water by buyer will be deducted from the contract water balance until the contract water balance equals zero or until the contract expiration date.

(c) Any contract water balance remaining in buyer's account at the contract expiration date will be deducted from buyer's ac-

count and will be available for allocation to the system reserves and accounts according to §303.22 of this title (relating to Allocations to Accounts).

(d) Buyer may not sell any water via contract as long as his bought water balance is greater than zero.

(e) At no time will buyer's or seller's irrigation storage account exceed 1.41 times the water right holder's recognized amount in acre-feet.

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.

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TRD-8605784 James K. Rourke, Jr.
General Counsel
Texas Water Commission

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For further information, please call
(512) 463-8070.

Excess Flow Permits

★31 TAC §303.61

The new section is adopted under the Texas Water Code, §5.103, which provides the Texas Water Commission with the authority to adopt rules necessary to carry out its powers and duties under the code and the laws of the state.

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 June 9, 1986.

TRD-8605783 James K. Rourke, Jr.
General Counsel
Texas Water Commission

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For further information, please call
(512) 463-8070.

Financing Watermaster Operation

★31 TAC §303.71

The new section is adopted under the Texas Water Code, §5.103, which provides the Texas Water Commission with the authority to adopt rules necessary to carry out its powers and duties under the code and the laws of the state.

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 June 10, 1986.

TRD-8605781 James K. Rourke, Jr.
General Counsel
Texas Water Commission

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For further information, please call
(512) 463-8070.

Chapter 313. Edwards Aquifer Subchapter A. Edwards Aquifer in Medina, Bexar, Comal, Kinney, Uvalde, and Hays Counties

★31 TAC §§313.1-313.11

The Texas Water Commission adopts new §§313.1-313.11, without changes to the proposed text published in the May 9, 1986, and May 13, 1986, issues of the *Texas Register* (11 TexReg 2178 and 11 TexReg 2227, respectively).

These new sections replace and are substantively similar to former §§331.1-331.11 concerning the Edwards Aquifer in Medina, Bexar, Comal, Kinney, Uvalde, and Hays Counties, promulgated by the Texas Water Development Board for the Texas Department of Water Resources. The new sections do include modifications based on a petition to initiate administrative rulemaking, comments received at the January 20, 1986, annual hearing on the Edwards Aquifer, and ongoing staff review, all of which were summarized and explained when the sections were proposed. These new sections provide enhanced protection of the Edwards Aquifer, a major source of drinking water, from pollution.

On May 23, 1986, a public hearing was held in San Antonio, Texas, to receive comments on the proposed rules. Additionally, written comments were accepted through May 28, 1986. Of the 42 persons who attended the public hearing, the following offered written or oral comments: Fay Sinkin, Aquifer Protection Association; Stephen M. Jenkins, P.E., City of San Marcos; Thomas P. Fox, Edwards Underground Water District (EUWD); Stephen Kacmer, North San Antonio Chamber of Commerce; Dr. Martin L. Meltz, Ph.D., Alamo Area of Governments Hazardous Materials Task Force and Aquifer Protection Association; Cathy Liu Scott, League of Women Voters of the San Antonio Area; and Christopher J. Powers, City of San Antonio. Tom Culbertson submitted written comments.

The comments received were all supportive of adoption of Subchapter A. Indeed, no one suggested that any of the proposed sections should not be adopted. However, most of the persons offering comments had suggestions regarding further improvements which could be made to the Edwards Aquifer program through further amendments to Chapter 313, Subchapter A.

Mrs. Sinkin urged the commission to reconsider its determination that it has no jurisdiction to prohibit siting of municipal landfills, not including land disposal of municipal hazardous waste, on the recharge zone. Mrs. Sinkin contended that the commission has jurisdiction over such activity due to its jurisdiction over water quality. Mrs. Sinkin also expressed concern over the commission's reluctance to assume responsibility for activities which use or produce hazardous substances.

The EUWD recommended adoption of the proposed new sections and stated that its concern for the regulation of hazardous substances still remains. The EUWD urged the commission to continue to develop rules for hazardous materials for inclusion in the Edwards Aquifer rules at the earliest possible date.

Dr. Martin Meltz expressed concern over the decision of the commission not to propose regulations dealing with production, storage, transportation, and use of hazardous substances on the recharge zone as proposed by the EUWD. Dr. Meltz stated that all production and storage of hazardous substances on the aquifer should be banned, and use restricted to small quantities under carefully regulated and monitored conditions.

The City of San Antonio generally commended the commission for its efforts, particularly with respect to the establishment of the transition zone. The city urged the commission to require submission of water pollution abatement plans for regulated developments in the transition zone as well as the recharge zone. The city also urged the commission to reconsider its position on cave and sinkhole protection and to generate a policy statement regarding the necessity of cave and sinkhole protection. While acknowledging that actual permitting of municipal landfills is within the jurisdiction of the Texas Department of Health (TDH), the city urged the commission to work with the TDH to ensure protection of the aquifer. The city also suggested that the commission develop guidelines which the Railroad Commission of Texas could use in situations where oil pipelines are proposed to cross the aquifer. The city was of the opinion that the commission should have addressed the area of regulation of activities which use or produce hazardous substances, and requests that the commission include such provisions in the Edwards Aquifer rules.

The League of Women Voters of the San Antonio Area commended the commission for its responses to the league's comments submitted at the January 20, 1986, public hearing, but expressed continued concern about problems with ongoing enforcement of the regulations and procedures for dealing with emergency situations of pollution. In response to the commission's decision not to publish guidelines concerning whether a recharge feature is significant and its request for suggestions for regulations dealing with construction runoff control, the league suggested publication of a variety of sample cases along with their specific requirements.

The North San Antonio Chamber of Commerce offered a number of specific comments on the proposed new sections. The Chamber of Commerce suggested a definition of the term "consulting geologist" to be included §313.2.

The chamber suggested additional wording to further clarify §313.3(b)(3)(E), concerning significant recharge areas located in a regulated development for which a water pollution abatement plan must be filed. The chamber recommended that the last sentence of the definition of recharge zone be modified.

The chamber recommended a similar revision for the definition of transition zone. Finally, the chamber recommended that questions on delineation of the two zones should be made as rapidly as possible, and to facilitate such a result, decisions regarding the limits of the recharge zone and transition zone should be made by the manager of the commission's San Antonio office.

The chamber is of the opinion that channels or swales having contributing watersheds of 10 acres or less should be excluded from the requirement of §313.4(b) (8). Additionally, sewer lines constructed beneath paved streets should be excluded.

The chamber supports creation of the transition zone, noting that some of the regulation appears to duplicate existing state and federal regulation, but opposes any further expansion of land use regulation in the transition zone.

The chamber questioned the estimated fiscal impact of the new sections, specifically the estimated cost of compliance to small businesses and the finding of no economic cost to individuals.

The City of San Marcos supports the transition zone as proposed, but stated that it is inconsistent to enforce the Edwards Aquifer rules within the recharge zone, but not in those areas within the same watershed or sub-basin which contributes runoff to sinkholes and caves. The city expressed concern with the commission's position that water quality and quantity can be monitored by evaluating the impact of development on a case-by-case basis, and stated a belief that there is a sufficient body of scientific knowledge from which the commission can draw the necessary basis for developing water quality control guidelines for application within the recharge zone.

In response to all comments which recommended further revision of the proposed new sections, the commission notes that to make further revisions at this time would require republication of the proposed new sections, and possibly another public hearing, before the commission could adopt the amended rules. Because it was necessary to enact emergency rules which superseded the existing permanent rules, and because the emergency rules will expire as a matter of law in July, it is important for the commission to adopt new permanent rules at this time in order for them to become effective before the emergency rules lapse. Therefore, the commission is of the opinion that protection of water quality and the public interest are best served by immediate adoption of the new

sections as published in the May 13, 1986, issue of the *Texas Register*. The commission is committed to continued review of the Edwards Aquifer Program, particularly those areas of concern raised by persons offering comments to these sections. However, due to time constraints, it has not been possible to perform a thorough review of all the suggestions for additional modifications to the new sections which were offered at the May 23, 1986, public hearing.

The new sections are adopted under the Texas Water Code, §§5.103, 5.105, and 5.108, which provide the Texas Water Commission with the authority to regulate and promulgate 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 June 11, 1986.

TRD-8605766 James K. Rourke, Jr.
General Counsel
Texas Water Commission

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Proposal publication date: May 9, 1986
For further information, please call
(512) 463-8070.

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Subchapter B. Edwards Aquifer in Williamson County

★ 31 TAC §§313.21-313.30

The Texas Water Commission adopts new §§313.21-313.30, without changes to the proposed text published in the May 9 and May 13, 1986, issues of the *Texas Register* (11 TexReg 2178 and 11 TexReg 2235, respectively).

These new sections replace and are in large part the same as former §§331.101-331.111, concerning the Edwards Aquifer in Williamson County, promulgated by the Texas Water Development Board for the Texas Department of Water Resources.

These new sections provide for regulation of those activities thought to have potential impacts on the water quality of the Edwards Aquifer and enhance protection of the Edwards Aquifer, a major source of drinking water, from pollution.

No comments were received regarding adoption of the new sections.

The new sections are adopted under the Texas Water Code, §§5.103, 5.105, and 5.108, which provides the Texas Water Commission with the authority to regulate and promulgate 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 June 11, 1986.

TRD-8605767 James K. Rourke, Jr.
General Counsel
Texas Water Commission

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Proposal publication date: May 9, 1986
For further information, please call
(512) 463-8070.

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Chapter 317. Design Criteria for Sewerage Systems

Design Criteria for Sewerage Systems

★ 31 TAC §§317.1-317.13

The Texas Water Commission adopts new §§317.1-317.13, without changes to the proposed text published in the May 16, 1986, issue of the *Texas Register* (11 TexReg 2281). Although these regulations are adopted as new sections, these regulations had been in effect in Chapter 325 of this title (relating to Design Criteria for Sewerage Systems) under the jurisdiction of the Texas Department of Water Resources. On January 7, 1986, the commission adopted on an emergency basis Chapter 317 of this title (relating to Design Criteria for Sewerage Systems). The emergency rules appeared in the January 21, 1986, issue of the *Texas Register* and were substantively the same as the previous rules promulgated under the authority of the Texas Department of Water Resources.

The commission is not adopting substantive changes to these regulations since they represent joint criteria between the commission and the Texas Department of Health. The regulations will clarify the state design requirements for sewage collection, treatment, and disposal systems, establish the minimum design criteria compatible with existing state statutes pertaining to effluent quality, and encourage the design of sewage facilities in accordance with good public health and water quality engineering practices.

No comments were received regarding adoption of these new sections.

The new sections are adopted under the Texas Water Code, §§5.103 and 5.105, which provides the commission with the authority to adopt any rules necessary to carry out its powers and duties under the Texas Water Code and other laws of this state and to establish and approve all general policy of the commission.

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.

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TRD-8605765

James K. Rourke, Jr.
General Counsel
Texas Water Commission

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For further information, please call
(512) 463-8070.



Chapter 319. General Regulations Incorporated into Permits Subchapter A. Monitoring and Reporting System

★ 31 TAC §§319.1-319.11

The Texas Water Commission adopts new §§319.1-319.11 and 319.21-319.29, without changes to the proposed text published in the May 6, 1986, issue of the *Texas Register* (11 TexReg 2069).

Although these regulations are adopted as new sections, most of these regulations have been in effect in Chapter 329, under the jurisdiction of the Texas Department of Water Resources, the predecessor agency to the Texas Water Commission. Senate Bill 249, 69th Legislature, 1985, effective September 1, 1985, abolished the Texas Department of Water Resources and transferred jurisdiction under the Texas Water Code to the Texas Water Commission. This change has necessitated new rulemaking.

Chapter 319 is divided into two subchapters. Subchapter A is primarily a recodification of the regulations formerly found in §§329.1-329.12. One of the substantive changes to those regulations was to increase the frequency with which discharges of certain quantities of treated domestic effluent are required to sample. Dischargers of up to less than 1.0 million gallons per day are now required to sample a minimum of once per week. This change is contained in Table 1 found in §319.5. In addition, composite samples are now to be proportioned according to flow and need not be conducted for laboratory testing of pH and chlorine residual. Section 319.6 was amended to place permittees on notice that false statements included in monthly effluent reports and monitoring records may result in the imposition of criminal and/or civil penalties as provided by law.

Subchapter B is a continuation of the regulations formerly found in §§329.41-329.49. These sections establish the allowable concentrations of various hazardous metals for discharge into inland and tidal waters. No substantive changes have been made to these regulations.

Previous §§329.21-329.30 were deleted from these sections. The issuance of the emergency orders and temporary orders relating to the discharge of waste or pollutants into or adjacent to water in the state is now covered by §§305.21-305.30.

These new sections provide enhanced environmental protection through increased monitoring of the quantity and quality of waste discharged into or adjacent to water in the state, and continued control over the concentrations of hazardous metals discharged into or adjacent to water in the state.

No comments were received regarding adoption of the new sections.

The new sections are adopted under the Texas Water Code, §5.103 and §5.105, which provides the Texas Water Commission with the authority to adopt any regulations necessary to carry out its powers and duties under the Texas Water Code and other laws of this state and to establish and approve all general policy of the commission.

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.

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TRD-8605890

James K. Rourke, Jr.
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Texas Water Commission

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For further information, please call
(512) 463-8070.



Subchapter B. Hazardous Metals

★ 31 TAC §§319.21-319.29

The new sections are adopted under the Texas Water Code, §5.103 and §5.105, which provides the Texas Water Commission with the authority to adopt any regulations necessary to carry out its powers and duties under the Texas Water Code and other laws of this state and to establish and approve all general policy of the commission.

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.

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James K. Rourke, Jr.
General Counsel
Texas Water Commission

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For further information, please call
(512) 463-8070.



Chapter 321. Control of Certain Activities by Rule

Subchapter A. Boat Sewage Disposal

★ 31 TAC §§321.1-321.18

The Texas Water Commission adopts new §§321.1-321.18, 321.31-321.38, 321.51-321.57, 321.61-321.66, and 321.71-321.81, without changes to the proposed text published in the May 6, 1986, issue of the *Texas Register* (11 TexReg 2075). Although these regulations are adopted as new sections, most of these regulations have been in effect in Chapters 337 and 339, under the jurisdiction of the Texas Department of Water Resources, the predecessor agency to the Texas Water Commission. Senate Bill 249, 69th Legislature, 1985, effective September 1, 1985, abolished the Texas Department of Water Resources and transferred jurisdiction under the Texas Water Code to the commission. This change has necessitated new rulemaking.

Chapter 321 is divided into five subchapters. Subchapter A is primarily a recodification of the regulations formerly found in §§337.1-337.20. Changes were made in the proposed sections, however, to reflect statutory increases in the fees for certification of pump-out facilities and certification of marine sanitation devices which resulted from House Bill 1593, 69th Legislature, 1985.

Subchapters B-E are a continuation of the regulations formerly found in §§339.1-339.71. No substantive changes were made to these sections.

These regulations help insure the quality of the inland freshwaters of the state, provide greater environmental protection from discharges from marine sanitation devices, and continue control over certain other types of discharges into or adjacent to waters in the state.

No comments were received regarding adoption of the new sections.

The new sections are adopted under the Texas Water Code, §5.103 and §5.105, which provides the Texas Water Commission with the authority to adopt any regulations necessary to carry out its powers and duties under the Texas Water Code and other laws of this state and to establish and approve all general policy of the commission.

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 June 12, 1986.

TRD-8605895

James K. Rourke, Jr.
General Counsel
Texas Water Commission

Effective date: July 3, 1986

Proposal publication date: May 6, 1986

For further information, please call
(512) 463-8070.

Subchapter B. Commercial Swine Production Operations

★ 31 TAC §§321.31-321.38

The new sections are adopted under the Texas Water Code, §5.103 and §5.105, which provides the Texas Water Commission with the authority to adopt any regulations necessary to carry out its powers and duties under the Texas Water Code and other laws of this state and to establish and approve all general policy of the commission.

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 June 12, 1986.

TRD-8605894 James K. Rourke, Jr.
General Counsel
Texas Water Commission

Effective date: July 3, 1986
Proposal publication date: May 6, 1986
For further information, please call
(512) 463-8070.

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Subchapter C. Meat Processing

★ 31 TAC §§321.51-321.57

The new sections are adopted under the Texas Water Code, §5.103 and §5.105, which provides the Texas Water Commission with the authority to adopt any regulations necessary to carry out its powers and duties under the Texas Water Code and other laws of this state and to establish and approve all general policy of the commission.

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 June 12, 1986.

TRD-8605893 James K. Rourke, Jr.
General Counsel
Texas Water Commission

Effective date: July 3, 1986
Proposal publication date: May 6, 1986
For further information, please call
(512) 463-8070.

