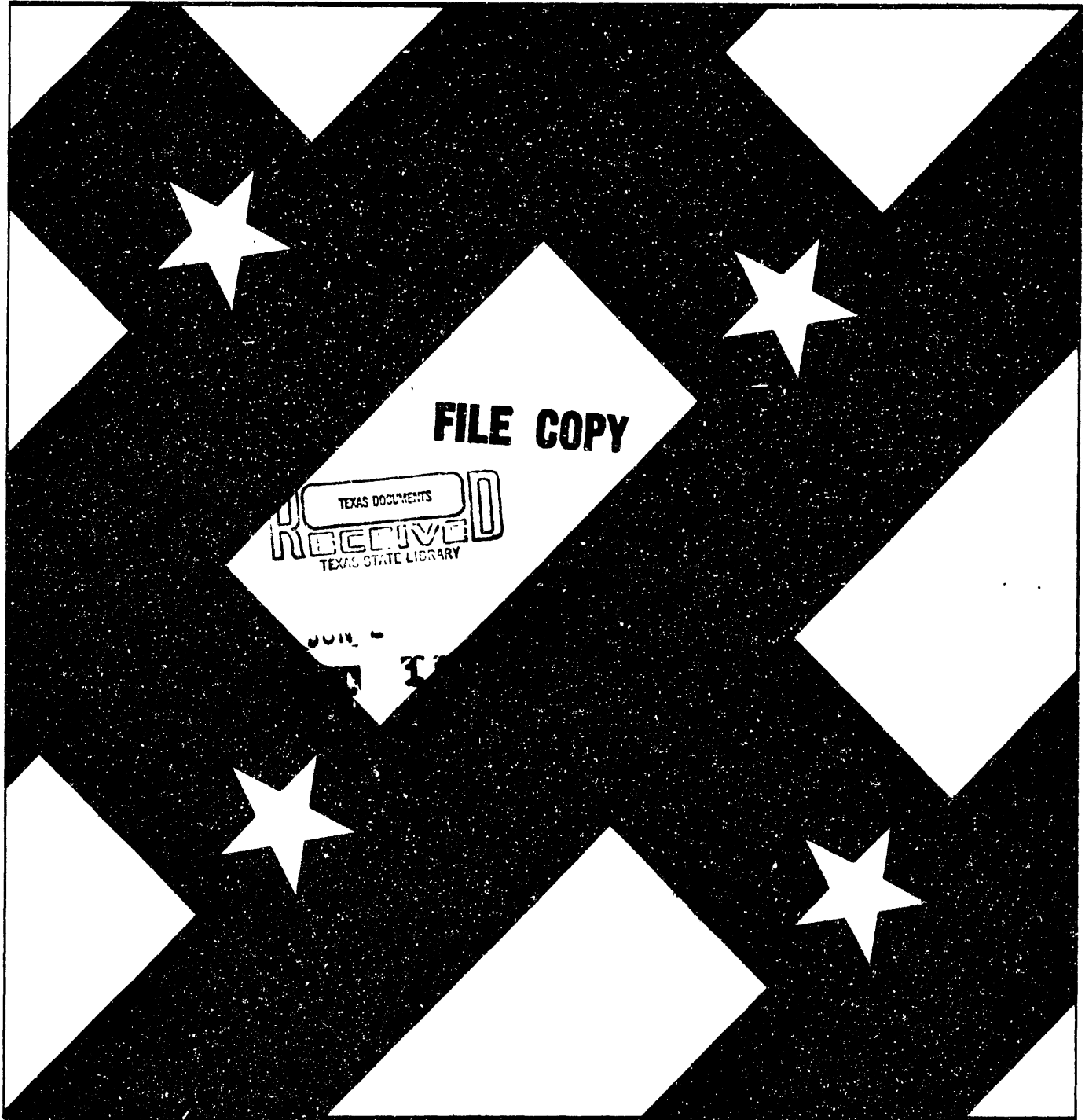


500.6
.263
1:49

Texas Register

Volume 11, Number 49, July 1, 1986

Pages 3019-3084



Highlights

The **Railroad Commission of Texas** adopts on an emergency basis an amendment concerning visual obstructions at grade crossings. Effective date of adoption - June 25. **page 3024**

The **Texas State Board of Public Accountancy** proposes an amendment concerning the registration

of certified public accountants of other jurisdictions. Proposed date of adoption - August 1. **page 3029**

The **Texas Water Commission** proposes new sections concerning the creation of water districts. Earliest possible date of adoption - August 1. **page 3032**

**Office of
the Secretary
of State**

Texas Register

The *Texas Register* (ISN 0362-4781) is published twice each week at least 100 times a year. Issues will be published on every Tuesday and Friday in 1986 with the exception of June 24, September 2, December 2, and December 30 by the Office of the Secretary of State.

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

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

Information Available: The 11 sections of the *Register* represent various facets of state government. Documents contained within them include:

- Governor—appointments, executive orders, and proclamations
- Secretary of State—summaries of opinions based on election laws
- State Ethics Advisory Commission—summaries of requests for opinions and opinions
- Attorney General—summaries of requests for opinions, opinions, and open records decisions
- Emergency Rules—rules adopted by state agencies on an emergency basis
- Proposed Rules—rules proposed for adoption
- Withdrawn Rules—rules withdrawn by state agencies from consideration for adoption, or automatically withdrawn by the *Texas Register* six months after proposal publication date
- Adopted Rules—rules adopted following a 30-day public comment period
- Open Meetings—notices of open meetings
- The Legislature—bills submitted to, signed by, and vetoed by the Governor and bills that are submitted to the Governor and enacted without his signature
- In Addition—miscellaneous information required to be published by statute or provided as a public service

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

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

In order that readers may cite material more easily, page numbers are now written as citations. Example: on page 2, in the lower left-hand corner of the page, would be written: "11 TexReg 2 issue date," while on the opposite page, page 3, in the lower right-hand corner, would be written "issue date 11 TexReg 3."

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

Texas Administrative Code

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

How To Cite: Under the TAC scheme, each agency rule is designated by a TAC number. For example, in the citation 1 TAC §27.15:

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

TAC stands for the *Texas Administrative Code*;

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



Texas Register Publications

a division of the
Office of the Secretary of State
P.O. Box 13824
Austin, Texas 78711-3824
512-463-5561

Myra A. McDaniel
Secretary of State

Director

Dan Procter

Documents Section Coordinator

Cynthia Cooke

Document Editors

Molly Gardner

Sabra Noyes

Jane Orcutt

Document Filing

Lainie Crease

Denise Roberts

Production Editors

Jody Allen

Lisa Bauer

Hollis Glaser

Typographers

Dawn VanCleave

Glynn Fluit

Circulation Section Coordinator

Dee Wright

Circulation Assistant

Kristine Hopkins Mohajer

TAC Editors

W. Craig Howell

Beth Glasnapp

Subscriptions—one year (96 regular issues and four index issues), \$80; six months (48 regular issues and two index issues), \$60. Single copies of most issues of the *Texas Register* are available at \$3.00 per copy.

Illustrations courtesy of Texas Parks and Wildlife Department.

Table of Contents

The Governor

Appointments Made June 20

- 3023— Radiation Advisory Board
- 3023— State Board of Vocational Nurse Examiners

Emergency Rules

Railroad Commission of Texas

- 3024— Transportation Division

Texas Education Agency

- 3024— Teacher Certification

Texas Water Commission

- 3026— Water Districts
- 3026— Certificates of Competency
- 3026— Industrial Solid Waste and Municipal Hazardous Waste

Comptroller of Public Accounts

- 3027— Tax Administration

Proposed Rules

Texas State Board of Public Accountancy

- 3028— Certification as CPA
- 3028— Registration

State Board of Insurance

- 3029— Corporate and Financial

Texas Water Commission

- 3031— Water Districts

Withdrawn Rules

Texas Water Commission

- 3072— Edwards Aquifer
- 3072— Design Criteria for Sewerage Systems

Adopted Rules

Office of the Attorney General

- 3073— Child Support Enforcement

Texas State Board of Public Accountancy

- 3073— Practice and Procedure
- 3073— Board Opinions

State Board of Insurance

- 3074— Health Maintenance Organizations

Comptroller of Public Accounts

- 3075— Funds Management (Fiscal Affairs)

Texas Advisory Board of Occupational Therapy

- 3076— License Certificate

Open Meetings

- 3077— Texas Department of Agriculture

- 3077— State Banking Board

- 3077— Coordinating Board, Texas College and University System

- 3078— Texas Employment Commission

- 3078— Texas Historical Commission

- 3078— Texas Industrial Accident Board

- 3078— State Board of Insurance

- 3078— Texas Board of Land Surveying

- 3078— North Texas State University

- 3079— Texas State Board of Pharmacy

- 3079— State Property Tax Board

- 3079— School Land Board

- 3079— State Securities Board

- 3079— Texas Tech University

- 3079— Board of Vocational Nurse Examiners

- 3079— Regional Agencies

In Addition

Texas Department of Banking

- 3081— Notice of Application

Texas Department of Community Affairs

- 3081— Consultant Proposal Request

- 3082— Notice of Block Grant Hearings

Office of Consumer Credit Commissioner

- 3082— Notice of Rate Ceilings

Texas Education Agency

- 3083— Availability of Report

- 3083— Consultant Proposal Request

Texas Department of Health

- 3084— Intent to Renew Radioactive Material License

Houston-Galveston Area Council

- 3084— Consultant Proposal Request

Texas Department of Human Services

- 3084— Correction of Error

TAC Titles Affected

TAC Titles Affected—July

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

TITLE 16. ECONOMIC REGULATIONS

Part I. Railroad Commission of Texas

16 TAC §5.8203024

Part III. Office of the Attorney General

1 TAC §55.1013073

TITLE 19. EDUCATION

Part II. Texas Education Agency

19 TAC §§141.181-141.1833024

19 TAC §§141.181-141.1863024

TITLE 22. EXAMINING BOARDS

Part XXII. Texas State Board of Public Accountancy

22 TAC §511.823028

22 TAC §513.23028

22 TAC §519.253073

22 TAC §519.283073

22 TAC §§526.1-526.73073

TITLE 28. INSURANCE

Part I. State Board of Insurance

28 TAC §§7.1101-7.11073029

28 TAC §11.2043074

28 TAC §11.301, §11.3023074

28 TAC §11.5063074

28 TAC §11.8013074

TITLE 31. NATURAL RESOURCES AND CONSERVATION

Part IX. Texas Water Commission

31 TAC §§293.1-293.63031

31 TAC §293.11, §293.123028

31 TAC §§293.11-293.173032

31 TAC §§293.21-293.243028, 3035

31 TAC §§293.31-293.343036

31 TAC §§293.41-293.563037

31 TAC §293.433028

31 TAC §293.523028

31 TAC §§293.61-293.703046

31 TAC §§293.81-293.873047

31 TAC §§293.91-293.963049

31 TAC §293.1013052

31 TAC §293.1113053

31 TAC §§293.121-293.1253053

31 TAC §§293.131-293.1363055

31 TAC §293.201, §293.2023055

31 TAC §§293.301-293.3113057

31 TAC §293.3313070

31 TAC §293.3413070

31 TAC §293.3433070

31 TAC §§313.1-313.113072

31 TAC §§313.21-313.303072

31 TAC §§317.1-317.133072

31 TAC §§325.2-325.183028

31 TAC §§336.2, §336.243028

31 TAC §§336.43, §336.453028

31 TAC §§336.221, 336.223-336.2263028

TITLE 34. PUBLIC FINANCE

Part I. Comptroller of Public Accounts

34 TAC §3.5603027

34 TAC §5.543075

34 TAC §5.553075

TITLE 40. SOCIAL SERVICES AND ASSISTANCE

Part XII. Texas Advisory Board of Occupational

Therapy

40 TAC §377.33076

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.

Appointments Made June 20

Radiation Advisory Board

For a term to expire April 16, 1991:

Dr. Fred J. Bonte
University of Texas Health Science
Center
5323 Harry Hines Boulevard
Dallas, Texas 75235

Dr. Bonte is replacing John A. Burdine of Houston, whose term expired.

State Board of Vocational Nurse Examiners

For a term to expire September 6, 1989:

Suzanne Wilkinson
Star Route 2, P.O. Box 16
Pampa, Texas 79065

Ms. Wilkinson is replacing Linda Rae Gambill of Seymour, who no longer qualifies.

For a term to expire September 6, 1991:

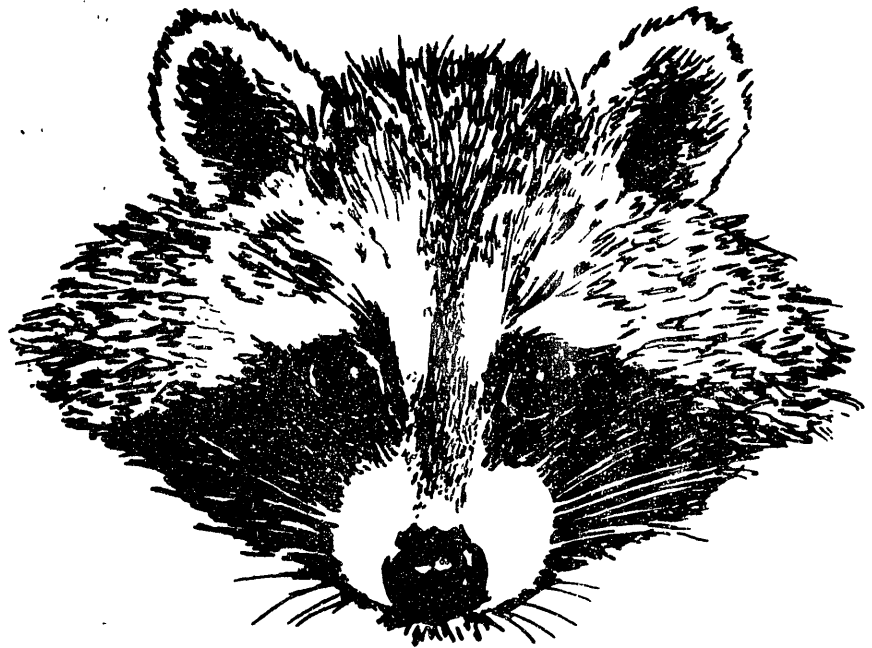
Victor W. Rhoads
2913 Southland
San Angelo, Texas 76904

Mr. Rhoads is replacing Glenn Kenley of Sulphur Springs, who resigned.

Issued in Austin, Texas, on June 20, 1986.

TRD-8808191 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 16. ECONOMIC REGULATIONS

Part I. Railroad Commission of Texas

Chapter 5. Transportation Division

Subchapter AA. Rail Safety

★ 16 TAC §5.620

The Railroad Commission of Texas adopts on an emergency basis an amendment to §5.620. Section 5.620 concerns visual obstructions at public grade crossings and was adopted to implement the provisions of Texas Civil Statutes, Article 6448a, which authorize the Railroad Commission of Texas to regulate railroad safety. The adoption of this section, published in the June 13, 1986, issue of the *Texas Register* (11 TexReg 2741), has an effective date of June 25, 1986.

Approximately 500 legally permitted structures could be impacted by §5.620, as adopted. Clarifying language is needed to more adequately express the intent of the commission and to resolve questions which have arisen since adoption of §5.620. The commission finds that an imminent peril to the public welfare exists necessitating adoption of an amendment to §5.620 for an effective date of June 25, 1986, because of the potential negative economic impact on owners of legally permitted structures.

The amendment eliminates superfluous language so that it is clear that billboards and signs required for the safe operation of the railroad are exempted. Additionally, the amendment supplies an explanation that billboards and signs which are legally permitted by the state or a political subdivision are not unnecessary permanent obstructions, so long as they do not obscure the view of approaching trains to vehicular road traffic.

The amendment is adopted on an emergency basis under Texas Civil Statutes, Article 6448a, (Vernon Supplement 1986) which empowers the Railroad Commission of Texas to adopt regulations to ensure railroad safety.

§5.620. *Visual Obstruction at Public Grade Crossings.*

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

(c) Each railroad corporation shall keep its right-of-way clear of unnecessary

permanent obstructions such as billboards and signs [which are not authorized by the railroad and] which are not required for the safe operation of the railroad, for a distance of 500 feet each way from every public grade crossing so that they do not obscure the view of approaching trains to vehicular road traffic. ~~Billboards and signs which are legally permitted by the state or a political subdivision are not unnecessary permanent obstructions, so long as they do not obscure the view of approaching trains to vehicular road traffic.~~ Permanent buildings, such as warehouses and equipment facilities, which existed prior to the effective date of this section are exempted from the requirements of this subsection. Each railroad corporation shall have three months from the effective date of this subsection to comply with its requirement.

(d) (No change.)

Issued in Austin, Texas, on June 23, 1986.

TRD-8006213

Mack Wallace
Commissioner
Railroad Commission
of Texas

Effective date: June 25, 1986
Expiration date: October 23, 1986
For further information, please call
(512) 463-7086.

★ ★ ★

TITLE 19. EDUCATION

Part II. Texas Education Agency

Chapter 141. Teacher

Certification

Subchapter J. Requirements for Issuance of Texas Certificate Based on Certificates and College Credentials from Other States

★ 19 TAC §§141.181-141.183

The Texas Education Agency adopts the repeal of §§141.181-141.183 on an emergency basis. The repeal is adopted on an emergency basis so that new §§141.181-141.186 may be adopted on an emergency basis. The repeal was proposed for permanent adoption in the May 30, 1986, issue of the *Texas Register* (11 TexReg 2504).

The sections have had only minor revisions over the past 15 years and will be

replaced by new §§141.181-141.186, which establish a testing requirement to ensure that certified personnel from other states meet competency standards and also simplify requirements and streamline administrative procedures for issuing credentials.

The repeal is adopted on an emergency basis under the Texas Education Code, §13.032, which authorizes the State Board of Education to make rules concerning the issuing of teaching certificates.

§141.181. *General Provisions.*

§141.182. *Texas Certificates Which May Be Issued Based on Certificates from Other States.*

§141.183. *Graduates of Institution in Other States Without Certificates.*

Issued in Austin, Texas, on June 20, 1986.

TRD-8006210

W. N. Kirby
Commissioner of Education

Effective date: June 24, 1986
Expiration date: October 22, 1986
For further information, please call
(512) 463-9212.

★ ★ ★

★ 19 TAC §§141.181-141.186

The Texas Education Agency adopts new §§141.181-141.186 on an emergency basis. The sections are adopted on an emergency basis because a large number of requests for certification from out-of-state teachers are received during the summer months, and having the sections in place at the beginning of the summer will facilitate processing of applications.

The sections were proposed for permanent adoption in the May 30, 1986, issue of the *Texas Register* (11 TexReg 2504). The new sections allow issuance of a Texas certificate based on valid out-of-state certificates and successful completion of the appropriate examination for the certification of educators in Texas (ExCET). The establishment of a testing requirement ensures that certified personnel from other states meet acceptable competency standards.

The sections also simplify requirements and streamline administrative procedures for issuing credentials. They establish a one-year nonrenewable certificate to be issued to persons holding a valid standard certificate from another state, allow-

ing agency staff to discontinue the time-consuming course-by-course review of transcripts. Instead, staff will identify areas of specialization shown on the certificate and determine which, if any, are equivalent to approved specializations in Texas. Applicants will then have one year to achieve satisfactory scores on the prescribed ExCET test.

Course work or examinations on the Texas and federal constitutions is no longer required, reflecting the repeal of the statutory requirement for such work. The agency will continue, at the request of local districts, to evaluate transcripts for out-of-state individuals whose initial assignment in a Texas public school is in an area not shown on the out-of-state certificate. Transcripts of persons seeking a Texas certificate for an area not shown on the out-of-state certificate or not the initial assignment area will be evaluated by a Texas senior college or university.

The new sections also eliminate the requirement that applicants from other states must hold a base teaching certificate as a condition for Texas certification.

The new sections are adopted on an emergency basis under the Texas Education Code, §13.032, which authorizes the State Board of Education to make rules concerning the issuing of teaching certificates.

§141.181. Texas Certificates Based on Current Valid Out-of-State Certificate.

(a) In accordance with law, the commissioner of education will issue a Texas certificate to an out-of-state applicant if the degree and certificate presented are considered standard and valid by the issuing state department of education and other requirements in this subchapter are met.

(b) The out-of-state certificate must meet the following requirements.

(1) The certificate must be current in the issuing state at the time application is made for a Texas certificate.

(2) The certificate must be a standard certificate issued by the other state and equivalent to the certificates issued by the Central Education Agency. The specific area of certification shown on the out-of-state certificate must be equivalent to an area approved by the Texas State Board of Education. These standard certificates may not be: temporary permits, or substandard certificates; credentials issued by a city or a school district; or documents such as approval letters or entitlement cards from a teacher training institution, state department of education, city, or school district.

(c) All applicants must pass the appropriate Examination for the Certification of Educators in Texas (ExCET), in accordance with §141.182 of this title (relating to Required Examinations for Certification of Educators in Texas).

(d) If all the requirements specified are met except the appropriate Examination for the Certification of Educators in Texas (Ex-

CET), the applicant may be issued a nonrenewable certificate valid for 12 months. The appropriate Texas certificate may be issued once all requirements, including testing requirements, have been met.

(e) Upon request of an employing local school district, the Central Education Agency will evaluate credentials for an area not listed on the out-of-state certificate if it is the applicant's initial assignment area in a Texas public school. A permit must also be activated. The Texas certificate will be issued directly by the Central Education Agency upon completion of the deficiencies outlined, including passing the appropriate ExCET tests. The applicant must contact an approved Texas teacher preparation institution for evaluation of areas which do not appear on the out-of-state certificate or are not initial assignment areas. The Texas certificate(s) will be issued upon recommendation by the institution.

(f) The applicant who holds a valid, standard out-of-state special subject certificate may be issued the equivalent Texas certificate in that special subject area. The appropriate professional development and the special subject area ExCET tests must be passed within 12 months of the issuance of the nonrenewable certificate.

(g) The applicant who holds a valid standard out-of-state professional special service certificate may be issued the equivalent Texas certificate in that professional special service area provided the preparation program upon which the out-of-state certificate is based requires the individual to hold basic teacher certification. The appropriate professional special services ExCET test must be passed within 12 months of the issuance of the nonrenewable certificate.

§141.182. Required Examinations for Certification of Educators in Texas.

(a) Applicants seeking a Texas certificate based on certification from other states must pass the appropriate examinations in accordance with §141.421 of this title (relating to Testing Requirements).

(b) If the applicant is issued a nonrenewable certificate, the appropriate test requirement(s) must be satisfied prior to expiration of the certificate.

(1) If the ExCET test requirement is not fulfilled within the 12-month validity period, the individual is not eligible for any type of certificate until such time as the appropriate ExCET tests are passed.

(2) Upon presentation of written evidence documenting extreme hardship conditions, the commissioner of education may grant an extension of the nonrenewable certificate for a period not to exceed 12 months.

(c) The applicant shall not be required to complete the content specialization ExCET test in a certification area for which no Texas certificate is sought.

§141.183. Certificate Issuance Procedures. Applicants will submit materials and follow

procedures as specified by the commissioner of education.

§141.184. States That Issue Certificates Only to Individuals Under Contract. The applicant whose teacher education program was completed in a state which does not issue a certificate until the individual is under contract must submit a letter from that state's department of education verifying the applicant's completion of all degree and standard certification requirements. The letter may be used for employment purposes. A nonrenewable certificate, valid for 12 months, will be issued in accordance with §141.181 of this title (relating to Texas Certificates Based on Current Valid Out-of-State Certificate). After the applicant has been issued a standard certificate by another state and upon completion of testing requirements, the appropriate Texas certificate may be issued.

§141.185. Procedure for Previously Evaluated Applicants. An applicant pursuing Texas certification based on an out-of-state credential and a deficiency plan prepared by the Central Education Agency prior to the effective date of this section may:

(1) complete certification requirements as stipulated elsewhere in this subchapter; or

(2) submit a written request to the commissioner of education for authorization to complete all coursework specified on the deficiency plan. After completion of the coursework, a Texas certificate will be issued upon receipt of an application and evidence that the applicant has passed the Texas Examination for Current Administrators and Teachers (TECAT).

§141.186. Applicants with Expired Out-of-State Certificates: Degreed Noncertified Applicants.

(a) Degreed individuals with expired certificates from another state must have their credentials evaluated through an approved Texas teacher training institution and be recommended for a Texas teaching certificate.

(b) Degreed but noncertified individuals from another state must have their credentials evaluated through an approved Texas teacher training institution and be recommended for a Texas teaching certificate.

Issued in Austin, Texas, on June 20, 1986.

TRD-8808211 W. N. Kirby
Commissioner of Education

Effective date: June 24, 1986
Expiration date: October 22, 1986
For further information, please call
(512) 463-6212.

★ ★ ★



TITLE 31. NATURAL RESOURCES AND CONSERVATION

Part IX. Texas Water Commission

Chapter 293. Water Districts Creation of Water Districts

★31 TAC §293.11, §293.12

The Texas Water Commission is renewing the effectiveness of the emergency adoption of amended §293.11 and §293.12 for a 60-day period effective July 9, 1986. The text of the amended §293.11 and §293.12 was originally published in the March 18, 1986, issue of the *Texas Register* (11 TexReg 1377).

Issued in Austin, Texas, on June 25, 1986.

TRD-8606256

James K. Rourke, Jr.
General Counsel
Texas Water Commission

Effective date: July 9, 1986
Expiration date: September 7, 1986
For further information, please call
(512) 463-8070.

★ ★ ★

Underground Water Conservation Districts Generally

★31 TAC §§293.21-293.24

The Texas Water Commission is renewing the effectiveness of the emergency adoption of amended §§293.21-293.24 for a 60-day period effective July 9, 1986. The text of the amended §§293.21-293.24 was originally published in the March 18, 1986, issue of the *Texas Register* (11 TexReg 1379).

Issued in Austin, Texas, on June 25, 1986.

TRD-8606257

James K. Rourke, Jr.
General Counsel
Texas Water Commission

Effective date: July 9, 1986
Expiration date: September 7, 1986
For further information, please call
(512) 463-8070.

★ ★ ★

Application Requirements

★31 TAC §293.43

The Texas Water Commission is renewing the effectiveness of the emergency adoption of amended §293.43 for a 60-day period effective July 1, 1986. The text of the amended §293.43 was originally published in the March 7, 1986, issue of the *Texas Register* (11 TexReg 1111).

★ ★ ★

Issued in Austin, Texas, on June 25, 1986.

TRD-8606258

James K. Rourke, Jr.
General Counsel
Texas Water Commission

Effective date: July 1, 1986
Expiration date: August 30, 1986
For further information, please call
(512) 463-8070.

★ ★ ★

District Participation in Regional Drainage Systems

★31 TAC §293.52

The Texas Water Commission is renewing the effectiveness of the emergency adoption of amended §293.52 for a 60-day period effective July 1, 1986. The text of the amended §293.52 was originally published in the March 7, 1986, issue of the *Texas Register* (11 TexReg 1113).

Issued in Austin, Texas, on June 25, 1986.

TRD-8606259

James K. Rourke, Jr.
General Counsel
Texas Water Commission

Effective date: July 1, 1986
Expiration date: August 30, 1986
For further information, please call
(512) 463-8070.

★ ★ ★



Chapter 325. Certificates of Competency

Subchapter A. Certificates of Competency

★31 TAC §§325.2-325.16

The Texas Water Commission is renewing the effectiveness of the emergency adoption of amended §§325.2-325.16 for a 60-day period effective July 1, 1986. The text of the amended §§325.2-325.16 was originally published in the March 11, 1986, issue of the *Texas Register* (11 TexReg 1210).

Issued in Austin, Texas, on June 25, 1986.

TRD-8606260

James K. Rourke, Jr.
General Counsel
Texas Water Commission

Effective date: July 1, 1986
Expiration date: August 30, 1986
For further information, please call
(512) 463-8070.

★ ★ ★

Chapter 336. Industrial Solid Waste and Municipal Hazardous Waste

Subchapter A. Industrial Solid Waste and Municipal Hazardous Waste Management in General

★31 TAC §336.2, §336.24

The Texas Water Commission is renewing the effectiveness of the emergency adoption of amended §336.2 and §336.24 for a 60-day period effective July 1, 1986. The text of the amended §336.2 and §336.24 was originally published in the March 6, 1986, issue of the *Texas Register* (11 TexReg 2034).

Issued in Austin, Texas, on June 25, 1986.

TRD-8606261

James K. Rourke, Jr.
General Counsel
Texas Water Commission

Effective date: July 1, 1986
Expiration date: August 30, 1986
For further information, please call
(512) 463-8070.

★ ★ ★

Subchapter B. Hazardous Waste Management General Provisions

★31 TAC §336.43, §336.45

The Texas Water Commission is renewing the effectiveness of the emergency adoption of amended §336.43 and §336.45 for a 60-day period effective July 1, 1986. The text of the amended §336.43 and §336.45 was originally published in the March 6, 1986, issue of the *Texas Register* (11 TexReg 2035).

Issued in Austin, Texas, on June 25, 1986.

TRD-8606262

James K. Rourke, Jr.
General Counsel
Texas Water Commission

Effective date: July 1, 1986
Expiration date: August 30, 1986
For further information, please call
(512) 463-8070.

★ ★ ★

Subchapter H. Standards for the Management of Specific Wastes and Specific Types of Facilities Hazardous Waste Burned for Energy Recovery

★31 TAC §§336.221, 336.223-336.226

The Texas Water Commission is renewing the effectiveness of the emergency adoption of amended §§336.221, 336.223-336.226 for a 60-day period effective July 1, 1986. The text of the amended §§336.221 and 336.223-336.226 was originally published in the March 6, 1986, issue of the *Texas Register* (11 TexReg 2036).

Issued in Austin, Texas, on June 25, 1986.

TRD-8806283

James K. Rourke, Jr.
General Counsel
Texas Water Commission

Effective date: July 1, 1986
Expiration date: August 30, 1986
For further information, please call
(512) 463-8070.

★ ★ ★



TITLE 34. PUBLIC FINANCE
Part I. Comptroller of Public Accounts
Chapter 3. Tax Administration
Subchapter V. Bingo Regulation and Tax

★34 TAC §3.560

The Comptroller of Public Accounts adopts on an emergency basis new §3.560, concerning purchases by licensed manufacturers. This section is designed to assist the Comptroller of Public Accounts in regulation of bingo products sold within the State of Texas. Specifically, it is intended to regulate products being imported into this state which are not sold by licensed manufacturers.

This new section is adopted on an emergency basis so that products which are now being brought into this state may be regulated. Adoption of this section stops the unauthorized sale of bingo supplies within Texas.

The new section is adopted on an emergency basis under Texas Civil Statutes, Article 179d, which provide that the comptroller may prescribe, adopt, and enforce rules relating to the administration and enforcement of the Bingo Enabling Act.

§3.560. Purchases by Licensed Manufacturers.

(a) No licensed manufacturer may purchase a part, subpart, or partially completed part of any bingo equipment, device, or supply, or mixture thereof, except from a manufacturer licensed by the comptroller.

(b) This section applies to parts, subparts, or partially completed parts used in bingo equipment, devices, or supplies sold in Texas or for use in Texas.

Issued in Austin, Texas, on June 24, 1986.

TRD-8806214

Bob Bullock
Comptroller of Public Accounts

Effective date: June 24, 1986
Expiration date: October 22, 1986
For further information, please call
(512) 463-4004.

★ ★ ★

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 22. EXAMINING BOARDS

Part XXII. Texas State Board of Public Accountancy Chapter 511. Certification as CPA

CPA Examination

★22 TAC §511.82

The Texas State Board of Public Accountancy proposes the repeal of §511.82, concerning the application for transfer of credits on the Uniform CPA Examination from another jurisdiction to Texas. This repeal allows a proposed new §511.82 that provides guidelines of such transfer.

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

Mr. Bradley also has determined that for each year of the first five years the repeal is in effect the public benefit anticipated as a result of enforcing the repeal will be that the repeal of this section allows adoption of a new section which has adequate safeguards to insure the acceptability of the transferred credits. There is no anticipated economic cost to individuals who are required to comply with the proposed repeal.

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

The repeal is proposed under Texas Civil Statutes, Article 41a-1, §6(a), which provide the Texas State Board of Public Accountancy with the authority to promulgate rules relating to the transfer of CPA credits from other jurisdiction.

§511.82. *Application for Transfer of Credits.*

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 20, 1986.

TRD-8606173

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

Earliest possible date of adoption:
August 1, 1986
For further information, please call
(512) 451-0241.

★ ★ ★

The Texas State Board of Public Accountancy proposes new §511.82, concerning the transfer of credits on the Uniform CPA Examination from another jurisdiction of Texas. This section provides guidelines of such transfer.

Bob E. Bradley, 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. Bradley also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be that the new section insures that the credits transferred from another jurisdiction are valid and minimum Texas requirements of the candidate are adhered to. 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 William A. Sansing, 1033 La Posada, Suite 340, Austin, Texas 78752-3892.

The new section is proposed under Texas Civil Statutes, Article 41a-1, §6(a), which provide the Texas State Board of Public Accountancy with the authority to promulgate rules relating to the requirements for transfer of credits on the Uniform CPA Examination from another jurisdiction to Texas.

§511.82. *Application for Transfer of Credits.* A candidate for the examination as a certified public accountant may make application to the board for the receipt of credit for satisfactory completion of a written examination given by the licensing authority to another state, provided that the board may accept the transfer of credit for only those parts that are valid (i.e., for which credit is recognized as valid under the laws

and regulations of the state of origin) at the time that the application for transfer of credit is filed with the board. A candidate seeking to transfer credit for part(s) of the examination passed in another state must meet all of the requirements of a candidate filing an initial Texas application. Applications shall be made on a form prescribed by the board, shall be accompanied by the requisite fee, shall be submitted to the executive director, and shall include written authorization from the candidate for the board to solicit and receive information relating to his application and his grades made on all examinations taken under the jurisdiction of another state.

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 20, 1986.

TRD-8606174

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

Earliest possible date of adoption:
August 1, 1986
For further information, please call
(512) 451-0241.

★ ★ ★

Chapter 513. Registration Registration of CPAs of Other States and Persons Holding Similar Titles in Foreign Countries

★22 TAC §513.2

The Texas State Board of Public Accountancy proposes an amendment to §513.2, concerning the registration of certified public accountants of other jurisdictions. The amendment provides guidelines to educational and experience requirements for registration.

Bob E. Bradley, 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. Bradley also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be that the section insures the equivalency of education courses and at least one year of experience in the United States. 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 William A. Sansing, 1033 La Posada, Suite 340, Austin, Texas 78752-3892.

The amendment is proposed under Texas Civil Statutes, Article 41a-1, §6(a), which provides the Texas State Board of Public Accountancy with the authority to promulgate rules relating to registration of certified public accountants of other jurisdictions.

§513.2. Approval by the Board.

(a) An application for registration as a certified public accountant of a state or territory or the equivalent thereto of a foreign country may, in the discretion of the board, be granted if it determines the standards met by the applicant in the other jurisdiction were at least as high as the standards of this state at the time of granting a certificate as a certified public accountant. In making this determination, the board shall consider:

(1) (No change.)

(2) the education requirement in effect in such jurisdiction at the time the certificate or its equivalent was issued to the applicant. In passing upon the qualifications on an applicant, the board shall recognize degrees conferred by, and give credit for courses taken at, colleges and universities whose credits would be accepted as transfers by the reporting institution in the State of Texas;

(3) the experience requirements shall be the same length of time as required to receive a certificate as a certified public accountant; however, the experience requirement shall be at least 12 months of public accounting experience obtained within the United States. This requirement is to demonstrate that the candidate has an understanding of GAAP and GAAS as it is customarily applied in the United States; [in effect in such jurisdiction at the time the certificate or its equivalent was issued to the applicant; and]

(4) (No change.)

(b) All correspondence and supporting documentation submitted shall be in English or accompanied by a certified English translation of such documents.

(c) All section 14 individuals who are currently registered and holding a license to practice in Texas are required to submit verification of good standing in the country or state of certification by the country's or state's licensing authority. This verification is to be submitted on the appropriate forms supplied by the board and must verify good

standing at a date no earlier than the September 30 preceding the license renewal date.

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

Issued in Austin, Texas, on June 20, 1986.

TRD-8606172

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

Earliest possible date of adoption:

August 1, 1986

For further information, please call
(512) 451-0241.

★ ★ ★

TITLE 28. INSURANCE

Part I. State Board of Insurance

Chapter 7. Corporate and Financial

Subchapter K. Purchasing and Selling of Exchange-Traded Call and Put Options Contracts

★ 28 TAC §§7.1101-7.1107

The State Board of Insurance proposes new §§7.1101-7.1107, concerning the purchasing and selling of exchange-traded call and put options contracts. These sections are necessary to implement statutory provisions which impose restrictions on an insurer's purchase or sale of put options contracts and call options contracts. Sections 7.1101-7.1107 would add a new Subchapter K (relating to purchasing and selling of exchange-traded call and put options contracts) to establish requirements which restrict trading by insurers in these options contracts to transactions for the purposes of protecting asset values and of limiting investment risks. These sections restrict trading in options to securities in which the insurer has an ownership interest or conversion rights. The sections also require segregation and documentation to protect the insurer's ownership interests in these securities. These sections require accounting, administration, and record-keeping procedures which will produce accounting records and financial statements which will accurately and fully reflect the results of an insurer's investment practices and the effects of an insurer's actions concerning compliance with those sections.

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

Mr. Ramsey 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 strengthening of the financial stability of insurers by protecting asset values and limiting investment risks, and the improvement of the accuracy of accounting records and financial statements by requiring precise and complete data concerning an insurer's investment practices. Aside from costs of administration and record keeping consistent with practices which sound management would implement even without the requirements of 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 Charles T. Ramsey, Chief Insurance Examiner, State Board of Insurance, 1110 San Jacinto Street, Austin, Texas 78701-1986.

These new sections are proposed under the Insurance Code, Articles 1.04, 2.10-4, and 3.39-2, Texas Civil Statutes, Article 6252-13a, §4 and §5; the Insurance Code, Article 1.04, which places original rule-making jurisdiction in the board; Texas Civil Statutes, Article 2.10-4 and 3.39-2, which establish restrictions on transactions by insurers concerning put options and call options, establish requirements for insurers to maintain accurate and precise accounting or investments records, and authorize the State Board of Insurance to adopt reasonable rules and regulations which implement these restrictions and requirements; and Texas Civil Statutes, Article 6252-13a, §4 and §5, which establishes requirements and procedures for adoption of rules by administrative agencies.

§7.1101. Authority. It is the purpose of this subchapter to implement the Insurance Code, Articles 2.10-4 and 3.39-2, by setting forth requirements and limitations for domestic insurance companies relating to the purchase of put options traded on a registered national securities exchange or a designated commodities exchange and to the sale of call options, and by establishing record-keeping requirements concerning such transactions.

§7.1102. Definitions. The following words and terms, when used in this subchapter, have the following meanings, unless the context clearly indicates otherwise.

Call option—An option contract under which the holder of the option contract has the right, in accordance with the terms of the contract, to purchase (or to make a cash settlement in lieu thereof) the amount of the underlying financial instrument covered by the option contract.

Closing purchase transaction—The purchase of a call option, the effect of which is to reduce or eliminate the obligations of an insurance company as a call option writer

with respect to an option contract or contracts.

Closing sale transaction—The sale of a call or put option, the effect of which is to reduce or eliminate the rights of an insurance company as a call or put option purchaser with respect to an option contract or contracts.

Commodity Futures Trading Commission—The federal regulatory agency charged and empowered under the Commodities Futures Trading Commission Act of 1974 (7 United States Code §1 *et seq.*) with regulation of the commodity exchanges or any other agency of the federal government which thereafter succeeds to or shares such power.

Escrowed securities—Financial instruments owned by an insurance company with respect to which a custodial agreement has been entered.

Exchange-traded—Traded under the terms and conditions required by a national securities exchange registered under the Securities and Exchange Act of 1934 (15 United States Code §78(a), *et seq.*) which has been authorized to provide a market for option contracts pursuant to the Securities and Exchange Act of 1934, Rule 9b-1, as amended; or traded on a commodity exchange designated as a contract market regulated by the Commodity Futures Trading Commission.

Hedged item—An insurance company asset or group of company assets which expose the company to the risk of changes in value or interest rates and upon which the company has entered into a "hedging" transaction to protect against such risks.

Hedging—With respect to assets owned, the purchase of put options or the sale of call options for purposes of reducing the risk of changing asset values or interest rates.

Marked to market—With respect to an asset or liability, valued at its fair market value on the date of valuation with the recognition of a gain or loss.

Put option—An option contract under which the holder of the contract has the right, in accordance with the terms of the contract, to sell (or to make a cash settlement in lieu thereof) the amount of the underlying financial instrument covered by the put option contract.

§7.1103. Purchase of Exchange-Traded Put and Call Options.

(a) With respect to assets owned by an insurer, an insurer may purchase put options for purposes of protecting such assets owned against the risk of changing asset values or interest rates and for risk reduction only, only with regard to;

(1) securities owned by the insurer; and

(2) securities which the insurer may obtain through exercise of warrants or conversion rights held by the insurer.

(b) An insurer may purchase call options only in closing purchase transactions.

§7.1104. Sale of Exchange-Traded Call Options.

(a) An insurer may sell call options with respect to assets owned for purposes of protecting such assets owned against the risk of changing asset values or interest rates and for risk reduction only, only with regard to

(1) securities owned by the insurer; and

(2) securities which the insurer may obtain through exercise of warrants or conversion rights held by the insurer.

(b) An insurer which sells call options in accordance with this section shall:

(1) maintain custodial agreements calling for its escrowed securities to be kept segregated by the bank or other custodian from other financial instruments which are owned by the insurer or others and which are deposited with the same bank or custodial agent; and

(2) obtain and retain in its possession documentation as required by §7.1106 of this title (relating to Administration and Record Keeping) for all transactions relating to the escrowed securities.

§7.1105. Accounting For Hedges of Items Carried at Market Value or Amortized Cost.

(a) Accounting procedures for put options purchased and call options sold by an insurance company upon assets carried at market value shall be in accordance with the following principles.

(1) The premium paid for purchasing a put option upon assets carried, or to be carried, at market value shall be carried as an asset on the balance sheet until the option is exercised, is terminated through a closing sale transaction, or has expired. Such premium shall be valued at the current market price (marked to market) and changes will be reported consistent with the manner of reporting changes in the hedged item, e.g., as unrealized gains or losses.

(2) The premium received for selling a call option upon assets carried, or to be carried, at market value shall be carried as a liability on the balance sheet until the option is exercised, is terminated through a closing purchase transaction, or has expired. Such premium shall be valued at the current market price (marked to market) and changes will be reported consistent with the manner of reporting changes in the hedged item, e.g., as unrealized gains or losses.

(3) If the put option is exercised by the insurer, the premium is deducted from the consideration received for the security sold. The termination of a put option through a closing sale transaction shall result in a realized gain or loss equal to the difference between the premium paid for the option and the consideration received in the closing sale transaction. If the option expires, the expiration shall be treated as a sale of the option on the expiration date and the resultant loss shall be recognized on the expiration date.

(4) Stock owned by an insurance company with respect to which a call option has been sold or a put option has been purchased shall be valued at the current market price of the stock.

(b) Accounting procedures for call or put options purchased and call options sold by an insurance company upon assets carried at amortized cost shall be in accordance with the following principles.

(1) The premium paid for purchasing a put option upon assets carried, or to be carried, at amortized cost shall be carried as an asset on the balance sheet until the option is exercised, is terminated through a closing sale transaction, or has expired. Such asset shall be valued at cost. If during the life of the option it is no longer effective as a hedge, valuation at cost ceases and the option shall be valued at its current market value (marked to market).

(2) If the put option is exercised, the premium paid for the option is deducted from the consideration received for the security sold. If the put option is terminated through a closing sale transaction, or expires, but the hedge was effective and the underlying transaction has taken or will take place, the premium paid for the option, adjusted for any gain or loss, is added to the cost of the security acquired or owned and amortized into income over the remaining life of the hedged asset. If the option is terminated through a closing sale transaction or expires, and the hedge was not effective or the underlying transaction will not take place, the resultant gain or loss shall be recognized on the date of termination or expiration.

(3) The premium received for selling a call option upon assets carried, or to be carried, at amortized cost shall be carried as a liability on the balance sheet until the option is exercised, is terminated through a closing purchase transaction, or has expired. Such premium shall be valued at cost. If during the life of the option, it is no longer effective as a hedge, valuation at cost ceases and the option shall be valued at its current market value (marked to market). If the option is exercised, the premium received for the option is added to the consideration received for the security sold.

(4) If the call option is terminated through a closing purchase transaction, or expires, but the hedge was effective, the difference, if any, between the premium received for the option and the cost of the option purchased to effect a closing purchase transaction is added to (or subtracted from) the cost of the security owned. If the option is terminated through a closing purchase transaction or expires, and the hedge was not effective, or the underlying transaction will not take place, the resultant gain or loss shall be recognized on the date of termination or expiration.

(5) A hedged item against which a call option has been sold or a put option has been purchased shall be valued as if the option did not exist.

§7.1106. Administration and Record Keeping.

(a) Prior to engaging in transactions in call and put options, the insurer shall develop and document policies and procedures regarding investment strategies and objectives, record-keeping needs, and reporting matters. Such policies and procedures shall address authorized investments, investment limitations, authorization and approval procedures, and accounting and reporting procedures and controls.

(b) Record-keeping systems must be sufficiently detailed to permit auditors and insurance department examiners to determine whether operating personnel have acted in accordance with policies and procedures established by the insurer pursuant to subsection (a) of this section. Insurer records must identify for each hedging transaction the related call and put options and the hedged items.

(c) Each call and put option transaction must be approved by an insurance company's board of directors or by a committee charged with the duty of supervision such transactions.

§7.1107. Severability Provision. If any section or portion of a section of this subchapter, or the applicability thereof to any person or circumstance is held invalid by a court, the remainder of this subchapter, shall not be affected thereby.

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 25, 1986.

TRD-8606235 Nicholas Murphy
Chief Clerk
State Board of Insurance

Earliest possible date of adoption:
August 1, 1986
For further information, please call
(512) 463-6327.

★ ★ ★

**TITLE 31. NATURAL
RESOURCES AND
CONSERVATION**

**Part IX. Texas Water
Commission**

**Chapter 293. Water Districts
General Provisions**

★31 TAC §§293.1-293.6

The Texas Water Commission proposes new §§293.1-293.6, concerning general provisions. The sections provide requirements for the administration of statutory responsibilities of the Texas Water Commission to create, supervise, and dissolve certain water and water-related districts, pursuant to the Texas Constitution, Article III, §52, and Article XVI, §59. These sections identify the water districts subject to Texas

Water Commission creation, supervision, and dissolution, define certain words used in the sections, recite that the sections contained in this chapter do not affect the statutory provisions relative to districts, recite the statutory provisions that describe the continuing right of supervision of districts by the Texas Water Commission, require districts to maintain certain records available for public inspection as required by the Texas Water Code, and provide a procedure authorizing an applicant to request consideration of a creation petition after the expiration of 90 days from the receipt of the petition by the commission.

Bobbie Barker, chief fiscal officer, 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. Barker 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 to inform the public and individual water districts of the general jurisdiction and supervisory powers of the Texas Water Commission with respect to the creation, supervision, and dissolution of water districts. There is no anticipated economic cost to individuals who are required to comply with the proposed sections, because any economic cost is imposed by statute rather than by the proposed sections.

Comments on the proposal may be submitted to Royston S. Lanning, Legal Division, Texas Water Commission, P.O. Box 13087, Austin, Texas 78711-3087.

The new sections are proposed under the Texas Water Code, §§5.103, 5.105, and 5.235, which provides the Texas Water Commission with the authority to adopt any sections necessary to carry out its powers and duties under the Texas Water Code and other laws of the State of Texas, to establish and approve all general policy of the commission, and to collect statutory fees from persons filing various applications with the commission.

§293.1. Objective and Scope of Rules; Meaning of Certain Words.

(a) The Texas Water Commission has the statutory duty and responsibility to create, supervise, and dissolve certain water and water related districts and to approve the issuance and sale of bonds for district improvements in accordance with the Texas Water Code. This chapter, adopted pursuant to the Texas Water Code, §§5.103, 5.105 and 5.235, shall govern the creation, supervision, and dissolution of the following kinds of districts:

(1) regional districts for water, sanitary sewer, and wastewater drainage created under the Texas Water Code, Chapter 50;

(2) water control and improvement districts created under the Texas Water Code, Chapter 51;

(3) underground water conservation districts created under the Texas Water Code, Chapter 52;

(4) municipal utility district created under the Texas Water Code, Chapter 54;

(5) regional plan implementation agencies created under the Texas Water Code, Chapter 54, §54.037;

(6) irrigation districts created under the Texas Water Code, Chapter 58;

(7) special utility districts created under the Texas Water Code, Chapter 65;

(8) storm water control districts created under the Texas Water Code, Chapter 66; and

(9) all other general and special law districts subject to and within the applicable limits of the jurisdiction of the commission.

(b) This chapter shall govern the conversion of districts into municipal utility districts as provided in the Texas Water Code, §§54.030-54.036, and the inspection and approval of water and sewer facilities pursuant to Acts of the 69th Legislature, 1985, Chapter 178, §12, (Texas Civil Statutes Article 4477-1, as amended).

§293.2. Duties, Obligations, and Liabilities.

Nothing in this chapter shall be construed to relieve a district of its legal duties, obligations, or liabilities relative to its responsibilities as defined in the Texas Water Code.

§293.3. Continuing Right of Supervision of Districts.

The powers and duties of all districts and authorities created under the Texas Constitution, Article III, §52, (subsection (b), subdivisions (1) and (2)), and Article XVI, §59, are subject to the continuing right of supervision of the State of Texas, by and through the commission or its successor. The commission may:

(1) inquire into the competence, fitness, and reputation of the officers and directors of any district;

(2) require, on its own motion or on complaint by any person, audits, or other financial information, inspections, evaluations, and engineering reports;

(3) issue subpoenas for witnesses to carry out its authority under this subsection;

(4) institute investigations and hearings using examiners appointed by the commission; and

(5) issue rules necessary to supervise the districts.

§293.4. Public Records.

(a) Audits on file with a district and all other records and information as set forth in the Texas Water Code, §50.054, shall be maintained in the district office and shall be available to the public during normal business hours as provided in Texas Civil Statutes, Article 6252-17a, §3.

(b) All records and information required by law to be filed with the commission shall be available for public inspection

during the office hours of the commission as provided in the Texas Water Code, §50.105.

§293.5. Petition to Commission. The provisions of Chapter 281 of this title (relating to Applications Processing) to the contrary notwithstanding, in the event that the executive director has not forwarded to the commission a memorandum recommending approval or disapproval of any application or request required or permitted under this chapter within 90 days after receipt thereof, the petitioner may request that the commission immediately consider such matter on the basis of the materials and data on file with the commission. Within 10 days after the filing of the request, the commission shall hold a hearing on the request. If the commission determines that sufficient material and data have been provided, the commission shall direct the executive director to present to the commission a complete memorandum on the application within 10 days. If the commission determines that sufficient material and data have not been provided, the commission shall specify the additional information and material to be submitted by petitioner. An order directing the executive director to prepare the memorandum shall in no way prejudice the action which the commission may take on the merits of the application.

§293.6. Applications Processing Requirements. All applications for commission actions authorized by the Texas Water Code and this chapter are subject to and governed by Chapter 281 of this title (relating to Applications Processing), which provides procedures and schedules for processing all applications by the commission.

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

Issued in Austin, Texas, on June 25, 1986.

TRD-8606236 James K. Rourke, Jr.
General Counsel
Texas Water Commission

Earliest possible date of adoption:

August 1, 1986
For further information, please call
(512) 463-8070.

★ ★ ★

Creation of Water Districts

★31 TAC §§293.11-293.17

The Texas Water Commission proposes new §§293.11-293.17, concerning the creation of water districts. The sections provide statutory and Texas Water Commission requirements pertaining to applications for the creation of certain water districts by the commission as authorized by the Texas Constitution, Article XVI, §59, and the Texas Water Code, and requirements for the conversion of various types of districts into municipal utility districts as authorized by the Texas Water Code.

These sections identify the water districts which are eligible for creation by the Texas Water Commission and prescribe the procedural steps which are to be followed according to the chapter or section of the Texas Water Code which authorizes the creation of a particular district. They provide the detailed contents of applications with respect to the data that must be furnished to the commission to make the necessary findings that the statute requires for the creation of a district. The statutory fees for creations are given and potential applicants are notified that the applications for creations of districts are subject to scheduling and processing requirements contained in Chapter 281 of this title.

Bobble Barker, chief fiscal officer, 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. Barker 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 to inform the public and potential applicants for the creation of water districts of the specific statutory and administrative procedural and substantive requirements for the creation of water districts and the conversion of districts to municipal utility districts. There is no anticipated economic cost to individuals who are required to comply with the proposed sections, because any economic cost is imposed either by statute, rather than by the proposed sections, or by sections which were in effect immediately preceding the adoption of the proposed sections.

Comments on the proposal may be submitted to Royston S. Lanning, Legal Division, Texas Water Commission, P.O. Box 13087, Austin, Texas 78711-3087.

The new sections are proposed under the Texas Water Code, §§5.103, 5.105, and 5.235, which provides the Texas Water Commission with the authority to adopt any sections necessary to carry out its powers and duties under the Texas Water Code and other laws of the State of Texas, to establish and approve all general policy of the commission, and to collect statutory fees from persons filing various applications with the commission.

§293.11. Information Required To Accompany Applications for Creation of Districts.

All creation applications shall consist of a petition and other required material. They shall be filed with the executive director of the commission. Each application shall contain the following, with variations as indicated for the different kinds of districts:

(1) a petition containing the matters required by the Texas Water Code, §50.456, for regional districts for water, sanitary

sewer, and wastewater drainage; the Texas Water Code, §51.013 and §51.014, for water control and improvement districts and underground water conservation districts; the Texas Water Code, §§51.013, 51.014, and 52.022, for underground water conservation districts authorized under the Texas Water Code, Chapter 52, Subchapter B, §§52.021-52.026, as amended by Chapter 133, Acts of the 69th Legislature, 1985; the Texas Water Code, §54.014 and §54.015, for municipal utility districts; the Texas Water Code, §54.037(b), for regional plan implementation agencies; the Texas Water Code, §58.013 and §58.014, for irrigation districts; the Texas Water Code, §66.014 and §66.015, for storm-water control districts; and the Texas Water Code, §65.014 and §65.015, for special utility districts, including a certified copy of the required resolution of the board of directors of the applying water supply corporation requesting conversion;

(2) a plat, showing district boundaries, metes and bounds, area, physical culture, and computation sheet for survey closure;

(3) a preliminary plan (22-24 inches by 36 inches) showing the location of existing facilities, including highways, roads, and other improvements, together with the location of proposed utility mains and sizing, general drainage patterns, principal drainage ditches and structures, utility plant sites, recreational areas, commercial and school sites, areas within the 100-year flood plain, and any other information pertinent to the project, including an inventory of any existing water, sewer, or drainage facilities;

(4) a preliminary engineering report including:

(A) a description of existing area, conditions, topography, and proposed improvements;

(B) land use plan;

(C) 100-year flood computations or source of information;

(D) existing and projected populations;

(E) tentative itemized cost estimates of the proposed capital improvements and itemized cost summary for anticipated bond issue requirement;

(F) projected tax rate and water and sewer rates;

(G) an investigation and evaluation of the availability of comparable service from other systems, including but not limited to, water districts, municipalities, and regional authorities;

(H) an evaluation of the effect the district and its systems and subsequent development within the district will have on the following:

(i) land elevation;

(ii) subsidence;

(iii) groundwater level within

the region;

(iv) recharge capability of a groundwater source;

(v) natural run-off rates and drainage;

(vi) water quality; and

(vii) total tax assessments on all land within the district; and

(I) complete justification for creation of the district supported by evidence that the project is feasible, practicable, necessary, and will benefit all of the land to be included in the district;

(5) except for regional districts for water, sanitary sewer and wastewater drainage, special utility districts, and stormwater control districts, a certificate by the county tax assessor indicating the owners and tax valuation of land within the proposed district as reflected on the county tax rolls. If the tax rolls do not show the petitioner(s) to be the owners of the majority of value of the land within the proposed district, then the petitioner(s) shall file with the executive director a certified copy of the deed(s) tracing title from the person(s) listed on the county tax rolls as owners of the land to the petitioner(s);

(6) a statement by the appropriate secretary or clerk that a copy of the petition for creation of the proposed district was received by the city secretary or clerk of any city in whose extraterritorial jurisdiction all or part of the proposed district is located and by the clerk of the county commissioners court of any county in which all or part of the proposed district is located;

(7) a certified copy of the action of the governing body of any municipality where consent to creation is required by the Texas Water Code, §§50.457, 54.016, and 65.016, and Texas Civil Statutes, Article 970a, §8(b). When creation of a district is proposed within the extraterritorial jurisdiction of a city without the city's consent, the petitioners must show that statutory procedures authorizing such creation have been carefully followed;

(8) a suggested form of the notice of the public creation hearing;

(9) a copy of the preliminary engineering report, including the preliminary plan for proposed utilities and the plat showing the proposed district boundaries and area to the appropriate commission field office simultaneously with submission of the petition to the executive director;

(10) for districts where substantial development is proposed, an independently prepared market study of the proposed district and surrounding area which shall include industry and other attractions supporting district growth projections, past growth history of the market area, housing and commercial absorption rates, magnitude of market competition, projected building schedule, and a complete justification of district growth potential;

(11) for conversion of water supply corporations to special utility districts, a certified copy of a certificate of convenience and necessity issued by the Public Utility Commission of Texas to the water supply

corporation applying for conversion to a special utility district and a certified copy of the most recent financial report filed by the water supply corporation with the Public Utility Commission of Texas or the Texas Water Commission, as appropriate;

(12) for regional districts for water, sanitary sewer and wastewater drainage, certified copies of resolutions of municipal districts (as such districts are defined in the Texas Water Code, §50.452) authorizing the districts to petition the commission for creation; or, a certificate by the county tax assessor indicating that the owners of 2,000 or more contiguous acres of land within the proposed district are the persons who have signed the petition; if the tax rolls do not show the petitioners to be the owner of 2,000 or more contiguous acres of land within the proposed district, the petitioners will file with the petition certified copies of deeds tracing title from the persons listed on the county tax rolls as owners of the land to the petitioners; or a certified copy of the resolution, order, or other official action of one or more county commissioners courts authorizing the petition for creation of the district; or a certified copy of a resolution or ordinance of a governing body of a city authorizing the petition for creation of the district within the city or its extraterritorial jurisdiction. The petition must be accompanied by evidence that the county where the proposed district is to be located has a population of at least 2.2 million, or borders a county having a population of at least 2.2 million, according to the most recent federal census;

(13) for stormwater control districts, a certified copy of the resolution, order, or other official action of the county commissioners courts authorizing the petition to be signed by county commissioners; or an affidavit or affidavits by each of at least 50 of the persons who sign the petition stating under oath that they reside within the boundaries of the proposed district; for the purpose of establishing residence, the rules for determining residence provided in the Texas Election Code, Article 5.08, shall be followed;

(14) for underground water conservation districts, an order of the commission designating an underground water management area as provided in the Texas Water Code, §52.024, and §§293.21-293.24 of this title (relating to Designation of Underground Water Management Areas);

(15) a certification by the petitioning landowners that those lienholders who signed the petition, or a separate document consenting to the petition, or who were notified by certified mail, are the only persons holding liens on the land described in the petition;

(16) affidavits by those persons desiring appointment by the commission as temporary directors, showing compliance with applicable statutory requirements of qualifications and eligibility for temporary directors, as required by §293.31 of this title (relating to Appointment of Directors); and

(17) other data and information as the executive director may require.

§293.12. *Fees and Deposits.* Fees include a \$100 filing fee applicable to all districts. A \$250 deposit is required for creations of special utility districts and stormwater control districts. A \$600 deposit fee is required for the creation of all other types of districts.

§293.13. *Special Considerations for Water District Creation.* The following considerations shall apply with respect to district creations.

(i) The petition for creation and accompanying reports must conform substantially to the city consent resolution or ordinance with respect to the legal description of the land, project description, purposes, financial projections, and all other matters fundamental to the feasibility of and necessity for the district; provided, however, nothing herein shall prevent the commission from creating the district to include less land than included in the city consent.

(2) The petitioners for districts proposed to be created within the corporate boundaries of a municipality should show that the city will rebate to the district an equitable portion of city taxes to be derived from the residents of the area proposed to be included in the district if such taxes are used by the city to finance elsewhere in the city services of the type the district proposes to provide. Nothing in this subsection is intended to restrict the contracting authorization provided in Texas Civil Statutes, Article 1109j.

(3) The legal description accompanying the resolution requesting conversion of a water supply corporation, as defined in the Texas Water Code, §65.001(10), to a special utility district shall conform to the legal description of the service area of the water supply corporation as such service area appears in the certificate of public convenience and necessity issued by the commission or by the Public Utility Commission of Texas to the water supply corporation.

(4) A water supply corporation shall not be converted to a special utility district, unless the water supply corporation is to be dissolved after the conversion. The resolution requesting conversion shall contain a covenant that the assets and debts of the water supply corporation are to be transferred to the special utility district as expeditiously as practicable and that dissolution proceedings are to be commenced by the water supply corporation immediately after such transfer. A certified copy of the dissolution order shall be filed with the executive director.

(5) Creation consent agreements entered into pursuant to the Texas Water Code, §54.016(f) and (h), and creation consent granted pursuant to the Texas Water Code, §54.016(e), shall not contain provisions which exceed the authorized statutory provisions, and provisions exceeding statutory authorization may be considered invalid and

severed from the remainder of the creation consent. Consent agreements authorized pursuant to the Texas Water Code, §54.016(h), must provide for the notice to buyers of land required by the Texas Water Code, §50.301(d)(n) and (p), and §54.016(h)(4)(A). A district which has entered into a creation consent agreement pursuant to the Texas Water Code, §54.016(h), must provide evidence to the commission that it has complied with the Texas Water Code, §54.016(h)(4)(B), by including in the required filings with the appropriate county clerk or clerks the information required by the Texas Water Code, §54.016(h)(4)(A), and the provisions of the Texas Water Code, §50.302(c)-(j).

§293.14. Creation Hearing Notice Actions and Requirements.

(a) The chief clerk of the commission shall set the petition for hearing and issue notice thereof.

(b) The notice shall contain a statement of the nature and purpose of the petition, the date, time, and place of hearing, a vicinity map showing the location of the proposed district in relation to roads and other major landmarks, the form of the petition, and the necessity and feasibility of the district's projects and the benefits to accrue, and shall inform all persons of their right to appear and present evidence and testify for or against the allegations in the petition. An affidavit verifying publication of the notice must be filed with the commission on or prior to the date of hearing.

(c) The commission shall send a copy of the notice of hearing to the petitioners or their agents, who shall cause the same to be published in a newspaper with general circulation in the county or counties in which the proposed district is located once a week for two consecutive weeks, the first publication being at least 30 days before the day of the hearing.

(d) Notice shall be sent by the commission to every city in whose extraterritorial jurisdiction any portion of the district is located, and the commissioners' court of any county in which all or part of the proposed district is located. For the creation of a special utility district, the notice must also be mailed to the Public Utility Commission of Texas.

(e) Pursuant to the Texas Water Code, §50.476 and §54.019, petitioners for the creation of regional districts for water, sanitary sewer and wastewater drainage, regional plan implementation agencies, and municipal utility districts, at least 30 days prior to the date of the creation hearing, shall send the notice of the creation hearing by certified mail, return receipt requested, to all fee simple landowners, as reflected on the county tax rolls, whose property is located within the proposed district, except property owners who have signed the petition for creation. Ownership of the property shall be certified by the tax assessor and collector from the tax rolls

as of the date of the filing of the petition with the Texas Water Commission.

§293.15. Commission Actions Following the Creation Hearing.

(a) If the commission finds that the petition does not conform to the requirements of the applicable statutes as specified in this section or that the project is not feasible, practicable, necessary, or a benefit to the land in the district, the commission shall deny the petition. With respect to regional plan implementation agencies, the commission will consider the regional plan filed with the petition in connection with its findings.

(b) If the commission grants the petition for creation:

(1) the commission shall issue an order including a finding that the project is feasible, practicable, and necessary, and would be a benefit to the land to be included in the district;

(2) if the commission finds that any of the lands to be included in the district will not be benefited by the creation of the district, the commission shall exclude the lands not to be benefited and shall redefine the boundaries of the proposed district to include only those lands that will receive benefits from the district;

(3) the commission shall appoint directors as provided in applicable statutes and in these sections who shall serve until permanent directors are elected and qualified;

(c) A copy of the order of the commission granting or denying the petition shall be mailed by the commission to each city having extraterritorial jurisdiction.

§293.16. District Actions Following Creation.

(a) A certified copy of the order canvassing results of the confirmation election shall be recorded in the office of the county clerk of each county in which a portion of the district lies and shall be filed with the executive director.

(b) The governing board of the district shall file with the commission's executive director the information required by §293.92 of this title (relating to Additional Reports and Information Required of Certain Districts) and a certificate from the county clerk of each county in which all or part of the district is located showing compliance with the Texas Water Code, §50.302. The certificate shall show on its face the time and date of the confirmation election, and the time and date that the information required by the Texas Water Code, §50.302, was filed with the county clerk(s).

§293.17. Conversion of Districts Into Municipal Utility Districts.

(a) Any water improvement district, water control and improvement district, fresh water supply district, levee improvement district, irrigation district, or any other conservation district and reclamation district created under the Texas Constitution, Article XVI, §59, may be converted into a mu-

nicipal utility district operating under the Texas Water Code, Chapter 54.

(b) The application shall be accompanied by the following:

(1) a certified copy of the resolution adopted by the board of directors requesting the commission to hold a hearing on the question of conversion of the district;

(2) a \$100 filing fee and \$600 deposit fee;

(3) a preliminary plan (22-24 inches by 36 inches) showing the location of existing facilities including highways, roads, and other improvements, together with the location of proposed utility mains and sizing, general drainage patterns, principal drainage ditches and structures, utility plant sites, recreational areas, commercial and school sites, areas within the 100-year flood plain, and any other information pertinent to the project;

(4) a preliminary engineering report including:

(A) a description of existing area, conditions, topography, and proposed improvements;

(B) land use plan;

(C) 100-year flood computations or source of information;

(D) existing and projected populations;

(E) tentative itemized cost estimates of the proposed capital improvements and itemized cost summary for anticipated bond issue requirement;

(F) projected tax rate and water and sewer rates; and

(G) total tax assessments on all land within the district.