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Subchapter D. Sand and Gravel Washing

★ 31 TAC §§321.61-321.66

The new sections are adopted under the Texas Water Code, §5.103 and §5.105, which provides the Texas Water Commission with the authority to adopt any regulations necessary to carry out its powers and duties under the Texas Water Code and other laws of this state and to establish and approve all general policy of the commission.

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 June 12, 1986.

TRD-8605892 James K. Rourke, Jr.
General Counsel
Texas Water Commission

Effective date: July 3, 1986
Proposal publication date: May 6, 1986
For further information, please call
(512) 463-8070.

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Subchapter E. Surface Coal Mining, Preparation, and Reclamation Activities

★ 31 TAC §§321.71-321.81

The new sections are adopted under the Texas Water Code, §5.103 and §5.105, which provides the Texas Water Commission with the authority to adopt any regulations necessary to carry out its powers and duties under the Texas Water Code and other laws of this state and to establish and approve all general policy of the commission.

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 June 12, 1986.

TRD-8605891 James K. Rourke, Jr.
General Counsel
Texas Water Commission

Effective date: July 3, 1986
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For further information, please call
(512) 463-8070.

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Chapter 335. Industrial Solid Waste and Municipal Hazardous Waste

Subchapter J. Hazardous Waste Generation, Facility, and Disposal Fees System

★ 31 TAC §§335.321-335.332

The Texas Water Commission adopts amendments to §§335.321-335.332, with changes to the proposed text published in the April 22, 1986, issue of the *Texas Register* (11 TexReg 1867). Sections 335.321-335.327, and 335.329-335.332 are adopted without changes and will not be republished. The Texas Water Commission is required under the Texas Solid Waste Disposal Act, Texas Civil Statutes, Article 4477-7 (Vernon's Supplement 1986), §§11-14, as amended by Senate Bill 249 and House Bill 2359, 69th Legislature, 1985, to establish a hazardous waste generation, facility, and disposal fee program. The fees are to be collected on schedules established for each fee

program and deposited, including interest and penalties for late payment, to the appropriate fund in the state treasury. The generation and facility fees are to be assessed annually and deposited in the hazardous waste generation and facility fees fund.

The fund is to be used by the commission to pay for the state's contribution to the administration of the state hazardous waste management program. The Texas Solid Waste Disposal Act, §12(c), as amended, requires that the total amount of facility fees and hazardous waste generation fees collected and deposited in the hazardous waste generation and facility fees fund in any fiscal year shall not be less than \$3.5 million nor more than \$3.75 million.

The Texas Water Commission adopted §§335.751-335.762, effective October 31, 1985, to implement the hazardous waste fee program. Section 335.754 of these sections described the assessment of facility fees. This section has been renumbered and is now adopted as §335.324. Under a schedule established in §335.754, assessments for the payment of facility fees have been applied to the subject facilities. The total of receipts under this assessment will not yield sufficient revenue in fiscal year 1986 to comply with the requirements of the Solid Waste Disposal Act, §12(c). Adoption of this amended schedule will authorize the collection and deposit, to the hazardous waste generation and facility fees fund, of \$3.5 million as required by the Act. In addition, these amendments will renumber the sections and rename the subchapter as Subchapter J, consistent with the recently reorganized provisions of Chapter 335.

In adopting these sections, the commission modified §335.328 to require that all generation and facility fees shall be due by October 1 of each year and payable to the Texas Water Commission. This provision will simplify the payment of fees, reduce the workload required in processing receipts and improve the projection of revenue for the current fiscal year.

After proper notice, a public hearing to receive comment on the proposed changes to the rules was convened at 10 a.m., Tuesday, May 13, 1986. Comments were received from the Sierra Club and the League of Women Voters, which generally supported the amendments. Ken Kramer, State Capitol Representative of the Sierra Club, acknowledged the legislative requirement to collect a specific amount of money in this fiscal year. He added that consideration should be given to establishing a facility fee schedule which more directly places the highest fee assessments on those facilities that represent the greatest cost to the commission in inspection and compliance monitoring activities. In addition, the Sierra Club recommends raising the fee for hazardous waste injection wells from the proposed \$10,000 per well to \$20,000 per well. Evelyn Bonavita, legislative director, League of Women Voters,

suggested that fees be set at levels that would ensure funding at the maximum level authorized by the legislature.

While the commission is authorized to deposit to the hazardous waste generation and facility fees fund up to \$3.75 million in the fiscal year, the schedule adopted under §335.328 is projected to yield approximately \$3.5 million. The fee structure for hazardous waste generators is currently set by the Solid Waste Disposal Act. The commission is actively working to identify generators subject to this assessment, and additional revenue to the generation and facility fees fund is routinely collected through these monitoring activities to supplement the fund. An estimate of the total contribution from these sources is difficult to make, however. In addition, efforts are continuing in the resolution of delinquent payments which represent further potential income to the fund in this fiscal year. The immediate goal of \$3.5 million satisfies the revenue requirements of the hazardous waste regulatory program in the commission for the fiscal year and allows for the continued contributions to the fund from more uncertain sources. The commission acknowledges that future adjustments to the facility fee schedule may be required to respond to legislative and budgetary requirements.

Regarding the application of facility fees to certain activities, J. C. Wyatt of Chemical Reclamation Services, Inc., recommended that fee assessments for recycling facilities be reduced or eliminated. In fact, a recycling facility is typically exempt from facility fee assessment in that a hazardous waste permit is not required. Generation fees may be applicable to the operation, particularly where hazardous wastes are produced in the recycling or reclamation process. Facility fee assessment could be applicable to the storage of hazardous wastes related to a recycling operation. The amendments adopted, however, do not directly affect the fee liability for a facility which solely recycles or reclaims hazardous wastes.

These amendments are adopted under the Texas Solid Waste Disposal Act, Texas Civil Statutes, Article 4477-7, as amended by Senate Bill 249 and House Bill 2359, 69th Legislature, §§11-14, which provide the Texas Water Commission with the authority to adopt a hazardous waste generation, facility, and disposal fees system to establish a fund to supplement appropriations for administering hazardous waste programs by the commission and a second fund to supplement appropriate remedial and corrective action at sites at which hazardous wastes have been disposed.

§335.328. Fees Payment.

(a) Hazardous waste generation and facility fees are payable each year for all hazardous waste generators, permittees, and applicants. Fees must be paid by check, certified check or money order payable to

"Texas Water Commission, Fund 549". Annual facility fees are payable by permittees and applicants regardless of whether the facility is in actual operation. All annual generation and facility fees shall be due by October 1.

(b) Quarterly disposal fees are payable for each operator of a land disposal facility. Fees must be paid by check, certified check or money order to "Texas Water Commission, Fund 550" and shall be due in accordance with the following schedule:

Fiscal Quarter	Date Due
September 1-November 30	February 1
December 1-February 28	May 1
March 1-May 31	August 1
June 1-August 31	November 1

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 June 11, 1986.

TRD-8605884 James K. Rourke, Jr.
General Counsel
Texas Water Commission

Effective date: July 3, 1986
Proposal publication date: April 22, 1986
For further information, please call
(512) 463-8070.

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TITLE 37. PUBLIC SAFETY AND CORRECTIONS

Part I. Texas Department of Public Safety

Chapter 1. Organization and Administration

Fees for Copies of Records

★ 37 TAC §§1.122-1.125

The Texas Department of Public Safety adopts amendments to §§1.122-1.125, without changes to the proposed text published in the May 6, 1986, issue of the *Texas Register* (11 TexReg 2085).

The amendments are a clarification to the public on fee changes and a savings in the cost of maintaining administrative rules that contain statutory fees established by the legislature.

The amendments delete subsections (a)-(d) of §1.122, (b) of §1.124, and (a)-(c) of §1.125, because the fees are statutory and are not set by the department. The remaining subsections are reformatted. Subsection (b) is added to reformatted §1.122, which provides for purchase of a copy of the complete driver's license basic record back-up tape with the provision for a weekly update of the tape. Section 1.123 is amended by changing the fee from \$1.00 to \$5.00 per copies of a duplicate lease acknowledgment.

No comments were received regarding adoption of the amendments.

The amendments are adopted under Texas Civil Statutes, Article 4413, (6)(2) and Article 6687b, §1A, which authorize the director, Texas Department of Public Safety, to make such rules and regulations, subject to the approval of the commission, as are deemed necessary for the control of the department. Also, the department may adopt rules that it determines are necessary to effectively administer the Act relating to drivers licenses.

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 June 10, 1986.

TRD-8605817 James B. Adams
Director
Texas Department of
Public Safety

Effective date: July 2, 1986
Proposal publication date: May 6, 1986
For further information, please call
(512) 465-2000.

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★ 37 TAC §1.128

The Texas Department of Public Safety adopts new §1.128, without changes to the proposed text published in the May 6, 1986, issue of the *Texas Register* (11 TexReg 2086).

The new section is necessary to inform the public that certain fees for copies of records are statutory, and nonstatutory fees are established by administrative rule. The department finds that administrative cost to maintain administrative rules for fees that are statutory is not cost effective.

The new section establishes policy that unless a fee has been established by the legislature as state law, such fee as may be charged will be established and specified by administrative rule.

No comments were received regarding adoption of the new section.

The new section is adopted under Texas Civil Statutes, Article 4413, (6)(2), which authorize the director, Texas Department of Public Safety, to make such rules and regulations, subject to the approval of the commission, as are deemed necessary for the control of 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 June 10, 1986.

TRD-8605818 James B. Adams
Director
Texas Department of
Public Safety

Effective date: July 2, 1986
Proposal publication date: May 6, 1986
For further information, please call
(512) 465-2000.

TITLE 40. SOCIAL SERVICES AND ASSISTANCE

Part I. Texas Department of Human Services Chapter 15. Medicaid Eligibility

The Texas Department of Human Services (TDHS) adopts amendments to §§15.2001, 15.3001, 15.3303, 15.3409, 15.3411, 15.3412, and 15.5206, the repeal of §15.3108 and §15.5204, and new §15.5204. These sections are adopted to comply with changes resulting from the Consolidated Omnibus Budget Reconciliation Act of 1985 (COBRA). The amendments reflect a change in the requirement that an individual must be in an institutional setting for a full calendar month to be eligible for Medicaid assistance only (MAO). Medicaid now covers services from the date of entry into a long-term care facility once 30 consecutive days of institutionalization have passed. The sections also require a companion budget to be prepared for the month of separation when an individual has an ineligible spouse. The limitations concerning institutional residence in §15.3108 no longer apply to MAO recipients as a result of COBRA, and are moved to §15.5204, concerning procedures for SSI applicants/recipients in Title XIX nursing facilities.

Subchapter U. Eligible Recipients for Title XIX (Medicaid)

★40 TAC §15.2001

The amendment is adopted under the Human Resources Code, Title 2, Chapters 22 and 32, which authorizes the department to administer public and medical assistance programs. The amendment is adopted effective June 1, 1986, to comply with federal requirements.

§15.2001. Categorically Needy. The Texas Medical Assistance Program, under the provision of Title XIX (Medicaid) of the Social Security Act, provides certain benefits to all individuals who meet the department's definition of categorically needy. The categorically needy are defined as:

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

(4) individuals living in a Title XIX-approved long-term care medical facility who would be eligible for SSI cash benefits if they were living outside the facility except that their incomes exceed the SSI payment standard but are less than a special income limit established by the department. An individual must live in one or more institutions throughout at least 30 consecutive calendar days to be eligible under the special income limit.

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

(5)-(9) (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 June 4, 1986.

TRD-8605451

Marlin W. Johnston
Commissioner
Texas Department of
Human Services

Effective date: June 1, 1986

For further information, please call
(512) 450-3766.

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Subchapter EE. Individuals for Whom SSI Eligibility Criteria Are Used

★40 TAC §15.3001

The amendment is adopted under the Human Resources Code, Title 2, Chapters 22 and 32, which authorizes the department to administer public and medical assistance programs. The amendment is effective June 1, 1986, to comply with federal requirements.

§15.3001. Types of Applicants. The eligibility criteria of the federal Supplemental Security Income (SSI) Program are used in determining Medicaid eligibility for the following categories of assistance.

(1) SSI-related MAO (Type Program 14). Individuals in approved Title XIX long-term care facilities, who would be eligible for SSI except for income, may qualify for assistance under Type Program 14. The individual may be determined eligible under a special income limit established by the department if he remains in one or more Title XIX long-term care facilities for a minimum of 30 consecutive days. Type Program 14 recipients with Rider 49 status who are discharged from a Title XIX facility to the community may continue to have eligibility under Type Program 14.

(2)-(4) (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 June 4, 1986.

TRD-8605452

Marlin W. Johnston
Commissioner
Texas Department of
Human Services

Effective date: June 1, 1986

For further information, please call
(512) 450-3766.

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Subchapter FF. SSI Basic Program Requirements

★40 TAC §15.3108

The repeal is adopted under the Human Resources Code, Title 2, Chapters 22 and 32, which authorizes the department to

administer public and medical assistance programs. The repeal is effective June 1, 1986, to comply with federal requirements.

§15.3108. Institutional Residence.

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 June 4, 1986.

TRD-8605453

Marlin W. Johnston
Commissioner
Texas Department of
Human Services

Effective date: June 1, 1986

For further information, please call
(512) 450-3766.

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Subchapter HH. Income for Individuals Related to the SSI Program

★40 TAC §15.3303

The amendment is adopted under the Human Resources Code, Title 2, Chapters 22 and 32, which authorizes the department to administer public and medical assistance programs. The amendment is effective June 1, 1986, to comply with federal requirements.

§15.3303. Procedures for Deeming Income.

(a) The caseworker applies the following procedures to determine eligibility for medical coverage of individuals living in non-vendor situations. The caseworker also applies the following procedures in vendor situations during the month the individual separates from his ineligible spouse. The caseworker discontinues the deeming process in the month after separation.

(b) (No change.)

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

Issued in Austin, Texas, on June 4, 1986.

TRD-8605454

Marlin W. Johnston
Commissioner
Texas Department of
Human Services

Effective date: June 1, 1986

For further information, please call
(512) 450-3766.

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Subchapter II. Budgeting for Individuals Related to the SSI Program

★40 TAC §§15.3409, 15.3411, 15.3412

The amendments are adopted under the Human Resources Code, Title 2, Chapters 22 and 32, which authorizes the department to administer public and medical as-

assistance programs. The amendments are effective June 1, 1986, to comply with federal requirements.

§15.3409. Vendor Living Arrangements.

(a) The department considers an individual (or couple) to be living in a vendor living arrangement beginning with the first day that:

(1) (No change.)

(2) the individual (or couple) has been confined to one or more Title XIX-approved long-term care facilities (Medicare-SNF, ICF, SNF, or ICF-MR) for a minimum of 30 consecutive days.

(b) The department also considers an individual (or couple) to be in a vendor living arrangement if the individual (or couple) dies before 30 consecutive days of institutionalization have passed, but is not discharged to a noninstitutional setting before his death.

(c) The department uses a special income limit to establish the eligibility of individuals and couples living in vendor living arrangements who have countable income in excess of the reduced SSI payment standard. The department continues to determine the individual's or couple's eligibility for medical assistance only using the special income limit until the individual or couple is discharged to a non-Title XIX medical facility. The department does not consider three-day therapeutic home visits to be discharges for this purpose.

(d) The caseworker must prepare two budgets for eligible individuals and couples in vendor living arrangements: one to determine eligibility and one to determine applied income.

§15.3411. Budget to Determine Eligibility.

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

(e) For individual or couple cases, the caseworker must use the following procedures for determining need based on both the federal maximum and the department's special income limit at the time of application and redetermination:

(i)-(5) (No change.)

(f) For companion cases, the caseworker uses the following budget steps to determine eligibility.

(1) For initial applications, if eligibility is to be determined for the calendar month of separation, available income must be deemed from the ineligible spouse to the applicant as outlined in §15.3303 of this title (relating to Procedures for Deeming Income). Deemed income is considered the individual's own unearned income and is considered in subsection (e)(1)-(5) of this section.

(A) If there is no unmet need, the individual is ineligible for the month of separation.

(B) If there is an unmet need, the individual is eligible for medical assistance only. Applied income is then computed according to the procedures in §15.3412 of this title (relating to Budget to Determine Applied Income).

(2) If eligibility is determined for the month(s) after the month of separation, income is not deemed from the ineligible spouse. Only the income of the applicant is considered according to the procedures in subsection (e)(1)-(5) of this section.

§15.3412. Budget to Determine Applied Income.

(a) Individuals living in non-ICF-MR facilities. If an individual(s) living in a non-ICF-MR Title XIX long-term care facility is eligible for medical assistance only, the caseworker must determine the amount of personal income or applied income the individual(s) must pay for nursing care. The caseworker must follow the procedure at the time of application and for every redetermination.

(1) (No change.)