(5) Prior to the conversion hearing, the notice requirements of the Texas Water Code, §54.032, must be completed and an affidavit verifying publication of the notice must be filed with the commission. Districts which propose to add new powers or purposes or which file a resolution requesting conversion during the first two-year period following their creations shall, at least 30 days before the date of the conversion hearing, send the notice of the conversion hearing by certified mail, return receipt requested, to all fee simple landowners, as reflected on the county tax rolls, whose property is located within the proposed district, unless good cause is shown why such notice by mail should not be given. Ownership of the property shall be certified by the tax assessor and collector from the tax rolls as of the date of the filing of the resolution with the Texas Water Commission.

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

Issued in Austin, Texas, on June 25, 1986.

TRD-8606237

James K. Rourke, Jr.
General Counsel
Texas Water Commission

Earliest possible date of adoption:
August 1, 1986
For further information, please call
(512) 473-8070.

★ ★ ★

Designation of Underground Water Management Areas

★31 TAC §§293.21-293.24

The Texas Water Commission proposes new §§293.21-293.24, concerning the designation of underground water management areas.

Section 293.21 limits the application of these sections to the designation of underground water management areas authorized by the Texas Water Code, §52.024; provides that such designation is a separate proceeding from that for creation of an underground water conservation district; and outlines the procedure and basic considerations of the commission in a proceeding on designation of a management area.

Section 293.22 provides for notice requirements for hearings to designate underground water management areas.

Section 293.23 provides for the alteration of boundaries of underground water management areas.

Section 293.24 provides for a commission order following a hearing on the designation of an underground water management area.

Bobbie Barker, chief fiscal officer, 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. Barker 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 to inform the potential applicants for the creation of an underground water conservation district of the statutory and administrative requirements for the delineation of an underground water management area and the alteration of its boundaries. There is no anticipated economic cost to individuals who are required to comply with the proposed sections because any economic cost is imposed by statute, rather than by the proposed sections.

Comments on the proposal may be submitted to Royston S. Lanning, Legal Division, Texas Water Commission, P.O. Box 13087, Austin, Texas 78711-3087.

The new sections are proposed under the Texas Water Code, §§5.103, 5.105, and 5.235, which provides the Texas Water Commission with the authority to adopt any sections necessary to carry out its powers

and duties under the Texas Water Code and other laws of the State of Texas, to establish and approve all general policy of the commission, and to collect statutory fees from persons filing various applications with the commission.

§293.21. Designation of Underground Water Management Area.

(a) These sections only apply to the designation of underground water management areas as authorized by the Texas Water Code, §52.024.

(b) Designation of an underground water management area is a separate proceeding from that for creation of an underground water conservation district.

(c) In accordance with the Texas Water Code, §52.024, on its own motion or on receiving a petition, the commission, after notice and hearing, will determine whether to designate an underground water management area. The commission will determine the boundaries of such a management area with the objective of providing the most suitable area for the management of the underground water resources of the part of the state where an underground water conservation district is or may be located. To the extent feasible, the management area will coincide with the boundaries of an underground water reservoir or a subdivision thereof. The commission may also consider other factors in determining the boundaries of the management area, such as the boundaries of other political subdivisions and the appropriateness of the size and configuration of the management area to an underground water conservation district's performance of its duties under the Texas Water Code, §§52.151-52.173.

(d) Upon the request of the commission or any person interested in a petition to designate an underground water management area, the executive director will prepare available evidence relating to the configuration of an underground water management area. The executive director's evidence will include information concerning the existence, configuration, and characteristics of an underground water reservoir or subdivision, thereof.

(e) The commission will consider the evidence prepared by the executive director and all other evidence admitted in the proceeding in deciding whether to designate an underground water management area as well as the boundaries of such a management area.

(f) A petition for designation of an underground water management area must be filed with the executive director and be accompanied by a \$100 filing fee and petition recording fee of \$1.00 per page.

§293.22. Notice of Hearing To Designate an Underground Water Management Area.

(a) At least 15 days before the day of the hearing, the applicant shall cause the sheriff of each county in which the proposed underground water management area will be

located to post one copy of the notice of hearing at the courthouse door.

(b) The applicant shall also cause the sheriff or sheriffs to cause the notice of hearing to be published in a newspaper of general circulation in the county or counties in which the proposed underground management area will be located at least once a week for two consecutive weeks with the first newspaper publication being at least 20 days before the day of hearing.

(c) The applicant shall mail by certified mail, return receipt requested, at least 20 days before the day of hearing, a copy of the notice of hearing to each of the officials and persons listed in paragraphs (1)-(4) of this subsection located within the boundaries of the proposed underground water management area, as follows:

(1) the county judge of each county;

(2) the clerk or other appropriate official of each city, town, or village;

(3) the president or chairman of the board of directors of each district created and operating under the Texas Constitution, Article III, §52, or Article XVI, §59, which has as one of its purposes, the supplying of water for municipal, domestic, irrigation, industrial, or other beneficial use; and

(4) the manager of any water utility as defined in the Texas Water Code, §13.002, which has a certificate of convenience and public necessity issued by the Texas Water Commission or its predecessors authorizing it to provide potable water service in the proposed underground water management area.

§293.23. Alteration of Underground Water Management Area.

In accordance with the Texas Water Code, §52.024, on its own motion or on receiving a petition, the commission, after notice and hearing, may alter the boundaries of a designated management area as required by changed or future conditions and as justified by factual data. A petition for alteration of management area boundaries must allege in detail the facts and circumstances making alteration necessary and be accompanied by a \$100 filing fee and petition recording fee of \$1.00 per page.

§293.24. Commission Order Following a Hearing upon a Petition To Designate an Underground Water Management Area. If after a hearing, the commission finds that an underground water management area should be designated, it shall issue an order so finding and stating its reasons therefor and defining, by metes and bounds, or other appropriate legal description, the area included within the underground water management area. If the commission determines that an underground water management area should not be designated, it shall issue an order which sets forth the reasons for denying the designation and dismiss the petition.

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 25, 1986.

TRD-8908238

James K. Flourka, Jr.
General Counsel
Texas Water Commission

Earliest possible date of adoption:
August 1, 1986
For further information, please call
(512) 463-8070.



Appointment of Directors

★ 31 TAC §§293.31-293.34

The Texas Water Commission proposes new §§293.31-293.34 concerning the appointment of directors. The proposed sections provide the qualifications required by the applicable statutes for a person to be eligible for appointment by the commission as a temporary director following the creation of a water district and also gives the statutory reasons for disqualification. The sections cover the procedure for filing an application for appointment as a temporary director and sets out a form for an applicant to complete and file with the chief clerk of the Texas Water Commission for such appointment.

Bobbie Barker, chief fiscal officer, 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. Barker 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 to inform the public and applicants for the creation of water districts of the requirements that directors must be appointed, together with the procedures and qualifications for appointment as a temporary director. There is no anti-

cipitated economic cost to individuals who are required to comply with the proposed sections; because any economic cost is a result of statutory enactment, rather than the proposed sections.

Comments on the proposal may be submitted to Royston S. Lanning, Legal Division, Texas Water Commission, P.O. Box 13087, Austin, Texas 78711-3087.

The new sections are proposed under the Texas Water Code §§5.103 and §5.105, which provides the Texas Water Commission with the authority to adopt any sections necessary to carry out its powers and duties under the Texas Water Code and other laws of the State of Texas and to establish and approval all general policy of the commission.

§293.31. *Appointment of Directors.* At the time the commission issues an order granting the petition for creation of a district, and at other relevant times as may be provided by law, the commission shall appoint the appropriate number of directors who shall serve until their successors are elected, or appointed, and qualified.

§293.32. *Qualifications of Directors.*

(a) Unless otherwise provided, for an applicant for appointment as a director to receive consideration, the following qualifications shall apply.

(1) A person shall be at least 18 years old, a resident citizen of Texas, and either own land subject to taxation in the district or be a qualified voter within the district.

(2) A director of a regional district for water, sanitary sewer and wastewater drainage must be a resident of this state, but need not be a landowner or qualified voter within the district.

(3) A director of a special utility district must be a resident citizen of this state and either own land subject to taxation in the district, be a user of the facilities of the district, or be a qualified voter of the district.

(4) A director of a stormwater control district must reside within the boundaries of the proposed district, but need not be a landowner or qualified voter within the district.

(5) A director shall not be a developer of property in the district, or be related within the third degree of affinity or consanguinity to a developer of property in the district, any other member of the governing board of the district, or the manager, engineer, or attorney for the district, or be an employee of any developer of property in the district or any director, manager, engineer, or attorney for the district.

(b) As used in this section, a developer of property in the district means any person who owns land located within a district covered under this section and who has divided or proposes to divide the land into two or more parts for the purpose of laying out any subdivision of any tract of land or any addition to any town or city, or for laying out suburban lots or building lots, or any lots, and streets, alleys, or parks or other portions intended for public use, or the use of purchasers or owners of lots fronting thereon or adjacent thereto. (See the Texas Water Code, §§50.026(d), 51.0721(d), and 54.1021.)

§293.33. *Request for Appointment.* A person desiring consideration for appointment as director shall file his or her sworn application stating his qualifications with the executive director at least five days prior to consideration for the appointment. The application will be sufficient by fully completing an affidavit in the form shown in §293.34 of this title (relating to Appendix A—Form of Affidavit for Appointment as Temporary Director), together with any other information that may be required by the executive director or the commission.

§293.34. *Appendix A—Form of Affidavit for Appointment as Temporary Director.* The following form must be filed with the chief clerk of the commission prior to the creation hearing.

State of Texas:
County of _____:

Request for Consideration of Appointment as Temporary Director

Before me, the undersigned authority of the State and County aforesaid, on this day personally appeared _____ who desires to be appointed a temporary director of _____ to serve until his successor is elected or appointed.

(1) State whether you are 18 years old, a resident citizen of Texas, and either own land subject to taxation in the district or are a qualified voter within the district. If applying for director of a Regional District for Water, Sanitary Sewer, and Wastewater Drainage, you are not required to state whether you own land or are a qualified voter within the district. If applying for director of a Special Utility District, state, whether you are a resident citizen of this state and whether you either own land subject to taxation in the district, are a user of the facilities of the district, or are a qualified voter of the district. If applying for director of a Stormwater Control District, state whether you reside within the boundaries of the proposed district, but you are not required to state whether you own land or are a qualified voter within the district.

(2) State whether you are a developer of property in the district, related within the third degree of affinity or consanguinity to a developer of property in the district, any other member of the governing board of the district, or the manager, engineer, or attorney for the district, or are or were within the two years immediately preceding this proposed appointment an employee of any developer of property in the district or any director, manager, engineer, or attorney for the district.

(3) State your present occupation and employment. Is this your main source of income? If not, please explain.

(4) State whether you plan to live in the district. If you do not plan to live in the district, what are your plans for the use and disposition of the land? Not applicable if applying for director of a Regional District for Water, Sanitary Sewer, and Wastewater Drainage.

(5) Do you, or your employer, have any business or other connections with the developer of the proposed district, the attorney representing the proposed district, or the consulting engineer for the proposed district or developer? If so, please explain.

(6) Are you aware that the district is a public entity and that by law notice of its meetings must be given and the meeting must be open to the public and its records shall be available for public inspection at all reasonable times?

(7) Are you aware that the district is subject to the continuing supervision of the commission and will you fully cooperate with the commission?

(8) Do you affirm that you will faithfully execute the duties of the office of director of the district of the State of Texas, and will to the best of your ability preserve, protect, and defend the constitution and laws of the United States and of this state; do you affirm that you have not directly nor indirectly paid, offered, or promised to pay, contributed, nor promised to contribute any money, or valuable thing, or promised any public office or employment as a reward to secure your appointment?

(9) Will you support putting a maintenance tax proposition on the district's confirmation election ballot provided the district has the legal authority to call a maintenance tax election?

(Name) _____
(Address) _____
(City) _____ (Zip) _____

Sworn to and subscribed before me this _____ day of _____, 19_____.

Notary Public in and for _____
County, Texas

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 25, 1986.

TRD-9808240 James K. Rourke, Jr.
General Counsel
Texas Water Commission

Earliest possible date of adoption:
August 1, 1986
For further information, please call
(512) 463-8070.



Issuance of Bonds

★31 TAC §§293.41-293.58

The Texas Water Commission proposes new §§293.41-293.58, concerning the issuance of bonds. The sections provide statutory and administrative procedural and substantive requirements for Texas Water Commission approval of engineering projects and the issuance and sale of bonds in connection with such projects by certain water districts created and operating pursuant to the Texas Constitution, Article III, §52, and Article XVI, §59. These sections cover the following.

Section 293.41 identifies those districts that must obtain approval of their engineering projects and bond issues by the commission.

Section 293.42 provides general regulations for method and place of filing required data in connection with an application for approval of an engineering project and bond issue.

Section 293.43 provides the detailed content, including engineering, legal, and financial information and data of a district's

application for approval of an engineering project and related bond issue and sale; and states the statutory filing fee for the application.

Section 293.44 defines developer projects and details commission policy with respect to development costs that may be shared by the district and other such costs that must be paid by the developer; and details commission policy with respect to appraisal of purchased facilities, discharge permit sufficiency, contract revenue bonds, and capital recovery fees imposed by municipalities.

Section 293.45 provides the action to be taken by the commission with respect to an application for approval of an engineering project and bond issue.

Section 293.46 provides a detailed procedure by means of which the developer may construct engineering projects for a district prior to commission approval of the bond issue that will finance the project and obtain reimbursement from the district after bonds are issued.

Section 293.47 requires a developer, as defined in Texas Water Code, §50.028(d), to pay 30% of the cost of certain facilities (facilities other than those specifically exempted in the section) in connection with engineering projects by districts that have a ratio of debt to assessed valuation of more than 10%. Districts having an adequate bond rating are exempted and in certain other situations the developer is exempted or his contribution reduced. A method of securing the developer's 30% obligation is provided for his obligation under the 30% requirement, and the developer also is required to provide financial security to insure that street and road construction involved in the engineering project will be completed. Supervision of

the contractor and a procedure for a conditional waiver of the developer cost participation requirements are provided.

Section 293.48 provides detailed requirements for financial guarantees from a developer to a water district to insure the completion of street and road construction within the area to be developed by a bond issue.

Section 293.49 requires all documents submitted to the executive director of the commission be properly identified.

Section 293.50 provides conditions under which a developer may be reimbursed by the district for interest accrued on certain costs paid by the developer in connection with providing facilities in anticipation of sale of the facilities to the district.

Section 293.51 requires a developer to dedicate certain lands or interests in land needed for district facilities without reimbursement from the district and provides rules for establishing district reimbursement to a developer where reimbursement is allowed.

Section 293.52 provides regulations for the use of bond proceeds for storm water detention facilities as part of a district project and provides that such facilities are subject to the developer contribution provisions of §293.47 of this title (relating to Thirty Percent of District Construction Costs to be Paid by Developer).

Section 293.53 provides regulations for the use of bond proceeds to pay assessments or charges for capacity in regional storm water management and drainage systems, subjecting such expenditures to the developer contribution provisions of §293.47 of this title (relating to Thirty Percent of District Construction Costs to be Paid by Developer) and requiring a district to acquire capacity by contract.

Section 293.54 provides detailed requirements for commission approval of bond anticipation notes issued by water districts.

Section 293.55 provides the requirements for commission approval of tax anticipation notes issued by water districts.

Section 293.56 and §293.57 provide forms for financial guarantees for developer construction of streets and roads.

Section 293.58 provides commission policy with respect to interest rates on commission approved bonds.

Bobble Barker, chief fiscal officer, 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. Barker 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 to insure the proper use of bond proceeds for engineering projects constructed by water districts. All districts subject to commission jurisdiction are required to issue bonds according to standard procedures and criteria and the misapplication or inefficient use of such bond proceeds are minimized. There is no anticipated economic cost to individuals who are required to comply with the proposed sections; any economic cost is a result of the statute rather than the proposed sections; or the cost was already imposed by sections in effect immediately preceding the adoption of the proposed sections.

Comments on the proposal may be submitted to Royston S. Lanning, Legal Division, Texas Water Commission, P.O. Box 13087, Austin, Texas 78711-3087.

The new sections are proposed under the Texas Water Code, §§5.103, 5.105, and 5.235, which provides the Texas Water Commission with the authority to adopt any sections necessary to carry out its powers and duties under the Water Code and other laws of the State of Texas, to establish and approve all general policy of the commission, and to collect statutory fees from persons filing various applications with the commission.

§293.41. Approval of Engineering Projects. The Texas Water Commission has been given the statutory responsibility to approve engineering projects relating to the issuance and sale of bonds for regional districts for water, sanitary sewer, and wastewater drainage, Texas Water Code, Chapter 50; water control and improvement districts, Texas Water Code, Chapter 51; underground water conservation districts, Texas Water Code, Chapter 52; municipal utility districts, Texas Water Code, Chapter 54; regional plan implementation agencies, Texas Water Code,

Chapter 54, §54.037; water improvement district, Texas Water Code, Chapter 55; irrigation districts, Texas Water Code, Chapter 58; special utility districts, Texas Water Code, Chapter 65; stormwater control district, Texas Water Code, Chapter 66; and freshwater supply districts, Texas Water Code, Chapter 12. The commission must also review and approve such projects of other districts where specifically required by law.

§293.42. Filing of Documents.

(a) Applicants shall submit all of the required data at one time in one package. Applications may be returned for completion if they do not satisfy the requirements and conform to the bond application report format.

(b) The applicant shall send a copy of the completed bond application report as submitted with the application for issuance of bonds, including attachments, directly to the appropriate commission field office, simultaneously with submission of the bond application package to the commission.

§293.43. Application Requirements. For the approval of engineering projects and the issuance of bonds, a district shall submit:

(1) an application including the subject matter contained in the Texas Water Code §50.466, Regional Districts for Water, Sanitary Sewer, and Wastewater Drainage; the Texas Water Code §51.421, Water Control and Improvement Districts; the Texas Water Code §52.291(b), Underground Water Conservation Districts; the Texas Water Code §54.516, Municipal Utility Districts; the Texas Water Code §54.037(f), Regional Plan Implementation Agencies; the Texas Water Code §55.503, Water Improvement Districts; the Texas Water Code §58.451, Irrigation Districts; the Texas Water Code §65.512, Special Utility Districts; the Texas Water Code §66.310, Stormwater Control Districts; and the Texas Water Code §12.082, Freshwater Supply Districts;

(2) a certified copy of the district board's resolution authorizing submission of application for bond issuance;

(3) evidence acceptable to the executive director of compliance with the Texas Water Code §50.101, and, if applicable, the Texas Water Code, §54.016, and Texas Civil Statutes, Article 970a, §8(b), including consent by city having extraterritorial jurisdiction if not previously provided to the commission, referencing the appropriate petition or bond application if these documents have been previously provided;

(4) a filing fee of \$100 plus the cost of required notice;

(5) a bond application report in accordance with the *Bond Application Report Format* manual adopted by the executive director, formally approved by the commission by minute order, and subject to revision as necessary by the executive director and formal approval by the commission by minute order; and

(6) additional data and information as required by the executive director or the commission when deemed pertinent to the bond application under consideration.

§293.44. Special Considerations.

(a) Developer projects.

(1) A developer project is a district engineering project which provides water, sewer, or drainage service for property owned by a developer as defined by the Texas Water Code, §50.026(d).

(2) The cost of joint facilities that benefit the district and others should be shared on the basis of benefits received. Normally the benefits are the design capacities in the joint facilities for each participant. Proposed cost sharing for conveyance facilities should account for both flow and inflow locations.

(3) The cost of clearing and grubbing of district facilities easements that will also be used for other facilities that are not eligible for district expenditure, such as roads, gas lines, telephone lines, etc., should be shared equally by the district and the developer except where unusually wide road or street rights-of-way, or other unusual circumstances are present, as determined by the commission. The district's share of such costs is further subject to any required developer contribution pursuant to §293.47 of this title (relating to Thirty Percent of District Construction Costs To Be Paid by Developer). The applicability of the competitive bidding statutes and/or regulations shall be determined by the amount of the estimated district share, including any required developer contribution; provided, however, that in instances where such clearing and grubbing construction contracts are let and awarded in the developer's name and the developer's aggregate share of such costs, including any required developer contribution, exceeds 50% of the total construction contract costs, the competitive bidding statutes and/or regulations are not considered to be applicable.

(4) The cost of spreading and compacting of filling areas that require the fill for development purposes, such as in abandoned ditches or floodplain areas, and the costs of any clearing and grubbing in these areas, should not be paid by the district unless the district can demonstrate a net savings in the cost of disposal of excavated materials when compared to the estimated costs of disposal offsite.

(5) When a developer changes the plan of development requiring the abandonment or relocation of existing facilities, the district may pay the cost of either the abandoned facilities or the cost of replacement facilities, but not both.

(6) When a developer changes the plan of development requiring the redesign of facilities that have been designed but not constructed, the district may pay the cost of the original design or the cost of the redesign, but not both.

(7) A district shall not finance the pro rata share of oversized water, sewer, and drainage facilities to serve areas outside the district unless:

(A) such oversized is:

(i) required by local governments or other regulatory agencies; and

(ii) the district agrees to use its best efforts to recover such costs if a future user outside the district desires to use such capacity; or

(B) the district has entered into an agreement with the party being served by such oversized capacity which provides adequate payment to the district to pay the cost of financing, operating, and repairing such oversized capacity.

(8) Railroad, pipeline or underground utility relocations that are needed because of road crossings should not be financed by the district; however, if such relocations result from a simultaneous district project and road crossing project, then such relocation costs should be shared equally.

(9) Engineering studies, such as topographic surveys, soil studies, fault studies, boundary surveys, etc., that contain information that will be used both for district purposes and for other purposes, such as roadway design, foundation design, land purchases, etc., should be shared equally by the district and the developer, unless unusual circumstances are present as determined by the commission.

(10) Land planning and development planning costs should not be paid by the district.

(11) The cost of constructing lakes or other facilities that are part of the developer's amenities package should not be paid by the district. The cost of combined lake and detention facilities should be shared with the developer on the basis of the volume attributable to each use, and land costs should be shared on the same basis.

(12) The costs of bridge and culvert crossings needed to accommodate the development's road system shall not be financed by a district. The cost of replacement of existing bridges and culverts not constructed or installed by the developer, or the cost of new bridges and culverts across existing roads not financed or constructed by the developer, may be financed by the district, except that any cost of increasing the traffic carrying capacity of bridges or culverts shall not be financed by the district.

(13) In evaluating district construction projects, including those described in paragraphs (1)-(12) of the subsection, primary consideration shall be given to engineering feasibility and whether the project has been designed in accordance with good engineering practices, notwithstanding that other acceptable or less costly engineering alternatives may exist.

(b) All projects.

(1) The purchase price for existing facilities not covered by a preconstruction agreement or otherwise not constructed by

a developer in contemplation of resale to the district should be established by an independent appraisal by a registered professional engineer.

(2) In order for a proposed project to be considered feasible, the aggregate wastewater treatment capacity authorized under permits held by the applicant and/or developer should be adequate to serve the projected buildout used in the projection of revenues and expenses.

(3) Contract revenue bonds proposed to be issued by districts for facilities providing water, sewer or drainage, pursuant to contracts authorized under Texas Civil Statutes, Article 1109j, or other similar statutory authorization, will be approved by the commission only when the city's pro rata share of debt service on such bonds is sufficient to pay for the cost of the water, sewer, or drainage facilities proposed to serve areas located outside the boundaries of the service area of the issuing district.

(4) When a district proposes to obtain water or sewer service from a municipality, district, or other political subdivision and proposes to use bond proceeds to compensate the providing political subdivision for the water or sewer services on the basis of a capitalized unit cost, e.g., per connection, per lot, or per acre, the commission will approve the use of bond proceeds for such compensation under the following conditions:

(A) the unit cost is reasonable;

(B) the unit cost approximates the cost to the entity providing the necessary facilities, or providing entity has adopted a uniform service plan for such water and sewer services based on engineering studies of the facilities required; and

(C) the district and the providing entity have entered into a contract which will:

(i) specifically convey either an ownership interest in or a specified contractual capacity or volume of flow into or from the system of the providing entity;

(ii) provide a method to quantify the interest or contractual capacity rights;

(iii) provide that the term for such interest or contractual capacity right is not less than the duration of the maturity schedule of the bonds; and

(iv) contain no provisions which could have the effect of subordinating the conveyed interest or contractual capacity right to a preferential use or right of any other entity.

§293.45. Action of the Commission. The commission may, by order, dismiss an application for lack of prosecution or failure to comply with the regulations of the commission, allow the applicant to withdraw the application, or approve or deny the project and the issuance of bonds therefor. Upon issuing such an order, the commission shall forward certified copies to the applicant and the attorney general of Texas. District com-

pliance with any special condition in the order approving engineering project and issuance of bonds, as executed by the commission, is mandatory. The commission's approval of a bond issue is valid for only one year from the date of the commission order approving the bond issue.

§293.46. Construction Prior to Commission Approval. The developer may proceed with financing or construction of water, wastewater and drainage facilities contemplated for purchase by the district prior to commission approval of the bond issue designed to finance the project under the following conditions.

(1) Prior to entering into construction contracts for such facilities, the developer and district shall execute an agreement setting out the terms of reimbursement, providing for the use of the facilities by the district prior to reimbursement and providing that the construction contract will be awarded and administered in accordance with commission regulations and applicable statutes relating to districts.

(2) All construction plans, specifications, and contract documents as set forth in §293.61(c) and (d) of this title (relating to Documents To Be Filed with the Commission), change orders and supporting engineering data for construction or installation of the facilities shall be filed with the appropriate commission field office in a timely manner, together with evidence that the materials have been filed with, and approved by, the district and have been noted in the district's minutes (if the district has not been created, the documents shall be filed with the district within 30 days after creation).

(3) All construction plans and specifications for proposed projects must be approved by all cities and agencies having jurisdictional responsibilities over the district prior to construction contract award by the developer.

(4) The appropriate commission field office shall be notified of the bid opening at least five days prior to the opening.

(5) Contract advertising and award, and construction and installation of facilities shall be in the manner required by the general law for districts, and in conformity with commission regulations. For construction contracts awarded after the effective date of this section, if statutory requirements are not followed, reimbursement to a developer may be limited to the final construction contract amount without developer interest.

(6) The filing of the materials provided herein or construction inspections by the commission shall not constitute approval of the project in any manner. A person proceeding with construction of a project prior to its formal approval by the commission shall do so with no assurance that public funds will be authorized for acquiring the facilities. Construction which is not in the best interests of the district, and improper

or ineligible expenditures, will be disallowed for district purchase.

(7) The commission will not approve payment on completion-type construction contracts unless alternate bids are received on monthly pay-type construction contracts, and then only if it is clearly indicated that it is to the district's financial advantage to assume the payment on completion-type construction contracts.

(8) Commission representatives shall have the right to inspect the facilities construction at any time and without notice while construction activities are being carried on. The appropriate commission field office shall be notified of the date and time of the final inspection for each construction contract at least five days prior to the inspection.

§293.47. Thirty Percent of District Construction Costs To Be Paid by Developer.

(a) It has been determined by experience that some portion of the cost of district water, sewer, and drainage facilities in certain districts should be paid by a developer to insure the feasibility of the construction projects of such districts. Accordingly, this section applies to districts which have a ratio of debt (including proposed debt) to certified assessed valuation of more than 10%. This section does not apply to:

(1) a district which has a ratio of debt (including proposed debt) to certified assessed valuation of 10% or less; provided, however, that any bond issue proposed to be exempt on this basis must include funds to provide sufficient capacity in facilities exempt in subsection (d) of this section to serve all connections to be financed by the bond issue;

(2) a district which obtains an acceptable credit rating on its proposed bond issue pursuant to the provisions hereof; or

(3) a district which obtains a credit enhanced rating on its proposed bond issue and which the commission, in its discretion, finds to be feasible and justified, based upon satisfactory evidence submitted by the district, without such developer contribution.

(b) For purposes of this chapter the following definitions shall apply.

(1) Developer is as defined in the Texas Water Code, §50.026(d).

(2) Debt includes all outstanding bonds of the district, all bonds approved by the commission and not yet sold (less such portions thereof for which the authority to issue such bonds has lapsed or been voluntarily cancelled), all proposed bonds with respect to which applications for project and bond approvals are presently on file and pending with the commission, and all outstanding bond anticipation notes which are not to be redeemed or paid with proceeds derived from such pending bond application(s). For the purpose of this section, the amount of such outstanding bond anticipation notes shall be deemed the sum of:

(A) the principal amount of the bond anticipation notes;

(B) the accrued interest thereon; and

(C) all bond issuance costs relating to the refunding of such bond anticipation notes, including capitalized interest.

(3) Certified assessed valuation is a certificate provided by the central appraisal district in which the district is located either certifying the actual assessed valuation as of January 1, or estimating the assessed valuation as of any other date.

(4) Acceptable credit rating is a rating of Baa or higher from Moody's Investors Service, Inc., or BBB or higher from Standard and Poors Corporation, which rating is obtained by the district independent of any municipal bond guaranty insurance, guarantee, endorsement, assurance, letter of credit or other credit enhancement technique furnished by or obtained through any other party.

(5) Credit enhanced rating is a rating of Aa or higher from Moody's Investors Service, Inc. or AA or higher from Standard and Poors Corporation, which rating is obtained by the district by virtue of municipal bond guaranty insurance, guarantee, endorsement, assurance, letter of credit or other credit enhancement technique furnished by or obtained through any other party; provided, however, that such credit enhancements shall be unconditional, irrevocable, and in full force and effect for the scheduled maturity of the entire bond issue; and provided, further, that payment of the premium on or commitment or other similar fees for such credit enhancement shall not be made from district funds except through the establishment of the interest rate or premium or discount on such bonds.

(c) If a district anticipates receipt of a certified assessed valuation evidencing a debt ratio of 10% or less or an acceptable credit rating, or a credit enhanced rating, as provided in subsection (a) of this section, prior to the bond sale identified in the bond application being considered, the district may, at its discretion, request a conditional waiver to the developer cost participation requirements of this section as follows.

(1) At the time the district makes application for approval of its project and bonds, the district may include a written request for a conditional waiver of the 30% developer cost participation requirements of this section to be considered by the commission at the time of the bond application hearing, which request shall specifically state on which basis the district requests such waiver. The waiver request shall be accompanied by a written statement from the district's financial advisor stating that, in his opinion, the district can reasonably be expected to qualify for either an acceptable credit rating or a credit enhanced rating, and that the district financing is feasible without the developer contribution.

(2) Except for districts which have achieved a debt ratio of 10% or less at the time of application, the cost summary in support of any bond application proposed to be exempt by virtue of subsection (a) of this section, must show the district bond issue requirement, cash flow, and tax rate with and without the developer contribution.

(3) If a conditional waiver is granted by the commission in anticipation of the district obtaining an acceptable credit rating, a credit enhanced rating or a certified assessed valuation evidencing a ratio of debt to certified assessed valuation of 10% or less, no bonds shall be sold by the district unless such acceptable or enhanced credit rating is obtained or debt ratio achieved.

(4) If a bond issue is approved on the basis of obtaining an acceptable credit rating, and an acceptable credit rating is not obtained, and if the district wishes to proceed with such bond issue on the basis of an enhanced credit rating, the district shall not issue the bonds unless the district requests and obtains a commission order approving the bonds to be sold with an enhanced credit rating and finding the financing to be feasible without the developer contribution.

(5) Upon request by the district, the commission order approving a bond issue without developer contribution may authorize an alternative amount of bonds to be issued with developer contribution in the event compliance with subsection (a) of this section is not achieved. Such order may contain other conditions otherwise applicable to a bond issue requiring developer contribution.

(d) Except as provided in subsection (a) of this section or in the remaining provisions of this subsection, and unless the commission otherwise determines that the feasibility of a district's financing is not dependent upon the developer contribution, the developer shall contribute to the district's construction program an amount equal to 30% of the construction costs for all water, sewer, and drainage facilities, including attendant engineering fees and other related expenses, with the following exemptions:

(1) wastewater treatment plant facilities, including site costs;

(2) water supply, treatment, and storage facilities, including site costs;

(3) that portion of water and sanitary sewer lines from the district's boundary to the interconnect, source of water supply or wastewater treatment facility as necessary to connect the district's system to a regional, city, or another district's system;

(4) pump stations and force mains located within the boundaries of the district which directly connect the district's sanitary sewer system to a regional plant, regardless of whether such plant is located within or without the boundaries of the district;

(5) segments of water transmission or sanitary sewer trunk lines of districts or other authorities which are jointly shared or programmed to be jointly shared, whether

inside or outside of a participating district or authority;

(6) water and sanitary sewer lines serving or programmed to serve 1,000 acres or more within the district;

(7) drainage channels and storm-water detention facilities, or contributions thereto, meeting the requirements of §293.52 of this title (relating to Storm Water Detention Facilities) or §293.53 of this title (relating to District Participation in Regional Drainage Systems), and which are serving or are programmed to serve either areas of 2,000 acres or more or, at the discretion of the commission, areas of less than 2,000 acres, as the commission may deem appropriate to encourage regional drainage projects;

(8) land costs for storm water detention facilities; and

(9) alternate water supply interconnects between two or more districts.

(e) A developer will also be required to contribute toward construction costs in districts which are within the limits of a city, except for:

(1) facilities that were completed or under construction as of June 1, 1986;

(2) districts previously created or in the process of creation which, prior to June 1, 1986, have filed petitions with the commission requesting creation; or

(3) districts that are providing facilities and services on behalf of, in lieu of, or in place of the city and which have contracted with the city to receive rebates of city taxes at least equal to 65% of the city's annual tax rate.

(f) The developer's contribution toward construction cost shall be reduced by the amount that the developer is required by a city, state, or federal regulatory agency to pay toward costs that are otherwise eligible for district financing.

(g) The developer must provide a letter of credit, irrevocable development loan commitment or other guarantee for the applicable contribution to construction and engineering costs for each bond application prior to advertisement for sale of the district's bonds. This guarantee must provide assurance to the satisfaction of the commission that the developer has the financial capability to provide the required amount of funds for his applicable share of the district's construction project.

(h) Actual payment of funds for the district's construction project shall be made by the developer to the district within 10 days following the developer's receipt of billing. The developer's applicable share will be adjusted by the overruns or underruns on developer participation items and will be shared by the developer at the same percentage utilized in determining his initial contribution.

(i) The district (or district engineer) shall forward to the commission's executive director copies of the board approved monthly construction contract pay estimates, engineering fee statements and/or other adequate

documentation reflecting payment of the developer's required contribution to construction and engineering costs.

(j) A district may submit other information and data to demonstrate that all or any part of this section should not apply and/or request that it be waived.

§293.48. Street and Road Construction by Developer. Unless street and road construction is completed within the area to be developed by the proposed bond issue, the developer must provide assurance to the satisfaction of the commission that such street and road construction will be completed as hereinafter provided.

(1) The developer must enter into an agreement with the district, secured by a letter of credit, irrevocable development loan commitment or other acceptable guarantee, specifying that if street and road construction is not completed within a reasonable and specified period of time after the district sells its bonds, the district may award a contract for completion of the streets and roads with financing to be accomplished by utilizing the developer's financial commitment; provided, however, the district shall not proceed in such a manner until the commission, after having given at least 10 days written notice to both the district and the developer, has reviewed the matter, either on the petition of the district or on the motion of the executive director, and has approved the district's awarding of the contract and utilization of the developer's financial commitment; and provided further, the commission may extend the time for the developer to complete the streets and roads if the developer renews the guarantee and adequately compensates the district for lost revenues and taxes resulting from failure to complete the streets and roads within the specified time. For a form of a letter of credit and an agreement, refer to §293.56 of this title (relating to Appendix B - Form of Letter of Credit) and §293.57 of this title (relating to Appendix C - Form of Street and Road Construction Agreement).

(2) The developer shall include in the street and road construction contract a provision that places the responsibility on the contractor for repair and clean-up of broken manholes, buried valve boxes, broken sewer pipe, and all other damage to district facilities caused by construction of streets and roads.

(3) The district shall charge a district employee or consultant with the responsibility to frequently inspect and conduct operational tests on unused facilities and promptly report:

(A) undue facility and equipment deterioration, leaks, siting, infiltration, and other problems with utility systems resulting from nonuse; and

(B) damage caused by vandalism, or road, street, commercial, industrial, and/or housing construction in order to establish responsibility promptly.

(4) In instances where a contractor for underground facilities has otherwise satisfactorily completed his contract, except for drainage inlets, manholes, and other adjustments, in accordance with plans and specifications as approved by the commission, and the district has assumed ownership of the contract, but the contractor cannot proceed to completion because of street or road construction delay, the district board of directors may delete or delete and complete bid items by change order, accept the construction, and close the contract, provided that the developer agrees in writing:

(A) to include the deleted items and adjustments in the street or road construction contract, when accomplished, or in a separate contract, and to pay all construction costs of these items in excess of the original contract price, or the agreed deleted price; and

(B) to pay the cost of reasonable measures necessary to initially prepare the district's underground facilities for the anticipated period of nonuse and to pay clean-up costs after nonuse.

(5) Commission approval of change orders initiated under this provision which are \$10,000 or more must be obtained by the district prior to implementation of the change order, as provided in §293.81 of this title (relating to Change Orders).

§293.49. Document Identification. All correspondence, plans and specifications, monthly pay estimates, and other documents, submitted to the executive director shall be identified by the district's name, related bond issue amount and date of commission approval.

§293.50. Developer Interest Reimbursement.

(a) A developer may be reimbursed by a district for interest accrued for a period of up to two years after the final payment by the developer on approved construction pay estimates, engineering fees, and attendant nonconstruction costs paid by a developer for providing facilities in anticipation of sale to such district. If final payment on a construction contract is not made within six months of the date the contract is 95% complete, the initiation of the two year interest accrual period will be six months from the date the contract is 95% complete, unless the developer can demonstrate a genuine contractual dispute with the contractor, or other extenuating reasons, as determined by the commission. The interest rate shall not exceed the net effective interest rate on the bonds sold, or the interest rate actually paid by the developer for loans obtained for this purpose, whichever is less. If a developer uses its own funds rather than borrowed funds, the net effective interest rate on the bonds sold shall be applied.

(b) If reimbursement for accrued interest for a period of more than two years after such final payment by the developer is requested by a district, and if no interest reimbursement has occurred, such additional

accrued interest may be allowed, if deemed feasible by the commission, and if:

(1) the actual costs incurred by the developer plus the total allowed interest does not exceed present day costs for the facilities at the time of purchase; or

(2) the aggregate of the amounts included in such district's bond issue for accrued developer interest for such two-year period, any proposed additional accrued developer interest, any accrued interest on outstanding bond anticipation note(s) of such district, and any capitalized interest on such bond issue does not exceed an amount equal to four years' interest on the total bond issue, said interest rate to be calculated on the basis of the net effective interest rate at which the bonds are actually sold; provided, however, that unless specifically requested by the district, recommended in writing by the district's financial advisor and approved by the commission, a district bond issue including additional accrued developer interest pursuant to this subsection shall not provide for capitalized interest on such issue for a period of less than one year.

(c) The developer shall not be reimbursed for interest accrued on his share of construction costs as required by §293.47 of this title (relating to Thirty Percent of District Construction Costs To Be Paid by Developer).

(d) If otherwise determined to be feasible by the commission, the time limitation on accrued developer interest for the following facilities shall not apply to:

(1) wastewater treatment facilities serving or programmed to serve 2,000 acres or more;

(2) water supply and treatment facilities serving or programmed to serve 2,000 acres or more;

(3) that portion of water and sanitary sewer lines from the district's boundary to the interconnect, the source of water supply or wastewater treatment facility, when such source of water supply or wastewater treatment facility serves 2,000 acres or more;

(4) that portion of water and sanitary sewer lines serving or programmed to serve 1,000 acres or more; or

(5) drainage channels and storm water detention facilities meeting the requirements of §293.52 of this title (relating to Storm Water Detention Facilities) and §293.53 of this title (relating to District Participation in Regional Drainage Systems) which are serving or are programmed to serve 2,000 acres or more; provided, however, that, except as permitted in subsection (b)(1) of this section, reimbursement of such accrued interest shall not be allowed for interest accrued after the time period beyond five years from the final payment by the developer.

§293.51. Land and Easement Acquisition.

(a) Easements required within the district boundaries for underground utilities, for drainage ditches, for sanitary control at water plants, and for noise and odor control at wastewater treatment plants shall be dedi-

cated by the developer without reimbursement from the district. Land for plant, lift station, or storm water detention facility sites acquired in fee simple by the district as part of the district project may be purchased at a price not to exceed the price paid for such land by the developer from whom the land is being acquired, in a bona fide transaction between nonrelated parties, plus carrying charges provided that, if the executive director considers such prices for land necessary for storm water detention facilities to be excessive, he may require an appraisal and payment to the developer, and the developer may be limited to the appraised value of said land; and provided, further, that in any event payment to the developer for storm water detention facilities sites shall be limited to the difference between the total land area necessary for the storm water detention facilities and the total land area within the boundaries of the district which would have been necessary if drainage ditches or channel improvements had been utilized in lieu of storm water detention facilities, with such land areas being determined based upon the requirements of any public entity having drainage jurisdictional responsibility.

(b) Land or easements outside the district's boundaries may be purchased by the district as part of the district project at a price not to exceed the fair market value thereof; provided, however, that if the land or easements are purchased from a developer within the district, the price paid by the district shall not exceed the price paid for such land by the developer from whom the land is acquired, in a bona fide transaction between nonrelated parties, plus carrying charges. Land or easements acquired outside the district's boundaries from persons other than the developer shall be subject to developer contribution under the provisions of §293.47 of this title (relating to Thirty Percent of District Construction Costs to Be Paid by Developer) unless the facilities constructed in, on or over such land, easements or rights-of-way are, or the district is exempt from such contribution under the terms of §293.47 of this title (relating to Thirty Percent of District Construction Cost To Be Paid by Developer).

(c) When one or more upstream districts need land or easements through one or more downstream district(s) each upstream district may pay its pro rata share for its needs if none of the acquisition is or will be required for partial or full development of the downstream district(s). In instances where a portion of the required land or easement is needed by downstream district(s) to achieve partial or full development, each downstream district developer shall be required to dedicate easements at no cost, or to sell land at actual cost plus carrying charges, to its district for that portion of the land or easement necessary to serve the needs of its district. The upstream district(s) share(s) of such costs shall be based upon the fair market value of such downstream land or

easements; provided, however, where the executive director considers such price excessive, he may require an appraisal and payment to the developer may be limited to the appraised value of said land.

(d) The foregoing limitations shall not apply to sites acquired, in whole or in pro rata part, by districts outside of their boundaries for purposes of connecting to, expanding or joining a regional water supply or wastewater treatment system, and in all such cases, the price paid for such sites may not exceed the fair market value thereof; provided, however, if the executive director considers such price to be excessive, he may require an appraisal of such land and the price to be paid for such land may be limited to such appraised value.

(e) A district may issue bonds to acquire the entire site for a regional water supply or regional wastewater treatment system if the commission determines that regionalization will be promoted and the district will recover the appropriate pro rata share of the site cost, carrying cost and bond issuance cost from future participants. The district may pay the market value price for such a regional project site (exclusive of any part of the land acquired for a project of the district, which shall be at the developer or other landowner's cost) and shall be limited to recovering the same market value cost, plus carrying cost and bond issuance cost from future participants.

§293.52. Storm Water Detention Facilities.

A district may use bond proceeds to acquire or construct storm water detention facilities, as part of an authorized district project the cost of which shall be subject to developer contribution under the provisions of §293.47 of this title (relating to Thirty Percent of District Construction Costs To Be Paid by Developer) unless the district or the project is exempt under such regulation, provided:

(1) the storm water detention facilities are either necessary as an alternative to the drainage channel improvements in that channel improvements will not provide adequate drainage to all or any portion of the land within the district, or cost effective as opposed to alternative drainage improvements, or required by a public entity having drainage jurisdictional responsibility;

(2) the facilities are designed and constructed so as to be capable of attenuating only the flood water quantity produced by the differences between the postdevelopment peak rate of runoff and the predevelopment peak rate of runoff, such differential being based on design criteria established by the responsible jurisdictional public entity, if available, unless the local political subdivision with drainage jurisdiction justifies to the commission the approval of district costs based on criteria different from this criteria; and

(3) all required permits and approvals are obtained prior to construction of the storm water detention facilities, including

without limitation, any permits required by the U.S. Corps of Engineers and any approvals required by any city within whose extraterritorial jurisdiction the district lies, the county engineer, any flood control district, the U.S. Corps of Engineers, and any necessary approval of the commission under the Texas Water Code, §16.236.

§293.53. District Participation in Regional Drainage Systems. A district may use bond proceeds to pay assessments or charges for capacity in regional stormwater management systems, subject to developer contribution under the provision of §293.47 of this title (relating to Thirty Percent of District Construction Costs To Be Paid by Developer), unless the district or the project is exempt under §293.47 of this title (relating to Thirty Percent of District Construction Costs To Be Paid by Developer), provided:

(1) the regional stormwater system has been adopted by a public entity having drainage jurisdiction and regulatory authority over the construction of drainage improvements;

(2) participation in the regional system is required by the public entity having drainage jurisdiction to mitigate the impact of district development activity on flood potential and is required in lieu of any other drainage facilities within or outside of the district that could be constructed directly by the district for the same purpose;

(3) the cost of participation in the regional system is uniform over a given watershed or planning area and is established by the regulatory body of the public entity having drainage jurisdiction based on engineering studies of the proposed regional facilities required. Such studies should show that the charge for capacity in the regional system is comparable to the cost of alternative facilities constructed by individual districts, averaged throughout the watershed; and

(4) the right to the capacity in the regional system purchased by the district is established by contract with the public entity having drainage jurisdiction.

§293.54. Bond Anticipation Notes. A district may issue bond anticipation notes (BANs) for any purpose for which bonds of the dis-

trict have previously been voted or may be issued for the purpose of refunding previously issued bond anticipation notes. All bond anticipation notes issued by a district shall conform to the following requirements.

(1) A bond application containing all projects to be financed by the BANs and the principal of and interest on the BANs shall be on file with the commission.

(2) The financial advisor of the district renders a written opinion to the district to the effect that the district can be reasonably expected to sell its bonds, under then prevailing market conditions, in a principal amount at least sufficient to redeem and pay the principal of, and accrued interest on, the BAN's on or prior to their stated maturity date.

(3) The proceeds of the BANs may be used to pay only the district's allowable share of the costs of facilities as provided in §293.47 of this title (relating to Thirty Percent of District Construction Costs To Be Paid by Developer) until the commission has unconditionally determined that the district is exempt from developer participation.

(4) The interest rate on the BANs shall be limited to the maximum rate at which the district could have issued bonds on the date of issuance of the BANs.

(5) All BANs shall be sold at par.

(6) The proceedings authorizing the issuance of the BANs shall provide that the BANs shall be redeemed at not more than their par value within 30 days after receipt of proceeds from bonds issued for the purpose of redeeming the BANs.

(7) No district funds shall be used to purchase bond or BAN insurance, collateral guarantees, letters of credit, or other forms of credit enhancement.

(8) No BAN proceeds shall be used for the purpose of paying allowable developer interest, as provided in §293.50 of this title (relating to Developer Interest Reimbursement).

(9) Except as hereinafter otherwise provided, BANs shall not be used to finance facilities unless the plans and specifications therefor have been approved by all regulatory authorities having jurisdiction thereof and such plans and specifications have been filed with the commission in connection with the district's pending bond application.

(10) Issuance of BANs shall not prejudice the right of the commission to refuse to approve all or any portion of a bond application or any cost or facility contained therein.

(11) BANs shall be payable solely from the proceeds of the district's bonds, as approved by the commission, and no other district funds shall be encumbered, pledged, committed, or used for such purpose.

(12) Prior to the issuance of the BANs, the developer shall provide the district a letter of credit, irrevocable development loan commitment, or other guarantee for the applicable contribution of construction and engineering costs for each project to be financed with BAN proceeds as required by §293.47(h) of this title (relating to Thirty Percent of District Construction Costs To Be Paid by Developer).

(13) Prior to the issuance of the BANs, the developer and district shall enter into a street and road construction agreement as required by §293.48 of this title (relating to Street and Road Construction by Developer).

§293.55. Tax Anticipation Notes. Tax anticipation notes may be issued by districts solely in the manner and for the purposes described in the Texas Water Code, §54.304(b), as amended. No tax anticipation notes shall be redeemed in whole or in part, out of the proceeds of a district bond issue, or one or more refunding tax anticipation notes, bond anticipation, or revenue notes. Such notes may bear interest as provided by law; shall mature within one year of their date of issuance; shall not be renewable or subject to extension of their maturity or redeemable or refundable out of or exchangeable for additional tax anticipation notes; and shall be secured by and paid solely out of the proceeds of taxes to be levied and collected by the district in the 12-month period succeeding their date of issuance.

§293.56. Appendix B - Form of Letter of Credit. The following form is sufficient for use as a letter of credit for the financial guarantee for utilities construction and/or construction and paving of streets.

ROCK OF GIBRALTAR BANK
LETTER OF CREDIT

GREEN ACRES MUNICIPAL
UTILITY DISTRICT
ONE HOLLOW LOG LANE
MEGALOPOLIS, TEXAS 77000

Irrevocable Credit No. 1
Amount: \$250,000

GENTLEMEN:

You are hereby authorized to value on ROCK OF GIBRALTAR BANK for account of ALL AMERICAN HOMES, INC. up to an aggregate amount of—TWO HUNDRED FIFTY THOUSAND AND NO/100 DOLLARS—available by your drafts at —SITE—to be accompanied by the original of this letter of credit and the following documents:

1. Written statement signed by the President or Vice President of the Board of Directors of Green Acres Municipal Utility District that All American Homes, Inc. has failed to construct streets in Knot Holes West Subdivision in accordance with the terms of the Street And Road Construction Agreement dated December 1, 1980. (Required only for draft No. 1).
2. Written certification(s) by the engineer for Green Acres Municipal Utility District that payment is due to the contractor for construction of streets in Knot Holes West Subdivision in the amount shown on the draft(s).

Multiple drafts may be presented.

Drafts must be presented to drawee bank not later than May 31, 1983, all drafts must state on their fact "DRAWN UNDER ROCK OF GIBRALTAR BANK IRREVOCABLE CREDIT NO. 1".

We hereby engage with you, that all drafts drawn under and in compliance with the terms of this credit will be duly honored, if drawn and presented for payment at our office in Megalopolis, Texas, on or before the expiration date of this credit.

Very truly yours,

Authorized Signature

§293.57. *Appendix C - Form of Street and Road Construction Agreement.* The following form is sufficient for use as a contract between the developer and the district for street construction and paving and may be adopted to utilities for construction.

STREET AND ROAD CONSTRUCTION AGREEMENT

THE STATE OF TEXAS

COUNTY OF TRAVIS

THIS AGREEMENT is made and entered into as of this 1st day of December, 1980, by and between GREEN ACRES MUNICIPAL UTILITY DISTRICT of Travis County, Texas (the "District") and ALL AMERICAN HOMES, INC. (the "Developer").

Recital

The Developer is developing 300 lots in the Knot Holes West Subdivision which is located within the District. The District is preparing to sell its \$3,500,000 Waterworks and Sewer Systems Combination Tax and Revenue Bonds, Series 1980 (the "Bonds") for the purpose of acquiring and/or constructing water, sewage, and drainage facilities to serve the Knot Holes West Subdivision. In order for the District's taxable valuations to increase to a level to support the debt service valuations to increase to a level to support the debt service requirements on the Bonds, the Developer must complete the streets and roads to serve its 300 lots in the Knot Holes West Subdivision in the District. The purpose of this Agreement is to assure the District that the Developer will construct all streets and roads to serve its 300 lots in the Knot Holes West Subdivision.

W I T N E S S E T H

Green Acres Municipal Utility District and All American Homes, Inc. do hereby agree as follows:

1. The District agrees to proceed with the sale of the Bonds in accordance with the Order of the Texas Water Commission approving the Bonds and all applicable laws in an expeditious manner.

2. The District agrees that it will use the proceeds from the sale of such Bonds in accordance with the Order of the Commission approving the Bonds, including reimbursement to the Developer of funds advanced to or on behalf of the District.
3. The Developer agrees that it will cause the completion of all streets and roads to serve Developer's 300 lots within the Knot Holes West Subdivision in accordance with the plans and specifications prepared by ABC Engineers, Inc. and approved by the City of Megalopolis and Travis County not later than May 31, 1982.
4. The costs to construct the streets and roads to serve Developer's 300 lots in the Knot Holes West Subdivision are estimated to be \$250,000.00. To assure the District and the Commission that adequate funds will be available to the District in the event that All American Homes, Inc. fails to construct the streets and roads in accordance with the Agreement, the Developer will secure a letter of credit from ROCK OF GIBRALTAR BANK, Megalopolis, Texas in the amount shown above in favor of the District which shall provide that in the event that the Developer fails to construct the streets and roads in accordance with the terms and conditions of this Agreement that the District shall have the right to award and/or to assume existing construction contracts for the completion of the streets and roads and to draw on the letters of credit for the purpose of making all payments due on the construction contracts for the streets and roads; provided, however, the District shall not proceed in such a manner until the Commission has reviewed the matter and approved the District awarding the contract(s) or assuming existing contract(s) and utilizing the letter of credit. Any draw on a letter of credit shall be accompanied by an approved pay estimate by the District's Engineer certifying that the amount is in order for payment. In the event that a letter of credit is not sufficient to pay the entire cost of constructing the streets and roads, the Developer shall be liable to the District for any costs in excess of the amount of the letter of credit.
5. Upon completion of the streets and roads to serve Developer's 300 lots in the Knot Holes West Subdivision in accordance with this Agreement, the District, upon written request by Developer and certification of completion by the District's engineer, shall authorize cancellation of the letter of credit for that section.
6. Developer and District agree that this Agreement is being entered into for the purpose of complying with the condition provided in the Commission's Order to permit the District to advertise for the sale of Bonds in compliance with the Commission's Order and in accordance with §293.047(g) of this title (relating to Thirty Percent of District Construction Costs to be Paid by Developer) and as an inducement to the District to issue the Bonds.

Executed in multiple copies on the date shown above.

GREEN ACRES MUNICIPAL UTILITY DISTRICT OF TRAVIS COUNTY, TEXAS

BY: _____
President, Board of Directors

ATTEST:

Secretary, Board of Directors

ALL AMERICAN HOMES, INC.

By _____
Title _____

§293.58. Interest Rate on Bonds.

(a) All bonds approved by the commission shall be deemed fixed rate unless the commission order specifically provides otherwise.

(b) The commission will consider variable rate, variable rate demand, or other bonds on which the interest rate is not permanently fixed on the date of sale only for districts that have a ratio of assessed valuation to debt of a least 20 to 1. A district proposing to issue bonds other than with fixed rates shall submit:

(1) a plan of financing specifying all major terms of the plan;

(2) calculations prepared by the district's financial advisor showing tax rate required under the maximum interest rate allowed under the plan; and

(3) a resolution of the board of directors acknowledging the tax rate required under the maximum interest rate allowed under the finance plan and the district's willingness to levy such a tax if required.

(c) All bonds must be sold in compliance with the applicable statutes relating to public notice and competitive bids.

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 25, 1986.

TRD-8806241 James K. Rourke, Jr.
General Counsel
Texas Water Commission

Earliest possible date of adoption:
August 1, 1986
For further information, please call
(512) 463-8070

★ ★ ★

District Actions if the Commission Approves the Engineering Project and Issuance of Bonds

★31 TAC §§293.61-293.70

The Texas Water Commission proposes new §§293.61-293.70, concerning district actions if the commission approves the engineering project and issuance of bonds. These sections cover and identify the documents which are required to be filed with the commission's executive director following the approval of an engineering project and bond issue, including escrow procedures, the offering document and contract for the sale of the bonds, the competitive bidding documents and reports to be made during the construction phase of the engineering project, all aspects of the contract documents for the construction phase of the engineering project, procedures the district must follow in supervision of the construction work, inspection by personnel of the commission, correction of construction deficiencies, certification of project completion, the method of document identification, staff inspection of facilities constructed, and audit by the district of payments of bond proceeds to developers.

Bobbie Barker, chief fiscal officer, 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. Barker 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 to insure the proper handling of bond proceeds for engineering projects constructed by water districts. All districts subject to commission jurisdiction will be required to handle the bond proceeds and carry out their construction contracts according to standard procedures and criteria so that the misapplication or inefficient use of such bond proceeds will be minimized. There is no anticipated economic cost to individuals who are required to comply with the proposed sections because any economic cost is imposed as a result of the statute, rather than by the proposed sections, or was already imposed by sections which were in effect immediately preceding the adoption of the proposed sections.

Comments on the proposal may be submitted to Royston S. Lanning, Legal Division, Texas Water Commission, P.O. Box 13087, Capitol Station, Austin, Texas 78711-3087.

The new sections are proposed under the Texas Water Code, §§5.103 and 5.105, which provides the Texas Water Commission with the authority to adopt any sections necessary to carry out its powers and

duties under the Texas Water Code and other laws of the State of Texas, and to establish and approve all general policy of the commission.

§293.61. Documents To Be Filed with the Commission.

(a) If the commission directs funds from the bond issue to be escrowed, a certified copy of the executed escrow agreement with an authorized financial institution of the district's choice shall be filed within five days of that transaction.

(b) The district shall file with the executive director a copy of the offering document or prospectus and the executed contract for the sale of the bonds within 10 days after execution of the contract.

(c) Within 10 days after construction contract execution, the district shall furnish to the executive director and to the appropriate commission field office true copies of the following documents:

- (1) notice to contractors (advertisement affidavit for bids);
- (2) addenda to plans and specifications;
- (3) bid tabulation;
- (4) engineer's letter recommending award of contract;
- (5) executed contract and bid proposal documents with bonds; and
- (6) notice to proceed (submit copy when issued).

(d) As the construction progresses, provide to the executive director and to the appropriate commission field office:

- (1) engineer's monthly construction progress reports and monthly pay estimates for contract partial payments within 10 days after payment, together with a statement by the engineer that the contractor has been paid by the district;
- (2) copies of proposed change orders;
- (3) copies of infiltration/exfiltration tests for sanitary sewer lines and test results of water lines prior to final construction inspection;
- (4) notice of date and time of final inspection at least five days prior to the inspection;
- (5) engineer's certification of completion for each construction contract within 10 days of the project acceptance; and
- (6) letter of acceptance by owner within 10 days after project acceptance.

§293.62. *Transmittal of Reports.* All water districts shall submit copies of documents listed under §293.61(c) and (d) of this title (relating to Documents To Be Filed with the Commission) directly to the appropriate commission field office, simultaneously with the submission of the document to the executive director.

§293.63. *Contract Documents for Water District Projects.* Contract documents for water district construction projects shall be prepared in general conformance with those adopted and recommended by the Texas Section of the American Society of Civil Engi-

neers (latest revision). The following specific requirements must apply.

(1) All contract documents shall be prepared in such a manner as to promote competitive bidding and to ensure that all bids are prepared on a common basis.

(2) The instruction to bidders section of the contract documents shall give special attention to the following items.

(A) The basis of award shall be clearly defined. If alternate proposals are to be considered, the instructions to bidders shall clearly state in which order the alternates will be considered in determining the most advantageous bid. If two or more contracts are to be awarded, the instructions to bidders shall clearly indicate if combined bids, or tied bids, will be allowed, or if each contract will be awarded separately.

(B) The contract should clearly provide that alternate bids will not be considered, unless specifically allowed by instructions to bidders and requested in the proposal form.

(C) Specific notice shall be given that qualifying statements or accompanying qualifying letters will be cause for rejection of the bid.

(D) Provision shall be made for prospective bidders to request additional information, explanations, or interpretations regarding contract documents prior to the bid opening. All requests and answers to all such requests shall be given in writing. Answers will be in addendum form to all prospective bidders.

(3) The district shall require the bidder to whom the district proposes to award the contract to submit a statement of qualifications. The statement shall include such data as the district may reasonably require to determine whether the contractor is responsible and capable of completing the proposed project.

(4) The district may require bidders to submit cashier's checks, in lieu of bid bonds, in an amount of at least 2.0% of the total amount of the bid. If cashier's checks are required, the checks for all bidders except the three low bidders shall be returned within three days of the bid opening.

(5) The district shall require that bidders submit, along with the bid, the name of the person, firm, or corporation that will execute payment and performance bonds.

(6) The district shall establish criteria for acceptability of the surety company issuing payment and performance bonds including, but not limited to:

(A) authorization to do business in Texas;

(B) authorization to issue payment and performance bonds in the amount required for the contract; and

(C) a rating of at least B from Best's Key Rating Guide.

(7) The district shall satisfy itself that all persons executing the bonds are duly authorized by the laws of the State of Texas and the surety company to do so.

§293.64. Control of Work. The governing board shall have control of contracts for construction work being done for the district, and shall direct the district's engineer to provide a qualified project representative to perform periodic or continuous on-site observation of the progress and quality of the executed work to determine if construction is in substantial accordance with and includes all items in plans and specifications approved by the commission. The scope of work and construction schedules shall govern the amount of on-site observation that is necessary to effectively monitor construction activities. The governing board shall authorize the services of a resident project representative if necessary to further protect the district against defects and deficiencies in construction. The responsibility for determining the optimum amount of on-site observation should remain with the consulting engineer who is required during the progress of the construction work to submit to the governing board and the executive director detailed written reports showing whether or not the contractor is complying with the contract.

§293.65. Commission Inspection. The executive director or his designated representative may inspect a district construction project at any time. When individual contracts for construction are substantially complete, the engineer for the district will notify the executive director of date and time of final inspection. The engineer will conduct, in company with the owner or his representative, a final inspection of the work for conformance with the design concept and compliance with the contract documents. The district shall not accept the project or release the statutory retainage on partial payments until work is determined to be in substantial compliance with plans and specifications as approved by the commission.

§293.66. Construction Deficiencies. If inspection by the executive director reveals construction deficiencies in facilities being installed, the engineer shall be notified of such deficiencies. Upon verification of deficiencies, the engineer for the district shall issue notice to the contractor. If the executive director finds that the construction deficiencies are not corrected and/or the project is not being constructed in accordance with approved plans and specifications, it shall give written notice immediately by certified mail to each member of the board of the district and the district's manager. If within 10 days after the notice is mailed, the board does not take steps to insure that the project is being constructed in accordance with approved plans and specifications, the executive director shall give written notice of this fact to the Attorney General of Texas.

§293.67. Project Completion. Upon completion of the project, the district's engineer shall submit to the governing board a final detailed report including revised contract as-built drawings showing the work as actually

constructed, and the engineer shall certify to the executive director that the work was substantially completed in accordance with and includes all items in plans and specifications filed with or approved by the commission.

§293.68. Document Identification. All correspondence, plans, monthly pay estimates, etc., submitted to the executive director shall be identified by the district's name, related bond issue amount, and date of commission approval.

§293.69. Purchase of Facilities. A district shall not purchase facilities financed or constructed by a developer in contemplation of sale to the district or assume facility contracts from the developer or reimburse the developer for funds advanced to finance construction of facilities until the commission has inspected the project, reviewed contract administration, and given written authorization to finalize the purchase or reimbursement. The commission shall inspect the facilities and issue its written approval or disapproval of such proposed purchase within 30 days after receipt of written request from a district or a district's authorized representative. The written approval shall be valid for 120 days. If the purchase of facilities or reimbursement of funds to the developer is not completed within 120 days after the date of the commission's written approval, the district shall again obtain the written approval as provided herein.

§293.70. Audit of Payments to Developer.

(a) Prior to the payment of funds to a developer from bond proceeds, bond anticipation note proceeds or funds to be derived from future bond proceeds, the governing board of directors of the district shall engage an auditor to perform certain agreed upon procedures applicable to all items and amounts for which a reimbursement request has been received. The auditor must be a certified public accountant or public accountant holding a permit from the Texas State Board of Public Accountancy.

(b) As a minimum, the following procedures shall be included to the extent applicable.

(1) All documentation supporting items, amounts, and proof of payment for which reimbursement is requested shall be reviewed.

(2) Interoffice memoranda, orders, and rules of the commission relative to the reimbursement request shall be reviewed.

(3) The calculations of interest on amounts reimbursable are to be tested and determined to be in accordance with interoffice memorandums, orders, and rules of the commission.

(4) All items and amounts shall be disclosed to and discussed with the district's attorney, engineer, financial advisor, and bookkeeper.

(5) A determination shall be made that the items and amounts to be reimbursed are appropriate and in accordance with com-

mitments or policies of the district and interoffice memorandums, orders, and rules of the Texas Water Commission as a result of the procedures followed and subject to such limitations as may apply.

(c) Upon completion, the auditor shall prepare a reimbursement report to the district. Such report shall include sufficient details and disclosures to serve the needs of the district and the commission. Within 10 days after approval by the governing board of the district, a copy of this report shall be filed with the commission. The contents of the report shall include the following:

(1) auditor's report;

(2) schedules of amounts reimbursable to each developer; and

(3) comparison of amounts included in the interoffice memorandums with amounts reimbursable and anticipated amounts, if any, to be expended in the future.

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 25, 1986.

TRD-8606242

James K. Rourke, Jr.
General Counsel
Texas Water Commission

Earliest possible date of adoption:

August 1, 1986

For further information, please call
(512) 463-8070.

★ ★ ★

Other Actions Requiring Commission Consideration for Approval

★31 TAC §§293.81-293.87

The Texas Water Commission proposes new §§293.81-293.87, concerning other actions requiring commission consideration for approval. The new sections cover the following district actions.

Section 293.81 provides procedures for approval of change orders with respect to construction contracts. Substantial alterations to plans and specifications which have been previously approved by the commission must be submitted for approval. These requirements are also applicable to construction which is carried out prior to commission approval of project plans and specifications. Approval is required where the cost is \$10,000 or more and may be given by the executive director without formal commission approval if the cost does not exceed \$50,000.

Section 293.82 provides procedures for commission approval of plans and specifications for construction work which is not under contract. Approval is required where the cost is \$10,000 or more and may be given by the executive director if the cost does not exceed \$50,000 without additional formal commission approval.

Section 293.83 provides procedures for district applications for the use of surplus bond funds, interest earned on investment bond proceeds, grants, contributions by others for cost sharing of facilities constructed with the bond funds, and litigation settlements related to projects financed by bond proceeds. A use of surplus funds not exceeding \$25,000 may be approved by the executive director without formal commission action.

Section 293.84 provides procedures for a district to obtain the release of bond funds which have been placed in escrow pursuant to commission order. This new section covers both funds to be used for purposes approved by the commission in its order approving a bond application as well as funds which are desired to be used for purposes other than those approved in the bond application order.

Section 293.85 provides procedures for a district to obtain an approval of a change in the bond interest rate and maturity schedules, and provides that a tax rate change may be approved by the chairman of the commission without formal commission approval.

Section 293.86 provides for procedures and necessary documentation for an application to revise an order setting the amount of a bond issue.