(2) The caseworker uses the following budget steps to determine applied income for a companion case.

(A) For the month of separation:

(i) determine the gross earned and unearned income of the applicant and of the spouse;

(ii) subtract the personal needs allowance of \$25 for the applicant;

(iii) subtract the full SSI standard payment amount for an individual as an allowance for the ineligible spouse. The remainder is the applied income of the applicant.

(B) For the month(s) after the month of separation:

(i) determine the gross earned and unearned income of the applicant/recipient and of the spouse;

(ii) if the income of the ineligible spouse equals or exceeds the full SSI standard payment amount for an individual, but is equal to or less than the fair standard income level, disregard the income of the spouse. Subtract the personal needs allowance of \$25 from the individual's own income. The remainder is the applied income;

(iii) if the income of the ineligible spouse is less than the full SSI standard payment amount for an individual, add the spouse's income to the income of the applicant/recipient. Subtract the personal needs allowance of \$25 for the eligible individual from the combined income. Subtract the full SSI standard payment amount for an individual as an allowance for the ineligible spouse. The remainder is the applied income;

(iv) if the income of the spouse exceeds the fair standard income level, the caseworker computes applied income according to the procedures outlined in §15.3413 of this title (relating to Fair Standard Contributions from Ineligible Spouse).

(b) Individuals living in ICF-MR facilities. The caseworker uses the following budget steps to determine the applied income for an applicant/recipient living in an approved public or private ICF-MR facility. The difference in the applied income calculation for this group is that an additional protected earned income allowance is granted to the individual if the individual has earned

income in excess of \$25 per month. The purpose of the additional allowance is to provide the ICF-MR recipient, who has a short-term or long-term objective of semi-independent or independent living, the additional resources to make the transition possible.

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

(3) The caseworker uses the following budget steps to determine the applied income for a companion situation.

(A) For the month of separation:

(i) determine the gross earned and unearned income of both the eligible individual and the spouse;

(ii) determine the eligible individual's personal needs allowance, including the amount of protected income (if any), based on his separate income;

(iii) subtract the eligible individual's personal needs allowance from the combined gross income;

(iv) subtract the SSI standard payment amount for an individual as an allowance for the ineligible spouse. The remainder is the applied income for the applicant.

(B) For the month(s) after the month of separation:

(i) determine the gross earned and unearned income of both the eligible individual and the spouse;

(ii) determine the personal needs allowance, including the protected earned income allowance, if any, of the eligible individual based on his own income;

(iii) if the income of the ineligible spouse equals or exceeds the full SSI standard payment amount for an individual, but is equal to or less than the fair standard income level, disregard the income of the spouse. Subtract the individual's personal needs allowance from his income. The remainder is the applied income;

(iv) if the income of the ineligible spouse is less than the full SSI standard payment amount for the individual, add the spouse's income to the income of the individual. Subtract the eligible individual's personal needs allowance from the combined income. Subtract the full SSI standard payment amount for an individual as an allowance for the ineligible spouse. The remainder is the applied income;

(v) if the income of the ineligible spouse exceeds the fair standard income level, the caseworker computes applied income according to the procedures outlined in §15.3413 of this title (relating to Fair Standard Contributions from Ineligible Spouse).

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 June 4, 1986.

TRD-8605455

Marlin W. Johnston
Commissioner
Texas Department of
Human Services

Effective date: June 1, 1986
For further information, please call
(512) 450-3766.

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Subchapter AAA. Procedures for Application for Medical Assistance

★40 TAC §15.5204

The repeal is adopted under the Human Resources Code, Title 2, Chapters 22 and 32, which authorizes the department to administer public and medical assistance programs. The repeal is effective June 1, 1986, to comply with federal requirements.

§15.5204. *Procedures for SSI Applicants/Recipients in Title XIX Nursing Facilities.*

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 June 10, 1986.

TRD-8605740 Marlin W. Johnston
Commissioner
Texas Department of
Human Services

Effective date: June 1, 1986
For further information, please call
(512) 450-3766.

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★40 TAC §15.5204

The amendments are adopted under the Human Resources Code, Title 2, Chapters 22 and 32, which authorizes the department to administer public and medical assistance programs. The amendments are effective June 1, 1986, to comply with federal requirements.

§15.5204. *Procedures for SSI Applicants/Recipients in Title XIX Nursing Facilities.*

(a) Residence in a public institution. An individual is not eligible for SSI if he is a resident of a public institution throughout the calendar month.

(b) Definitions. The following definitions apply for purposes of this policy.

(1) Institution—An establishment that makes available some treatment or services, besides food and shelter, to four or more persons who are not related to the proprietor.

(2) Public institution—An institution, as defined previously, that is operated by or controlled by the federal government; a state; or a political subdivision, such as a city or a county.

(3) Resident of a public institution—An individual who can receive substantially all of his food and shelter while living in a public institution. This is regardless of whether he is receiving treatment and services available in the institution and whether he or

anyone else pays for all food, shelter, and other services in the institution. An individual is not a resident of a public institution if he is living in a public educational institution and enrolled in or registered for the educational or vocational training provided by the institution.

(4) Throughout the calendar month—An individual living in an institution from the beginning of the month through the end of the month. SSA considers that an individual continues to live in an institution if he transfers from one institution to another or is temporarily absent without being discharged. An individual is also a resident of an institution throughout the month if he:

(A) is born in the institution and stays there throughout the rest of the month of birth; or

(B) lives in an institution as of the beginning of a month and dies in the institution during the month.

(c) Exception situations. In the following exception situations, an individual may be eligible for SSI although he is a resident of a public institution throughout the calendar month if:

(1) the public institution in which the individual lives throughout the calendar month is a medical care facility, and Medicaid pays or is expected to pay more than 50% of the individual's cost of care;

(2) the individual lives for:
(A) a part of the month in a public institution; and

(B) the rest of the month in a public or private medical care facility, where Medicaid pays or is expected to pay more than 50% of the individual's cost of care;

(3) the individual lives in a publicly operated community residence that serves no more than 16 residents. Community residences, for this purpose, do not include medical care facilities, educational or vocational training institutions, jails, or facilities for restraint of prisoners or persons being held pending disposition of legal charges.

(d) Residence in a medical care facility.

(1) SSI uses a reduced standard payment amount of \$25 for individuals and \$50 for couples if:

(A) they live in public or private medical care facilities; and

(B) Medicaid pays, or is expected to pay, more than 50% of the individual's or couple's cost of care.

(2) Reduced benefits apply in the following situations.

(A) The individual or couple lives in one or more medical care facilities throughout the calendar month. Medicaid pays, or is expected to pay, more than 50% of the cost of care.

(B) The individual or couple lives for:

(i) a part of the month in a public institution; and

(ii) the rest of the month in a public or private medical care facility where

Medicaid pays, or is expected to pay, more than 50% of the cost of care.

(3) If an individual or couple lives in two or more private medical facilities throughout a calendar month, but Medicaid pays for less than 50% of the cost of care in at least one of the facilities, the individual or couple may be entitled to the full SSI standard payment amount. An individual or couple may live in one private Title XIX medical care facility throughout the month and Medicaid liability exists during part of the month because of Medicaid coverage limitations such as medical effective date, level of care effective date, or 30-day limit on hospital services. In this situation, the individual or couple may be entitled to the full SSI standard payment amount if the limitations would cause Medicaid to pay less than 50% of the cost of care.

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 June 10, 1986.

TRD-8605741 Marlin W. Johnston
Commissioner
Texas Department of
Human Services

Effective date: June 1, 1986
For further information, please call
(512) 450-3766.

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★40 TAC §15.5206

The amendment is adopted under the Human Resources Code, Title 2, Chapters 22 and 32, which authorizes the department to administer public and medical assistance programs. The amendment is effective June 1, 1986, to comply with federal requirements.

§15.5206. *SSI-Related Medical Assistance Only (Type Program 14).*

(a) The department is responsible for processing Medicaid applications for certain individuals who are residents of skilled nursing facilities, intermediate care facilities, or state institutions certified for Title XIX vendor payments. To qualify for medical assistance only under Type Program 14, an individual must meet the 30 consecutive day stay requirement for budgeting in a vendor living arrangement as defined in §15.3409 of this title (relating to Vendor Living Arrangements). The individual must also have an approved level-of-care determination in addition to meeting financial needs criteria.

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

(f) The caseworker must explain to MAO applicants that eligibility from the standpoint of need may be determined on the basis of a completed application for assistance. The caseworker must also explain that medical assistance only may not be approved until:

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

(3) the individual has been living in one or more Title XIX long-term care facilities for at least 30 consecutive days.

(g) (No change.)

(h) The caseworker determines the individual's current financial eligibility based on the information provided by the individual (or obtained by the case worker) and any required verifications.

(i) If an individual dies before he has lived for 30 consecutive days in a Title XIX long-term care facility, the department considers the individual to have met the 30 consecutive day stay requirement. The department does not consider three-day therapeutic home visits to be discharges from the institutional setting.

(j) If the individual has unpaid, Title XIX-covered medical expenses for services provided during the three months before application, the caseworker determines the individual's eligibility for three-month prior medical coverage. The caseworker uses the Type Program 14 income limit or the appropriate SSI payment standard based on the individual's living arrangements during the prior months. The special income limit may be used for a prior month even though the individual did not live in the Title XIX long-term care facility for the entire calendar month.

(k)-(l) (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 June 10, 1986.

TRD-8605742

Marlin W. Johnson
Commissioner
Texas Department of
Human Services

Effective date: June 1, 1986

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.)

On this date the State Board of Insurance considered a filing by Insurance Services Office, Inc., proposing an Amending Endorsement GL 02 11 Cancellation and Non-renewal Provisions (Texas). In addition, they are filing amended state rule exception pages for Division Four—Farm and Division Six-General Liability. The purpose of this is to amend the current approved rules and policy forms to conform to the emergency rules included in Board Order 48578 dated March 27, 1986, 28 TAC §§5.7001-5.7014.

This filing was approved to become effective July 1, 1986, in accordance with the following rule of application:

These changes are applicable to all policies effective on or after July 1, 1986.

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

Issued in Austin, Texas, on May 29, 1986.

TRD-8605886

Nicholas Murphy
Chief Clerk
State Board of Insurance

Effective date: July 1, 1986

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

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On this date the State Board of Insurance considered a filing by Insurance Services Office, Inc., proposing a revision of the Personal Insurance Coverages Program. This revision proposes to incorporate the Personal Insurance Coverages Policy Cancellation provisions found in Special Provisions Endorsement PIC-300 (Ed. 4-83) into both Comprehensive Personal Liability Special Provisions Endorsement PL 24 12 (Ed. 4-86) and Broad Form Personal Theft/Residence Glass Policies Special Provisions Endorsement PT 33 11/RG 20 02 (Ed. 4-86). The revision proposes to revise the Personal Insurance Coverages Program to conform to the emergency rules included in Board Order 48578, dated March 27, 1986, which relates to cancellation and nonrenewal provisions of general liability policies. The Texas Personal Insurance Coverages Manual rule regarding state requirements is revised to reflect these changes.

Upon implementation of revised Endorsements PL 24 12 (Ed. 4-86) and PT 33 11/RG 20 02 (Ed. 4-86), the following endorsements are withdrawn from use: Special Provisions Endorsement PIC-300 (Ed. 4-83), Special Provisions Endorsement PL 24 12 (Ed. 4-83) and Special Provisions Endorsements PT 33 11/RG 20 02 (Ed. 4-83).

This filing was approved to become effective July 1, 1986, in accordance with the following rule of application:

These changes are applicable to all policies effective on or after July 1, 1986.

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

Issued in Austin, Texas, on May 29, 1986.

TRD-8605887

Nicholas Murphy
Chief Clerk
State Board of Insurance

Effective date: July 1, 1986

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

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The State Board of Insurance has adopted amendments to the Texas Automobile Manual. Section G of Rule 38 of the Texas Automobile Manual has been amended to include a new subsection 18, reading as follows:

18. B & B Driving School, Inc.—Driver Improvement Course Credit.

(a) An auto afforded personal auto coverage shall be subject to a credit of 10% applied to the rate otherwise applicable, provided satisfactory evidence (certificate of completion or photostat thereof issued by B & B Driving School, Inc.) is presented to the company that the principal operator of such auto has successfully completed the B & B Driving School, Inc.—Driver Improvement Course Credit.

(b) If the policy insures two or more autos, the credit shall apply only to the autos principally operated by the person awarded the B & B Driving School, Inc.—Driver Improvement Course Credit certificate of completion.

(c) The credit shall apply for a period of 36 months subsequent to the date of issuance of the certificate of completion. Following such 36 month period in order to again qualify for such credit, the course must be successfully completed and evidence again presented to the com-

pany. The credit shall only apply if the certificate of completion is issued on or after September 1, 1986.

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

Issued in Austin, Texas, on June 13, 1986.

TRD-8605632 Nicholas Murphy
 Chief Clerk
 State Board of Insurance

Effective date: September 1, 1986
For further information, please call
(512) 463-6327.



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Open Meetings

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

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

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

Texas Department of Agriculture

Thursday, June 26, 1986. The Texas Department of Agriculture will meet Thursday, June 26, 1986, at the Texas Department of Agriculture District Office, 421 East Ferguson, Tyler. Times and agendas follow.

10 a.m. The department will conduct an administrative hearing to review an alleged violation of the Texas Agriculture Code, §76.116(a)(1), by Lawrence Allen, holder of a private applicator license.

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

Filed: June 13, 1986, 4:45 p.m.
TRD-8605961

1:30 p.m. The department will conduct an administrative hearing to review an alleged violation of the Texas Agriculture Code, §75.005(d), by Lone Star Chemical and Service, holder of an herbicide dealer license.

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

Filed: June 13, 1986, 4:45 p.m.
TRD-8605962

1:45 p.m. The department will conduct an administrative hearing to review an alleged violation of the Texas Agriculture Code, §75.005, by Malakoff Feed and Supply, holder of a dealer license.

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

Filed: June 13, 1986, 4:45 p.m.
TRD-8605963

2 p.m. The department will conduct an administrative hearing to review an alleged violation of the Texas Agriculture Code, §76.116(a)(1), by Randle Stephens, Stephens Ag-Air, holder of a commercial applicator license.

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

Filed: June 13, 1986, 4:44 p.m.
TRD-8605964

Thursday, July 3, 1986, 10 a.m. The Texas Department of Agriculture will meet on the Ninth Floor, Stephen F. Austin Building, 1700 North Congress Avenue, Austin. According to the agenda, the department will conduct an administrative hearing to review an alleged violation of the Texas Agriculture Code, §76.005(c), by Hysan Corporation.

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

Filed: June 12, 1986, 2:06 p.m.
TRD-8605869

Tuesday, July 8, 1986, 10 a.m. According to the agenda, the department will conduct an administrative hearing to review an alleged violation of Texas Agriculture Code, §76.116(a)(1), by Hershel White, doing business as Norman & White Aero.

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

Filed: June 12, 1986, 2:07 p.m.
TRD-8605868

Tuesday, July 8, 1986, 3 p.m. The Texas Department of Agriculture will meet at the Texas Department of Agriculture District Office, Expressway 83, two blocks west of Morningside Road, San Juan. According to the agenda, the department will conduct an administrative hearing to review an alleged violation of the Texas Agriculture Code, §76.116(a)(1), by Warren Nichols, doing business as Weslaco Aviation.

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

Filed: June 12, 1986, 2:08 p.m.
TRD-8605864

Wednesday, July 9, 1986, 10 a.m. The Texas Department of Agriculture will meet at the Texas Department of Agriculture District Office, Expressway 83, two blocks west of Morningside Road, San Juan. According to the agenda, the department will conduct an

administrative hearing to review an alleged violation of the Texas Agriculture Code, §76.116(a)(1), by Pat Kornegary, doing business as Sun Valley Dusting Company.

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

Filed: June 12, 1986, 2:09 p.m.
TRD-8605863

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Texas Air Control Board

Friday, June 20, 1986, 9:30 a.m. The Subcommittee on Vessel Emission of the Clean Air Study Committee of the Texas Air Control Board will meet in the Lieutenant Governor's Committee Room, Austin. According to the agenda, the subcommittee will consider and discuss the proposed resolution on vessel emissions.

Contact: Paul M. Shinkawa, 6330 Highway 290 East, Austin, Texas 78723, (512) 451-5711.

Filed: June 16, 1986, 3:44 p.m.
TRD-8605997

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State Bar of Texas

Saturday, June 21, 1986, 2 p.m. The Board of Directors of the State Bar of Texas made an emergency addition to the agenda for the meeting to be held in the Imperial Ballroom West, Hyatt Regency Hotel, Houston. The addition concerns a consideration of a resolution allowing Larry Montgomery to sign checks for the State Bar of Texas as the new executive director of the State Bar of Texas; and consideration of a resolution allowing Jerry Lastelick, chairman of the board, and Bill Whitehurst, president, to approve signature on the State Bar of Texas checks. The emergency status is necessary because it

recently became apparent to the staff that these matters would have to be considered at this board meeting.