Section 293.87 sets out the conditions under which district, pursuant to applicable provisions of the Texas Water Code, may impose a charge or fee on undeveloped property in addition to taxes levied by the district on that property.

Bobbie Barker, chief fiscal officer, 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 Barker 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 insurance of the proper application of bond proceeds to the costs of engineering projects constructed by water districts. All districts subject to commission jurisdiction will be required to apply bond proceeds and complete their construction contracts and related functions according to standard procedures and criteria so that the misapplication or inefficient use of such bond proceeds will be minimized. Also, the public will be made aware of the legal requirements for charges or fees imposed by districts upon undeveloped property for utility service. There will be no economic cost to individuals who are required to comply with these sections for the reason that all of the requirements are imposed upon districts, which are political subdivisions, rather than individuals. The economic costs, if any, to individuals would be imposed by

statute or by sections which were already in effect immediately preceding the adoption of the proposed sections.

Comments on the proposal may be submitted to Royston S. Lanning, Legal Division, Texas Water Commission, P.O. Box 13087, Austin, Texas 78711-3087.

These new sections are proposed under the Texas Water Code, §§5.103, 5.105, and 5.235, which provides the Texas Water Commission with the authority to adopt any sections necessary to carry out its powers and duties under the Texas Water Code and other laws of the State of Texas, to establish and approve all general policy of the commission, and to collect statutory fees from persons filing various applications with the commission.

§293.81. Change Orders. A change order is a change in plans and specifications for construction work that is under contract. For purposes of this section, a variation between estimated quantities and actual quantities or use of supplemental items included in the bid where no change in plans and specifications has occurred is not a change order.

(1) Districts are authorized to issue change orders subject to the following conditions.

(A) Substantial alterations to commission approved plans and specifications must be approved prior to construction by the commission or the executive director as hereinafter provided.

(B) Except as provided in this subparagraph, change orders shall not be issued to increase the scope or change the nature of a project. Change orders may be issued only in response to:

- (i) unanticipated conditions encountered during construction;
- (ii) changes in regulatory criteria; or
- (iii) coordination with construction of other political subdivisions or entities.

(C) All change orders must be in writing and executed by the district and the contractor and approved by the district's engineer.

(2) No commission approval is required if the change order is less than \$10,000. If the change order is \$10,000 or more but less than \$50,000, the executive director or his designated representative may approve the change order. If the change order is \$50,000 or more, the commission must approve the change order. For purposes of this section, if either the total additions or total deletions contained in a change order equal or exceed \$10,000, even though the net change in the contract price will be less than \$10,000, approval by the executive director or the commission will be required.

(3) After a change order application is administratively complete, the executive director or his designated representative shall approve or disapprove any change order of less than \$50,000 within 10 days, and the commission shall make every effort to act

on any change order application of \$50,000 or more within 20 days or at the earliest practicable date.

(4) Filing of documents for change orders shall require:

(A) a copy of change order signed by the district's governing board, and a resolution or letter signed by the board indicating concurrence in the proposed change;

(B) revised construction plans and specifications approved by all agencies and entities having jurisdictional responsibilities, i.e., city, county, state, other, if required;

(C) a complete justification for the change;

(D) a detailed cost summary showing additions and/or deletions to the approved plans and specifications, and new contract price or cost estimate;

(E) a statement indicating amount and source of funding for the change in plans, including how the available funds were generated;

(F) the number of utility connections added or deleted by the change;

(G) other information as the executive director or the commission may reasonably require; and

(H) a filing fee in the amount of \$100 if estimated or actual cost is \$50,000 or more.

(5) Copies of all changes in plans, specifications, and supporting documents for all water district projects will be sent directly to the appropriate commission field office, simultaneously with the submittal of the documents to the executive director.

(6) Requirements relating to change orders shall also apply to construction carried out in accordance with §293.46 of this title (relating to Construction Prior to Commission Approval), except commission approval or disapproval will not be given. The change orders will be evaluated during the bond application review.

§293.82. Change in Plans. A change in plans is a change in commission approved plans and specifications for construction work that is not under contract and that does not require a change in the commission approved bond amount. Substantial alterations to commission approved plans and specifications must be approved by the commission.

(1) A change in plans wherein the combined or individual estimated cost revision is \$10,000 or more will be considered a substantial alteration. If the cost is less than \$50,000, the executive director or his designated representative may approve the change order without additional formal commission approval.

(2) All applications for change in plans shall include:

(A) a copy of a resolution or letter signed by the governing board indicating concurrence in the proposed change;

(B) revised construction plans and specifications approved by all agencies

and entities having jurisdictional responsibilities, i.e., city, county, state, other;

(C) a complete justification for the change;

(D) a detailed cost summary showing additions and/or deletions to the approved plans and specifications and new cost estimate;

(E) a statement indicating amount and source of funding for the change in plans, including how the available funds were generated;

(F) the number of utility connections added or deleted by the change;

(G) other information as the executive director or the commission may require; and

(H) a filing fee in the amount of \$100 if estimated cost or bid cost is \$50,000 or more.

(3) Copies of all changes in plans, specifications, and supporting documents for all water district projects will be sent directly to the appropriate commission field office, simultaneously with the submittal of the documents to the executive director.

§293.83. District Use of Surplus Funds. A district contemplating use of surplus bond funds, interest earned on invested bond proceeds, grants, contributions by others for cost sharing of facilities constructed with bond funds, and litigation settlements related to projects financed by bond proceeds must receive commission approval prior to obligation of these funds for any purpose.

(1) For engineering projects, the following documents shall be filed:

(A) a resolution by the governing board requesting approval of the project;

(B) construction plans and specifications approved by all agencies having jurisdictional responsibilities;

(C) a complete justification for the project;

(D) a detailed cost summary;

(E) the number of utility connections to be added (if applicable) and area served;

(F) the amount and source of funding, including how the available funds were generated;

(G) the 100-year flood data for area to be served if not previously provided;

(H) other information as the executive director or the commission may reasonably require; and

(I) a filing fee in the amount of \$100 if estimated cost or actual cost is \$50,000 or more.

(2) For expenditures other than engineering projects, the following documents shall be filed:

(A) a resolution by the governing board requesting approval of the expenditure;

(B) a complete justification and explanation of purpose for which the funds are proposed for expenditure;

(C) other information as the executive director or the commission may require; and

(D) a filing fee in the amount of \$100 if estimated cost or actual cost is \$50,000 or more.

(3) A proposed use of surplus funds that is less than \$50,000 may be approved by the executive director without additional formal commission approval.

§293.84. District Use of Escrowed Funds.

(a) Use of commission directed escrowed funds for the purpose approved in the bond application. Documents needed to file are:

(1) a resolution by the governing board requesting approval of the expenditure;

(2) evidence that the reason for escrow has been satisfied;

(3) other information as the executive director or the commission may require; and

(4) a filing fee in the amount of \$100 regardless of cost.

(b) Use of commission directed escrowed funds for purposes other than as approved by the commission with the bond application. Documents needed to file:

(1) for engineering projects:

(A) the documents required by §293.83(1) of this title (relating to District Use of Surplus Funds); and

(B) a resolution of the governing board requesting release from escrow;

(2) for purposes other than engineering projects:

(A) a resolution by the governing board requesting escrow release;

(B) a complete justification and explanation of purpose for which the funds will be expended; and

(C) other information as the executive director or the commission may require; and

(3) for filing, a filing fee in the amount of \$100 regardless of cost.

§293.85. Change in Commission Approved Bond Interest Rate or Maturity Schedules.

(a) If there is no change in bond amount or in the required tax rate, the district shall file a written statement with the executive director signed by the board president indicating that there is no change and shall provide a revised bond issue cost summary. Under these conditions, the executive director or his designated representative may approve the increased interest rate or maturity schedule without additional formal commission approval.

(b) If there is a change in the required tax rate, the district shall file:

(1) a resolution by the governing board requesting approval of the change;

(2) a revised cost summary, projection of revenues and expenses, and amortization schedule, as applicable;

(3) a complete justification for the change; and

(4) other information as the executive director or the commission may require.

(c) A change in tax rate may be approved by the chairman of the commission without additional formal commission approval.

(d) A filing fee of \$100 is required, if the applicant requests formal commission action.

§293.86. Bond Amendment. A bond amendment is a change in a commission approved bond issue project that requires a revision of the approved bond amount. Applications for bond amendments shall include the following:

(1) a resolution by the governing board requesting approval of the amendment;

(2) revisions to applicable required items which were previously submitted pursuant to §293.43 of this title (relating to Application Requirements);

(3) a complete justification and explanation of the amendment; and

(4) a filing fee in the amount of \$100.

§293.87. Adoption of Utility Availability Fee or Charge. An application for approval of a utility availability fee or charge pursuant to the Texas Water Code, §50.056, shall include the following documents:

(1) a resolution by the governing board requesting approval for the adoption of a utility availability fee;

(2) justification for the proposed fee, particularly the amount;

(3) projection of revenues and expenses for the district over the requested term of the fee; and

(4) a filing fee in the amount of \$100.

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 25, 1986.

TRD-8606243

James K. Rourke, Jr.

General Counsel

Texas Water Commission

Earliest possible date of adoption:

August 1, 1986

For further information, please call

(512) 463-8070.

★

★

★

Reports

★31 TAC §§293.91-293.96

The Texas Water Commission proposes new §§293.91-293.96, concerning reports. These sections set out a list of the reports which districts are required to file with the executive director, cover the form and content requirements for the annual audits which must be filed by districts with the executive director, prescribe the method of compiling the annual audits, recite the statutory penalty for noncompliance with the statutory reporting requirements, and cover the requirements for additional reports that must be filed by certain districts pursuant to the Texas Water Code, §50.302.

Bobbie Barker, chief fiscal officer, 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. Barker 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 to provide water districts with the information needed to file proper reports with the Texas Water Commission, thereby helping to insure the proper and efficient management of the district for the benefit of all persons residing in the district. There is no anticipated economic cost to individuals who are required to comply with the proposed sections, because any cost resulting from compliance with these sections will be imposed upon districts, rather than individuals, and any economic cost was already imposed by sections which were in effect immediately preceding the adoption of the proposed sections.

Comments on the proposal may be submitted to Royston S. Lanning, Legal Division, Texas Water Commission, P.O. Box 13067, Austin, Texas 78711-3067.

The new sections are proposed under the Texas Water Code, §§5.103 and §5.105, which provides the Texas Water 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 the State of Texas, and to establish and approve all general policy of the commission.

§293.91. Reporting by Districts.

(a) All districts are required to file certain documents and reports with the executive director by the Texas Water Code, Chapter 50, as follows:

(1) a certified copy of the order or legislative act creating the district within 60 days after the date the district is created;

(2) a certified copy of the order of the district's governing board changing the boundaries of the district within 60 days after the date of any boundary change together with a linen tracing or other map of equal quality showing the new boundaries;

(3) a written notification to the executive director of the name, address, and date of expiration of term of office of any elected or appointed director within 30 days after the date of the election or appointment;

(4) an immediate written notification to the executive director of any newly elected or appointed director when there is a change of directors due to resignation or death;

(5) a certified copy of the audit report within 15 days after the date of completion of any audit of the affairs of the district, other than the annual audit required by the Texas Water Code, §50.371;

(6) a certified copy of the annual

audit report required by the Texas Water Code, §50.374, within 135 days after the close of the district's fiscal year, together with a statement explaining the district's refusal if the district refuses to approve the annual audit report;

(7) the annual financial dormancy affidavit, when applicable, provided for in the Texas Water Code, §50.377, on or before January 31 of each year;

(8) the annual financial report in lieu of an annual audit, when applicable, as provided for in the Texas Water Code, §50.378, within 45 days after the close of the district's fiscal year, together with the required affidavit verifying the report's accuracy and authenticity;

(9) an annual filing affidavit, as required by the Texas Water Code, §50.374(d), certifying that all filings of copies of the annual audit report, or annual financial dormancy affidavit, or annual financial report, as applicable, have been completed.

(b) Districts created pursuant to general law under provisions of the Texas Water Code are subject to specific reporting requirements. Each district should comply carefully with the reporting requirements provided in the Texas Water Code chapter under which it was created. Districts created pursuant to special acts of the Texas Legislature may be subject to specific reporting requirements. Each district so created should comply carefully with any reporting requirements contained in special act of the Texas Legislature under which it was created.

§293.92. Additional Reports and Information Required of Certain Districts.

A district which is providing or proposing to provide as the district's principal function, water and sewer services, or either of these services, to household users, and which, if located within the corporate area of a city, includes less than 75% of the incorporated area of the city or which is located outside the incorporated area of a city in whole or in substantial part, shall provide and file with the executive director reports and information required by the Texas Water Code, §§50.301 and §50.302. The information shall include:

(1) the name of the district;

(2) the complete and accurate legal description of the boundaries of the district;

(3) the most recent rate of district taxes on property located in the district;

(4) the total amount of bonds which have been approved by the voters and which may be issued by the district;

(5) the date on which the election to confirm the creation of the district was held, if such was required;

(6) a statement of the functions performed or to be performed by the district;

(7) a complete and accurate map or plat showing the boundaries of the district.

(A) The information form and map or plat required by this section shall be signed by a majority of the members of the governing board of the district and by each such officer affirmed and acknowledged,

before it is filed with the county clerk, and each amendment made to an information form or map shall also be signed by the members of the governing board of the district and by each such officer affirmed and acknowledged, before it is filed with the county clerk.

(B) The information form required by this section shall be filed with the executive director within five days of the date it is filed with the county clerk. For purposes of this section, the words, "officially created" mean the date and hour in which the results of the election to confirm the creation of the district are declared.

(C) Within seven days after a change in any of the information contained in the district information form, map, or plat, the district shall file an amendment setting forth the changes made.

(D) If a district fails to file the information required by the Texas Water Code, §50.302, in the time required, the executive director may request the attorney general, or the district or county attorney of the county in which the district is located to seek a writ of mandamus to force the governing board of the district to prepare and file the necessary information.

(E) If a district covered by the provisions of this section is dissolved, annexed to another local government or is consolidated with another district, the members of the governing board shall file a statement of this fact together with the effective date of the dissolution, annexation, or consolidation with the information form.

§293.93. Special Reporting Requirements for Districts Subject to Consent Agreements Made Pursuant to the Texas Water Code, §54.016(h).

Districts created subject to the consent agreements authorized by the Texas Water Code, §54.016(h), shall file the duly affirmed and acknowledged statement, and the map or plat, required by the Texas Water Code, §54.016(h)(4)(B), together with the reports and information required by the Texas Water Code, §§50.302(c)-(j), as incorporated by reference into the Texas Water Code, §54.106(h)(4)(B).

§293.94. Audits.

(a) Statutory provisions for fiscal accountability. All districts are required to comply with the provisions of the Texas Water Code, §§50.371-50.381 requiring every district to either have performed an annual audit or to submit an annual financial dormancy affidavit or an annual financial report.

(b) Duty to audit. The governing board of each district created under the general law or by special act of the legislature shall have the district's fiscal accounts and records audited annually at the expense of the district. The person who performs the audit shall be a certified public accountant or public accountant holding a permit from the Texas State Board of Public Accountancy. An audit performed by the state auditor pursuant to the Texas Water Code, §50.381, will

not relieve the districts and river authorities listed therein from the annual audit requirements of the Texas Water Code, §50.371. Districts with little or no financial activity may qualify to prepare an unaudited financial report, pursuant to subsection (e) of this section, or a financial dormancy affidavit, pursuant to subsection (f) of this section.

(c) Form of audit. The audit shall be performed according to the generally accepted auditing standards adopted by the American Institute of Certified Public Accountants and shall include the auditor's representation that the financial statements have been prepared in accordance with generally accepted accounting principles as adopted by the American Institute of Certified Public Accountants.

(d) Accounting and auditing manual. All districts shall comply with the accounting and auditing manual adopted by the executive director and formally approved by the commission by minute order. The manual shall consist of two publications entitled *Minimum Accounting and Administrative Records Requirements* and *Annual Audit Report Requirements*. The manual may be revised as necessary by the executive director and formally approved by the commission by minute order.

(e) Audit report exemption.

(1) A district may elect to prepare an annual unaudited financial report in lieu of an audit provided:

(A) the district had no bonds or other long-term (more than one year) liabilities outstanding during the fiscal period;

(B) the district did not have gross revenues in excess of \$5,000 during the fiscal period; and

(C) the district's cash, receivables, and temporary investments were not in excess of \$20,000 during the fiscal period.

(2) The annual financial report must be accompanied by an affidavit attesting to the accuracy and authenticity of the financial report signed by the district's current president or chairman of the board, or by a county judge who is presiding as chairman of the governing board.

(3) The annual financial report and affidavit must conform with the format prescribed by the executive director. Financial report and affidavit forms may be obtained from the commission's audit section of the Water Districts Division.

(4) Districts governed by this section are subject to periodic audits by the executive director.

(f) Financially dormant districts.

(1) Those districts that can satisfy the criteria contained in this section may elect to prepare a financial dormancy affidavit rather than an unaudited financial report, as prescribed by subsection (e) of this section, or an audit report, as prescribed by subsection (b) of this section, provided:

(A) the district had no revenue from operations, tax assessments, or any other sources during the calendar year;

(B) the district had no expenditures of funds during the calendar year; and

(C) the district had no bonds or any other liabilities outstanding during the calendar year.

(2) The required annual calendar year affidavit shall be prepared in a format prescribed by the executive director and shall be signed by the district's current president or chairman of the board, a member of the board designated by the presiding officer, the board's attorney, or by a county judge who is presiding as chairman of the governing board. Financial dormancy affidavit forms may be obtained from the commission's audit section of the Water Districts Division.

(3) Districts governed by this section are subject to periodic audits by the executive director.

(g) Annual filing affidavit. Each district shall file annually with the executive director a filing affidavit which affirms that copies of the district's audit report, financial report, or financial dormancy affidavit have been filed within the district's business office and with the local city or county as required by subsection (h) of this section. Each district that files a financial report or a financial dormancy affidavit will find that the annual filing affidavit has been incorporated within those documents, so a separate filing affidavit form is unnecessary. However, each district that files an audit report must execute and submit, together with the audit, an annual filing affidavit when the audit is filed with the executive director. Annual filing affidavits must conform to the format prescribed by the executive director. Filing affidavit forms may be obtained from the commission's audit section.

(h) Filing of audits, financial reports, and affidavits.

(1) Filing dates.

(A) Audits. Audit reports and the annual filing affidavits that must accompany those reports shall be filed as prescribed by paragraph (2) of this subsection within 135 days after the close of the district's fiscal year, unless the audit is performed by the state auditor, in which case it will be filed within 380 days after the close of the district's fiscal year. The district's governing board shall approve the audit before a copy of the report is filed with the executive director; however, the governing board's refusal to approve the audit shall not extend the filing deadline for the audit report. If the governing board refuses to approve the audit, the board shall file with the executive director by the prescribed filing date the report and a statement providing the reasons for the board's refusal to approve the report.

(B) Financial reports. Financial reports and the annual filing affidavits that are integrated within the reports shall be filed as prescribed by paragraph (2) of this subsection within 45 days after the close of the district's fiscal year (Texas Water Code, §50.378(c)).

(C) Financial dormancy affidavits. Financial dormancy affidavits shall be filed as prescribed by paragraph (2) of this subsection by January 31 of each year. The calendar year affidavit affirms that the district was financially inactive, or dormant, during part or all of the calendar year immediately preceding the January 31 filing date.

(2) Filing locations. Copies of the audit, financial report, or financial dormancy affidavit described in subsections (c), (e), and (f) of this section shall be filed annually with the executive director, within the district's office, and with the city secretary or other designated city official in whose corporate limits or extraterritorial jurisdiction the district is located. If the district is not located within the corporate limits or extraterritorial jurisdiction of a city, the audit, financial report, or annual financial dormancy affidavit shall be filed annually with the clerk of the county within which the district is located; provided, however, this subsection shall not apply to any district which is located within all or parts of more than two counties; however, each such district shall file a copy of its annual audit, annual financial report, or annual financial dormancy affidavit with the county clerk of the county within which the greater part of the district resides.

(i) Review by executive director.

(1) The executive director shall review the audit report of each district, and if the executive director has any objections or determines any violations of generally accepted auditing standards or accounting principles, statutes, or commission rules, or if the executive director has any recommendations, he shall notify the governing board of the district.

(2) Before the audit report may be accepted by the executive director as being in compliance with the provisions of this section, the governing board and the auditor shall remedy objections and correct violations of which they have been notified by the executive director.

(j) Access to and maintenance of district records.

(1) The executive director shall have access to all vouchers, receipts, district fiscal and financial records, and other district records which the executive director considers necessary for the review, analysis, and approval of an audit report.

(2) The governing board of each district shall ensure that the minutes of governing board meetings and the district's accounting records are prepared on a timely basis and maintained in an orderly manner throughout the district's fiscal year in accordance with requirements prescribed by the executive director within the publication *Minimum Accounting and Administrative Records Requirements*. Each district shall preserve its minutes, contracts, notices, accounts, and all other records or certified copies thereof in a safe place, suitable for

public inspection. All records, including the fiscal records shall be available for public inspection during regular business hours. A district's fiscal records may be removed from the district's office for the purpose of recording its fiscal affairs and for preparing an audit, during which time the fiscal records are under the control of the district's auditor. Those districts proposing to provide or actually providing water and sewer services or either of these services to household users as the principal function of the district and having at least 100 qualified electors residing in the district shall maintain all district fiscal records in a district office located in the district.

(3) Prior to the start of a fiscal year, the governing board of each district shall adopt an operating budget for the upcoming fiscal year. The adopted budget and any subsequent amendments shall be passed and approved by a resolution of the governing board and shall be made a part of the governing board minutes. Budget amendments are required by the commission only if events occur which prevent meaningful comparison of the budget to the actual results of operations. The adopted budget is not a spending limitation imposed by the commission. However, the governing board may adopt rules to limit the spending authority of the district officers in relation to the budget. A comparison of the actual operating results to the adopted budget, as amended, shall be presented in the annual report of each district. The budgetary comparison statement shall be included either within the audited financial statements or within a supplementary section.

(4) Each district, whether active or dormant, shall maintain records sufficient to determine amounts paid by a developer or others, to any other party or parties, on behalf of the district. Such payments shall be disclosed in all of the audit reports, financial reports, or financial dormancy affidavits that are required to be filed by subsections (b), (e), and (f) of this section.

(5) Districts using proprietary funds (e.g., enterprise funds) in their audited financial statements shall provide sufficient supplemental information to demonstrate compliance with all legal restrictions on the use of district monies. Such supplemental information shall be shown on the format included in the *Annual Audit Report Requirements* referred to in subsection (b) of this section.

(k) Fiscal year. Within 30 days after a district becomes financially active, the governing board of that district shall adopt a fiscal year by a formal board resolution and so note it in the district's minutes. The president or chairman of the governing board or a member of the board designated by the presiding officer or the attorney representing the district shall notify the executive director of the adopted fiscal year within 30 days after adoption.

(l) Penalties for noncompliance.

(1) The executive director shall file

with the attorney general the names of any districts that do not comply with the provisions of this subchapter.

(2) Any district that violates the provisions of the Texas Water Code, Chapter 50, Subchapter K, is subject to a civil penalty of not less than \$50, nor more than \$100 a day for each act of violation and for each day a violation continues. Before a district is subject to the penalty provided in this subsection, it must continue to violate this subchapter after receipt of written notice of violation from the executive director sent by certified mail, return receipt requested.

§293.95. Required Reports Related to Bond Issues. Every district required to obtain commission approval of its engineering projects relating to the issuance and sale of bonds, whether created by general law as indicated in §293.41 of this title (relating to Approval of Engineering Projects) or by a special act of the Texas Legislature, is required to file the following written reports and/or documents:

(1) progress reports with respect to the construction of an engineering project;

(2) a certified copy of the maturity schedule of bonds, as approval by the Attorney General of Texas, issued in connection with an engineering project;

(3) reports which describe any transaction carried out by the district involving bonds of the district issued in connection with an engineering project; and

(4) project completion reports for an engineering project.

§293.96. Miscellaneous Required Reports To Be Filed with the Executive Director.

(a) All districts shall annually file a currently accurate list showing the names and addresses of the district's directors and expiration dates of their terms of office.

(b) The members of the governing board of any district dissolved by procedures other than those provided in the Texas Water Code, §§50.251-50.258 (relating to the dissolution of districts by the commission) shall file a report of such action together with the effective date of the dissolution.

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 25, 1986.

TRD-8806244

James K. Rourke, Jr.
General Counsel
Texas Water Commission

Earliest possible date of adoption:

August 1, 1986

For further information, please call
(512) 463-8070.



District Name Signs

★ 31 TAC §293.101

The Texas Water Commission proposes new §293.101, concerning posting notice in the district. The new section provides for the posting of signs indicating the existence of a water district created under the Texas Constitution, Article III, §52, or Article XVI, §59, at two or more principal entrances to the district when the district is providing or proposing to provide, as the district's principal function, water and sewer services, or either of these services to household users. The sign must be posted within 30 days after the creation of the district and detailed sign specifications may be obtained from the executive director of the commission. This section is required by the Texas Water Code, §50.303.

Bobbie Barker, chief fiscal officer, 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. Barker 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 insurance that the public will be placed on notice of the existence of a district prior to the purchasing of property in the district and that persons entering the district will be made aware that they are entering a political subdivision which has the legal authority to enforce certain police power regulations within its boundaries. There is no anticipated economic cost to individuals who are required to comply with the proposed section for the reason that any economic cost is imposed upon water districts rather than upon individuals, or was already imposed by a section in effect immediately preceding the adoption of the proposed section.

Comments on the proposal may be submitted to Royston S. Lanning, Legal Division, Texas Water Commission, P.O. Box 13087, Austin, Texas 78711-3087.

The new section is proposed under the Texas Water Code, §5.103, and §5.105, which provides the Texas Water Commission with the authority to adopt any sections necessary to carry out its powers and duties under the Texas Water Code and other laws of the State of Texas, and to establish and approve all general policy of the commission.

§293.101. Posting Notice in the District.

(a) Any district which is providing or proposing to provide, as the district's principal function, water and sewer services, or either of these services to household users, shall, within 30 days after the creation of the district, post signs indicating the existence of the district at two or more principal entrances to the district.

(b) Detailed sign specifications as to location, format, size, and materials may be obtained from the executive director on request at no charge.

(c) Within 10 days following the installation of the signs, the district shall file a statement with the commission indicating the location of the signs.

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 25, 1986.

TRD-8606245

James K. Rourke, Jr.
General Counsel
Texas Water Commission

Earliest possible date of adoption:

August 1, 1986

For further information, please call
(512) 463-8070.

★ ★ ★

Sanitary Sewer System Rules and Regulations

★ 31 TAC §293.11

The Texas Water Commission proposes new §293.111, concerning sanitary sewer service lines and connection. The new section requires that all water districts created under the Texas Constitution, Article III, §52, and Article XVI, §59, must adopt rules and regulations governing the construction of sewer lines and connections and carry out certain policies with respect to the operation of its sanitary sewer system. The new section requires the district's rules and regulations, inspection procedures, methods of certification, and methods of financing to be submitted to the executive director for approval.

Bobbie Barker, chief fiscal officer, 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. Barker 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 insurance that districts providing sanitary sewer service will do so in accordance with law and on the basis of fairness to customers. There is no anticipated economic cost to individuals who are required to comply with the proposed section for the reason that any economic cost will be imposed upon districts, which are political subdivisions rather than individuals. The economic cost if any, to individuals would be imposed by rules which were already in effect immediately preceding the adoption of the proposed new section.

Comments on the proposal may be submitted to Royston S. Lanning, Legal Division, Texas Water Commission, P.O. Box 13087, Austin, Texas 78711-3087.

The new section is proposed 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 the State of Texas, and to establish and approve all general policy of the commission.

§293.111. Sanitary Sewer Service Lines and Connection.

(a) All water districts which provide or propose to provide sanitary sewer service shall:

(1) adopt regulations governing the construction of commercial and/or household sewer service lines and connections to the district's sanitary sewer system;

(2) complete and have operable sewer collection lines and a treatment plant before any sewer connections are authorized;

(3) establish an inspection program to ensure that all new commercial and household connections are made in accordance with accepted construction practices prior to authorizing covering (back fill) of the service line trench;

(4) require that the district's inspector certify in writing that the sewer connection was installed in accordance with accepted construction practices and in compliance with the district's regulations governing this type of work;

(5) submit for the executive director's approval copies of its regulations, inspection procedures, method of certification, and method of financing;

(6) upon submission of each bond application, document to the executive director that a sewer service connection inspection program is in force for all new connections and that certification by the district's inspector of compliance with district rules is on file in the district's records.

(b) Suggested regulations may be obtained from the executive director upon request. Strict enforcement of such regulations will eliminate infiltration/inflow problems in service lines, sewage treatment plant overload and, as a result, reduce operation and maintenance costs.

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 25, 1986.

TRD-8606247

James K. Rourke, Jr.
General Counsel
Texas Water Commission

Earliest possible date of adoption:

August 1, 1986

For further information, please call
(512) 463-8070.

Fire Department Projects

★ 31 TAC §§293.121-293.125

The Texas Water Commission proposes new §§293.121-293.125 concerning fire department projects. The new sections provide the statutory and administrative procedural and substantive requirements for applications for approval by the Texas Water Commission by districts for approval of fire department plans and financing as authorized by the Texas Constitution, Article XVI, §59(f), and the Texas Water Code, §50.055. These new sections cover the necessary procedural steps and the documents which are required to be filed with the executive director of the commission which will enable the commission to make the necessary findings for the approval of the acquisition or construction of a fire department facility by an authorized district. These new sections also cover the procedural steps and documents required to be filed with the executive director showing the method of financing and the ability of the district to finance such fire department facilities.

Bobbie Barker, chief fiscal officer, 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. Barker 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 insurance that proper and adequate fire fighting facilities will be available to the residents of a district authorized to provide such facilities and that the funds used to provide such facilities will be handled according to standard procedures and criteria so that the misapplication or inefficient use of such funds will be minimized. There will be no economic cost to individuals who are required to comply with these sections for the reason that any economic cost is imposed as a result of a statute rather than the proposed sections, or was already imposed by sections which were in effect immediately preceding the adoption of the proposed sections. No economic cost should result to individuals for the reason that any costs will be imposed upon a district rather than upon individuals.

Comments on the proposal may be submitted to Royston S. Lanning, Legal Division, Texas Water Commission, P.O. Box 13087, Austin, Texas 78711-3087.

The new sections are proposed under the Texas Water Code, §§5.103, 5.105, and 5.235, which provides the Texas Water Commission with the authority to adopt any sections necessary to carry out its powers and duties under the Texas Water Code and other laws of the State of Texas, to establish and approve all general policy of the commission, and to collect statu-

tory fees from persons filing various applications with the commission.

§293.121. Approval of Fire Department Projects. The executive director has the responsibility of reviewing and the commission the responsibility of approving all fire department plans and, if applicable, the issuance of bonds to finance implementation of an approved fire protection plan for all districts created pursuant to the Texas Constitution, Article XVI, §59.

§293.122. Filing of Documents. Applicants shall submit all of the required data at one time in one package. The application for fire department plan approval, and the application for financing a fire department are separate applications. Applications may be returned for completion if they do not satisfy the requirements of this chapter.

§293.123. Application Requirements for Fire Department Plan Approval. Applications for fire department plan approval shall include:

(1) application by the district's board covering the subject matter contained in the Texas Water Code, §50.055, as amended, and specifically identifying:

(A) the method proposed for district fire protection: i.e. establishment of own fire department, joint fire protection service between two or more districts, or contract with others for fire fighting services; and

(B) the method proposed for financing the project, including, if applicable, the amount and type bonds (tax, revenue, combination) proposed for issuance by the district;

(2) certified copy of the district board's resolution authorizing submission of application for fire department plan approval;

(3) certified copy of the district board's order adopting a fire protection plan and/or any proposed contract to be entered into by the district for this purpose, together with evidence that a hearing in conformance with the Texas Water Code, §50.055(g), was held at which any person residing in the district could present testimony for or against the proposed plan and/or any proposed contract;

(4) evidence that a copy of the fire protection plan and proposed contracts as adopted by the district's board has been coordinated with the city having extra-territorial jurisdiction of the district; and if the district is outside the jurisdiction of any city, then provide evidence that the county commissioners court of the county in which the district is located has been provided a copy of the plan;

(5) filing fee in the amount of \$100;

(6) fire protection plan (the plan), which shall include, but not be limited to, the following applicable requirements:

(A) number and type of buildings and other facilities to be constructed,

including preliminary drawings, individual cost estimates, together with a location map of the area covered by the plan showing building/facility sites;

(B) discussion of existing and/or proposed water supply and distribution systems and their capabilities to support the district board's adopted plan;

(C) number, type, purpose, and estimated cost of each programmed item of fire fighting equipment;

(D) number and combined salary estimate of paid employees proposed, including benefit packages;

(E) copy of each proposed contract adopted by the district's board;

(F) number and type of facilities and structures existing and projected within the district proposed for fire protection coverage under the adopted plan; and

(G) preliminary summary of costs, as applicable, for capital improvements, including buildings, support facilities, vehicles, and miscellaneous equipment; and associated expenses, including legal fees; fiscal agent fees; administration, printing and selling bonds; capitalized interest (two years); building and facility sites (itemize showing cost/acre/site); organization, operation, maintenance, and administration costs; and bond discount;

(7) financial presentation for the district board's adopted plan which shall include, but not be limited to:

(A) total amount of all bonds currently authorized by the district's electorate;

(B) total amount of bonds approved for issuance by the commission or its predecessors;

(C) total bonds sold by the district, existing debt, including an itemization of all outstanding bonds, tax or bond anticipation notes, miscellaneous short and long term debt, and present district tax rate to support debt service;

(D) projection of revenues and expenses over the life of the proposed bond issue, together with an amortization schedule for the proposed bond issue, if bonds are to be sold to finance the establishment of the fire department; and all debt, as outlined under subparagraph (C) of this paragraph, plus the anticipated debt for any proposed bond issue to finance establishment of a fire department shall be included in the projection of revenues and expenses;

(E) a draft of the proposed contract for services and the plan that describes in detail the facilities and equipment to be devoted to service to the district, including financial requirements under the proposed contract, if the district proposes to contract with any other person to perform fire fighting services within the district under the Texas Water Code, §50.055(e); and

(F) evidence that the district can financially sustain the operation and maintenance costs of the proposed fire department, and a presentation of the method pro-

posed for generating funds for these purposes, and other miscellaneous expenses; and

(8) report describing existing fire department and fire fighting services (fire service organization) within 25 miles of the district, including;

(A) a map showing prominent roads, landmarks, and the location of each fire service organization, and depicting distance and route to the center of the district by each organization; and

(B) a narrative statement addressing the capabilities and willingness of each fire service organization to serve the needs of the district; the probability of a reasonable contract with one or more of the fire service organizations within a 25 mile radius, and a preliminary estimate of the annual costs of this anticipated fire protection service; and any other information deemed pertinent to the proposed application.

§293.124. Application Requirements for Fire Department Financing.

(a) Applications submitted under the provisions of the Texas Water Code, §50.055, for establishment of a fire department and the issuance of bonds to finance the construction and purchase of necessary buildings, facilities, and equipment for this purpose shall be considered by the commission only as a separate application for the issuance of bonds; therefore, the request for approval to issue bonds to establish or expand a fire department should not be integrated into a bond application submitted under §293.43 of this title (relating to Application Requirements) for engineering projects except for those water supply and distribution facilities necessary to support the fire protection plan approved by the voters.

(b) Districts are encouraged to submit incremental separate applications to initially finance or expand fire department facilities and equipment at various stages of district development as required. Projects for ultimate fire protection plan financing will not normally be recommended for commission approval for a district unless development of that district is substantially completed.

(c) The application shall address the applicable subject matter contained in the Texas Water Code, §50.055, including the method proposed for district fire protection, the type and amount of bonds requested, and/or the board adopted method of financing the project from other resources.

(d) The application shall be accompanied by a certified copy of the district board's resolution authorizing submission of the application.

(e) The district shall also include a certified copy of the district board's order canvassing election returns as voted by the district's electorate on the propositions specified under the Texas Water Code, §50.055(i).

(f) A certified copy of the fire protection plan and executed contracts as approved by the district's voters shall be submitted.

(g) If the fire protection plan authorized by the district's voters is not identical

to that approved by the commission, or if the application request under consideration is to finance an increment of the ultimate fire plan approved by the voters, either or both, provide an itemized description of alterations and the reasons for each change or deferred service.

(h) A filing fee in the amount of \$100 shall be submitted with the application.

(i) The district shall include a detailed plan approved by the district's electorate, or the incremental portion thereof as requested in the application, to include, but not be limited to:

(1) number and type of buildings and other facilities to be constructed, including final construction plans, specifications, and itemized cost estimates for each building or facility, water supply, and distribution improvements;

(2) number, type, purpose, and estimated cost of each programmed piece of fire fighting equipment;

(3) number of paid employees proposed, and the total estimated salary, including benefit packages;

(4) copy of each executed contract for fire protection services between districts, with another person or fire service organization(s), and the estimated annual cost to fulfill the contract requirements;

(5) number and type of facilities and structures existing and projected within the district (or districts for joint projects) proposed for fire protection coverage under the application; and

(6) summary of costs in conformance with format shown under §293.123(6)(G) of this title (relating to Application Requirements for Fire Department Plan Approval).

(j) Districts are encouraged to update and/or modify the financial presentation included in the application for fire protection plan approval as considered by the commission in its approval of that plan, including all the information required under §293.123 of this title (relating to Application Requirements for Fire Department Plan Approval).

§293.125. Additional Data and Information. Additional data and information may be required by the commission when deemed pertinent to the bond application under consideration.

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 25, 1986.

TRD-8608248 James K. Rourke, Jr.
General Counsel
Texas Water Commission

Earliest possible date of adoption:

August 1, 1986

For further information, please call
(512) 463-8070.

★ ★ ★

Dissolution of Districts

★ 31 TAC §§293.131-293.136

The Texas Water Commission proposes new §§293.131-293.136, concerning dissolution of districts. The new sections provide the statutory and administrative procedural and substantive requirements for applications for the dissolution of water districts created under the Texas Constitution, Article III, §52, and Article XVI, §59. The authority to dissolve such districts is conferred upon the Texas Water Commission by Texas Water Code, §§50.251-50.258, Subchapter G, which provides that districts which have been inactive for five years and have no bonded indebtedness may be dissolved by the commission.

The new sections provide that the application for dissolution may be initiated by either the executive director of the commission or by parties, including landowners, directors of the district, or other parties having an interest affected by the district. These new sections require that dormancy affidavits be filed covering the preceding five-year period and that evidence be included in the application showing that the district has no bonded indebtedness.

Procedures for notice requirements, investigation of the merits of the application, the order of dissolution by the commission, and the filing of certified copies of the order in the deed records of appropriate counties or with the secretary of state are covered in these new sections. The required filing fee is stated.

Bobbie Barker, chief fiscal officer, 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. Barker 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 provision of a method for the dissolution of inactive districts which will enable landowners and other parties who are not benefited by an inactive district to free the land included within the boundaries of the district from district taxes and other servitudes. There is no anticipated economic cost to individuals who are required to comply with the proposed sections for the reason that any economic cost is imposed as a result of the statute rather than the proposed section.

Comments on the proposal may be submitted to Royston S. Lanning, Legal Division, Texas Water Commission, P.O. Box 13087, Austin, Texas 78711-3087.

The new sections are proposed under the Texas Water Code §§5.103, 5.105, and 5.235, which provides the Texas Water Commission with the authority to adopt any sections necessary to carry out its powers and duties under the Water Code and

other laws of the State of Texas, to establish and approve all general policy of the commission, and to collect statutory fees from persons filing various applications with the commission.

§293.131. Authorization for Dissolution of Water Districts by the Texas Water Commission.

(a) Chapter 50, Subchapter G, being the Texas Water Code §§50.251-50.258, authorizes the Texas Water Commission to dissolve any district or authority created under the Texas Water Code or by the authority of the Texas Constitution, Article III, §52, and Article XVI, §59, which is inactive for a period of five consecutive years and has no outstanding bonded indebtedness.

(b) Proceedings for the dissolution of a district may be initiated by the executive director upon his own initiative or upon the receipt of an application filed with the executive director by the owners of land or interests in land within the district which is sought to be dissolved, a member or members of the board of directors of the district, or any other party who can demonstrate an interest in having the district dissolved.

(c) The application must include a petition on the part of the party requesting dissolution, including a statement of the reasons that a dissolution is desirable or necessary, and contain a statement that the district has been financially dormant for the preceding five-year period and has performed no functions for the five previous years and has no outstanding bonded indebtedness.

(d) If the petition is filed by a landowner, a director of the district, or other interested party, the application must contain certified copies of dormancy affidavits filed pursuant to the Texas Water Code, §50.377, for five years preceding the year in which the application is filed. If filed by the executive director, the application will contain a statement that the required dormancy affidavits are on file in the official records of the Texas Water Commission.

(e) Evidence that the district has no outstanding bonded indebtedness may be filed as prepared testimony with the application and may consist of statements or testimony from the district's attorney, engineer, or officer and shall include an affidavit of the state comptroller of public accounts certifying that the district has never registered any bonds with the comptroller.

§293.132. Notice of Hearing. A notice of the hearing upon the proposed dissolution of a district will be given by the commission and will describe the reasons for the proceeding, as required by the Texas Water Code, §50.252. The notice will be published once each week for two consecutive weeks before the day of hearing in a newspaper having general circulation in the county or counties in which the district is located. The first publication will be 30 days before the day of the hearing. Notice of the hearing will be given by the commission by first class mail

addressed to the directors of the district according to the last record on file with the commission.

§293.133. *Investigation by the Staff of the Commission.* The executive director will examine the application and the facts and circumstances contained therein and prepare a written report which will be filed with the commission two weeks prior to the hearing as prepared testimony. A copy of the written report will be mailed to any landowner, director, or other interested party who has filed an application for dissolution of the district or has requested notice of the hearing or otherwise indicated an interest in the proceeding.

§293.134. *Order of Dissolution.* Following the hearing, the commission will enter an appropriate order that the district be dissolved or that the district not be dissolved. The commission may order the district dissolved if it finds that the district has performed none of the functions for which it was created for a period of five consecutive years before the day of the proceeding and that the district has no outstanding bonded indebtedness. If the district is ordered dissolved, the order shall contain a provision that the assets of the district shall escheat to the State of Texas and shall be administered by the state treasurer, and disposed of in the manner provided by Texas Civil Statutes, Article 3270a, 1925, as amended.

§293.135. *Certified Copy of Order to be Filed in the Deed Records.* The commission shall cause to be filed a certified copy of the order of dissolution of the district in the deed records of the county or counties in which the district is located. If the district was created by a special act of the legislature, the commission shall cause to be filed a certified copy of the order of dissolution with the secretary of state of the State of Texas.

§293.136. *Filing Fee.* The fee for filing an application for the dissolution of a water district is \$100, plus the cost of required notice.

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 25, 1986.

TRD-8606249 James K. Rourke, Jr.
General Counsel
Texas Water Commission

Earliest possible date of adoption:

August 1, 1986

For further information, please call
(512) 483-8070.



Acquisition of Road Utility District Powers by Municipal Utility Districts

★ 31 TAC §293.201, §293.202

The Texas Water Commission proposes new §293.201 and §293.202, concerning acquisition of road utility district powers by municipal utility districts. The new sections provide the statutory and administrative procedural and substantive requirements for Texas Water Commission approval of applications by water districts for road utility district powers pursuant to the Texas Constitution, Article III, §52, and Article XVI, §59, Texas Civil Statutes, Article 6674r-1, and the Texas Water Code, §54.234 and §54.235. Water districts created pursuant to the cited constitutional provisions are authorized to construct roads, highways, and certain kind of drainage facilities as authorized by the Road Utility Act, Texas Civil Statutes, Article 6674r-1, as amended the 69th Legislature, 1985, Chapter 95¹, by obtaining authorization from the State Department of Highways and Public Transportation after receiving approval by the Texas Water Commission. These new sections require certain procedural steps to be taken, including the filing of a petition, a resolution of the governing board of the district authorizing the request for approval of the commission, and certain data which will show that the district is in compliance with the statutory requirements. Disclosure of the financial condition of the district is required in order that the commission may determine whether the district may feasibly carry out road utility district powers.

Bobbe Barker, chief fiscal officer, 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. Barker 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 insurance that districts which desire to acquire road utility district powers comply with the statutory requirements and are financially capable of carrying out the functions of a road utility district in addition to the functions of a water district. There is no anticipated economic cost to individuals who are required to comply with these sections for the reason that any economic cost is imposed as a result of the statute rather than by the proposed sections and also for the reason that any economic cost will be imposed upon a water district, which is a political subdivision, rather than upon any individual or individuals.

Comments on the proposal may be submitted to Royston S. Lanning, Legal Division, Texas Water Commission, P.O. Box 13087, Austin, Texas 78711-3087.

The new sections are proposed under the Texas Water Code, §§5.103, 5.105, and 5.235, which provides the Texas Water Commission with the authority to adopt any sections necessary to carry out its powers and duties under the Texas Water Code and other laws of the State of Texas, to establish and approve all general policy of the commission, and to collect statutory fees from persons filing various applications with the commission.

§293.201. *District Acquisition of Road Utility District Powers.*

(a) Texas Civil Statutes, Article 6674r-1, (Chapter 13, Acts of the 68th Legislature, Second Called Session, 1984, as amended by Chapter 951, Acts of the 69th Legislature, 1985) authorizes a district operating pursuant to the Texas Water Code, Chapter 54, and which has the power to levy taxes to petition the State Highway and Public Transportation Commission, after first obtaining approval of the Texas Water Commission, to acquire the powers granted under said Texas Civil Statutes, Article 6674r-1, to road utility districts, pursuant to authority contained in the Texas Constitution, Article III, §52. Texas Civil Statutes, Article 6674r-1, in §5(d), requires the written consent of the landowners within the boundaries of the district to be given to the governing board of the district to file a petition with the State Highway and Public Transportation Commission.

(b) Authority to add road utility district powers is also given to municipal utility districts in Chapter 951, Acts of the 69th Legislature, 1985, which added §54.234 and §54.235 to the Texas Water Code. This section and §293.202 of this title (relating to Application Requirements for Commission Approval) will provide the requirements for obtaining approval of the Texas Water Commission to petition the State Highway and Public Transportation Commission for road utility district powers.

§293.202. *Application Requirements for Commission Approval.* A conservation and reclamation district, operating pursuant to the Texas Water Code, Chapter 54, and which has the power to levy taxes, shall file with the executive director of the Texas Water Commission an application which shall include the following documents, prior to petitioning the State Highway and Public Transportation Commission for road utility district powers:

(1) a petition or written request which will include a detailed narrative statement of the reasons for requesting road utility district powers and the reasons why such powers will be of benefit to the district and to the land which is included in the district, signed by the president of the board of directors of the district;

(2) a certified copy of the resolution of the governing board of the district authorizing the request for approval of the Texas Water Commission to petition the State Highway and Public Transportation Commission for road utility district powers;

(3) a certification that the district is operating under the Texas Water Code, Chapter 54, and has the power to levy taxes, with proper statutory references;

(4) evidence that the governing board of the district received written consent of all landowners within its boundaries prior to adopting the resolution of the governing board of the district authorizing it to petition for road utility district powers;

(5) a certified copy of the latest audit of the district performed pursuant to the Texas Water Code, §§50.371-50.374;

(6) for districts which have not filed an annual audit, a financial statement of the district, including a detailed itemization of all assets and liabilities showing all balances in effect not later than 30 days before the date the district files its request for approval with the executive director of the Texas Water Commission;

(7) a certified copy of preliminary plans for all the facilities to be constructed, acquired, or improved by the district, which the district is required to submit to the governmental entity to which it proposes to convey district facilities by the Texas Civil Statutes, Article 6674r-1, §4(a);

(8) a cost analysis and detailed cost estimate of the proposed facilities to be constructed, acquired, or improved by the district under road utility district powers with a statement of the amount of bonds estimated to be necessary to finance the proposed construction, acquisition, and improvement;

(9) a narrative statement which will analyze the effect of the proposed facilities upon the district's financial condition and will demonstrate that the proposed construction, acquisition, and improvement is financially and economically feasible for the district;

(10) any other information which may be required by the executive director of the Texas Water Commission; and

(11) a filing fee in the amount of \$100 plus the cost of the required notice.

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 25, 1986.

TRD-8606250 James K. Rourke, Jr.
General Counsel
Texas Water Commission

Earliest possible date of adoption:

August 1, 1986

For further information, please call
(512) 463-8070.

★ ★ ★



Procedures and Design Criteria for Approval of Water System Projects

★ 31 TAC §§293.301-293.311

The Texas Water Commission proposes new §§293.301-293.311 concerning procedures and design criteria for approval of water system projects. The new sections provide the statutory and administrative procedural and substantive requirements for Texas Water Commission review and approval of plans and specifications for drinking water supply systems for public use in connection with engineering projects and the issuance and sale of bonds by water districts created and operating pursuant to the Texas Constitution, Article III, §52, and Article XVI, §59. Regulations governing the review and approval of plans and specifications for drinking water supply systems for public use must be adopted by the commission pursuant to Acts of the 69th Legislature, 1985, §7.004, Chapter 795, (Texas Civil Statutes, Article 4477-1(a), as amended).

These new sections provide a glossary of terms and general engineering requirements; standards for the location and quality of water sources, including both groundwater and surface water sources; standards and design criteria for the facilities used for the treatment of drinking water, including both groundwater and surface water; standards and design criteria for water distribution systems for the distribution of any public drinking water supply; standards and design criteria for facilities used for the storage of a public drinking water supply; the minimum water quantity requirements for community type public drinking water systems, with respect to both a groundwater supply and a surface water supply; a form of a notice of appointment for a registered professional engineer as consulting and designing engineer for a public drinking water supply facility and/or system; the requirements which must be met for any public water supply system to be eligible to represent that it has been approved by the Texas Department of Health and the Texas Water Commission and to erect signs denoting such approval; and requirements for minimum sizing for water mains.

Bobbie Barker, chief fiscal officer, 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. Barker also has determined that for each year of the first five years the sections are in effect the public benefit anticipated as a result of enforcing the sections will be that the proper quality of public drinking water will be obtained with respect to engineering projects and bond issues which are required to be approved by the Texas Water Commission. The public benefit will be a pure and safe water

supply. There is no anticipated economic cost to individuals who are required to comply with the proposed sections; because any economic cost is imposed upon water districts which are political subdivisions or was already imposed by sections which were in effect immediately preceding the adoption of the proposed sections.

Comments on the proposal may be submitted to Royston S. Lanning, Legal Division, Texas Water Commission, P.O. Box 13087, Austin, Texas 78711-3087.

The new sections are proposed under the Texas Water Code, §§5.103, 5.105, and 5.235, which provides the Texas Water Commission with the authority to adopt any sections necessary to carry out its powers and duties under the Texas Water Code and other laws of the State of Texas, to establish and approve all general policy of the commission, and to collect statutory fees from persons filing various applications with the commission.

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

ASTM—The standards of the American Society for Testing and Materials, 1916 Race Street, Philadelphia, Pennsylvania 19102.

AWWA Standards—The latest edition of the applicable standard as approved and published by the American Water Works Association, 6666 West Quincy Avenue, Denver, Colorado 80235.

Commission—The Texas Water Commission.

Community water system—A public water system which serves at least 15 service connections used by year-round residents or regularly serves at least 25 year-round residents. Service connections shall be counted as one for each one-family residential unit to which drinking water is supplied from the system.

Contamination—The presence of any foreign substance (organic, inorganic, radiological or biological) in water which tends to degrade its quality so as to constitute a hazard or impair the usefulness of the water.

Department—The Texas Department of Health.

Drinking water—All water distributed by any agency or individual, public or private, for the purpose of human consumption or which may be used in the preparation of foods or beverages or for the cleaning of any utensil or article used in the course of preparation or consumption of food or beverages for human beings. The term "drinking water" shall also include all water supplied for human consumption or used by any institution catering to the public.

Health hazards—Any conditions, devices or practices in the water supply system and its operation which create, or may create, a danger to the public health and well-being of the water consumer. An example of a health hazard is a structural defect in the water supply system, whether of location,

design, or construction, which may regularly or occasionally prevent satisfactory purification of the water supply or cause it to be contaminated from extraneous sources.

Intruder resistant fence—A chain link fence of six feet in height which has three strands of barbed wire at the top. The barbed wire supports must be angled outward at the top at a 45° angle.

NSF—The National Sanitation Foundation, and refers to the listings developed by the Foundation, P.O. Box 1468, Ann Arbor, Michigan 48106.

Non-community type public water system—Any public water system which is not a community type system.

Other definitions—where not specifically defined in these sections, the technical terms used herein shall have the definitions given in the latest issue of *Glossary—Water and Sewage Control Engineering* prepared under the joint sponsorship of the American Public Health Association, the American Society of Civil Engineers, the American Water Works Association, and the Water Pollution Control Federation, obtainable from the American Society of Civil Engineers, 33 West 39th Street, New York, New York.

Public health engineering practices—That facilities will be provided in accordance with regulations adopted by the Texas Board of Health or by the Texas Water Commission.

Public water system—A system for the provision to the public of piped water for human consumption, if such system has at least 15 service connections or regularly serves an average of at least 25 individuals daily at least 60 days out of the year. Such term includes any collection, treatment, storage, and distribution facilities under control of the operator of such system and used primarily in connection with such system, and any collection or pretreatment storage facilities not under such control which are used primarily in connection with such system. A public water system is either a community water system or a non-community water system. Without excluding other meanings or individual or served, an individual shall be deemed to be served by a water system if he resides in, uses as his place of employment, or works in, a place to which drinking water is supplied from the system.

§293.302. General.

(a) Authority for requirements.

(1) Texas Civil Statutes prescribe the duties of the Texas Department of Health and the Texas Water Commission relating to the regulation and control of public drinking water systems in the state. These statutes require that the department review completed plans and specifications for all new public drinking water systems, unless that approval is required by the commission and that the department and/or the commission be notified of any subsequent material changes, improvements, additions, or alterations in

existing systems. In order to properly discharge these duties, the Texas Department of Health is authorized to develop regulations governing the design of system facilities, as well as minimum acceptable operating practices necessary to protect the public health. These statutes are codified in Texas Civil Statutes as Articles 4414a, 4418d, 4419, and 4477-1. The Texas Water Commission is authorized to develop rules governing the design of system facilities under the Texas Water Code, §5.103 and §5.105;

(b) Reason for regulations and minimum criteria. These sections have been adopted to insure the inclusion of all data essential for comprehensive consideration of the contemplated project, or improvements, additions, alterations, or changes thereto, and to establish minimum standardized public health design criteria in compliance with existing state statutes and in accordance with good public health engineering practices.

(c) Authorization for examination and approval of plans and specifications.

(1) Engineers of the commission are not authorized to examine and approve plans for public water system facilities unless the design engineer has submitted a letter of appointment from the proper city, water district, company official, or individual stating that he or she is authorized to prepare plans and specifications. See §293.309 of this title (relating to Appendix D—Notice of Appointment) for suggested notice form.

(2) Plans and specifications will not be considered unless they have been prepared under the direction of a registered professional engineer, and the plans show the seal and signature of the engineer responsible on each sheet.

(3) An engineering report on new systems and a minimum of a project description letter on any planning material must be submitted with or prior to submission of plans and specifications.

(4) With the contemplated establishment of any new drinking water system for public use, a statement by the water purveyor must be provided setting forth his awareness of the provisions of Texas Civil Statutes, Article 4477-1, relating to the operation of public water supply systems and his willingness to comply with applicable provisions thereof, and all applicable rules by the Texas Department of Health.

(5) The executive director of the commission or his designated representative may approve the plans and specifications without additional formal commission approval being required.

(d) Time allowed for consideration of plans. Detailed plans must be submitted for examination at least two weeks prior to the time that approval, comments, or recommendations are desired. From this, it is not to be inferred that final action will be forthcoming within two weeks.

(e) Limits of approval.

(1) The commission furnishes consultation services as a reviewing body only,

and its registered engineers may neither act as design engineers, nor furnish detailed estimates.

(2) The commission does not examine plans and specifications in regard to the structural features of design, such as strength of concrete or adequacy of reinforcing. Review will be limited to other features covered by these standards.

(3) The consulting engineer and/or owner must provide supervision adequate to assure that facilities will be constructed according to approved plans.

(4) The approval of plans and specifications shall not be construed as granting permission to erect signs or advertise "Public Water Supply Approved—Texas Department of Health". Such approval covers the establishment and maintenance of satisfactory operational practices, as well as compliance with other applicable state statutes. See §293.310 of this title (relating to Appendix E—Approval Requirements) for requirements.

(f) Information required.

(1) Planning material submitted shall in all instances be in such detail as to permit a comprehensive review to assure compliance with these standards.

(2) A preliminary report proposing processes, methods, or procedures not covered by these rules and regulations, or a request for an exception to any portion of the regulations, shall be submitted as early in the planning stage as is practical. Agreement at this point between the design engineer and the commission regarding the essential design data is desired to eliminate delay or inconvenience and avoid the likelihood of having to revise the detailed final plans.

(3) In general, the planning material submitted shall conform to the following requirements for the various documents submitted.

(A) The engineering report shall include at least coverage of the following items:

(i) statement of the problem or problems;

(ii) present and future areas to be served, with population data;

(iii) the source, with quantity and quality of water available;

(iv) present and estimated future maximum and minimum water quantity demands;

(v) description of proposed site and surroundings for the water works units;

(vi) type of treatment, equipment, and capacity of units;

(vii) basic design data, including pumping capacities, water storage, and flexibility of system operation;

(viii) the adequacy of the facilities with regard to delivery capacity and pressure throughout the system.

(B) All plans and drawings submitted may be printed on any of the various papers which give distinct lines. All prints must be clear, legible, and assembled to facilitate review.

(i) The relative location of all facilities which are pertinent to the specific project shall be shown.

(ii) If stage construction is anticipated, the overall plan shall be presented, even though a portion of the construction is to be deferred.

(iii) A general map or plan of the municipality, water district, or area to be served shall accompany each proposal for a new water supply system.

(C) Specifications for construction of facilities shall accompany all plans. If a process or equipment which may be subject to probationary acceptance because of limited application or use in Texas is proposed, the commission, at its discretion, may give limited approval, provided the owner is given a bonded guarantee covering acceptable performance. The specifications shall include a statement that such a bonded guarantee will be provided the owner.

(g) Changes in existing systems or supplies. Where changes or alterations are planned for existing systems, notification to the commission shall include sufficient information to evaluate the public health significance of such changes. The commission shall determine whether engineering plans and specifications will be required after initial notification of the extent of the modifications.

(h) Beginning and completion of work.

(1) The Texas Water Commission and the Texas Department of Health, Water Hygiene Division, shall be notified by the design engineer or the owner when construction is started.

(2) Upon completion of the water works project, the design engineer will notify the Texas Department of Health, Water Hygiene Division, and the Texas Water Commission as to its completion and attest to the fact that the completed work is substantially in accordance with the plans and change orders on file with the commission.

(i) Changes in plans and specifications. Any addenda or change orders which may involve a health hazard or relocation of facilities, such as wells, treatment units, and storage tanks, shall be submitted to the commission for review and approval.

(j) Planning material acceptance.

(1) Planning material for a new water system which does not meet the requirements of all portions of these regulations will not be considered.

(2) Planning material for improvements to an existing system which does not meet the requirements of all portions of these regulations will not be considered, unless the necessary modifications for correcting any deficiencies are included in the proposed improvements, or unless the commission determines that reasonable progress is being made toward correcting the deficiencies, and no immediate health hazard will be caused by the delay.

(3) Planning material which contains a request for an exception to one or more for these sections shall be considered on an

individual basis. The burden of proof rests with the design engineer to demonstrate to the satisfaction of the commission that the exception has been requested because conditions are such that equivalent protection to the public health of the systems customers is provided by an alternate means. Any such request must be substantiated by carefully documented engineering data.

§293.303. *Water Sources.*

(a) Water quality. The quality of water to be supplied must meet the approval of the Texas Department of Health, and such approval will be based upon the quality criteria prescribed by the Texas Board of Health.

(b) Water quantity. Sources of supply, both ground and surface, shall have a safe yield capable of supplying the maximum daily demands of the distribution system during extended periods of peak usage and critical hydrologic conditions. The pipe lines and pumping capacities to treatment plants or distribution systems shall be adequate for such water delivery. Minimum capacities required are specified in §293.307 of this title (relating to Water System Quality Requirements).

(c) Groundwater sources and development.

(1) Groundwater sources shall be so located that there will be no danger of pollution from flooding or from insanitary surroundings, such as cesspools, privies, sewage, livestock and animal pens, solid waste disposal sites, or abandoned and improperly sealed wells.

(A) No well site which is within 50 feet of a tile or concrete sanitary sewer, septic tank, or storm sewer, or which is within 150 feet of a cesspool or septic tank open-jointed drainfield will be acceptable for the development of a public drinking water supply well. Sanitary or storm sewers constructed of materials as specified in §293.305(c)(1)(A) of this title (relating to Water Distribution) may be located at distances of less than 50 feet from a proposed well site provided that written approval from this commission is obtained prior to construction of the well.

(B) No well site shall be selected which is within 500 feet of a sewage treatment plant or within 300 feet of a sewage wet well, sewage pumping station, or a drainage ditch which contains industrial waste discharges or the wastes from sewage treatment systems.

(C) No water wells shall be located within 500 feet of animal feed lots, solid waste disposal sites, or lands irrigated by sewage plant effluent.

(D) Livestock in pastures shall not be allowed within 50 feet of water supply wells.

(E) Abandoned water wells in the area of a proposed source shall be plugged and sealed properly to prevent possible contamination of fresh water strata. The procedures and methods to be followed in plugging and sealing wells shall be obtained from the Texas Water Commission, Austin, Texas.

(F) A sanitary control easement covering that portion of the lands within 150 feet of the well location shall be secured from all such property owners, and recorded in the deed records at the county courthouse. The easement shall provide that none of the pollution hazards covered in subparagraphs (A)-(E) of this paragraph or any facilities that might create a danger of pollution to the water to be produced from the well will be located thereon. Copies of the recorded easements shall be submitted with plans and specifications submitted for review.

(2) The premises, materials, tools, and drilling equipment shall be maintained so as to minimize contamination of the underground water during the drilling operation.

(A) Water used in any drilling operation shall be of safe sanitary quality.

(B) The slush pit shall be constructed and maintained so as to minimize contamination of the drilling mud.

(C) Approved type privy or toilet facilities shall be provided for use of personnel during drilling operations, and these facilities must be located at least 150 feet from the well being drilled. After construction of the well has been completed, these facilities, if temporary, will be abandoned or removed in a satisfactory manner. No temporary sanitary facilities shall be maintained within 150 feet of the well being constructed unless they are of a sealed, leakproof type.

(3) Drilling records and material setting data shall be maintained accurately and copies made available to the owner, as well as state agencies requesting this information.

(A) The Texas Department of Health and the Texas Water Commission shall be furnished a copy of well material setting data, geological log, sealing information (pressure cementing and surface protection), disinfection information, bacteriological sample results, and a chemical analysis report of a representative sample of water from the well.

(B) The casing material used in the construction of wells for public use shall conform to AWWA standards. Refer to §293.301 of this title (relating to Definitions of Terms). The casing shall extend to a point 18 inches above the elevation of the finished floor of the pump room or natural ground surface and a minimum of one inch above the sealing block or pump motor foundation block, when provided. The casing shall extend at least to the depth of the shallowest water formation to be developed and deeper, if necessary, in order to cut off all undesirable water-bearing strata.

(C) The space between the casing and drill hole shall be sealed by using sufficient cement under pressure to provide for completely filling and sealing of the annular space between the casing and the drill hole. The well casing shall be cemented in this manner from the top of the shallowest formation to be developed to the earth's surface. Where the top of the water-bearing for-

mation is less than 50 feet, special treatment facilities, in addition to chlorination ahead of storage, with a minimum detention time of two hours, may be required, depending on local conditions.

(D) When a gravel pack well is constructed, all gravel shall be of selected and graded quality and shall be thoroughly treated with a 50 mg/l chlorine solution to insure disinfection as it is added to the well cavity.

(E) In all cases, a concrete sealing block extending at least three feet from the well casing in all directions, with a minimum thickness of six inches, and sloped to drain away at not less than 0.25 inches per foot shall be provided around the well head.

(F) Well heads and pump bases shall be sealed by the use of gaskets, and sealing compounds, and properly vented to prevent the possibility of contamination of the well water. A well casing vent shall be provided with the opening screened with a 16-mesh or finer corrosion resistant screen, and faced downward and located and elevated so as to minimize the drawing of contaminants into the well.

(G) Safeguards shall be taken to prevent possible contamination of the water or damage by trespassers following the completion of the well and prior to installation of permanent pumping equipment.

(H) Upon completion, the well shall be disinfected in accordance with current AWWA standards for well disinfection. Refer to §293.301 of this title (relating to Definitions of Terms).

(i) After the water containing chlorine is completely flushed from the well, samples of water shall be collected daily and submitted for bacteriological analysis until three successive samples submitted shall be free of coliform organisms, prior to placing the well in service.

(ii) Appropriate facilities for treatment of the water shall be provided where a satisfactory bacteriological record cannot be established after repeated disinfection. The extent of water treatment required will be determined on the basis of geological data, well construction features, nearby sources of contamination, and perhaps on the basis of quantitative bacteriological analyses.

(I) A complete physical and chemical analysis of the water produced from a new well shall be made after 36 hours continuous pumping at the design withdrawal rate. If the analysis reveals that the water from the well fails to meet the water quality criteria as prescribed by the Texas Department of Health, including turbidity, color, and threshold odor limitations, or shows excessive hydrogen sulfide, carbon dioxide, or other constituents or minerals which make the water undesirable or unsuited for domestic use, appropriate treatment shall be provided.

(J) A suitable sampling cock shall be provided on the discharge pipe of each well pump.

(K) If a well blow-off line is provided, it shall slope downward and terminate at a point which will not be subject to submergence by flood waters.

(L) Flow measuring devices shall be provided to measure production yields and provide for the accumulation of water production data. These devices shall be so located as to facilitate ease of daily reading. Systems with an ultimate development potential of 50 connections or less shall be excused from this requirement, although flow measuring devices are still recommended.

(M) All completed well units shall be protected by intruder resistant fences, the gates of which are provided with locks, or enclosed in locked, ventilated well houses to exclude possible contamination or damage to the facilities by trespassers.

(N) Subground level pump rooms and pump pits will not be allowed in connection with water supply installations. The pump room floor shall be at least two feet above the highest known watermark and/or protected adequately by levees from possible damage by flood waters.