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

Filed: June 16, 1986, 10:47 a.m.
TRD-8605972

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Texas Cancer Council

Tuesday, June 24, 1986, 10 a.m. The Texas Cancer Council will meet in Room 10.121, UT System Cancer Center, Houston Main Building, 1100 Holcombe Boulevard, Houston. According to the agenda, the council will review the minutes from the May 22, 1986, meeting and ratify all actions; and consider the request for legislative appropriations for the biennium beginning September 1, 1987.

Contact: Owen McCrory, M.D., Anderson Hospital, Houston, Texas 77030, (713) 792-2203.

Filed: June 13, 1986, 1:50 p.m.
TRD-8605935

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Coordinating Board, Texas College and University System

Tuesday, July 1, 1986, 10:30 a.m. The Administrative Council of the Coordinating Board, Texas College and University System will meet in Boardroom 209, Bevington A. Reed Building, 200 East Riverside Drive, Austin. According to the agenda summary, the council will discuss and consider matters related to the Higher Education Insurance Program.

Contact: James McWhorter, P.O. Box 12788, Austin, Texas 78711, (512) 462-6420.

Filed: June 17, 1986, 8:44 a.m.
TRD-8606013

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Texas Education Agency

Saturday, June 14, 1986, 8:30 a.m. The State Board of Education of the Texas Education Agency made an emergency revision to the agenda for the meeting held in Room 1-104, William B. Travis Building, 1701 North Congress Avenue, Austin. The addition concerned consideration of an appointment to the Board of Trustees, Teachers Retirement System. The emergency status was necessary in order to ensure that the Board of Trustees need not function with less than its full complement of members.

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

Filed: June 13, 1986, 2:35 p.m.
TRD-8605937

Friday, June 20, 1986, 10 a.m. The Price Differential Index Advisory Committee of the Texas Education Agency met in emergency session in Room 1-104, William B. Travis Building, 1701 North Congress Avenue, Austin. According to the agenda, the committee approved the minutes; considered approaches to other costs; discussed salary models; and scheduled subsequent meetings. The emergency status was necessary in order to ensure that the committee can complete its work on schedule.

Contact: Maureen Moore Scheevel, 1701 North Congress Avenue, Austin, Texas 78701, (512) 463-9701.

Filed: June 13, 1986, 2:37 p.m.
TRD-8605936

Friday and Saturday, June 20 and 21, 1986, 10 a.m. and 8 a.m., respectively. The State Parent Advisory Council for Migrant Education of the Texas Education Agency will meet in Room 1-110, William B. Travis Building, 1701 North Congress Avenue, Austin. According to the agenda, the council will discuss recruitment; the report on nominations; the 1986-1987 state plan update; the 1986-1987 revision on the exit level Texas Educational Assessment of Minimum Skills (TEAMS) instruction; the update of the TEAMS transmittal via the migrant student record transfer system; 1986 summer institutes (migrant-special education); the education service center plan regarding effective teaching practices; promoting parent involvement; and the National Migrant Conference.

Contact: Joe Lopez, 1701 North Congress Avenue, Austin, Texas 78701, (512) 463-9073.

Filed: June 12, 1986, 1:33 p.m.
TRD-8605882

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Texas Employment Commission

Friday, June 20, 1986, 9 a.m. The Texas Employment Commission (TEC) will meet in Room 644, TEC Building, 101 East 15th Street, Austin. According to the agenda summary, the commission will approve the prior meeting notes; consider public comment; budget preparation; local office facilities repair; and the date and agenda items for the next meeting.

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

Filed: June 12, 1986, 3:23 p.m.
TRD-8605865

Wednesday, June 26, 1986, 9:30 a.m. The Texas Employment Commission (TEC) will meet in Room 644, TEC Building, 101 East 15th Street, Austin. According to the agenda summary, the commission will discuss prior meeting notes; internal procedures of commission appeals; tax liability cases and higher level appeals in unemployment compensation cases listed on Commission Docket 25; and set the date of the next meeting.

Contact: Courtenay Browning, 101 East 15th Street, Austin, Texas 78778, (512) 463-2226.

Filed: June 16, 1986, 2:27 p.m.
TRD-8605977

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Commission on Fire Protection Personnel Standards and Education

Tuesday, June 24, 1986, 10 a.m. The Committee on Recruitment and Selection of the Commission on Fire Protection Personnel Standards and Education will meet at the House Fire Fighters Hall, 1907 Freeman Street, Houston. According to the agenda, the committee will receive input from all interested parties regarding entrance level standards for fire protection personnel; and input for a physical test and a written test for prospective fire service applicants. Parties who cannot attend the public hearing may submit recommendations to the address listed below.

Contact: Ray L. Goad, Suite 406, 510 South Congress Avenue, Austin, Texas 78704, (512) 474-8066.

Filed: June 16, 1986, 4:07 p.m.
TRD-8605996

Tuesday, June 24, 1986, 10 a.m. The Committee on Recruitment and Selection of the Commission on Fire Protection Personnel Standards and Education will meet at the Carrollton City Library, corner of Jackson Street and Josey Lane, Carrollton. According to the agenda, the committee will receive input from all interested parties regarding entrance level standards for fire protection personnel; and input for a physical test and a written test for prospective fire service applicants. Parties who cannot attend the public hearing may submit recommendations to the address listed below.

Contact: Ray L. Goad, Suite 406, 510 South Congress Avenue, Austin, Texas 78704, (512) 474-8066.

Filed: June 16, 1986, 4:07 p.m.
TRD-8605995

Tuesday, June 24, 1986, 1 p.m. The Committee on Recruitment and Selection of the Commission on Fire Protection Personnel Standards and Education will meet in the Fire Department Auditorium, 1621 Festival Beach, Austin. According to the agenda, the

committee will receive input from all interested parties regarding entrance level standards for fire protection personnel; and input for a physical test and a written test for prospective fire service applicants. Parties who cannot attend the public hearing may submit recommendations to the address listed below.

Contact: Ray L. Goad, Suite 406, 510 South Congress Avenue, Austin, Texas 78704, (512) 474-8066.

Filed: June 16, 1986, 4:08 p.m.
TRD-8605993

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Texas Statewide Health Coordinating Council

Wednesday, June 25, 1986, 9 a.m. The Task Force on Regionalization of Specialized Medical Services of the Texas Statewide Health Coordinating Council will meet in Room T-507, Texas Department of Health, 1100 West 49th Street, Austin. According to the agenda summary, the task force will approve the minutes of the March 21, 1986, meeting; discuss the task force purpose, work program, and schedule; the task force report format; the development of the task force report; the End-Stage Renal Disease (ESRD) draft report; reports from the Radiation Therapy, Open Heart Surgery/Cardiac, Catheterization, ESRD and Transplantation, Perinatal, Pediatric, and Trauma Center Committees; and set the date of the next meeting.

Contact: Carol S. Daniels, 1100 West 49th Street, Austin, Texas 78756, (512) 458-7261.

Filed: June 16, 1986, 4:20 p.m.
TRD-8606010

Wednesday, June 25, 1986, 9:30 a.m. The Perinatal, Pediatric, and Trauma Center Committee of the Texas Statewide Health Coordinating Council will meet in Room T-507, Texas Department of Health, 1100 West 49th Street, Austin. According to the agenda summary, the committee will approve the minutes of the March 21, 1986, meeting; consider the preparation of the task force report; the trauma registry presentation; the trauma registry study; discuss preliminary conclusions and guidance concerning the trauma centers, perinatal services, and pediatric service; the perinatal survey update; and the Pediatric Committee meeting.

Contact: Carol S. Daniels, 1100 West 49th Street, Austin, Texas 78756, (512) 458-7261.

Filed: June 16, 1986, 4:20 p.m.
TRD-8606009

Wednesday, June 25, 1986, 9:30 a.m. The Radiation Therapy, Open Heart Surgery/Cardiac Catheterization, End-Stage Renal Disease, and Transplantation Committee of

the Texas Statewide Health Coordinating Council will meet in Room T-604, Texas Department of Health, 1100 West 49th Street, Austin. According to the agenda summary, the committee will approve the minutes of the March 21, 1986, meeting; discuss preparation of the task force report; the draft of the End-Stage Renal Disease chapter of the task force report; discuss preliminary conclusions and guidance concerning open heart surgery/cardiac catheterization services, radiation therapy services, and organ transplantation; and the Community Cancer Care Workgroup of the Legislative Task Force on Cancer and the Texas Cancer Council.

Contact: Carol S. Daniels, 1100 West 49th Street, Austin, Texas 78756, (512) 458-7261.

Filed: June 16, 1986, 4:20 p.m.
TRD-8606012

Thursday, June 26, 1986, 9:30 a.m. The State Health Plan Development Committee of the Texas Statewide Health Coordinating Council will meet in the Mesquite Room, Executel Motor Inn, 925 East Anderson Lane, Austin. According to the agenda summary, the committee will approve the minutes; review the proposed state health plan for 1987; the recommended adoption of the proposed state health plan for 1987; the progress report on regionalization of specialized medical services; comments by the chairman requiring no committee action; and set the next meeting date

Contact: Carol S. Daniels, 1100 West 49th Street, Austin, Texas 78756, (512) 458-7261.

Filed: June 16, 1986, 4:20 p.m.
TRD-8606011

Friday, June 27, 1986, 9 a.m. The Data Management and Health Information Systems Committee of the Texas Statewide Health Coordinating Council will meet in the Mesquite Room, Executel Motor Inn, 925 East Anderson Lane, Austin. According to the agenda summary, the committee will approve the minutes; consider a presentation—"Brackenridge Trauma Registry: A Framework for Injury Surveillance;" and updates from the Texas Department of Health Population Data System, and the 1985 Cooperative Texas Department of Health/American Hospital Association/Texas Hospital Association Annual Survey of Hospitals.

Contact: Carol S. Daniels, 1100 West 49th Street, Austin, Texas 78756, (512) 458-7261.

Filed: June 16, 1986, 4:21 p.m.
TRD-8606007

Friday, June 27, 1986, 9 a.m. The Health Legislation and Program Funding Review Committee of the Texas Statewide Health Coordinating Council will meet in the Brazos Room, Executel Motor Inn, 925 East Anderson Lane, Austin. According to the agenda summary, the committee will approve the minutes of the last meeting; review the 1986 State Annual Implementation Plan and pre-

liminary implementation guidelines format; discuss the 1987 Texas State Health Plan recommendations requiring legislative action; an update on the status of the Federal Health Planning Legislation; comments by the chairman; and select the next meeting date.

Contact: Carol S. Daniels, 1100 West 49th Street, Austin, Texas 78756, (512) 458-7261.

Filed: June 16, 1986, 4:21 p.m.
TRD-8606008

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Texas Department of Human Services

Friday, June 27, 1986, 1 p.m. The Texas Board of Human Services of the Texas Department of Human Services (DHS) will meet in the DHS Hearing Room, 701 West 51st Street, Austin. According to the agenda summary, the board will consider purchased health services; the adjustments to fiscal year 1986 operating budget; the Home Energy Assistance Program; the EPSDT program; ICF-MR standards for temporary, permanent, emergency release, and standards regarding bed-hold charges and special activities leaves; the revisions to standards for participation for ICF/SNF, and ICF-MR; the rule adoptions by federal mandate including the Food Stamp Program basis of issuance tables, Child Protective Services-Title IV-E adoptive subsidy, revision to the ICF-MR level-of-care criteria; the amendments to policies and procedures; the appointments to the advisory committees; adoption of fiscal year 1987 operating plan and fiscal year 1988-1989 legislative appropriations request; and the commissioner's report.

Contact: Bill Woods, P.O. Box 2960, Austin, Texas 78769, (512) 450-3047.

Filed: June 17, 1986, 9:23 a.m.
TRD-8606017

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State Board of Insurance

Monday, June 23, 1986, 11 a.m. The Commissioner's Hearing Section of the State Board of Insurance will meet in Room 342, 1110 San Jacinto Street, Austin. According to the agenda, the section will consider Docket 9274—application of Reserve Life Insurance Company, Dallas, to acquire control of ISL Life Insurance Company, Dallas. The reopened hearing will consider the application for the proposed acquisition by Reserve Life Insurance Company, Dallas, through its proposed subsidiary Lambeth Life Insurance Company, San Antonio.

Contact: O. A. Cassity, III, 1110 San Jacinto Street, Austin, Texas 78701-1998, (512) 463-6498.

Filed: June 13, 1986, 4:30 p.m.
TRD-8605955

The Commissioner's Hearing Section of the State Board of Insurance will meet at 1110 San Jacinto Street, Austin. Days, times, rooms, and agendas follow.

Tuesday, June 24, 1986, 9 a.m. In Room 342, the section will consider Docket 9302—application of Union National Life Insurance Company, Houston, for approval of revaluation of home office property.

Contact: J. C. Thomas, 1110 San Jacinto Street, Austin, Texas 78701-1998, (512) 463-6524.

Filed: June 16, 1986, 2:55 p.m.
TRD-8605987

Tuesday, June 24, 1986, 9 a.m. In Room 353, the section will consider Docket 9289—application of Folmar Corporation, Dallas, to acquire control of American Eagle Insurance Company, Dallas.

Contact: O. A. Cassity, III, 1110 San Jacinto Street, Austin, Texas 78701-1998, (512) 463-6498.

Filed: June 16, 1986, 2:55 p.m.
TRD-8605985

Tuesday, June 24, 1986, 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 review the report from the Agents Licensing Advisory Committee; board orders on several different matters as itemized on the complete agenda; personnel matters from the fire marshal and commissioner; pending and contemplated litigation; items respecting the appropriations request; and proposed legislation.

Contact: Pat Wagner, 1110 San Jacinto Street, Austin, Texas 78701-1998, (512) 463-6328.

Filed: June 16, 1986, 4:30 p.m.
TRD-8606003

The Commissioner's Hearing Section of the State Board of Insurance will meet at 1110 San Jacinto Street, Austin. Days, times, rooms, and agendas follow.

Tuesday, June 24, 1986, 1:30 p.m. In Room 342, the section will consider Docket 9290—application of John Duane Burke, Edinburg, for a Group I, legal reserve life insurance agent's license.

Contact: J. C. Thomas, 1110 San Jacinto Street, Austin, Texas 78701-1998, (512) 463-6524.

Filed: June 16, 1986, 2:56 p.m.
TRD-8605988

Tuesday, June 24, 1986, 1:30 p.m. In Room 342, the section will consider Docket 9281—application of Donald Leroy Brown, Dallas, for a legal reserve life insurance agent's license and Group II, life, health and accident insurance agent's license.

Contact: James W. Norman, 1110 San Jacinto Street, Austin, Texas 78701-1998, (512) 463-6525.

Filed: June 16, 1986, 2:55 p.m.
TRD-8605989

Wednesday, June 25, 1986, 9 a.m. In Room 342, the section will consider Docket 9298—request of Miro & Associates Insurance Agency, Inc., Dallas, to withdraw deposit held by State Treasurer pursuant to the Texas Insurance Code, Article 21.14, §3(c)(3).

Contact: James W. Norman, 1110 San Jacinto Street, Austin, Texas 78701-1998, (512) 463-6525.

Filed: June 16, 1986, 2:56 p.m.
TRD-8605984

Wednesday, June 25, 1986, 1:30 p.m. In Room 342, the section will consider Docket 9282—application of Darrell Lee Cain, Lubbock, for a legal reserve life insurance agent's license.

Contact: J. C. Thomas, 1110 San Jacinto Street, Austin, Texas 78701-1998, (512) 463-6524.

Filed: June 16, 1986, 2:56 p.m.
TRD-8605991

Thursday, June 26, 1986, 9 a.m. In Room 342, the section will consider Docket 9292—application of COMCO Holding Company, Seguin, to acquire control of COMCO Insurance Company, Amarillo.

Contact: James W. Norman, 1110 San Jacinto Street, Austin, Texas 78701-1998, (512) 463-6525.

Filed: June 16, 1986, 2:56 p.m.
TRD-8605992

Thursday, June 26, 1986, 9 a.m. In Room 353, the section will consider Docket 9293—application for amendment to the Articles of Incorporation of Employers Casualty Company, Dallas.

Contact: J. C. Thomas, 1110 San Jacinto Street, Austin, Texas 78701-1998, (512) 463-6524.

Filed: June 16, 1986, 2:56 p.m.
TRD-8605990

Thursday, June 26, 1986, 1:30 p.m. In Room 342, the section will consider Docket 9299—application of CIGNA Health Network, Inc., Dallas, for a certificate of authority to operate a health maintenance organization.