(O) The well site shall be fine graded so that the site is free from depressions, reverse grades, or areas too rough for proper ground maintenance so as to assure that surface water will drain away from the well. In all cases, arrangements shall be made to carry off the drainage from the well pump, leakage from packing glands, and floor drainage. Suitable drain pipes located at the outer edge of the concrete floor shall be provided to carry off this water and prevent its ponding or collecting around the well head. This wastewater shall be disposed of in such a manner so that it will not cause any nuisance from mosquito breeding or stagnation. Drains shall not be directly connected to storm or sanitary sewers.

(P) An all-weather access road shall be provided to each well site.

(d) Surface water resources and development.

(1) An evaluation shall be made of the proposed surface water impoundment or flowing supply in the area of diversion and its tributary streams to determine the degree of pollution from all sources within the watershed.

(A) Where surface water sources which are subject to continuous contamination by municipal and industrial wastes and/or treated effluent are contemplated for development for public water systems, the adverse effects of said contamination on the quality of raw water reaching the purification plant shall be determined by sanitary surveys and laboratory procedures and findings submitted with planning material. These findings will then be used to determine whether or not the proposed raw water intake is adequately separated from all contamination sources.

(B) The disposal of liquid or solid wastes from any sources on the watershed must be in conformity with applicable reg-

ulations and state statutes.

(C) Shore installations, marinas, boats, and all habitations on the watershed shall provide satisfactory sewage disposal facilities. Septic tanks and soil absorption fields, tile or concrete sanitary sewers, sewer manholes, or other approved toilet facilities shall not be located in the area within 75 feet horizontally from the lake water surface at the uncontrolled spillway elevation of the lake or 75 feet horizontally from the 50-year flood elevation, whichever elevation is lower.

(D) Disposal of wastes from boats or any other watercraft shall be in accordance with the Texas Water Commission Order Number 74-0521-4.

(2) Intakes shall be so located and constructed as to permit a wide variation in depths from which the raw water is taken, as well as to permit withdrawal of water when reservoir levels are low.

(A) Intakes shall be located, insofar as possible, in areas not subject to excessive siltation and areas not subject to receiving immediate runoff from wooded sloughs and swamps.

(B) Water intake works shall be provided with screens or grates to minimize the amount of debris entering the plant and must be constructed so that water can be obtained from various water levels.

(C) No public boat launching ramps, marinas, docks, and floating fishing piers shall be located within 1,000 feet of the raw water intake.

(D) A restricted zone of 200 feet radius from the raw water intake works shall be established and all recreational activities and trespassing prohibited in this area. The restricted zone shall be designated with markers or buoys. Regulations governing this zone shall be included in city ordinances or the rules and regulations promulgated by a water district or similar regulatory agency. Provisions shall be made for strict enforcement of such ordinances or regulations.

(3) The water treatment plant and all pumping units shall be located in well-drained areas not subject to flooding and away from seepage areas or where the underground water table is near the surface.

(A) Water treatment plants shall not be located within 500 feet of a sewage treatment plant. Any sanitary sewers within 50 feet of any of the underground treatment plant units shall be constructed of cast iron pipe with watertight joints. A minimum spacing of 150 feet must be maintained between any septic tank openjointed drainfield line and any underground treatment unit.

(B) Plant site selection shall also take into consideration the need for disposition of all plant wastes in accordance with applicable regulations and state statutes.

(C) The water treatment plant and all appurtenances thereto shall be enclosed by an intruder resistant fence, the gates of which can be kept locked.

(D) An all-weather road shall be provided to the treatment plant.

(E) A flow measuring device shall be provided to measure either the raw water supplied to the plant, or treated water supplied from the plant, to provide for the accumulation of water production data. This device shall be so located as to facilitate ease of daily reading.

(e) Springs and other water sources.

(1) Water obtained from springs, infiltration galleries, wells in fissured areas, and/or any other source subject to surface or near surface contamination of recent origin shall be evaluated for the provision of treatment facilities, in addition to chlorination.

(2) The extent of water treatment required will be determined on the basis of geological data, well construction features, nearby sources of contamination, and perhaps on the basis of quantitative bacteriological and chemical analyses.

§293.304. *Water Treatment.*

(a) Groundwaters.

(1) Chlorination facilities shall be provided for all groundwater supplies for the purpose of bacteriological quality control, and shall be in conformity with applicable disinfection requirements in subsection (c) of this section.

(2) Treatment facilities for ground water being proposed to correct specific physical and chemical quality problems shall be in conformance with established and proven methods.

(A) Where newly developed or unproven processes are proposed, a five-year treatment process performance bond shall be provided. The bond shall clearly state the process limitations and performance standards when operated in accordance with the manufacturer's guarantee.

(B) All processes involving exposure of the water to atmospheric contamination shall provide for subsequent chlorination of the water ahead of ground storage reservoirs. Likewise, all exposure of water to the atmospheric contamination shall be accomplished in a manner such that insects, birds, and other foreign materials will be excluded from the water.

(C) Appropriate laboratory facilities shall be provided for controls and to check the effectiveness of chlorination and any treatment processes employed.

(b) Surface water.

(1) All water secured from surface sources shall be given complete treatment at a plant which provides facilities for pretreatment disinfection, taste and odor control, continuous coagulation, sedimentation, filtration, covered clear well storage, and terminal disinfection of the water with chlorine or suitable chlorine compounds.

(2) The treatment capacity of a water plant based on current acceptable design standards shall always be in excess of the maximum expected draft of any day of the year.

(3) No cross connection or interconnection shall be permitted to exist in a

filtration plant between a conduit carrying filtered or post chlorinated water and another conduit carrying raw water or water in any prior stage of treatment. No conduit or basin containing raw water or any water in a prior stage of treatment shall be located directly above or permitted to have a single common partition wall with another conduit or basin containing finished water. This paragraph is not strictly applicable, however, to partitions open to view and readily accessible for inspection and repair.

(4) All drainage conduits shall be constructed so as to be thoroughly tight against leakage. They shall discharge and be located in such a manner that no currents of water can, under any circumstances, be carried from a drain outlet to the plant intake or to any other water intake located in the vicinity of the plant.

(5) Reservoirs for pretreatment (sedimentation) and/or selective quality control shall be provided where complete treatment facilities may not continue to operate satisfactorily at times of maximum turbidities anticipated from the source of supply to be developed. Recreation at such reservoirs should be prohibited.

(6) Treatment plants shall be provided with efficient devices for measuring and applying chemicals to the water under treatment.

(A) At least one chemical feeder shall be provided as a standby or reserve unit.

(B) An accurate flow meter shall be provided for determining rate of treatment and total amount of water treated. All chemical feed equipment shall be capable of ready adjustment to variations in the flow of water being treated.

(C) Dry chemical feeders shall be in separate rooms and be provided with suitable facilities for dust control.

(D) Chemical feeders shall be provided with dissolving tanks when applicable.

(E) Chemical solutions transported from feeder to application point should be accomplished through open channels. If enclosed feed lines must be used, they shall be designed and installed so as to prevent clogging and facilitate cleaning.

(F) Coagulants shall be applied to the water in the mixing basins or chambers so as to permit their thorough mixing with the water.

(7) Provision of chemical application points beyond the mixing basin or chamber shall be provided for taste and odor control, stabilization, and disinfection for quality controls.

(8) Chemicals shall be stored in a separate, dry room above ground and above floor level and protected against flooding or wetting from floors and walls.

(A) Storage facilities at the plant shall be adequate to store at least one month's supply of chemicals used.

(B) Chemical storage facilities shall be so located with reference to chemical

feeders to facilitate handling of bulk chemicals by operators. Also, the movement of chemicals from storage to feed machines shall be such as to facilitate good housekeeping.

(9) Flash mixing and flocculation equipment, capable of adequate flexibility of adjustment to provide optimum flocculation under varying raw water characteristics and rates of raw water treatment, shall be provided.

(A) An ideal combination of flash mixing and flocculation will provide one to two minutes violent agitation, followed by about 30 minutes to one hour of slow mixing to accomplish desired flocculation.

(B) Where special types of equipment for rapid mechanical mixing, softening, or sedimentation are proposed, the manufacturer shall guarantee the performance of said equipment.

(C) Sufficient facilities for coagulation and sedimentation must be provided to clarify the water so that the settled turbidity is at a level so as to produce a treated water at or below 1.0 turbidity unit after filtration.

(i) Settled water turbidities of 10 TU or less are generally required to produce a treated water turbidity of less than or equal to 1.0 turbidity unit after filtration.

(ii) All turbidity measurements must be made in accordance with the method specified in the department's drinking water standards.

(10) In order to insure continuous operation, basins for flocculation and straight-flow sedimentation of coagulated waters shall be at least two in number, shall be designed for series or parallel operation, and shall provide a total detention period of at least six hours.

(A) Facilities for sludge removal shall be provided by mechanical means or by the provision of hopper bottomed basins with valves capable of complete draining of the units.

(B) Basins shall be so designed as to prevent short circuiting of flow or the destruction of floc. Coagulated water or water from flocculators shall be transported to sedimentation basins in such a manner as to prevent destruction of floc.

(C) The length of rectangular settling basins shall preferably be at least twice their width. Long effluent weirs will aid the efficiency of clarification. The depth of sedimentation basins shall be such as to maintain proper velocity of flow and sludge removal, the permissible depth being slightly lower with continuous sludge removal. Flow line elevations shall not vary more than a few inches above or below the normal level.

(D) Sedimentation basins shall be provided with facilities for draining the basin in a period not in excess of six hours. In the event that the plant site topography is such that gravity draining cannot be realized, a permanently installed electric powered pump station shall be provided to dewater the basin.

(E) Where it is proposed to use a patented, upflow, or other type sedimentation basin or clarification facilities with less than the previously specified detention time, the facility may be conditionally accepted where the manufacturer or supplier provides a two-year performance bond that the water going to the filters will have a turbidity of less than 10 turbidity units. In no case shall the minimum settling or clarification detention time be less than two hours. Facilities to monitor and record the turbidity of the raw and the settled water must be provided. Engineering data submitted with the engineering report for the proposed settling basin should verify that the basin is of proven design to treat the quality of raw water available to the treatment plant.

(11) Filters shall be gravity or pressure type.

(A) The design of rapid and pressure type sand filters shall be based on a filtration rate of two gallons per square foot per minute. Mixed-media and/or coal-sand filters, of the gravity-type only, may be conditionally accepted with filtration rates of more than two gallons per square foot per minute, up to a maximum rate of 5.0 gallons per square foot per minute when facilities to monitor and record turbidities of raw, settled, and finished water are provided.

(B) The depth of filter sand, anthracite, or other filtering materials shall be between 24 inches and 30 inches, and this filtering material shall be free from clay, dirt, organic matter, and other impurities. Its effective size shall range from 0.35 to 0.45 mm for fine sand, 0.45 to 0.55 mm for medium sand, and 0.55 and 0.65 mm for coarse sand, and its uniformity coefficient shall not exceed 1.7. The grain size distribution shall also be as prescribed by AWWA Standards. (Refer to §293.301 of this title (relating to Definitions of Terms)).

(C) Under the filtering material, at least 12 inches of gravel shall be placed, varying in size from 1/16 inch to 2½ inches. The gravel is usually arranged in three to five layers such that each layer contains material about twice the size of the material above it.

(D) The rate of flow of wash water shall not be less than 20 inches vertical rise per minute and usually not more than 30 inches vertical rise per minute, which shall expand the filtering bed 30 to 50%. The free board in inches shall exceed the wash rate in inches of vertical rise per minute.

(i) The water for backwashing of filters shall be of the same quality as that produced by the plant and may be supplied by elevated wash water tanks or by pumps provided for backwashing of filters only, which take suction from clear wells. For installations having a treatment capacity no greater than 150,000 gallons per day, however, water for backwashing may be secured directly from the distribution system with proper controls.

(ii) Rate of backwashing of filters shall be regulated by rate-of-flow con-

trollers.

(E) If surface filter wash systems are provided, atmospheric vacuum breakers shall be installed in the system supply lines and above the overflow level of the filters such that all water passes through them.

(F) Each filter unit shall be equipped with rate-of-flow controllers and loss-of-head gauges for proper operation of the filtration process.

(G) Filter-to-waste connections, if included, shall be provided with an air gap connection to waste.

(H) Filters shall be so located that common walls will not exist between them and aerators, mixing and sedimentation basins, or clear wells. This subparagraph is not strictly applicable, however, to partitions open to view and readily accessible for inspection and repair.

(12) Pipe galleries with ample working room, good lighting, and good drainage provided by sloping floors, gutters, and pumps shall be incorporated in the plant design, along with adequate ventilation to prevent condensation and to provide humidity control.

(13) The identification of influent, effluent, waste, and backwash lines can be accomplished by use of various colors of paint. In order to maintain uniformity, the following color code is suggested for pipe galleries:

Blue—Treated water
Green—Clarified water
Tan—Raw water
Brown—Waste water
Orange—Pumps, valve bodies and metal pump bases

Bright red—Chlorine gas piping, flexible couplings on pumps and other machinery, and all exposed rotating parts.

(14) An adequately equipped laboratory must be available locally where daily bacteriological and chemical tests can be made on water supplied by all plants serving 25,000 persons or more. For plants serving less than 25,000 population, the facilities for making bacteriological tests may be omitted and the required bacteriological samples submitted to Texas Department of Health laboratories. All surface water treatment plants shall be provided with equipment for making at least the following determinations: pH, chlorine residual, alkalinity, turbidity, threshold odor, jar tests, and other tests deemed necessary to monitor specific water quality problems or to evaluate specific water treatment processes.

(c) Disinfection.

(1) All waters obtained from surface sources must be chlorinated prior to distribution at a dosage sufficient to produce an adequate chlorine residual in the water leaving the plant.

(2) All ground waters must be chlorinated prior to distribution, with the point of application preferably ahead of water storage reservoir(s). Permission to use alternate chlorine application points must be obtained

in writing from this commission.

(3) All water stored in treated water reservoirs for pumping directly to the distribution system must contain a chlorine residual. Chlorination facilities must be provided for all such locations where an adequate chlorine residual is not maintained from prior treatment.

(4) Disinfection equipment shall be selected and installed so the continuous and effective disinfection can be secured under all conditions as covered in treatment requirements for groundwater and surface water.

(A) Disinfection equipment shall have a capacity at 50% greater than the highest expected dosage to be applied at any time. It shall be capable of satisfactory operation under every prevailing hydraulic condition.

(B) Automatic proportioning of the disinfectant dosage to the rate of flow of the water treated shall be provided at the larger plants and at all plants where the rate of flow varies more than 50% above or below the average flow. Manual control shall be permissible only where the rate of flow is relatively constant or an attendant is always at hand to effect promptly the necessary adjustments in dosage.

(C) All disinfecting equipment at surface water treatment plants shall include at least one standby unit for insuring uninterrupted operation.

(D) Facilities shall be provided for determining the amount of disinfectant used daily, as well as the amount of disinfectant remaining for use.

(E) When used, solutions of calcium hypochlorite shall be prepared in a separate mixing tank, when diluted and allowed to settle so that only a clear supernatant liquid is provided in the solution suction tank for the hypochlorinator.

(F) Provision shall be made for both pretreatment disinfection and post chlorination in all surface water plants and at such additional points in the treatment process as indicated in order to provide for quality control treatment procedures.

(G) Disinfectants other than chlorine may be used only at points in the treatment process prior to post chlorination, and only with written permission from the commission for community type systems.

(H) Disinfectants other than chlorine proposed for use in noncommunity type systems will be considered on a case-by-case basis under the variance guidelines of §293.302 (j)(3) of this title (relating to General).

(5) A suitable gas mask or self-contained type breathing apparatus and also a small bottle of fresh ammonia solution, or approved equal, for testing for chlorine leakage shall be provided and accessibly located outside the chlorinator room when chlorine gas is used.

(6) Housing for gas chlorination equipment and cylinders of chlorine shall be separate buildings or separate rooms with impervious walls or partitions separating all

mechanical and electrical equipment from the chlorine facilities, and located above ground level as a measure of safety. This equipment and cylinders may be installed on the outside of buildings when protected from adverse weather conditions and vandals.

(7) Adequate floor level ventilation shall be provided for all enclosures in which chlorine is being fed or stored.

(8) Safety measures for the use of alternate disinfectants shall be as prescribed by the department or commission.

(d) Special treatment processes. The adjustment of fluoride ion content, special treatment for iron and manganese reduction, special methods for taste and odor control, demineralization, and other proposals covering other than usual treatment will be considered as special projects.

(e) Sanitary facilities for water works installations. Toilet and handwashing facilities provided in accordance with established standards of good public health engineering practices shall be available at all installations requiring frequent visits by operating personnel.

(f) Permits for waste discharges. Permits for discharging wastes from water treatment processes shall be obtained from the Texas Water Commission, Austin, Texas.

§293.305. *Water Distribution.*

(a) Design and standards. All potable water distribution systems, including pump stations, mains, ground and elevated storage, shall be designed, installed, and constructed in accordance with current AWWA standards, (refer to §293.301 of this title (relating to Definitions of Terms)), with reference to materials used and construction procedures to be followed. In the absence of AWWA standards, policy may be established based upon ASTM (refer to §293.301 of this title (relating to Definitions of Terms)), commercial, and other recognized standards. All plastic pipe proposed for use in public water systems must bear the National Sanitation Foundation seal of approval (refer to §293.301 of this title (relating to Definitions of Terms)) and have an NSF design rating of at least 150 psi or a standard dimension ratio of 26. No pipe which has been used for any purpose other than the conveyance of drinking water shall be accepted and relocated to use in any public drinking water supply.

(b) Pressures. All water distribution systems shall be designed and constructed so as to provide at all times a minimum residual pressure of 20 pounds per square inch under any and all conditions of demands that can be placed on the system. Under normal operation conditions, minimum pressures should be not less than 35 psi.

(1) Air release devices required. Where the topography of the area to be served is such that air locks in the lines may occur, air release devices shall be installed in such a manner as to preclude the possibility of submergence or possible entrance of contamination.

(2) Multiple pressure plans and low pressure areas. Where distribution system conditions are such that it is necessary to provide more than one pressure plane or where distribution system conditions and demands are such that low pressures develop, the method of providing increased pressure shall preferably be by means of booster pumps taking suction from storage reservoirs. Planning material for booster pumps taking suction from other than a storage reservoir shall contain a full description of the supply to the point of suction, maximum demands on this part of the system, location of pressure recorders, safety controls, and other pertinent information for the review. Where booster pumps are installed to take suction directly from the distribution system, a minimum residual pressure of 20 pounds per square inch must be maintained on the suction line at all times. Such installations must be equipped with automatic pressure cut-off devices so that the pumping units become inoperative at a suction pressure of less than 20 psi. In addition, a continuous pressure recording device may be required at a pre-determined suspected critical pressure point on the suction line in order to record the hydraulic conditions in the line at all times. Should such a record indicate critical minimum pressures (less than 30 psi), then adequate storage facilities are to be installed with the booster pumps taking suction therefore. Fire pumps used to maintain pressure on automatic sprinkler systems for fire protection purposes only are not considered as in-line booster pumps.

(3) Metering for community-type public water systems. Accurate metering devices shall be provided at each service connection for the accumulation of water usage data at each service outlet. Systems with an ultimate development potential of 50 connections or less where no direct charge is made for the water shall be excused from this requirement.

(4) Valves and blowoffs. The system shall be provided with sufficient valves and blowoffs so that necessary repair can be made without undue interruption of service over any considerable area and for the purpose of flushing the system when required.

(5) Circulation and flush valves. The system shall be designed so as to afford effective circulation of water, with a minimum of dead ends. All dead-end mains shall be provided with acceptable flush valves and discharge piping.

(A) Where dead ends are necessary as a stage in the growth of the system, they shall be located and arranged with a view to connecting them ultimately so as to provide circulation.

(B) All water lines less than two inches in diameter in a distribution system shall normally be considered as service lines. Flush valves will not be required where such a line dead ends if a customer service is at the end, unless in a particular case, such a device is needed to maintain water quality.

(c) Locations of mains.

(1) When new water mains and new sanitary sewers are installed, they shall be installed no closer to each other than nine feet in all directions and parallel lines must be installed in separate trenches. Where the nine foot separation distance cannot be achieved, the following procedures shall be used.

(A) Where a new sanitary sewer force main parallels the water main, the sanitary sewer shall be constructed of cast iron, ductile iron, or PVC pipe meeting AWWA specifications, having a minimum working pressure rating of 150 psi or greater, and equipped with pressure type joints. The water main and sanitary sewer shall be separated by a minimum vertical distance of two feet, and a minimum horizontal distance of four feet, measured between the nearest outside diameters of the pipes, and the water main shall be located above the sewer.

(B) Where a new gravity, sanitary sewer parallels a new water main, the sanitary sewer shall be constructed of cast iron, ductile iron, or PVC pipe meeting AWWA specifications, or having NSF approval for use as potable water pipe, with a pressure rating for both the pipe and the joints of greater than or equal to 100 psi. The new water line may be placed no closer than two feet vertically and four feet horizontally from the sewer, with the separation distances measured between the nearest outside pipe diameters. The water main shall be installed at a higher elevation than the sanitary sewer.

(C) Where a new sanitary sewer crosses the water main, and that portion of the sewer within nine feet of the water is constructed as described in subparagraph (B) of this paragraph, the water line may be placed no closer than six inches from the sewer. The separation distance must be measured between the nearest outside pipe diameters. The water lines shall be located at a higher elevation than the sewer wherever possible, and one length of the sewer pipe must be centered on the water line.

(D) Where a new sanitary sewer crosses under the water main, and the sanitary sewer is constructed of ABS truss pipe, similar rigid plastic composite pipe, clay, or concrete pipe with gasketed joints, the water main shall be placed no closer to the sewer than two feet, measured between the nearest outside diameters, provided the initial backfill zone of the sewer trench is backfilled with well mixed cement stabilized sand (two or more bags of cement per cubic yard of sand) in the initial backfill zone of the trench, for all sections of sewer within nine feet of the water line. The initial backfill zone of the trench is defined as extending from a point $\frac{1}{4}$ pipe diameter above the bottom of the pipe to an elevation in the trench which is one pipe diameter (but not less than 12 inches) above the top of the sewer pipe. As an alternative to the backfill method, ductile iron, cast iron, or PVC pressure pipe, as defined in subparagraph (A) of this paragraph, may be used to replace the clay or concrete pipe,

wherever the sewer is located closer than nine feet to the water line (measured between the nearest outside diameters). If a replacement pipe is used, the pipe shall be centered on the water line, and the special backfill procedure may be omitted.

(E) Where a new gravity sanitary sewer constructed of concrete or clay pipe with gasketed joints crosses over a water main, or in all instances where concrete or clay pipe without gasketed joints crosses over or under a water main, all sewer pipe within nine feet of the water main must be replaced with cast iron, ductile iron, or PVC pipe as described in subparagraph (B) of this paragraph, using appropriate adaptors.

(2) Where water lines are installed in areas which have existing sanitary sewers, every effort should be made to maintain nine feet of separation between the outside pipe diameters of the two lines. Where this separation cannot be achieved because of local conditions, which must be fully documented in any planning material submitted, the following spacings shall be observed.

(A) Where a new water line is to cross or be installed in parallel with an existing sanitary sewer, and the sewer is constructed as described in paragraph (1)(A) or (B) of this subsection, the separation distances specified in those subparagraphs shall apply as though the sewer were new.

(B) Where a new water line is to be installed in parallel with an existing clay or concrete gravity sewer showing no evidence of leakage and the water line is installed above the sewer a minimum of two feet vertically and four feet horizontally, the sanitary sewer need not be disturbed. Should excavation for the water line produce evidence that the sewer is leaking, then the sewer must be repaired.

(C) Where a new water main is to cross an existing clay or concrete gravity sewer showing no evidence of leakage, the sewer need not be disturbed solely to apply special backfill if the water line is to be installed at least 24 inches above the existing sewer. A full joint of the water line should be centered over the sewer crossing, in this case, so as to provide maximum protection against contamination.

(D) Existing clay or concrete sewer pipe which, because of physical limitations, must remain at a higher elevation than a proposed intersecting water line may remain undisturbed if the water line is inserted in a joint of pressure type carrier pipe at least 18 feet long and two nominal sizes larger than the water line. The carrier pipe should be centered on the sewer crossing and both ends sealed with cement grout. In lieu of this procedure, that portion of the sewer within nine feet of the water line may be replaced with cast iron or ductile iron pipe with watertight joints such as described in paragraph (1)(A) of this subsection.

(3) Unless sanitary sewer manholes and the connecting sewer can be made completely watertight and tested for no leakage,

they must be installed so as to provide a minimum of nine feet of horizontal clearance from an existing or proposed water line. Encasement of the water line in a carrier pipe as described in paragraph (2)(D) of this subsection may be approved in special cases if completely justified, and prior approval has been obtained from the commission.

(4) Fire hydrants shall not be installed within nine feet vertically or horizontally of any sanitary sewer, regardless of construction.

(5) No physical connection shall be made between a drinking water supply, public or private, and a sewer or any appurtenance. Any appurtenance thereof shall be constructed so as to prevent any possibility of sewage entering the drinking water system.

(6) No sewer carrying domestic or industrial wastes shall cross suction mains to pumping equipment. Water mains shall not be installed closer than 10 feet to septic tank drainfields. No raw water lines shall be installed within five feet of any tile or concrete sanitary sewer.

(d) Sanitary precautions and disinfection. Sanitary precautions, flushing, disinfection procedures, and bacteriological sampling, as prescribed in AWWA standards (refer to §293.301 of this title (relating to Definitions of Terms)) for disinfecting water mains, shall be followed in laying tile or concrete water lines.

(1) Pipe shall not be laid in water or placed where it can be flooded with water or sewage during its storage or installation.

(2) Where water mains are laid under any flowing stream or semipermanent body of water such as marsh, bay, or estuary, the water main shall be installed in a separate watertight pipe encasement or valves shall be provided in the line on each side of the crossing with facilities to allow the underwater portion of the system to be isolated and tested to determine that there are no leaks in the line under water. All lines four inches and smaller should be encased.

(3) New mains shall be thoroughly disinfected in accordance with AWWA standards (refer to §293.301 of this title (relating to Definitions of Terms)) and then flushed and sampled before being placed in service. Samples shall be collected for bacteriological analysis to check the efficiency of the disinfection procedure, which shall be repeated if contamination persists. A minimum of one sample for each 1,000 feet of completed main will be required.

(e) Interconnections.

(1) Each proposal for a direct connection between public drinking water systems under separate administrative authority will be considered on an individual basis.

(A) Documents covering the responsibility for sanitary control shall accompany planning material submitted.

(B) Each water supply shall be of a safe, potable quality.

(2) Where an interconnection between systems is proposed to provide a second source of supply for one or both sys-

tems, the system being utilized as a second source of supply must be capable of supplying a minimum of 0.35 gallons per minute per connection for the total number of connections in the combined distribution systems.

(f) Backflow, siphonage.

(1) No water connection from any public drinking water supply system shall be made to any condensing, cooling, industrial process, or any other system of non-potable water usage over which the public water system officials do not have sanitary control, unless the said connection is made through an air gap.

(2) The use of check valves, double check valves, or other backflow prevention devices, which are subject to mechanical failure, malfunction, or inoperability under certain conditions, is not considered as sufficient protection in separating a public drinking water supply system from any of the systems listed in paragraph (1) of this subsection.

(g) Water hauling. When drinking water is distributed by tank truck or trailer, in lieu of distribution piping, it must be accomplished in the following manner.

(1) Water shall be obtained from an approved source.

(2) The equipment used to haul the water must be approved by the department or the commission, as appropriate, and must be constructed as follows:

(A) The tank truck or trailer shall be used for transporting drinking water only, and shall be labeled "Drinking Water". Tanks which have been used previously for any other purpose shall not be used for hauling drinking water.

(B) The tank shall be water-tight and of an approved material which is impervious and easily cleaned and disinfected. Any paint or coating and any plastic or fiberglass materials used as contact surfaces must be approved by the U.S. Environmental Protection Agency, U.S. Food and Drug Administration, U.S. Public Health Service, or the National Sanitation Foundation (refer to §293.301 of this title (relating to Definitions of Terms)).

(C) The tank shall have a manhole and a manhole cover which overlaps the raised manhole opening by a minimum of two inches and terminates in a downward direction. The cover shall fit firmly on the manhole opening and shall be kept locked.

(D) The tank shall have a vent which is located and faced downward so as to minimize the drawing of contaminants in to the stored water. The vent must be screened with 16-mesh or finer corrosion resistant material.

(E) Connections for filling and emptying the tank shall be properly protected to prevent the possible entrance of contamination. These openings must be provided with caps and keeper chains.

(F) A drain shall be provided which will completely empty the tank for cleaning or repairs.

(G) When a pump is used to transfer the water from the tank, the pump shall be permanently mounted with a permanent connection to the tank. The discharge side of the pump shall be properly protected between uses by a protective cap and keeper chain.

(H) Hoses used for the transfer of drinking water to and from the tank shall be used only for that purpose and labeled for drinking water. The hoses must be properly stored between uses and must be provided with caps and keeper chains or have the ends connected together.

(I) The tank shall be disinfected monthly and at any time that contamination is suspected.

(J) At least two samples of water shall be collected and submitted for bacteriological analysis, to a Texas Department of Health Laboratory for each month of operation.

(K) A minimum chlorine residual of 0.5 mg/l shall be maintained in the water being hauled. Chlorine or chlorine containing compounds may be added on a batch basis to maintain the required residual.

(L) Operational records detailing the amount of water hauled, purchased, and source of water shall be maintained.

§293.306. *Water Storage.*

(a) *Capacity.* The minimum clear well or water storage reservoir capacity and pressure maintenance capacity shall be governed by the requirements in §293.307 of this title (relating to Water System Quantity Requirements).

(b) *Location.* Insofar as possible, clear wells or treated water reservoirs shall not be located under any part of any buildings and, when possible, shall be constructed partially or wholly above ground. No sanitary or storm sewers shall be located within 50 feet or septic tank soil absorption system located within 150 feet of the reservoir or clear well, if the reservoir or clear well is below ground level. However, if the storm or sanitary sewers are constructed of pressure type pipe with watertight joints as used in water main construction, they may be located at distances less than 50 feet from an underground treated water reservoir.

(c) *Design and construction of clear wells, standpipes, reservoirs, and elevated tanks.* All facilities for potable water storage shall be covered and constructed of durable materials meeting AWWA standards (refer to §293.301 of this title (relating to Definitions of Terms)) and shall be provided with approved type vents, manholes, manhole covers, and overflows. Bolted, galvanized steel tanks meeting American Petroleum Institute Specifications, when equipped with proper appurtenances, may be accepted in sizes of 100,000 gallons or less. Bolted tanks with capacities of greater than 100,000 gallons must also meet shell thickness specified in AWWA standards (refer to §293.301 of this title (relating to Definitions of Terms))

for welded tanks. Covers shall be sloped so as to prevent the collection of any water on the cover.

(1) Vents shall be of the gooseneck type or roof ventilator type, excluding turbine ventilators, and designed to prevent possible entry of dust, birds, insects, or any contaminants, with the opening protected by 16-mesh or finer corrosion resistant screening.

(2) The roof hatch opening shall have a raised curbing of at least four inches in height, and the cover shall overlap and terminate in a downward direction for at least two inches, with arrangements for keeping it locked in place.

(3) Overflows shall be provided with hinged flap valves.

(4) All clear wells and potable water storage reservoirs shall be provided with a satisfactory means, properly protected from a sanitary standpoint, of easily determining the amount of water available in storage.

(5) Inlet and outlet connections shall be so located as to prevent short circuiting or stagnation of water.

(6) Clear wells and potable water storage reservoirs shall be thoroughly tight against leakage, shall be situated above the groundwater table, and shall have no walls in common with any other plant units containing water in the process of treatment.

(7) If clear well or potable water storage reservoirs drains are provided, they shall not be connected to any waste or sewage disposal system and shall be so constructed that they are not a potential agent in the contamination of the stored water.

(8) All steel constructed ground and elevated storage reservoirs, clear wells standpipes, and water storage tanks shall be designed, installed, constructed, painted, and disinfected in accordance with current AWWA standards, (refer to §293.301 of this title (relating to Definitions of Terms)), with reference to materials used and procedures to be followed, with the exceptions that no temporary coatings and no coating materials containing lead shall be acceptable for use. However, materials which have been approved by the United States Public Health Service, United States Environmental Protection Agency, or United States Food and Drug Administration for use as a contact surface with potable water may also be used.

(9) No tanks shall be used to store potable water that have previously been used for any other purpose.

(d) *Design and construction of hydro-pneumatic tanks.* All hydropneumatic tanks must be located wholly above grade, and must be of steel construction with welded seams.

(1) Metal thickness for hydropneumatic tanks shall be sufficient to provide at least a minimum corrosion allowance and to withstand the highest expected working pressures with a four to one factor of safety.

(2) All hydropneumatic tanks shall be provided with a pressure release device

and an easily readable pressure gauge.

(3) Facilities shall be provided for maintaining the air-water-volume at the design water level and working pressures.

(4) If a protective paint or coating is applied to the inside portion of any pressure tank, the coating shall be as specified in subsection (c)(8) of this section.

(5) No tank that has been used to store any material other than potable water may be considered for use in a public water system.

(e) *Facility fencing.* All potable water storage reservoirs and pressure maintenance facilities must be enclosed by an intruder resistant fence with lockable gates, with the exception of pedestal type elevated tanks with no exterior ladders where the riser door can be kept locked.