Contact: J. C. Thomas, 1110 San Jacinto Street, Austin, Texas 78701-1998, (512) 463-6524.

Filed: June 16, 1986, 2:57 p.m.
TRD-8605986

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Legislative Budget Board

Friday, June 27, 1986, 9:30 a.m. The Legislative Budget Board will meet in Room 309, State Capitol, Austin. According to the agenda, the board will review the fiscal outlook for fiscal year 1987, and the 1988-1989 biennium.

Contact: Jim Oliver, Room 207-A, State Capitol, Austin, Texas 78711, (512) 462-1166.

Filed: June 16, 1986, 2:35 p.m.
TRD-8605978

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Texas Department of Mental Health and Mental Retardation

Thursday, June 26, 1986, 1 p.m. The Texas Board of Mental Health and Mental Retardation of the Texas Department of Mental Health and Mental Retardation will meet in the Auditorium, 909 West 45th Street, Austin. According to the agenda summary, the board will approve the minutes of the May 2, 1986, meeting; consider adjustments to the fiscal year 1986 operating budget; the fiscal year 1987 budget; the 1988-1989 budget submission; citizen comments; the Management Study Group (MSG) report; the MSG Resolutions of Appreciation; the appointment of deputy commissioner for mental health; the appointment of Lufkin State School superintendent; the resolution of appreciation to Blas Cantu; the approval of repair, renovation, and building of a permanent structure over the swimming pool at Lubbock State School; review mental retardation services including institutional vs. community-based care for persons with retardations; policies and rules; approval of the 1987 budget; approval of the 1988-1989 budget submission; adjustments to the fiscal year 1986 operating budget; and litigation. The meeting will reconvene Friday, June 27, 1986, at 9 a.m.

Contact: Gary E. Miller, M.D., P.O. Box 12668, Austin, Texas 78711, (512) 465-4588.

Filed: June 13, 1986, 4:27 p.m.
TRD-8605956

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Board of Pardons and Paroles

Tuesday, June 17, 1986, 9:30 a.m. The Board of Pardons and Paroles met in emergency session at 8610 Shoal Creek Boulevard, Austin. According to the agenda, the board considered a request for a reprieve hearing and/or commutation of the death sentence in the case of Kenneth Brock, Execution 522. The emergency status was necessary because Kenneth Brock, Execution 522, was scheduled to be executed "some hour before sunrise," on June 19, 1986.

Contact: Juanita Llamas, 8610 Shoal Creek Boulevard, Austin, Texas 78758, (512) 459-2749.

Filed: June 13, 1986, 4:38 p.m.
TRD-8605960

Monday-Friday, June 23-27, 1986, 1:30 p.m. daily except 11 a.m. Friday. A three-member board panel of the Board of Pardons and Paroles will meet at 8610 Shoal Creek Boulevard, Austin. According to the agenda summary, the board will receive, review, and consider information and reports concerning prisoners/inmates and administrative detainees subject to the board's jurisdiction and initiate and carry through with appropriate action.

Contact: Mike Roach, 8610 Shoal Creek Boulevard, Austin, Texas 78758, (512) 459-2713.

Filed: June 13, 1986, 11:20 a.m.
TRD-8605920

Tuesday, June 24, 1986, 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 Conditional Pardons), including full pardons/restoration of civil rights of citizenship; emergency medical reprieves; commutations of sentence; and other reprieves, remissions, and executive clemency actions.

Contact: Juanita Llamas, 8610 Shoal Creek Boulevard, Austin, Texas 78758, (512) 459-3152.

Filed: June 13, 1986, 11:20 a.m.
TRD-8605919

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Texas Department of Public Safety

Wednesday, June 25, 1986, 1 p.m. The Public Safety Commission of the Texas Department of Public Safety will meet in the Commission Room, 5805 North Lamar Boulevard, Austin. According to the agenda, the commission will approve the minutes; review appeal hearings of discharged employees; budget matters; personnel matters; and other unfinished business. Those items not covered during the meeting on June 25 will be taken up at the continuation of the meeting on June 26.

Contact: James B. Adams, 5805 North Lamar Boulevard, Austin, Texas 78752, (512) 465-2000, ext. 3700.

Filed: June 13, 1986, 9:03 a.m.
TRD-8605908

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Public Utility Commission of Texas

Friday, June 13, 1986, 10 a.m. The Hearings Division of the Public Utility Commission of Texas met in emergency session via conference call in Suite 450N, 7800 Shoal

Creek Boulevard, Austin. According to the agenda, the division considered Docket 6575—application of Central Texas Electric Cooperative, Inc., for a rate/tariff change. The emergency status was necessary because of statutory deadlines.

Contact: Rhonda Colbert Ryan, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

Filed: June 12, 1986, 2:26 p.m.
TRD-8605867

The Hearings Division of the Public Utility Commission of Texas will meet in Suite 450N, 7800 Shoal Creek Boulevard, Austin. Days, times, and dockets follow.

Monday, June 23, 1986, 10 a.m. A prehearing conference in Docket 6906—application of Lipan Telephone Company to revise its tariff and make minor rate changes.

Contact: Rhonda Colbert Ryan, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

Filed: June 13, 1986, 2:50 p.m.
TRD-8605938

Thursday, August 7, 1986, 10 a.m. A hearing on the merits in Docket 6750—application of General Telephone Company of the Southwest for authority to implement local measured service in the Sherman Exchange.

Contact: Rhonda Colbert Ryan, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

Filed: June 12, 1986, 2:27 p.m.
TRD-8605866

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Railroad Commission of Texas

Monday, June 16, 1986, 9 a.m. The Oil and Gas Division of the Railroad Commission of Texas made an emergency revision to the agenda for a meeting held in the 12th Floor Conference Room, William B. Travis Building, 1701 North Congress Avenue, Austin. The revision concerned consideration of the various additional matters falling within the Railroad Commission's oil and gas regulatory jurisdiction. The emergency status was necessary because these items were properly noticed at the meeting of June 9, 1986, and were passed.

Contact: Timothy A. Poe, P.O. Drawer 12967, Austin, Texas 78711, (512) 463-6713.

Filed: June 13, 1986, 10:47 a.m.
TRD-8605918

Monday, June 16, 1986, 9 a.m. The Transportation Division of the Railroad Commission of Texas made an emergency revision to the agenda for a meeting held in the 12th Floor Conference Room, William B. Travis Building, 1701 North Congress Avenue, Austin. The revision concerned consideration of request for interpretation of new §5.620 (c)(1) regarding permanent ob-

structions at railroad grade crossings. The emergency status was necessary because a request for interpretation of new §5.620(c)(1) must be considered prior to the rule's effective date, June 25, 1986, so as to avoid harm to the public health and public welfare.

Contact: Mike James, P.O. Drawer 12967, Austin, Texas 78711, (512) 463-7315.

Filed: June 13, 1986, 10:45 a.m.
TRD-8605910

Monday, June 23, 1986, 9 a.m. The Railroad Commission of Texas will meet in the 12th Floor Conference Room, William B. Travis Building, 1701 North Congress Avenue, Austin. The commission will consider and act on division agendas as follows.

The Administrative Services Division director's report on division administration, budget, procedures, and personnel matters.

Contact: Roger Dillon, P.O. Drawer 12967, Austin, Texas 78711, (512) 463-7257.

Filed: June 13, 1986, 10:49 a.m.
TRD-8605924

The Automatic Data Processing Division director's report on division administration, budget, procedures, equipment acquisitions, and personnel matters.

Contact: Bob Kmetz, P.O. Drawer 12967, Austin, Texas 78711, (512) 463-7251.

Filed: June 13, 1986, 10:49 a.m.
TRD-8605925

The Flight Division director's report on division administration, budget, procedures, and personnel matters.

Contact: Ken Fossler, 1701 North Congress Avenue, Austin, Texas 78701, (512) 463-6787.

Filed: June 13, 1986, 10:46 a.m.
TRD-8605915

Various matters falling within the Gas Utilities Division's regulatory jurisdiction.

Contact: Lucia Sturdevant, P.O. Drawer 12967, Austin, Texas 78711, (512) 463-7003.

Filed: June 13, 1986, 10:47 a.m.
TRD-8605917

The Office of Information Services director's report on division administration, budget, procedures, and personnel matters.

Contact: Brian W. Schaible, P.O. Drawer 12967, Austin, Texas 78711-2967, (512) 463-6710.

Filed: June 13, 1986, 10:48 a.m.
TRD-8605923

The LP-Gas Division director's report on division administration, budget, procedures, and personnel matters.

Contact: Thomas D. Petru, P.O. Drawer 12967, Austin, Texas 78711-2967, (512) 463-6931.

Filed: June 13, 1986, 10:46 a.m.
TRD-8605916

Various matters falling within the Oil and Gas Division's regulatory jurisdiction.

Contact: Timothy A. Poe, P.O. Drawer 12967, Austin, Texas 78711, (512) 463-6713.

Filed: June 13, 1986, 10:48 a.m.
TRD-8605921

Additions to the previous agenda:

Consideration of category determinations under the Natural Gas Policy Act of 1978, §§102(c)(1)(B), 102(c)(1)(C), 103, 107, and 108.

Contact: Margie L. Osborn, P.O. Drawer 12967, Austin, Texas 78711, (512) 463-6755.

Filed: June 13, 1986, 10:47 a.m.
TRD-8605928

The Personnel Division director's report on division administration, budget, procedures, and personnel matters.

Contact: Mark K. Bogan, P.O. Drawer 12967, Austin, Texas 78711, (512) 463-6981.

Filed: June 13, 1986, 10:48 a.m.
TRD-8605922

The Office of Research and Statistical Analysis director's report on division administration, budget, procedures, and personnel matters.

Contact: Gail Gemberling, P.O. Drawer 12967, Austin, Texas 78711, (512) 463-6976.

Filed: June 13, 1986, 10:45 a.m.
TRD-8605911

The Office of the Special Counsel director's report relating to pending litigation, state and federal legislation, and other budget, administrative, and personnel matters.

Contact: Walter Earl Lilie, 1124 IH 35 South, Austin, Texas 78704, (512) 463-7149.

Filed: June 13, 1986, 10:46 a.m.
TRD-8605914

The Surface Mining and Reclamation Division director's report on division administration, budget, procedures, and personnel matters; the acceptance of and incremental bond for the surface coal mining operations of San Miguel Electric Cooperative Inc., under Permit 11; and a partial release of the bond for six areas of a 570 acre tract of Thurber Coal Company for its operations at the Thurber Mine under Permit 10.

Contact: J. Randel (Jerry) Hill, William B. Travis Building, 1701 North Congress Avenue, Austin, Texas, (512) 463-7149.

Filed: June 13, 1986, 10:49 a.m.
TRD-8605926

Various matters falling within the Transportation Division's regulatory jurisdiction.

Contact: Michael A. James, P.O. Drawer 12967, Austin, Texas 78711, (512) 463-7122.

Filed: June 13, 1986, 10:45 a.m.
TRD-8605912

Monday, June 23, 1986, 9 a.m. The Railroad Commission of Texas will meet in the 12th Floor Conference Room, William B. Travis Building, 1701 North Congress Avenue, Austin. According to the agenda summary, the commission will review the proposed budget for the 1988-1989 biennium.

Contact: Walter Earl Lilie, P.O. Drawer 12967, Austin, Texas 78711, (512) 463-7149.

Filed: June 13, 1986, 10:46 a.m.
TRD-8605913

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Texas Rehabilitation Commission

Tuesday, June 24, 1986, 9 a.m. The Applications Review Committee of the Texas Advisory Board of Occupational Therapy (TABOT) of the Texas Rehabilitation Commission will meet in the Commissioner's Conference Room, 118 East Riverside Drive, Austin. According to the agenda, the committee will review and discuss applications for licensure received by the TABOT.

Contact: Cary Westhause, 118 East Riverside Drive, Austin, Texas 78704, (512) 445-8368.

Filed: June 13, 1986, 11:40 a.m.
TRD-8605927

Tuesday, June 24, 1986, 9:15 a.m. The Continuing Education Committee of the Texas Advisory Board of Occupational Therapy of the Rehabilitation Commission will meet in the Commissioner's Conference Room, 118 East Riverside Drive, Austin. According to the agenda, the committee will review and discuss special continuing education requests from licensees.

Contact: Cary Westhause, 118 East Riverside Drive, Austin, Texas 78704, (512) 445-8368.

Filed: June 13, 1986, 11:40 a.m.
TRD-8605929

Tuesday, June 24, 1986, 9:30 a.m. The Texas Advisory Board of Occupational Therapy of the Texas Rehabilitation Commission will meet in the Commissioner's Conference Room, 118 East Riverside Drive, Austin. According to the agenda summary, the board will approve the minutes of the May 21, 1986, meeting; review House Bill 900; the proposed establishment of a Complaints Committee; the fiscal year 1987 budget implementation plan; a report on Ms. Punchard's visit to the AOTA; a report from the Continuing Education Committee; a report from the Applications Review Committee; the office report; and the legislative appropriation request for the next biennium. The board also will meet in executive session, if require-1.

Contact: Cary Westhause, 118 East Riverside Drive, Austin, Texas 78704, (512) 445-8368.

Filed: June 13, 1986, 11:41 a.m.
TRD-8605928

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State Rural Medical Education Board

Saturday, June 28, 1986, 8 a.m. The State Rural Medical Education Board will meet in the Seventh Floor Conference Room, Southwest Tower Building, 211 East Seventh Street, Austin. According to the agenda summary, the board will consider general business; renewal loan applications; and other business.

Contact: Duane Keeran, Room 408, 211 East Seventh Street, Austin, Texas 78701, (512) 463-5501.

Filed: June 12, 1986, 2:04 p.m.
TRD-8605870

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Texas Savings and Loan Department

Wednesday, June 25, 1986, 9 a.m. The Texas Savings and Loan Department will meet in Suite 201, 2601 North Lamar Boulevard, Austin. According to the agenda summary, the department will determine whether to grant or deny the application of Charter Savings and Loan Association, Corpus Christi, Nueces County, for a branch office to be located at 2002 South Goliad, Rockwall, Rockwall County.

Contact: Russell R. Oliver, 2601 North Lamar Boulevard, Suite 201, Austin, Texas 78705, (512) 479-1250.

Filed: June 12, 1986, 10:10 a.m.
TRD-8605859

Thursday, June 26, 1986, 9 a.m. The Texas Savings and Loan Association will meet in Suite 201, 2601 North Lamar Boulevard, Austin. According to the agenda summary, the department will determine whether to grant or deny the application of Paris Savings and Loan Association, Paris, Lamar County, to establish and operate a branch office at the west side of State Highway 24 at the south intersection with Business Highway 24, Route 2, Box 211A5, Cooper, Delta County.

Contact: Russell R. Oliver, 2601 North Lamar Boulevard, Suite 201, Austin, Texas 78705, (512) 479-1250.

Filed: June 12, 1986, 10:10 a.m.
TRD-8605858

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Interagency Council on Sex Offender Treatment

Friday, July 18, 1986, 10 a.m. The Senate Committee on Health and Human Resources of the Interagency Council on Sex Offender Treatment will meet in the Lieutenant Governor's Committee Room, State Capitol, Austin. According to the agenda, the committee will discuss and revise the draft recommendations to be included in the council's report to the 70th Legislature. The meeting was rescheduled from Friday, June 13, 1986.

Contact: Linda Christofilis, P.O. Box 12068, Austin, Texas 78711, (512) 463-0360.

Filed: June 17, 1986, 8:44 a.m.
TRD-8606014

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Texas Surplus Property Agency

Thursday, June 24, 1986, 9:30 a.m. The Governing Board of the Texas Surplus Property Agency will meet in Suite 100, 1500 Eastgate Plaza, Garland. According to the agenda, the board will approve the minutes of the last board meeting; discuss the attorney general's opinions; fiscal years 1987, 1988, and 1989 budgets; and the relocation of the Fort Worth District Distribution Center.

Contact: Marvin J. Titzman, P.O. Box 8120, San Antonio, Texas 78208, (512) 661-2381.

Filed: June 13, 1986, 9:39 a.m.
TRD-8605905

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Texas Southern University

Wednesday, June 25, 1986. Committees of the Board of Regents of Texas Southern University will meet in Room 203, Sterling Student Life Center, Texas Southern University, 3100 Cleburne Avenue, Houston. Times, committees, and agendas follow.

9 a.m. The Finance Committee will consider the 1986-1987 annual education and general budget; the 1986-1989 biennial appropriation request; the issuance of HEAF Bonds; the adjustments in the current budget; and appropriate matters related to the Rosewood Project Bonds.

Contact: Everett O. Bell, 3100 Cleburne Avenue, Houston, Texas 77004, (713) 529-8911.

Filed: June 17, 1986, 8:48 a.m.
TRD-8606020

9 a.m. The Building and Grounds Committee will consider the payments of architects and contractors; the improvements to land; the construction change orders; the purchase of real estate; the bids on construction projects; the reports on on-going construction projects; and plans and projections for new construction.

Contact: Everett O. Bell, 3100 Cleburne Avenue, Houston, Texas 77004, (713) 529-8911.

Filed: June 17, 1986, 8:47 a.m.
TRD-8606021

11 a.m. The Board of Regents will consider the minutes and the reports from the Finance Committee and the Building and Grounds Committee. The board also will meet in executive session to consider the consultation with its attorney; matters related to the purchase of real estate; and matters related to the employment of personnel.

Contact: Everett O. Bell, 3100 Cleburne Avenue, Houston, Texas 77004, (713) 529-8911.

Filed: June 17, 1986, 8:49 a.m.
TRD-8606022

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Teachers' Professional Practices Commission of Texas

Tuesday and Wednesday, June 17 and 18, 1986, 9 a.m. daily. The Teachers' Professional Practices Commission of Texas met in emergency session in Room 1-109, William B. Travis Building, 1701 North Congress Avenue, Austin. According to the agenda, the commission heard a complaint filed by an active certified member of the teaching profession against three other active certified members of the teaching profession pursuant to the Texas Education Code, §§13.201-13.218. The emergency status was necessary because of the schedules of the hearing panel members.

Contact: James A. Salmon, 1701 North Congress Avenue, Austin, Texas 78701, (512) 463-9332.

Filed: June 13, 1986, 4:47 p.m.
TRD-8605965

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Texas Tech University

Tuesday, June 24, 1986. Committees of the Board of Regents of Texas Tech University and Texas Tech University Health Sciences Center will meet in the Galaxy Room, East Tower, Amfac Hotel, Dallas/Fort Worth Airport. Times, committees, and agendas follow.

9:30 a.m. The Board of Regents of Texas Tech University will consider Academic and Student Affairs, Campus and Building, and Finance and Administration Committees. The board also will meet in executive session.

Contact: Freda Pierce, P.O. Box 4039, Lubbock, Texas 79409, (806) 742-2161.

Filed: June 17, 1986, 8:45 a.m.
TRD-8606018

1 p.m. The Board of Regents of Texas Tech University Health Sciences Center will consider Finance and Administration. The board also will meet in executive session.

Contact: Freda Pierce, P.O. Box 4039, Lubbock, Texas 79409, (806) 742-2161.

Filed: June 17, 1986, 8:46 a.m.
TRD-8606019

1:10 p.m. The Finance and Administration Committee of Texas Tech University and Texas Tech University Health Sciences Center will consider the revision of the natural gas contract; review fiscal year 1987 budget status; review fiscal years 1988 and 1989 appropriations budget requests; and the appointment of the engineer for the Co-generation project. The committees also will meet in executive session.

Contact: Freda Pierce, P.O. Box 4039, Lubbock, Texas 79409, (806) 742-2161.

Filed: June 17, 1986, 8:46 a.m.
TRD-8606015, 8606016

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Texas Turnpike Authority

Friday, June 20, 1986, 10:30 a.m. The Board of Directors of the Texas Turnpike Authority will meet in the Monterrey Room, Doubletree Hotel, 15747 Drummet Boulevard, Houston. Items on the agenda include approval of the minutes of the last board meeting regarding the Dallas North Tollway Extension project, ratification and approval of contracts, agreements, and supplemental agreements to contracts and approval of toll rates and speed limits, and a construction progress report; the agreement with First Southwest Company to serve as financial advisor for the Authority; exploratory investigations of the Trinity Tollway; and the protection of directors and officers against claims and defense costs arising from acts performed in the scope of their duties. The board also will meet in executive session to discuss ratification of the action of the chairman pursuant to Resolution 858; and the purchase of right-of-way parcels.

Contact: Harry Kabler, P.O. Box 190369, Dallas, Texas 75219, (214) 522-6200.

Filed: June 12, 1986, 4:11 p.m.
TRD-8605883

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University Interscholastic League

Wednesday, June 18, 1986, 1:30 p.m. The State Executive Committee of the University Interscholastic League met in Room 3.102, Thompson Conference Center, 26th and Red River Streets, Austin. According to the agenda summary, the committee heard the allegation of violation of practice rules:

Dallas South Oak Cliff; Gilmer Independent School District (ISD); Weimar ISD; Wylie ISD; and Liberty Hill ISD.

Contact: Bailey Marshall, 2622 Wichita Street, Austin, Texas 78713, (512) 471-5883.

Filed: June 12, 1986, 3:44 p.m.
TRD-8605879

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Texas Water Commission

Tuesday, June 24, 1986, 10 a.m. The Texas Water Commission will meet in Room 118, Stephen F. Austin Building, 1700 North Congress Avenue, Austin. According to the agenda, the commission will discuss water district bond issues; release from escrow; the use of surplus funds; water rate matters; the proposed water quality permits; amendments and renewals; water use application matters; an assessment of the watermaster operations in the Rio Grande Basin below Fort Quitman, excluding the Pecos and Devils Rivers Watershed; and the approval of the waste load evaluation report.

Contact: Mary Ann Hefner, P.O. Box 13087, Austin, Texas 78711, (512) 463-7898.

Filed: June 12, 1986, 4:04 p.m.
TRD-8605881

Thursday, July 10, 1986, 1:30 p.m. The Texas Water Well Drillers Board of the Texas Water Commission will meet in Room 118, Stephen F. Austin Building, 1700 North Congress Avenue, Austin. According to the agenda summary, the board will consider whether to suspend or revoke the following licenses: WWDB-86-007, Billie Watkins (no WWDB license)—1:30 p.m.; WWDB-86-008, William Kelton (no WWDB license)—1:45 p.m.; WWDB-86-009, Danny Shirley (no WWDB license)—2 p.m.; WWDB-86-010, Jack Whittenburg (WWDB 2394)—2:15 p.m.; WWDB-86-011, Richard M. Allred (WWDB 1829)—2:45 p.m.; WWDB-86-012, Frank Rosenkranz, Jr., (WWDB 1519W)—2:30 p.m.; WWDB-86-013, Jimmy Davis (WWDB 315)—3:15 p.m.; and WWDB-86-014, Willie Prazak (WWDB 1722)—3:30 p.m.

Contact: Roger Schultz, P.O. Box 13087, Austin, Texas 78711, (512) 463-8072.

Filed: June 12, 1986, 1:59 p.m.
TRD-8605880

Tuesday, July 22, 1986, 9 a.m. The Office of Hearings Examiner of the Texas Water Commission will meet in Room 215, Stephen F. Austin Building, 1700 North Congress Avenue, Austin. According to the agenda, the office will consider Docket 6314—application for an amendment to a water certificate of convenience and necessity filed by the City of La Grange Utilities.

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

Filed: June 16, 1986, 4:21 p.m.
TRD-8606005

Thursday, July 24, 1986, 9 a.m. The Office of Hearings Examiner of the Texas Water Commission will meet in Room 215, Stephen F. Austin Building, 1700 North Congress Avenue, Austin. According to the agenda summary, the office will consider the application of Kingsland Municipal Utility District, P.O. Box 748, Kingsland, Texas 78639, for renewal of Permit 11549-01 which authorizes a discharge of treated domestic wastewater effluent at a volume not to exceed an average flow of 750,000 gallons per day from the wastewater treatment facilities which are located north of the Southern Pacific Railroad approximately 2,000 feet west of the confluence of the Colorado River and Llano River arms of Lake Lyndon B. Johnson in Llano County, Texas. The effluent is discharged into Lake Lyndon B. Johnson in Segment 1406 of the Colorado River Basin.

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

Filed: June 16, 1986, 4:22 p.m.
TRD-8606004

Tuesday, July 29, 1986, 9 a.m. The Office of Hearings Examiner of the Texas Water Commission will meet in the Council Chambers, City Hall, 202 South Fifth Street, Crockett. According to the agenda summary, the office will consider the application of P Chem, Inc., P.O. Box 977, Latexo, Texas 75849, for a renewal of Permit 02393 which authorizes an intermittent discharge of storm water runoff from a specialty chemical manufacturing plant which is located adjacent to and on the west side of U.S. Highway 287 and at 100 Old Latexo Road in the town of Latexo, Houston County. The effluent is discharged into the ditch and culvert under the westernmost plant entrance from Old Latexo Road to an unnamed tributary of Hurricane Bayou; thence to Hurricane Bayou; thence to the Trinity River in Segment 0804 of the Trinity River Basin.

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

Filed: June 16, 1986, 4:23 p.m.
TRD-8606001

Wednesday and Thursday, July 30 and 31, 1986, 9 a.m. daily. The Office of Hearings Examiner of the Texas Water Commission will meet in the MBank Auditorium, 910 Travis Street, Houston. According to the agenda summary, the office will consider the application of Theodore Mund, P.O. Box 487, Needville, Texas 77461 for an amendment to Permit 13134-01 to authorize modification of the treatment system from an extended aeration process to a facultative lagoon and stabilization ponds. The para-

meters for biochemical oxygen demand and total suspended solids have also been modified commensurate with the change in treatment system. The existing permit authorizes a discharge of treated domestic wastewater effluent at a volume not to exceed an average flow of 24,000 gallons per day, which will remain the same.

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

Filed: June 16, 1986, 4:23 p.m.
TRD-8605999

Wednesday and Thursday, July 30 and 31, 1986, 9 a.m. daily. The Office of Hearings Examiner of the Texas Water Commission will meet in the MBank Auditorium, 910 Travis Street, Houston. According to the agenda summary, the office will consider the application of B. L. Helm, 1776 Yorktown, Suite 415, Houston, Texas 77056 for a Proposed Permit 13264-01 to authorize a discharge of treated domestic wastewater effluent at a volume not to exceed an average flow of 250,000 gallons per day from the proposed Riverside Wastewater Treatment Plant which is to service a proposed subdivision of multi-residential and commercial/office development.

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

Filed: June 16, 1986, 4:23 p.m.
TRD-8606000

Wednesday, July 30, 1986, 9 a.m. The Office of Hearings Examiner of the Texas Water Commission will meet in the Council Chamber Room, El Paso City Hall, at the corner of Santa Fe and Missouri Streets, El Paso. According to the agenda summary, the office will consider the application of El Paso Water Utilities Public Service Board, P.O. Box 511, El Paso, Texas 79961 for renewal of Permit 10408-09 which authorizes a discharge of treated domestic wastewater effluent at a volume not to exceed an average flow of 5,000,000 gallons per day from the Quarry Plant which is located at the intersection of IH 10 and Executive Center Boulevard in El Paso County. The effluent is discharged by pipeline to the Rio Grande in Segment 2308 of the Rio Grande River Basin.

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

Filed: June 16, 1986, 4:22 p.m.
TRD-8606002

Thursday, August 7, 1986, 10 a.m. The Office of Hearings Examiners of the Texas Water Commission will meet in Room 618, Stephen F. Austin Building, 1700 North Congress Avenue, Austin. According to the agenda summary, the office will review Docket 6725—complaint against Demi John Island Water System.

Contact: Robert A. Caine, P.O. Box 13087, Austin, Texas 78711, (512) 463-7875.

Filed: June 13, 1986, 4:11 p.m.
TRD-8605949

Thursday, August 7, 1986, 2 p.m. The Office of Hearings Examiner of the Texas Water Commission will meet in Room 618, Stephen F. Austin Building, 1700 North Congress Avenue, Austin. According to the agenda summary, the office will review Docket 6733—complaint against Wiedenfeld Water Works.

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

Filed: June 13, 1986, 4:12 p.m.
TRD-8605950

Tuesday, August 12, 1986, 10 a.m. The Texas Water Commission will meet in Room 118, Stephen F. Austin Building, 1700 North Congress Avenue, Austin. Agendas follow.

The commission will consider Application 5066 of Medina Electric Cooperative, Inc., and South Texas Electric Cooperative, Inc., who seek a permit to divert water from Falcon Lake to be returned to the Rio Grande, Rio Grande Basin, for use in the generation of hydroelectric power, Starr County. The water is to be diverted and run through three turbines installed in the Falcon Dam Power Plant.

Contact: Mary Ann Hefner, P.O. Box 13087, Austin, Texas 78711, (512) 463-7898.

Filed: June 13, 1986, 4:14 p.m.
TRD-8605954

The commission will consider Application 5060 of Robert L. Harbison, who seeks a permit to maintain an existing exempt, concrete overflow dam and reservoir, on Fall Branch Creek, tributary of Johnson Creek, tributary of the Guadalupe River Guadalupe River Basin and to divert therefrom 10 acre feet of water for irrigation, Kerr County.

Contact: Mary Ann Hefner, P.O. Box 13087, Austin, Texas 78711, (512) 463-7898.

Filed: June 13, 1986, 4:13 p.m.
TRD-8605953

The commission will consider Application 5062 of Alfred B. Rahe who seeks a permit to divert and use water from the San Antonio River, San Antonio River Basin, to irrigate 35 acres of land out of two tracts in Karnes County, all being more fully set out in the application.

Contact: Mary Ann Hefner, P.O. Box 13087, Austin, Texas 78711, (512) 463-7898.

Filed: June 13, 1986, 4:13 p.m.
TRD-8605952

The commission will consider Application 5061 of John W. Klein who seeks a permit to divert 550 acre-feet of water per annum from Little Elkhart Creek, tributary of Big Elkhart Creek, tributary of Trinity River, Trinity River Basin and 1500 acre-feet of water per annum from Big Elkhart Creek,

to irrigate 900 acres of land out of two tracts Houston County.

Contact: Mary Ann Hefner, P.O. Box 13087, Austin, Texas 78711, (512) 463-7898.

Filed: June 13, 1986, 4:12 p.m.
TRD-8605951

The commission will review Application 5067 of Elizabeth Ann Ulimann *et. al.* who seeks a permit to divert water from Lone Gum Tree Creek, tributary of West Bernard Creek, tributary of San Bernard River, tributary of the Intercoastal Waterway, Brazos-Colorado Coastal Basin, for irrigation, Wharton County.

Contact: Mary Ann Hefner, P.O. Box 13087, Austin, Texas 78711, (512) 463-7898.

Filed: June 13, 1986, 4:14 p.m.
TRD-8605958

The commission will review Application 4047-A of Robert W. Norris who seeks to amend Permit 3761 (A-4047) to delete the term of the permit which will expire on December 31, 1995, and authorize Permit 3761 (4047) to remain as a perpetual permit, all being more fully set out in the application, Brazos River Basin, Milam County.

Contact: Mary Ann Hefner, P.O. Box 13087, Austin, Texas 78711, (512) 463-7898.

Filed: June 13, 1986, 4:14 p.m.
TRD-8605957

The commission will review Application 08-3313A of the City of Jacksboro which seeks to amend Certificate of Adjudication 08-3313 to indicate a corrected capacity for Lake Jacksboro, to authorize construction and maintenance of a dam, to authorize the use of water for construction, to authorize the diversion and use of water for municipal use, to authorize the use of Lake Jacksboro and the proposed Lost Creek Reservoir, to authorize the use of the bed and banks of Lost Creek and the West Fork Trinity River to convey water, Trinity River Basin, Jack County.

Contact: Mary Ann Hefner, P.O. Box 13087, Austin, Texas 78711, (512) 463-7898.

Filed: June 13, 1986, 4:15 p.m.
TRD-8605959

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Regional Agencies Meetings Filed June 12

The Central Counties Center for Mental Health/Mental Retardation Services, Board of Directors, met at 302 South 22nd Street, Temple, on June 17, 1986, at 7:45 p.m. Information may be obtained from Steven B. Schnee, Ph.D., 302 South 22nd Street, Temple, Texas 76503.

The Martin County Appraisal District, Appraisal Review Board, met at 708 West Saint

Anna Street, Stanton, on June 17 and 18, 1986, at 9 a.m. Information may be obtained from Elaine Stanley, P.O. Box 1349, Stanton, Texas 79782, (915) 756-2823.

The Trinity River Authority of Texas, Basin Planning Committee, met at 5300 South Collins, Arlington, on June 18, 1986, at 10 a.m. Information may be obtained from Jack C. Worsham, 5300 South Collins, P.O. Box 60, Arlington, Texas 76010, (817) 467-4343.

TRD-8605862

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Meetings Filed June 13

The Atascosa County Appraisal District, Board of Directors, met at 1010 Zanderson, Jourdanton, on June 19, 1986, at 1:30 p.m. Information may be obtained from Vernon A. Warren, 1010 Zanderson, Jourdanton, Texas, (512) 769-2730.

The Bastrop County Appraisal District, Board of Directors, met at 1200 Cedar Street, Bastrop, on June 19, 1986, at 7:30 p.m. Information may be obtained from Lorraine Perry, P.O. Drawer 578, Bastrop, Texas 78602, (512) 321-3925.

The Dallas Area Rapid Transit, Finance Committee, met at 601 Pacific Avenue, Dallas, on June 16, 1986, at 4 p.m. The Board of Directors met at the same location, on June 17, 1986, at 4 p.m. Information may be obtained from Nancy McKethan, 601 Pacific Avenue, Dallas, Texas 75202, (214) 658-6237.

The Education Service Center Region XV, Board of Directors, met at 612 South Irene Street, San Angelo, on June 19, 1986, at 1:30 p.m. Information may be obtained from Clyde Warren, P.O. Box 5199, San Angelo, Texas 76902, (915) 658-6571.

The Education Service Center Region XX, Board of Directors, will meet at 1314 Hines Avenue, San Antonio, on June 25, 1986, at 3 p.m. Information may be obtained from Judy M. Castleberry, 1314 Hines Avenue, San Antonio, Texas 78208, (512) 271-7611.

The Grayson Appraisal District, Board of Directors, met at 205 North Travis, Sherman, on June 18, 1986, at noon. Information may be obtained from Sandra Bollier, 205 North Travis, Sherman, Texas 75090, (214) 893-9673.

The Hockley County Appraisal District, Appraisal Review Board, will meet at 1103-C Houston Street, Levelland, on June 23-27, 1986, and July 17, 1986, at 9 a.m. Information may be obtained from Keith Toomire, P.O. Box 1090, Levelland, Texas 79336, (806) 894-9654.

The Mental Health/Mental Retardation Authority of Brazos Valley, Board of Directors, met at 3232 Briarcrest Drive, Bryan, on June 19, 1986, at 1:30 p.m. Information may be obtained from Ann Pye-Shively, 707 Texas Avenue, Suite 225C, College Station, Texas 77840.

The Pecan Valley Mental Health/Mental Retardation Region, Board of Trustees, met at 102 Charles Street, Granbury, on June 18, 1986, at 8 a.m. Information may be obtained from Theresa Mulloy, P.O. Box 973, Stephenville, Texas 76401, (817) 965-7806.

The Rusk County Appraisal District, Appraisal Review Board, will meet at 107 North Van Buren, Henderson, on June 27, 1986, and June 30-July 3, 1986, at 9 a.m. Information may be obtained from Melvin R. Cooper, P.O. Box 7, Henderson, Texas 75653-0007, (214) 657-9697.

The West Central Texas Municipal Water District, will meet in Suite 300, First National West Building, 401 Cypress Street, Abilene, on June 20, 1986, at 11 a.m. Information may be obtained from Virginia Duncan, P.O. Box 2362, Abilene, Texas 79604, (915) 673-8254.

TRD-8605907

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Meetings Filed June 16

The Atascosa County Appraisal District, Appraisal Review Board, will meet at 1010 Zanderson, Jourdanton, on June 23, 1986, at 9 a.m. Information may be obtained from Vernon A. Warren, 1010 Zanderson, Jourdanton, Texas 78026, (512) 769-2730.

The Austin-Travis County Mental Health/Mental Retardation Center, Operations and Planning Committee, will meet at 1430 Collier Street, Austin, on June 20, 1986, at 7:30 p.m. Information may be obtained from Sharon Taylor, 1430 Collier Street, Austin, Texas 78704, (512) 447-4141.

The Central Texas Council of Governments, Executive Committee, will meet at 302 East Central, Belton, on June 26, 1986, at noon. Information may be obtained from Waiton B. Reedy, P.O. Box 729, Belton, Texas 76513, (817) 939-1803.

The Dawson County Appraisal District, Appraisal Review Board, will meet at 1810 Lubbock Highway, Lamesa, on June 30, 1986, and July 1, 1986, at 8:30 a.m. Information may be obtained from Tom Anderson, P.O. Box 797, Lamesa, Texas 79331, (806) 872-7060.

The Deep East Texas Regional Mental Health/Mental Retardation Services, Board of Trustees, will meet in the Ward R. Burke Community Room, 4101 South Medford Drive, Angeina, on June 24, 1986, at 5:30 p.m. Information may be obtained from Jim McDermott, Ph.D., 4101 South Medford Drive, Lufkin, Texas 75901, (409) 639-1141.

The Education Service Center Region XI, Board of Directors, will meet at 3001 North Freeway, Fort Worth, on June 24, 1986, at noon. Information may be obtained from R. P. Campbell, Jr., 3001 North Freeway, Fort Worth, Texas 76106, (817) 625-5311, ext. 102.

The Education Service Center Region XII, Board of Directors, will meet at 401 IH 35, Waco, on June 26, 1986, at 7:30 p.m. Information may be obtained from Weldon O. Mills, P.O. Box 1249, Waco, Texas 76703, (817) 756-7494.

The Guadalupe-Blanco River Authority Industrial, Development Corporation, met at 933 East Court Street, Seguin, on June 19, 1986, at 9:30 a.m. Information may be obtained from John H. Specht, P.O. Box 271, Seguin, Texas 78156-0271, (512) 379-5822.

The Gulf Bend Mental Health/Mental Retardation Center, Board of Trustees, met at 1404 Village Drive, Victoria, on June 19, 1986, at noon. Information may be obtained from Donald L. Polzin, 1404 Village Drive, Victoria, Texas 77901, (512) 578-5262.

The Mental Health/Mental Retardation Authority of Brazos Valley, Board of Trustees, met at 3232 Briarcrest Drive, Bryan, on June 19, 1986, at 1:30 p.m. Information may be obtained from Dr. Ann Pye-Shively, 707 Texas Avenue, Suite 225C, College Station, Texas 77840.

The MoPac South Transportation Corporation, Board of Directors, met at the Hearliners Club, 221 West Sixth Street, Austin, on June 19, 1986, at 5 p.m. Information may be obtained from John C. Boehm, Jr., 600 Congress Avenue, Austin, Texas 78701, (512) 474-5201.

The North Texas Municipal Water District, Board of Directors, will meet at 505 East Brown Street, Wylie, on June 26, 1986, at 4 p.m. Information may be obtained from Carl W. Riehn, P.O. Drawer C, Wiley, Texas 75098, (214) 442-5405.

TRD-8605966

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Meetings Filed June 17

The Jack County Appraisal District, Board of Directors, met at 216-D South Main, Jacksboro, on June 17, 1986, at 7 p.m. Information may be obtained from Doris Ray or Linda Williams, 258 South Main, Jacksboro, Texas 76056, (817) 567-6301.

The Swisher County Appraisal District, Board of Directors, met at 130 North Armstrong, Tulia, on June 19, 1986, at 8 p.m. Information may be obtained from Rose Lee Powell, 130 North Armstrong, P.O. Box 8, Tulia, Texas 79088, (806) 995-4118.

TRD-8606023

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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.

Banking Department of Texas Notice of Hearing

The Hearing Officer of the State Banking Board will conduct a hearing on Thursday, August 7, 1986, at 9 a.m., at 2601 North Lamar, Austin, on the charter application for Highland Lakes Bank-Granite Shoals, Granite Shoals, Texas.

Additional information may be obtained from William F. Aldridge, Director of Corporate Activities, State Banking Department, 2601 North Lamar, Austin, Texas 78705, (512) 475-4451.

Issued in Austin, Texas, on June 9, 1986.

TRD-8805857 William F. Aldridge
Director of Corporate
Activities
Banking Department of
Texas

Filed: June 12, 1986

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

Texas Department of Community Affairs Consultant Proposal Request

In the May 27, 1986, issue of the *Texas Register* (11 Tex-Reg 2486), the Texas Department of Community Affairs (TDCA) published a request for consultant proposals to develop and provide training and staff development services to local program operators and governing boards in connection with programs operated under the Job Training Partnership Act (JTPA). The deadline for submittal of proposals has been extended to 4 p.m., Thursday, July 31, 1986.

In addition to the extension of the proposal deadline, the total amount available for this contract has been amended and is presently estimated to be \$600,000. All other requirements remain as described in the Request for Proposals.

For further information, please contact Karen Rowlett at (512) 834-6322 or at the Texas Department of Community Affairs, Training and Employment Development Division, 8317 Cross Park Drive, P.O. Box 13166, Austin, Texas 78711.

Issued in Austin, Texas, on June 12, 1986.

TRD-8805878 Douglas C. Brown
General Counsel
Texas Department of Community
Affairs

Filed: June 12, 1986

For further information, please call (512) 834-8080.

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In the May 27, 1986, issue of the *Texas Register* (11 Tex-Reg 2486), the Texas Department of Community Affairs (TDCA) published a request for consultant proposals to provide content expertise and technical skills training to local program operators and governing boards in connection with programs operated under the Job Training Partnership Act (JTPA). The deadline for submittal of proposals has been extended to 4 p.m., Thursday, July 31, 1986.

In addition to the extension of the proposal deadline, the total amount available for this contract has been amended and is presently estimated to be \$350,000. All other requirements remain as described in the Request for Proposals.

For further information, please contact Karen Rowlett at (512) 834-6322 or at the Texas Department of Community Affairs, Training and Employment Development Division, 8317 Cross Park Drive, P.O. Box 13166, Austin, Texas 78711.

Issued in Austin, Texas, on June 12, 1986.

TRD-8805877 Douglas C. Brown
General Counsel
Texas Department of Community
Affairs

Filed: June 12, 1986

For further information, please call (512) 834-8080.

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Office of Consumer Credit Commissioner Notice of Rate Ceilings

The consumer credit commissioner of Texas has ascertained the following rate ceilings by use of the formulas and methods described in Texas Civil Statutes, Title 79, Articles 1.04, 1.05, 1.11, and 15.02, as amended (Texas Civil Statutes, Articles 5069-1.04, 1.05, 1.11, and 15.02).

Type of Rate Ceilings Effective Period (Dates are Inclusive)	Consumer ⁽³⁾ Agricul- tural/Commercial ⁽⁴⁾ thru \$250,000	Commercial ⁽⁴⁾ over \$250,000
Indicated (Weekly) Rate—Article 1.04(a)(1) 06/16/86-06/22/86	18.00%	18.00%
Monthly Rate— Article 1.04(c)(1) 06/16/86-06/30/86	18.00%	18.00%
Standard Quarterly Rate—Article 1.04(a)(2) 07/01/86-09/30/86	18.00%	18.00%
Retail Credit Card Quarterly Rate— Article 1.11 ⁽³⁾ 07/01/86-09/30/86	18.00%	N/A

Lender Credit Card Quarterly Rate— Article 15.02(d)(3) 07/01/86-09/30/86	14.00%	N/A
Standard Annual Rate—Article 1.04(a)(2)(2) 07/01/86-09/30/86	18.00%	18.00%
Retail Credit Card Annual Rate— Article 1.11(3) 07/01/86-09/30/86	18.00%	N/A
Annual Rate Applicable to Pre-July 1, 1983, Retail Credit Card and Lender Credit Card Balances with Annual Implementation Dates from 07/01/86-09/30/86	18.00%	N/A
Judgment Rate—Article 1.05, §2 07/01/86-07/31/86	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 June 9, 1986.

TRD-8805822 Al Endsley
Consumer Credit
Commissioner

Filed: June 11, 1986
For further information, please call (512) 479-1280.

Texas Education Agency Request for Applications

The Texas Education Agency is now accepting applications for special projects in the State of Texas under the Adult Education Act, Public Law 91-230, as amended, and the Texas Education Code, §11.18, Adult Education. Priority areas are described in the following paragraphs.

Specific information on each request for application (RFA) and format of applications may be obtained from the Division of Adult and Community Education Program Development, Texas Education Agency, 1701 North Congress Avenue, Austin, Texas, 78701.

Only public education agencies are eligible applicants. Applications should be submitted to the Document Control Center, Texas Education Agency, 1701 North Congress Avenue, Austin, Texas, 78701, by 5 p.m., June 30, 1986. It is anticipated that applicants will be given notification of approval or non-approval of applications on or about July 8, 1986.

For additional information, contact Dr. Deborah Stedman, (512) 463-9447.

Applications are requested in the following areas:

RFA-1—Adult Literacy Councils

To develop three literacy council projects in order to serve adults with very limited or no education who are the most difficult to recruit and retain in a public education program. (July 1, 1986 - June 30, 1987) Each project will not exceed \$20,000. Continuation funding may encompass the six-month period of July 1, 1987 through December 30, 1987, at a cost not to exceed \$10,000, provided the contractor has met the specified objectives of the initial project year.

RFA-2—A Parent and Community Involvement Model Approach To Literacy

To develop a model and implementing strategies for involving undereducated parents and the community in an intergenerational approach to combatting the self-perpetuating cycle of illiteracy, and to pilot test the model. (July 1, 1986-June 30, 1987) Cost will not exceed \$40,000.

RFA-3—Child Care, Transportation, and other Support Services for Adult Education Student

To develop a model, strategies and an implementation handbook for adult education programs which delineates linkages for child care, transportation, and other support services for adult education students. (July 1, 1986-June 30, 1987) Cost will not exceed \$30,000.

RFA-4—Training for Adult Literacy Volunteers and Trainers.

To provide adult literacy training to volunteers and volunteer trainers and technical assistance in the implementation of adult literacy volunteer programs on a statewide basis. (July 1, 1986-June 30, 1987) Cost will not exceed \$35,000.

RFA-5—Continuation of a Statewide Dissemination Project

To continue the operation of a state dissemination project for the identification, collection, evaluation, and dissemination of resources in adult education. (July 1, 1986-June 30, 1987) Cost will not exceed \$50,000.

RFA-6—Development of Linkage Models for Cooperative Planning and Service Delivery to Adult Education

To develop a model, strategies, and an implementation handbook for improving the delivery of adult education services through community linkages with public and private organizations on a statewide basis. A dissemination conference will be held. (July 1, 1986-June 30, 1987) Cost will not exceed \$30,000.

RFA-7—English For Speakers of Other Languages Teacher Training

To conduct a five-day institute for up to 50 adult educators who are new to adult education and/or new to teaching English for Speakers of Other Languages. The institute will include recent research in regard to undereducated adults acquiring English skills, teaching methodologies, and student assessment. (July 1, 1986-September 30, 1986) The cost, which will not exceed \$25,000, includes reimbursement for travel expenses to institute participants.

RFA-8—Writing Skills Training for Adult Educators

To conduct a staff development and technical assistance project on teaching writing skills to adult education students including synthesizing the current literature on the teaching of writing skills, investigating the feasibility of the use of microcomputers and word processing programs for teaching writing skills in adult education, and training adult educators in effective strategies for teaching writing skills to undereducated adults of all skill levels from literacy through preparation for the General Educational Development tests. A guide for teaching writing skills to adult education students will be developed. (July 1, 1986-June 30, 1987) Cost will not exceed \$40,000.

RFA-9—Distance Learning Program for Delivery of Adult Basic and Secondary Education

To develop and field test a regional/broadcast area telecommunications delivery system that interfaces broadcast, cable, and taped Adult Basic Education, English for Speakers of Other Languages, and preparation for the General Educational Development tests with learning sites in industry, libraries, public education (including vocational), Job Training and Partnership Act sites, and homes

to provide learning support through tutors, study guides, and supplementary reading materials or telephone assistance for home study. (July 1, 1986-June 30, 1987) Cost will not exceed \$30,000.

RFA-10—Innovative Use of Television for Delivery of Adult Education Instruction (Continuation)

To continue to test the feasibility of interactive television as a means for delivering adult education instruction in a large geographic area, with emphasis on English for Speakers of Other Languages instruction. (July 1, 1986-June 30, 1987) Cost will not exceed \$25,000.

RFA-11—Assessment Models for Adult Education

To develop assessment models for adult education students of varying skill levels and to disseminate the models through technical assistance to local programs. Also, to develop an Adult Education Student Assessment Handbook which contains research-based assessment models for adult education students of varying skill levels. The models will contain specifics for the use of diagnostic/prescriptive or achievement measures during the instructional process. (July 1, 1986-June 30, 1987) Cost will not exceed \$30,000.

RFA-12—Improving Adult Education for Limited English Speaking Adults

To develop a framework of English for Speakers of Other Languages instruction which will address: beginning learning objectives, including instruction for adults who are undereducated or illiterate in their native language as well as in English; transitional learning objectives, for more advanced students desirous of entering a General Educational Development class; criteria for advancement from one level to another; and, a correlation of learning objectives with available instructional materials and assessment techniques. Also, to provide differentiated staff development in English for Speakers of Other Languages through on-site technical assistance. (July 1, 1986-June 30, 1987) Cost will not exceed \$35,000.

Issued in Austin, Texas, on June 11, 1986.

TRD-8605823 W. N. Kirby
Commissioner of Education

Filed: June 11, 1986
For further information, please call (512) 463-9212.

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Office of the Governor Crime Stoppers Assistance Program

Under provisions of House Bill 309 (Chapter 589, §2, 69th Legislature, 1985), the Criminal Justice Division (CJD) of the Office of the Governor has been designated as the agency responsible for the administration of funds allocated for use by local Crime Stoppers programs. CJD is now accepting applications from eligible applicants for grant funding available for fiscal year 1987 under the Crime Stoppers Assistance Program.

Eligible applicants for these funds are restricted to existing local Crime Stoppers programs. Local Crime Stoppers program is defined as a private nonprofit organization that is operated on less than a statewide level, that accepts and expends donations for rewards to persons who report to the organization information concerning criminal activity, and that forwards the information to the appropriate law enforcement agency. At the time of application, new applicants will be required to submit articles of incorporation and bylaws. Applicants for continuation grants are not subject to these specific requirements.

Activities to be funded include Crime Stoppers training, publicity and promotional materials, equipment, and innovative programs.

Application forms and the 1987 Plan for Application and Implementation will be provided to all active local Crime Stoppers programs in Texas. All applications must comply with the program criteria and applicable rules of the CJD.

The deadline for submission of applications is 5 p.m. on Friday, July 11, 1986. The CJD reserves the right to accept or reject any or all applications submitted, and to negotiate modifications to improve the quality and cost effectiveness of any proposed program.

Additional information may be obtained from Greg MacAleese, Program Coordinator, Texas Crime Stoppers Advisory Council, P.O. Box 12428, Austin, Texas 78711, (512) 463-1784.

Issued in Austin, Texas, on June 11, 1986.

TRD-8605833 Gilbert J. Pena
Executive Director
Criminal Justice Division
Office of the Governor

Filed: June 11, 1986
For further information, please call (512) 463-1919.

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Public Information

Under the provisions of the Victims of Crime Act of 1984 (VOCA), Public Law 98-473, Texas has received a federal grant to implement a Crime Victims Assistance Program. The governor has designated the Criminal Justice Division, Office of the Governor, to administer that program in the form of grants to units of government and to nonprofit organizations. The Criminal Justice Division (CJD) is now accepting grant applications for eligible projects from state agencies, local units of government, and nonprofit organizations.

The Crime Victims Assistance Program is intended to start or expand projects that provide services (but not compensation) to victims of crime for needs resulting directly from the crime and to assist in their participation in criminal justice proceedings.

Eligible Projects. Only those projects which provide services to victims of crime are eligible for grant funding. Such services must directly benefit individual crime victims, must address needs directly resulting from the crime, and may include the required coordination of those services and the training of service providers. Additionally, to be eligible, each project must:

- (1) if it is a new project, receive at least 50% of its budget in cash from sources other than state grants or federal grants for categorical programs; or, if it is an existing project, must have a record of providing effective services to victims of crime, and receive at least 25% of its total budget from either in-kind contributions or in cash from sources other than state grants or federal grants for categorical programs;
- (2) be operated by a state agency, local unit of government, or nonprofit organization, or by a combination thereof;
- (3) utilize volunteers, unless a waiver of this requirement based on compelling justification is requested by the

applicant and is approved by the executive director of the CJD;

- (4) promote, within the community served, coordinated public and private efforts to aid crime victims;
- (5) assist victims in seeking available benefits under the Texas Crime Victims Compensation Program; and
- (6) inform victims of sexual assault that Texas Civil Statutes, Article 4447m, mandates that any law enforcement agency that requests a medical examination of a victim of an alleged sexual assault for use in the investigation or prosecution of the offense shall pay all costs of the examinations.

Significant Restrictions and Special Requirements.

- (1) Crime victims must be the sole or primary beneficiaries of the project.
- (2) Individual grants may not exceed \$50,000.
- (3) Funds may not be used to replace federal, state, or local government funds that would have been available for crime victims assistance in the absence of VOCA funds.
- (4) Funds may not be used for crime prevention, witness management, general criminal justice system improvements, management training, advocating particular legislation or administrative reform, or for influencing the outcome of any election.

All applications must comply with the program criteria and applicable rules of the CJD, and must be submitted in the form prescribed by CJD. The CJD reserves the right to negotiate modifications to improve the quality and cost effectiveness of any proposed project and to recommend to the governor the acceptance, acceptance with modification, or rejection of any grant application. This announcement in no way obligates the CJD to award grant funds or to pay any costs incurred by applicants as a result of responding to this announcement.

Deadline. Applications must be received at the CJD by 5 p.m. on Wednesday, July 9, 1986.

Application forms, guidelines, and additional information will be provided by the CJD upon request. Requests should be directed to the Crime Victims Assistance Section, Criminal Justice Division, Office of the Governor, P.O. Box 12428, Austin, Texas 78711, (512) 463-1919.

Issued in Austin, Texas, on June 11, 1986.

TRD-8605834 Gilbert J. Pena
Executive Director
Office of the Governor

Filed: June 11, 1986

For further information, please call (512) 463-1919.

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Texas Department of Health Emergency Medical Services Systems

The Texas Department of Health is accepting letters of intent to apply for emergency medical services systems funding under the preventive health and health services block grant. Funds will be available October 1, 1986; funds may not be used to purchase equipment or pay operational costs of services.

Letters of intent to apply for funds should be sent to Gene Weatherall, Texas Department of Health, Bureau of Emergency Management, 1100 West 49th Street, Austin, Texas 78756-3199. Applications will be due August 20, 1986.

Eligible entities who send letters of intent will receive application kits consisting of materials pertinent to submitting an application. An eligible entity is a public entity administering a compact or other regional planning council or consortium, a unit of local government, any other public entity, and any nonprofit entity. All applications must benefit local emergency medical services within the functional geographic units.

For more information, contact Eric Kunish, Program Administrator, Bureau of Emergency Management, at (512) 465-2601.

Issued in Austin, Texas, on June 13, 1986.

TRD-8605947 Robert A. MacLean, M.D.
Deputy Commissioner
Professional Services
Texas Department of Health

Filed: June 13, 1986

For further information, please call (512) 465-2601.

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Public Hearings

This notice affords an opportunity for public hearing on the following two applications for a solid waste site filed with the Texas Department of Health.

Sabine County has filed Application 1682 with the Texas Department of Health for a permit to operate a proposed Type III municipal solid waste disposal site to be located 2.3 miles south of Pineland and 1,000 feet east of the intersection of U.S. Highway 96 and Spur 414 in Sabine County. The site consists of approximately 5 acres of land, and is to daily receive approximately 1 1/4 tons of solid waste under the regulatory jurisdiction of the Texas Department of Health.

Notice is hereby given that Hidalgo County presently holds Solid Waste Permit 1593 as heretofore issued by the Texas Department of Health for the operation of a Type II municipal solid waste site located north-northeast of Edinburg, 3 1/4 miles east of U.S. Highway 281, 1 3/4 miles north of FM Road 1925, and abutting the north side of Davis Road in Hidalgo County. Said permit holder has now filed with the Texas Department of Health an application to amend the aforesaid permit as follows: to add 30 acres to the west side and 88 acres to the east side of the existing 18-acre disposal site. The application further would upgrade the site to a Type I operation as a result of increased population served. The total site will consist of approximately 136 acres of land, and is to daily receive approximately 255 tons of solid waste under the regulatory jurisdiction of the Texas Department of Health. The applications are being processed and the final decision will be made by the department pursuant to the provisions of the Texas Solid Waste Disposal Act, Texas Civil Statutes, Article 4477-7, the Texas Department of Health Municipal Solid Waste Management regulations, and the Administrative Procedure and Texas Register Act, Texas Civil Statutes, Article 6252-13a.

No public hearing will be held on these applications unless a person affected has requested a public hearing. Any such request for a public hearing shall be in writing and contain the name, mailing address, and phone number of the person making the request; and a brief description of how the requester, or persons represented by the requester, has suffered or will suffer actual injury or economic damage by the granting of the application. If a hearing is requested

by a person affected, notice of such hearing will be provided to the requester and will also be published in a newspaper of general circulation in the area where the site is located at least 30 days prior to the date of such hearing. If no request for a hearing is received within 30 days of the date of publication of the said notice in a newspaper of general circulation, the department will make a decision. If a hearing is requested, it will be conducted, and the final decision will be rendered, in accordance with the applicable rules contained in the department's Municipal Solid Waste Management Regulations, including all changes in effect as of August 20, 1985 (Sabine County) and January 10, 1986 (Hidalgo County).

Requests for a public hearing and/or requests for a copy of the technical summary of the applications prepared by the Bureau of Solid Waste Management shall be submitted in writing to the Chief, Bureau of Solid Waste Management, Texas Department of Health, 1100 West 49th Street, Austin, Texas 78756. A copy of the complete application for Sabine County may be reviewed at the Bureau of Solid Waste Management or at the department's Public Health Region 7/10 headquarters located at Cotton Belt Office, 1517 West Front Street, Tyler, Texas 75702; (214) 595-3585. A copy of the complete application for Hidalgo County may be reviewed at the Bureau of Solid Waste Management or at the department's Public Health Region 8 headquarters located at 1401 South Rangerville Road, Harlingen, Texas 78552; (512) 423-0130.

Issued in Austin, Texas, on June 11, 1986.

TRD-8605824 Robert A. MacLean, M.D.
Deputy Commissioner
Professional Services
Texas Department of Health

Filed: June 11, 1986

For further information, please call (512) 458-7271.

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Texas Housing Agency Public Hearing

The Texas Housing Agency (the agency) hereby gives notice that it will hold a public hearing on Wednesday, June 25, 1986, at 10 a.m., in the conference room, 411 West 13th Street, Suite 700, Austin, Texas 78701, with respect to its proposed issuance of approximately \$90,000,000 of qualified mortgage revenue bonds (the bonds) to implement the agency's Single Family Mortgage Purchase Program, 1986 Series A (the program). The bonds will be issued to refund certain outstanding bonds of the agency, thereby permitting a portion of the proceeds of such refunded bonds to be used to finance the agency's purchase of an estimated 1,400 FHA-insured single family residential mortgages made to eligible low and moderate income homebuyers throughout Texas.

For purposes of the program, eligible borrowers will include individuals whose adjusted gross income does not exceed \$33,000, and households and families whose aggregate adjusted gross income does not exceed \$42,000. In addition, substantially all of the borrowers under the program will be required to be persons who have not owned a primary residence during the preceding three years. Mortgage loans purchased under the program will also be subject to certain other limitations, including limits on the acquisition cost of the residence being financed.

All interested persons are invited to attend this public hearing and to express their views on the proposed issuance of the Bonds. Questions or requests for additional information may be directed to Stan Kantrowitz, General Counsel, Texas Housing Agency, P.O. Box 13941, Austin, Texas 78711, (512) 474-2974 or 1-800-792-1119. Persons who plan to attend the hearing are encouraged, in advance of the hearing, to inform the agency either in writing or by telephone. Any interested persons unable to attend the hearing may submit their view in writing to the agency prior to the date scheduled for the hearing.

Issued in Austin, Texas, on June 11, 1986.

TRD-8605856 Stan Kantrowitz
General Counsel
Texas Housing Agency

Filed: June 12, 1986

For further information, please call (512) 474-2974.

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Texas Department of Human Services Amended Consultant Contract Awards

In accordance with Texas Civil Statutes, Article 6252-11c, the Texas Department of Human Services (DHS) furnishes this notice of amended consultant contract awards. The request for proposals was published in the April 9, 1985, issue of the *Texas Register* (10 TexReg 1192), and the notice of awards was published in the September 3, 1985, issue of the *Texas Register* (10 TexReg 3340).

Name of contractor and amended contract amount. West Houston Psychological Associates, 1011 Highway 6 South, Suite 301, Houston, Texas 77077—from \$212,040 to \$239,040; Dr. Donald J. Minnick, 6300 West Loop South, Suite 270, Bellaire, Texas 77401—from \$11,659 to \$15,650; Yoakum Psychological and Psychiatric Associates, 3703 Yoakum, Houston, Texas 77006—from \$115,920 to \$135,920.

Effective dates. The beginning date of the amendments is July 1, 1986. The contracts end August 31, 1986. All other information in the contracts remain the same.

Issued in Austin, Texas, on June 13, 1986.

TRD-8605900 Marlin W. Johnston
Commissioner
Texas Department of Human Services

Filed: June 13, 1986

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 Services (DHS) furnishes this notice of amended contract award. The request for proposals was published in the April 9, 1985, issue of the *Texas Register* (10 TexReg 1192), and the contract award was published in the September 3, 1985, issue of the *Texas Register* (10 TexReg 3340).

The contract was awarded to Tri-County Mental Health and Mental Retardation in the amount of \$24,288.88. Effective July 1, 1986, the total value of the contract is amended to \$29,844.43. All other information in the contract remains the same.

Issued in Austin, Texas, on June 16, 1986.

TRD-8605967

Marlin W. Johnston
Commissioner
Texas Department of Human Services

Filed: June 18, 1986

For further information, please call (512) 450-3788.

Correction of Error

Proposed and adopted sections submitted by the Texas Department of Human Services contained errors as published in the June 10, 1986, issue of the *Texas Register*.

Proposed chapters 35, 45, 48, 67, 69, and 83 should have been listed in the Table of Contents as being on page 2640. Adopted chapters 3 and 29 should have been listed in the Table of Contents as being on page 2672.

Primary Home Care Program Unit Rate Reduction

The Texas Department of Human Services (DHS) is reducing the rate of payment for primary home care by 1.3% percent, effective July 1, 1986. This reduction will save \$163,967 in fiscal year 1986, and \$1,186,314 in fiscal year 1987.

Issued in Austin, Texas, on June 13, 1986.

TRD-8605899

Marlin W. Johnston
Commissioner
Texas Department of Human Services

Filed: June 13, 1986

For further information, please call (512) 450-3788.

State Board of Insurance Company Licensing

The following applications have been filed with the State Board of Insurance and are under consideration:

(1) Application for incorporation of Atlantic Title Insurance Company, to be a domestic title insurance company. The home office is to be in Austin.

(2) Application for a name change by Ensign Insurance Company, a domestic fire and casualty insurance company. The home office is in Irving. The proposed new name is Equity American Insurance Company.

(3) Application for admission to do business in Texas of First Stratford Life Insurance Company, a foreign life insurance company. The home office is in Inglewood, California.

(4) Application for admission to do business in Texas of Investors Title Insurance Company, a foreign title insurance company. The home office is in Chapel Hill, North Carolina.

(5) Application for admission to do business in Texas of National United Insurance Company, a foreign fire and casualty insurance company. The home office is in Miami, Florida.

(6) Application for admission to do business of The North West Lite Assurance Company of Canada, a foreign life insurance company. The home office is in Vancouver, B.C., Canada.

(7) Application for incorporation of Prudential Dental Maintenance Organization, Inc., to be a domestic Health Maintenance Organization. The home office is to be in Houston.

Issued in Austin, Texas, on June 11, 1986.

TRD-8605888

Nicholas Murphy
Chief Clerk
State Board of Insurance

Filed: June 12, 1986

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

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State Property Tax Board Consultant Contract Award

Pursuant to Texas Civil Statutes, Article 6252-11c, the State Property Tax Board furnishes this notice of contract award. The consultant proposal request appeared in the February 14, 1986, issue of the *Texas Register* (11 Tex-Reg 876).

Description of Service. The consultants will serve as complex industrial valuation experts in the board's 1986 property value study.

Address of Consultants. Three consultants have been selected under this request: Capitol Appraisal Group, 150 Westpark #4, 8140 Mopac Expressway, Austin, Texas 78759; Pritchard & Abbot, 6300 La Calma, Suite 360, Austin, Texas 78752; and Thomas Y. Pickett & Co., 4464 Sigma Road, Dallas, Texas 75240.

Contract Value and Period. The following contract awards were made to the three valuation consultants: Capitol Appraisal Group—\$39,160; Pritchard & Abbot—\$33,880; Thomas Y. Pickett—\$34,320. The total value of the contracts issued under this request is \$107,360. The beginning date of the contracts was May 15, 1986, and the ending date is August 31, 1986.

Due Dates of Reports. Final reports prepared by the consultants under these contracts shall be submitted prior to August 30, 1986.

Issued in Austin, Texas, on June 12, 1986.

TRD-8605901

Ron Patterson
Executive Director
State Property Tax Board

Filed: June 12, 1986

For further information, please call (512) 834-4800.

Texas Water Commission Enforcement Order

Pursuant to the Texas Water Code, which states that if the commission finds that a violation has occurred and a civil penalty is assessed, the commission shall file notice of its decision in the *Texas Register* not later than the 10th day after the date on which the decision is adopted, the following information is submitted.

An enforcement order was issued to Trinity Valley Iron and Steel Company on June 10, 1986, assessing \$3,400 in administrative penalties.

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

Issued in Austin, Texas, on June 10, 1986.

TRD-8605835

Mary Ann Hefner
Chief Clerk
Texas Water Commission

Filed: June 11, 1986

For further information, please call (512) 463-7888.

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