§293.307. *Water System Quantity Requirements.*

(a) *Minimum water quantity requirements for community type water systems.* All of the following quantities listed are minimum requirements only. In view of the wide variation in per capita water usage throughout the State of Texas, the determining factor for water system facilities is the ability of the system to maintain a minimum residual pressure of 20 psi, and a normal operating pressure of 35 psi. Those systems which are unable to maintain the specific minimum pressure will be required to provide additional supply, storage, pumping, or pressure maintenance facilities, as determined by this commission on a case-by-case basis.

(1) Ground water supply.

(A) less than 50 connections or less than 150 population:

(i) ground storage—not required;

(ii) pressure tank capacity—50 gallons per connection;

(iii) well capacity—1.5 gallons per minute per connection;

(B) fifty to 250 connections or 150 to 750 population;

(i) total storage capacity—200 gallons per connection (does not include pressure tank capacities, if any);

(ii) pressure maintenance facilities—must have either pressure tank capacity of 2,500 gallons for each 125 connections or each fraction of 125 connections, or elevated storage in the amount of 100 gallons per connection;

(iii) elevated storage in the amount of 200 gallons per connection—may be substituted for ground storage and pressure tank installations;

(iv) well capacity—0.6 gallon per minute per connection;

(v) service pumps—two or more having a total rated capacity of 2.0 gallons per minute per connection;

(C) more than 250 connections or over 750 population:

(i) total storage capacity—200 gallons per connection with a maximum of 5.0 MG required (does not include pressure tank capacities, if any);

(ii) pressure maintenance facilities—must either have elevated storage based on 100 gallons per connection with a maximum of 5.0 MG required, or pressure tank capacity of 2,500 gallons for each 125 connections or fraction of 125 connections;

(iii) elevated storage in the amount of 200 gallons per connection—may be substituted for ground storage and pressure tank installations;

(iv) pressure tank installations—are not recommended for systems of over 1,000 connections, and elevated storage in the amount of 100 gallons per connection is recommended. Elevated storage in the amount of 100 gallons per connection is required for systems of over 2,500 connections or for systems where a minimum residual pressure of 20 psi under peak design conditions or 35 psi under normal operating conditions cannot be maintained with a single input point;

(v) well capacity—two or more wells having a total rated capacity of 0.6 gallon per minute per connection. Where an interconnection is provided with another acceptable water system, which is capable of supplying at least 0.35 gpm for each connection in the combined system under emergency conditions, then an additional well will not be required as long as the 0.6 gpm per connection requirement is met for each system on an individual basis. Each water system will still be required to meet the storage and pressure maintenance requirements on an individual basis, unless the interconnection is permanently open; then the systems will be considered as a single system;

(vi) Service pumps—two or more having a total rated capacity of 2.0 gallons per minute per connection or total capacity of 1,000 gpm and able to meet peak demands, whichever is less;

(vii) Necessary auxiliary power to deliver water to the distribution system in the event of the loss of normal power supply—must be provided for pressure tank installations;

(2) surface water supply:

(A) less than 50 connections or less than 150 population:

(i) total storage capacity—200 gallons per connection, with a minimum capacity of 1,000 gallons, must be provided as clear well capacity at the plant (does not include pressure tank capacities, if any);

(ii) pressure tank capacity—50 gallons per connection, with a minimum capacity of 250 gallons;

(iii) raw water pumps and transfer pumps—duplicate pumps with each having a rated capacity of 0.6 gallon per minute per connection;

(iv) treatment plant capacity—0.6 gallon per minute per connection under normal rated design capacity;

(v) service pumps—two or more having a total rated capacity of 2.0 gallons per minute per connection;

(B) fifty to 250 connections or 150 to 750 population:

(i) total storage capacity—200 gallons per connection (does not include pressure tank capacities, if any);

(ii) covered clear well storage or ground storage at the plant of 25% of the total storage capacity—will be required to provide adequate chlorine contact time;

(iii) pressure maintenance facilities—must have either pressure tank capacity in the amount of 2,500 gallons for each 125 connections or fraction of 125 connections, or elevated storage capacity in the amount of 100 gallons per connection;

(iv) raw water pumps and transfer pumps—duplicate pumps with each having a rated capacity of 0.6 gallon per minute per connection.

(v) treatment plant capacity—0.6 gallon per minute per connection under normal rated design capacity;

(vi) service pumps—two or more having a total rated capacity of 2.0 gallons per minute per connection;

(C) more than 250 connections or over 750 population:

(i) total storage capacity—200 gallons per connection with a maximum of 5.0 MG required (does not include pressure tank capacities, if any);

(ii) covered clear well storage or ground storage at the plant of 25% of the total storage capacity, with a maximum requirement of 1 MG—will be required to provide adequate chlorine contact time;

(iii) pressure maintenance facilities—must either have elevated storage based on 100 gallons per connection, with a maximum of 5.0 MG required or pressure tank capacity of 2,500 gallons for each 125 connections or fraction of 125 connections. Elevated storage in the amount of 200 gallons per connection may be substituted for ground storage and pressure tank installations;

(iv) pressure tank installations—are not recommended for systems of over 1,000 connections, and elevated storage in the amount of 100 gallons per connection is recommended. Elevated storage in the amount of 100 gallons per connection is required for systems of over 2,500 connections or for systems where a minimum residual pressure of 20 psi under peak design conditions or 35 psi under normal operating conditions cannot be maintained with a single input point;

(v) raw water pumps and transfer pumps—duplicate pumps with each having a rated capacity of 0.6 gallon per minute per connection.

(vi) treatment plant capacity—0.6 gallon per minute per connection under normal rated design capacity;

(vii) service pumps—two or more having a total rated capacity of 2.0 gallons per minute per connection or total capacity of 1,000 gpm and able to meet peak demand, whichever is less;

(viii) necessary auxiliary power to deliver water to the distribution system in the event of the loss of normal power supply—must be provided for pressure tank in-

stallations.

(b) Noncommunity water systems serving transient type accommodation units. The following water quantity requirements are applicable to noncommunity water systems serving accommodation units such as hotel rooms, motel rooms, travel trailer spaces, campsites, etc. These requirements will be used as a basis in plan review for the establishment of new noncommunity water systems serving hotels, motels, travel trailer parks, campgrounds, etc., and in determining appropriate quantity requirements for similar existing water systems following field surveys.

(1) Groundwater supply:

(A) less than 50 accommodation units:

(i) ground storage capacity—not required;

(ii) pressure tank capacity—10 gallons per unit with a minimum of 250 gallons required;

(iii) well capacity—1.5 gallons per minute per unit;

(B) systems serving 50 or more accommodation units:

(i) ground storage capacity—35 gallons per unit;

(ii) pressure tank capacity—ten gallons per unit;

(iii) well capacity—0.6 gallon per minute per unit;

(iv) service pump capacity—two or more pumps having a total rated capacity of 1.0 gallon per minute per unit;

(2) surface water supply: all systems regardless of size:

(A) ground storage capacity—35 gallons per unit with a minimum requirement of 1,000 gallons, with all storage required as clearwell capacity to provide adequate chlorine detention time;

(B) pressure tank capacity—10 gallons per unit with a minimum requirement of 250 gallons;

(C) raw water pump and transfer pump capacity—duplicate pumps with each having a capacity of 0.6 gallon per minute per unit;

(D) treatment plant capacity—0.6 gallon per minute per unit;

(E) service pump capacity—two or more pumps with a total rated capacity of 1.0 gallon per minute per unit.

(c) Noncommunity water systems serving other than transient accommodation units. The following table shall be used to estimate the daily water requirements for the various types of facilities listed.



TABLE A

TYPE OF ESTABLISHMENT	GALLONS/PERSON/DAY
Restaurants-----	18
Schools without cafeterias, gymnasiums or showers-----	18
Schools with cafeterias, but no gymnasiums or showers-----	24
Schools with cafeterias, gymnasiums and showers-----	30
Office Buildings-----	18
Hospitals-----	240
Institutions other than hospitals-----	120
Factories (gallons per person per shift, exclusive of industrial wastes)-----	24
Parks without bathhouse-----	6
Swimming pools and bathhouses-----	12
Country Clubs (per resident member)-----	120
Drive-in theaters (per car space)-----	6
Movie Theaters (per auditorium seat)-----	6
Airports (per passenger)-----	6
Self-service laundries (gallons per wash, i.e., per customer)-----	60
Stores (total per day per washroom)-----	400
Service stations (per vehicle served)-----	12

(d) Criteria for estimating minimum capacities. It should be noted that usage of this table is for the purpose of estimating minimum capacities only, and that the overriding criteria will be the ability of the system to maintain a minimum pressure of 35 psi under normal operating conditions, and a minimum residual pressure of 20 psi under all conditions of demands.

(1) Ground water supply:

(A) less than 150 persons per day served:

- (i) ground storage—not required;
- (ii) pressure tank capacity—a minimum tank capacity of 250 gallons is required, with additional capacity, if necessary, based on a sanitary survey conducted by the department's personnel;
- (iii) well capacity—must be sized to provide the maximum daily demand as determined from Table A in subsection (c) of this section, and estimate of the time of the usage;

(B) one hundred-fifty or more persons per day served:

- (i) ground storage—must have storage equal to 50% of the maximum daily

demand determined from Table A;

(ii) pressure tank capacity—a minimum tank capacity of 250 gallons is required, with additional capacity, if necessary, based on a sanitary survey conducted by the department's personnel;

(iii) well capacity—must be capable of supplying maximum daily demand determined from Table A;

(iv) service pumps—must have one or more pumps with a combined capacity of three times the maximum daily flow rate in gallons per minute;

(2) surface water supply:

(A) all systems regardless of the number of persons served:

- (i) ground storage—must provide clearwell storage at the plant in sufficient quantity as to produce a 30-minute chlorine detention time at a flow rate of three times the maximum daily flow rate in gallons per minute, as determined from Table A;
- (ii) pressure tank capacity—a minimum tank capacity of 250 gallons is required, with additional capacity, if necessary, based on a sanitary survey conducted by the department's personnel;

(iii) treatment plant capacity—must be sized to provide maximum daily usage, as determined using Table A;

(iv) raw water pumps—duplicate pumps, each of which is sufficient to provide maximum daily usage plus a 20% allowance for filter backwash water and flushing;

(v) transfer pumps—duplicate pumps, each of which is capable of providing maximum daily demand as determined using Table A;

(vi) service pumps—two or more pumps with a total rated capacity of three times the maximum daily flow rate in gallons per minute, as determined from Table A.

§293.308. *Minimum Acceptable Operation Practices for Public Drinking Water Systems.* Jurisdiction over operating practices resides with the Texas Board of Health.

§293.309. *Appendix D—Notice of Appointment.* The following form of notice to the commission is sufficient for the employment by the district of a consulting and designing engineer.

§293.309. Appendix D - Notice of Appointment

NOTICE OF APPOINTMENT

Mr. Larry R. Soward
Executive Director
Texas Water Commission
P.O. Box 13087, Capitol Station
Austin, Texas 78711

Dear Mr. Soward:

This is to advise you that the board of directors of _____ at a regular or called meeting on _____, have duly appointed _____ as consulting and designing engineer for the purpose of submitting engineering reports, planning material, plans and specifications, and for supervision of construction of _____.

Mr. _____ is a registered professional engineer in good standing in accordance with State Statutes and has had experience in the design and construction of similar facilities at the following locations:

We herewith authorize you to review and comment on such reports, planning material, data, and plans and specifications on this proposed project as he may submit to you.

Address of Owner, Corporation, or
Responsible Official

Attest:

SECRETARY

DATE: _____

§293.310. Appendix E—Approval Requirements. Public water supply systems which are state approved must exceed the minimum acceptable standards of the Texas Department of Health and the Texas Water Commission and have the privilege of erecting signs denoting this honor. To achieve this recognition, the following standards are to be met.

(1) Physical facilities shall comply with the latest regulations of the Texas Board of Health and the Texas Water Commission.

(2) Water quality shall comply with the criteria as prescribed by the Texas Board of Health.

(3) The system operation shall comply with applicable state statutes, Texas Civil Statutes, Article 4477-1, and with minimum acceptable operating practices.

(4) There shall be a minimum of two certified operators with additional required for larger systems.

(5) The system shall have at least two wells, two raw water pumps or a combination of these; of sufficient capacity to provide average daily consumption with the largest well or pump out of service. This re-

quirement also to apply to treatment plant pumps necessary for operation. (Refer to §293.303(b) of this title (relating to Water Sources)).

(6) Treatment facilities shall be as required with standby units for chemical feeders and chlorinators.

(7) Two or more pumps shall be installed to supply each section of the distribution system or each pressure level.

(8) Total storage (ground and elevated) shall be equal to average daily consumption, or 185 gallons per capita, whichever is less. Pressure tanks shall not be considered as storage.

(9) Elevated storage, included in paragraph (8) of this section, equivalent to 50% of average daily consumption or 55 gallons per capita, whichever is less, with a maximum of 5.0 MG required, shall be provided for each section or pressure level of the distribution system.

(10) An up-to-date map of the distribution system shall be maintained and kept in a safe location.

(11) Meters shall be required for production facilities and service connections.

(12) The water system shall be generally well maintained and the facilities present a pleasing appearance to the public.

(13) An adequate plumbing ordinance or regulations for sanitary control of the distribution system must be adopted and enforced.

(14) Prior to approval or reapproval, the system must be inspected and evaluated by Texas Department of Health personnel as to physical facilities, appearance, and operation.

§293.311. Appendix F—Suggested Minimum Water Main Sizes.

(a) These are minimum requirements and should be exceeded when the design engineer deems it necessary. The distribution system must be designed and constructed so as to provide at all times a minimum residual pressure of 20 psi under maximum usage conditions. Under normal operating conditions, minimum pressures should be not less than 35 psi.

Maximum Number of Connections	Minimum Main Sizes, in Inches
2	1
5	1½
10	2
25	2½
50	3
100	4
150	5
250	6
250+	8 and larger

(b) It should be pointed out that the suggested limits in subsection (a) of this section are based strictly on the number of customers to be served and not on distances between connections or differences in elevation or the type of pipe to be used.

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 25, 1986.

TRD-8606251

James K. Rourke, Jr.
General Counsel
Texas Water Commission

Earliest possible date of adoption:

August 1, 1986

For further information, please call
(512) 463-8070.

★ ★ ★

Procedures and Design Criteria for Approval of Wastewater System Project

★ 31 TAC §293.331

The Texas Water Commission proposes new §293.331, concerning procedures and design criteria for approval of wastewater system projects. The new section provides the statutory and administrative procedural and substantive requirements for Texas Water Commission review and approval of plans and specifications for sewage disposal systems for public use in connection with engineering projects and bond issues of water districts created and operating pursuant to the Texas Constitution, Article III, §52, and Article XVI, §56. The review and approval of these plans and specifications by the Texas Water Commission is required by Texas Civil Statutes, Article 4477-1, as amended by Chapter 795, 69th Legislature, 1985. This new section provides the design criteria as well as approval procedures and required documents for wastewater system projects. The new section incorporates by reference Chapter 317, which contains the required procedures and design criteria for these projects.

Bobbie Barker, chief fiscal officer, 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. Barker 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 insurance of the proper construction and operation of wastewater treatment plants and collection system so as to protect the health and welfare of residents or other persons receiving wastewater utility service from water districts whose engineering projects and bond issues are required to be approved by the Texas Water Commission. There is no anticipated economic cost to individuals who are required to comply with this section, for the reason that any economic cost is imposed upon water districts which are political subdivisions, or was already imposed by sections which were in effect immediately preceding the adoption of the proposed section.

Comments on the proposal may be submitted to Royston S. Lanning, Legal Division, Texas Water Commission, P.O. Box 13087, Austin, Texas 78711-3087.

The new section is proposed under the Texas Water Code, §§5.103, 5.105, and 5.235, what provides the Texas Water Commission with the authority to adopt any section necessary to carry out its powers and duties under the Texas Water Code and other laws of the State of Texas, to establish and approve all general policy of the commission, and to collect statutory fees

from persons filing various applications with the commission.

§293.331. General.

(a) Pursuant to applicable statutes, the commission is responsible for reviewing and approving the plans and specifications for projects of certain districts and authorities created in the Texas Constitution, Article III, §52, and Article XVI, §59.

(b) The commission will approve plans and specifications in accordance with the procedures and criteria in Chapter 317 of this title (relating to Design Criteria for Sewerage Systems).

(c) The executive director of the commission or his designated representative may approve the plans and specifications without additional formal commission approval being 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 25, 1986.

TRD-8606253

James K. Rourke, Jr.
General Counsel
Texas Water Commission

Earliest possible date of adoption:

August 1, 1986
For further information, please call
(512) 463-8070

★ ★ ★

Abbreviated Review of Water and Wastewater Line Projects

★ 31 TAC §293.341

The Texas Water Commission proposes new §293.341, concerning conditions and procedures for abbreviated review. The new section provides the statutory and administrative procedural and substantive requirements for Texas Water Commission review and approval of plans and specifications for drinking water supply or sewage disposal systems for public use in connection with engineering projects and bond issues which are required to be approved by the Texas Water Commission. This review and approval responsibility is required by Texas Civil Statutes, Article 4477-1, as amended by the 69th Legislature, 1985, Chapter 795. The new section provides a procedure for an abbreviated review of water and wastewater line projects located within the corporate limits or extraterritorial jurisdiction of incorporated cities. The commission will accept the city review in lieu of a detailed commission review for water and wastewater line projects, excluding lift stations, pump stations, wastewater treatment plant and water treatment plants, when it is demonstrated to the satisfaction of the executive director of the Texas Water Commission that the city has the capability to adequately review the plans and specifications in accordance with the adopted

procedures and criteria. The procedures for showing this capability are set out in the new section.

Bobbie Barker, chief fiscal officer, 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. Barker 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 provision of a less costly and less time consuming procedure for the review and approval responsibility of the Texas Water Commission as required by Texas Civil Statutes, Article 4477-1, as amended, while insuring the proper construction and operation of water and wastewater projects. There is no anticipated economic cost to individuals who are required to comply with the section for the reason that any economic cost is imposed upon a water district which is a political subdivision or was already imposed by sections which were in effect immediately preceding the adoption of the new section.

Comments on the proposal may be submitted to Royston S. Lanning, Legal Division, Texas Water Commission, P.O. Box 13087, Austin, Texas 78711.

The new section is proposed under Texas Water Code, §§5.103 and 5.105, which provides the Texas Water Commission with the authority to adopt any sections necessary to carry out its powers and duties under the Texas Water Code and other laws of the State of Texas, and to establish and approve all general policy of the commission.

§293.341. Conditions and Procedures for Abbreviated Review.

(a) Plans and specifications for projects of districts and authorities that are located within the corporate limits or extraterritorial jurisdiction of incorporated cities are generally reviewed and approved by these cities. The commission will accept the city review in lieu of a detailed commission review for water and wastewater line projects (excluding lift station, pump stations, wastewater treatment plants, and water plants) under the following conditions.

(1) The city has adopted procedures and criteria for the review of water and wastewater line projects substantially similar or superior to the commission procedures and criteria.

(2) The city, district, or authority has demonstrated to the satisfaction of the executive director of the commission that the city has the capability of adequately reviewing the plans and specification in accordance with the adopted procedures and criteria.

(b) The district or authority shall comply with the following procedures.

(1) Plans and specifications shall be reviewed and approved by the city.

(2) A copy of the approved plans and specifications shall be forwarded to the executive director with a copy of the approval letter from the city if the city approvals are not shown on the plans and specifications. The design engineer shall also forward with the plans and specifications a letter that includes the following information or documents:

(A) name of the district or authority;

(B) name of the project;

(C) location map, if not included in plans and specifications;

(D) itemized quantity breakdown of the proposed facilities;

(E) discussion of any unusual design or of waivers that were granted by the city;

(F) source of water supply, including information demonstrating the adequacy of this source; and

(G) source of wastewater treatment, including the number of the commission permit authorizing the wastewater treatment and information demonstrating the adequacy of this source.

(3) The district or authority shall furnish any additional information requested by the executive director.

(c) The executive director or his designated representative may approve the plans and specifications without further review if, in the executive director's or his designated representative's opinion, the conditions of subsection (a) of this section have been met and the information and documents required under subsection (b) of this section are sufficient.

(d) Construction shall not begin prior to approval of the plans and specifications by the executive director or his designated representative.

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 25, 1986.

TRD-8606254

James K. Rourke, Jr.
General Counsel
Texas Water Commission

Earliest possible date of adoption:

August 1, 1986

For further information, please call
(512) 463-8070.

★ ★ ★

Filing of Plans and Specifications with Commission Offices

★ 31 TAC §293.343

The Texas Water Commission proposes new §293.343, concerning filing plans and specifications at commission field offices. The new section provides the statutory and administrative procedural requirements for Texas Water Commission approval of plans and specifications for drinking water supply or sewage disposal systems for public use in connection with engineering projects and bond issues which are required to be approved by the Texas Water Commission. This review and approval responsibility is required by Texas Civil Statutes, Article 4477-1, as amended by the 69th Legislature, 1985, Chapter 795. This section requires copies of plans and specifications that have been approved by the Texas Water Commission be filed with the appropriate commission field office prior to the beginning of construction and that the commission field officer be notified of the estimated date for the beginning of construction one week prior to that date.

Bobbie Barker, chief fiscal officer, 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. Barker 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 insurance that proper supervision of engineering projects for water and wastewater facilities will be carried out so that the public health and welfare will be protected. There is no anticipated economic cost to individuals who are required to comply with the proposed section for the reason that any economic cost is imposed upon a water district which is a political subdivision or was already imposed by sections which were in effect immediately preceding the adoption of the proposed section.

Comments on the proposal may be submitted to Royston S. Lanning, Legal Division, Texas Water Commission, P.O. Box 13087, Austin, Texas 78711-3087.

The new section is proposed under the Texas Water Code, §5.103 and §5.105, which provides the Texas Water Commission with the authority to adopt any sections necessary to carry out its powers and duties under the Texas Water Code and other laws of the State of Texas, and to establish and approve all general policy of the commission.

§293.343. *Filing Plans and Specifications at Commission Field Offices.* Copies of plans and specifications that have been approved by the commission shall be filed with the appropriate commission field office prior to the beginning of construction and the commission field office shall be notified of the estimated date for the beginning of construction one week prior to that time.

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

Issued in Austin, Texas, on June 25, 1986.

TRD-8606255

James K. Rourke, Jr.
General Counsel
Texas Water Commission

Earliest possible date of adoption:

August 1, 1986

For further information, please call
(512) 463-8070.

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 31. NATURAL RESOURCES AND CONSERVATION

Part IX. Texas Water Commission

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 has withdrawn from consideration the emergency effectiveness of §§313.1-313.11, concerning Edwards Aquifer in Medina, Bexar, Comal, Kinney, Uvalde, and Hays Counties. The text of the new sections appeared in the May 13, 1986, issue of the *Texas Register* (11 TexReg 2220). The effective date of these new sections is July 2, 1986.

Issued in Austin, Texas, on June 25, 1986.

TRD-8606264 James K. Rourke, Jr.
General Counsel
Texas Water Commission

Filed: June 25, 1986
For further information, please call
(512) 463-8070.

Subchapter B. Edwards Aquifer in Williamson County

★31 TAC §§313.21-313.30

The Texas Water Commission has withdrawn from consideration the emergency effectiveness of §§313.21-313.30, concerning Edwards Aquifer in Williamson County. The text of the new sections appeared in the May 13, 1986, issue of the *Texas Register* (11 TexReg 2220). The effective date of these new sections is July 2, 1986.

Issued in Austin, Texas, on June 25, 1986.

TRD-8606265 James K. Rourke, Jr.
General Counsel
Texas Water Commission

Filed: June 25, 1986
For further information, please call
(512) 463-8070.

Chapter 317. Design Criteria for Sewerage Systems

Design Criteria for Sewerage Systems

★31 TAC §§317.1-317.13

The Texas Water Commission has withdrawn from consideration the emergency effectiveness of §§317.1-317.13, concerning design criteria for sewerage systems. The text of the new sections appeared in the May 13, 1986, issue of the *Texas Register* (11 TexReg 2220). The effective date of these new sections is July 2, 1986.

Issued in Austin, Texas, on June 25, 1986.

TRD-8606266 James K. Rourke, Jr.
General Counsel
Texas Water Commission

Filed: June 25, 1986
For further information, please call
(512) 463-8070.



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 1.

ADMINISTRATION

Part III. Office of the Attorney General Chapter 55. Child Support Enforcement Enforcement

★1 TAC §55.101

The Office of the Attorney General adopts an amendment to §55.101, without changes to the proposed text published in the April 25, 1986, issue of the *Texas Register* (11 TexReg 1538).

The amendment establishes a deadline for submitting a request for a hearing in IRS intercept cases. This is necessary to ensure that the appeal process is conducted in an efficient and timely manner.

The amendment establishes a time limit for submitting a request for administrative hearing when a parent has been notified that his or her IRS refund will be intercepted to pay past due child support. The parent has 30 days from the day he or she receives notice of the intercept to submit a request for administrative review to the Office of the Attorney General.

No comments were received regarding adoption of the amendment.

The amendment is adopted under the Texas Human Resources Code, Chapter 78, authorizing the Office of the Attorney General to administer the child support 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 18, 1986.

TRD-8606209 Lou McCreary
Group Manager of Public
Agency Representatives
Office of the Attorney
General

Effective date: July 15, 1986
Proposal publication date: April 25, 1986
For further information, please call
(512) 463-2087.

★ ★ ★

TITLE 22. EXAMINING BOARDS

Part XXII. Texas State Board of Public Accountancy Chapter 519. Practice and Procedure

★22 TAC §519.25

The Texas State Board of Public Accountancy adopts an amendment to §519.25, without changes to the proposed text published in the March 28, 1986, issue of the *Texas Register* (11 TexReg 1555).

The amendment prevents improper discussion of a contested matter without the opportunity for both parties to be present during such discussion.

The amendment restricts discussion between board representatives and parties in a contested matter to those authorized by law and when both sides have an opportunity to be present.

No comments were received regarding adoption of the amendment.

The amendment is adopted under Texas Civil Statutes, Article 41a-1, §6(a), which provide the Texas State Board of Public Accountancy with the authority to promulgate rules relating to the action of board representatives in resulting contested matters.

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 23, 1986.

TRD-8606176 Bob E. Bradley
Executive Director
Texas State Board of
Public Accountancy

Effective date: July 14, 1986
Proposal publication date: March 28, 1986
For further information, please call
(512) 451-0241.

★ ★ ★



★22 TAC §519.28

The Texas State Board of Public Accountancy adopts new §519.28, without changes to the proposed text published in the March 28, 1986, issue of the *Texas Register* (11 TexReg 1555).

The new section authorizes use of personnel to provide follow-up on compliance with board-administered sanctions, to insure compliance.

Designated personnel are given responsibility for follow-up on individuals, to insure compliance with board-administered sanctions.

No comments were received regarding adoption of the new section.

The new section is adopted under Texas Civil Statutes, Article 41a-1, §6(a), which provide the Texas State Board of Public Accountancy with the authority to promulgate rules relating to the administration of sanctions and compliance therewith.

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 23, 1986.

TRD-8606175 Bob E. Bradley
Executive Director
Texas State Board of
Public Accountancy

Effective date: July 14, 1986
Proposal publication date: March 28, 1986
For further information, please call
(512) 451-0241.

★ ★ ★

Chapter 526. Board Opinions Board Opinions

★22 TAC §§526.1-526.7

The Texas State Board of Public Accountancy adopts new §§526.1-526.7. Section 526.1 is adopted with changes to the proposed text published in the March 28, 1986, issue of the *Texas Register* (11 TexReg 1555). Sections 526.2-526.7 are adopted without changes and will not be republished.

The new sections establish guidelines as to the rendering of informal opinions that presently do not exist.

The new sections provide definition and guidelines for the operation of a service of advise on informal opinions to the professional community.

No comments were received regarding adoption of the new sections.

The new sections are adopted under Texas Civil Statutes, Article 41a-1, §6(a), which provide the Texas State Board of Public Accountancy with the authority to promulgate rules relating to the rendering of opinions by the board.

§526.1. Issuance of Opinions. The board may issue opinions upon the written request of any person. These opinions shall be based on actual (not hypothetical) fact situations submitted in accordance with board instructions and shall be limited to areas specifically identified in the applicable section of the Texas Civil Statutes, Public Accountancy Act, 1979, as amended.

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 23, 1986.

TRD-8606177 Bob E. Bradley
Executive Director
Texas State Board of
Public Accountancy

Effective date: July 14, 1986
Proposal publication date: March 28, 1986
For further information, please call
(512) 451-0241.

for a certificate of authority, a reinsurance agreement covering excess of loss, stop-loss, or catastrophes, and a conversion policy to be offered by an insurer to an HMO enrollee if the enrollee leaves the HMO or leaves the service area, or if the HMO becomes insolvent; however, the amendment requires these contracts only if they are available. Information available thus far indicates that these contracts are not currently available to a single health care service HMO.

No comments were received regarding adoption of the amendment.

The amendment is adopted under the Texas Health Maintenance Organization Act, §22, which authorizes the board, after notice and hearing, to promulgate such reasonable rules and regulations as are necessary and proper to carry out the provisions of the Act.

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

Issued in Austin, Texas, on June 24, 1986.

TRD-8606207 Nicholas Murphy
Chief Clerk
State Board of Insurance

Effective date: July 15, 1986
Proposal publication date: December 24, 1985
For further information, please call
(512) 463-6327.

★ ★ ★

★ ★ ★
TITLE 28. INSURANCE
Part I. State Board of
Insurance
Chapter 11. Health Maintenance
Organizations
Subchapter C. Application for
a Certificate of Authority
★28 TAC §11.204

The State Board of Insurance adopts an amendment to §11.204, without changes to the proposed text published in the December 24, 1985, issue of the *Texas Register* (10 TexReg 4944).

Section 11.204 concerns contents of an application for a certificate of authority to establish and operate a health maintenance organization (HMO). This amendment is necessary to regulate single health care service plan HMOs, under House Bill 1584, 69th Legislature, 1985. House Bill 1584 amended the Texas Health Maintenance Organization Act to recognize and provide for the regulation of single health care service plan HMOs.

The amendment adds a new subparagraph (D) to §11.204(21). Subparagraph (D) requires a single health care service plan HMO to submit, as part of its application

Subchapter D. Regulatory
Requirements for an HMO
Subsequent to Issuance of a
Certificate of Authority

★28 TAC §11.301, §11.302

The State Board of Insurance adopts amendments to §11.301 and §11.302, without changes to the proposed text published in the December 24, 1985, issue of the *Texas Register* (10 TexReg 4945).

Section 11.301 and §11.302 concern filing requirements and service area expansion requests for health maintenance organizations (HMOs). The amendments are necessary to regulate single health care service plan HMOs, under House Bill 1584, 69th Legislature, 1985. House Bill 1584 amended the Texas Health Maintenance Organization Act to recognize and provide for the regulation of single health care service plan HMOs.

The amendment to §11.301(1)(D) makes the requirement for a stop-loss or reinsurance agreement, submitted for approval by the Commissioner of Insurance, necessary only if such an agreement is obtainable. This type of agreement currently does not appear to be available to single health care service plan HMOs. Section 11.301(2)(M) is amended to include the words "single health care service" as well

as regular "health care services." The amendments to §11.301(6) and §11.302(a) (3) and (4) substitute the words "and/or" for "and" where the sections referred to physicians and other providers who provide services to the HMO. The and/or wording is necessary because of the limited services of a single health care service plan HMO. The amendment to §11.302(a) (2) deletes inappropriate requirements regarding a map of a new service area, and replaces them with a reference to an appropriate rule regarding new service areas.

No comments were received regarding adoption of the amendments.

The amendments are adopted under the Texas Health Maintenance Organization Act, §22, which authorizes the board, after notice and hearing, to promulgate such reasonable rules and regulations as are necessary and proper to carry out the provisions of the Act.

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

Issued in Austin, Texas, on June 24, 1986.

TRD-8606208 Nicholas Murphy
Chief Clerk
State Board of Insurance

Effective date: July 15, 1986
Proposal publication date: December 24, 1985
For further information, please call
(512) 463-6327.

★ ★ ★

Subchapter F. Evidence of
Coverage

★28 TAC §11.506

The State Board of Insurance adopts an amendment to §11.506, without changes to the proposed text published in the December 24, 1985, issue of the *Texas Register* (10 TexReg 4946).

Section 11.506 concerns mandatory provisions for the group and nongroup agreement and group certificate for health maintenance organizations (HMOs). This amendment is necessary to regulate single health care service plan HMOs, under House Bill 1584, 69th Legislature, 1985. House Bill 1584 amended the Texas Health Maintenance Organization Act to recognize and provide for the regulation of single health care service plan HMOs.

The amendment to §11.506(7) requires that in certain cases, where a single health care service plan HMO enrollee's eligibility for a membership is terminated, the enrollee must be offered a nongroup agreement if the enrollee is eligible and remains in the service area. Full service HMOs, by contrast, are required to have group certificates providing that upon termination of eligibility for membership, each enrollee may convert to a nongroup

agreement issued by the HMO or, in the case of the HMO's insolvency, or if the enrollee moves out of the service area, to a contract or policy issued by an insurer or group hospital service corporation. The agency's information is that conversion insurance policies and group hospital service corporation contracts are not presently available to single health care service plan HMOs. Section 11.506(3), (13), and (16)(B) are changed to provide single health care service as well as regular health care services. Section 11.506(11) recognizes that emergency treatment may not be applicable to the types of services provided by all single health care service plan HMOs.

No comments were received regarding adoption of the amendment.

The amendment is adopted under the Texas Health Maintenance Organization Act, §22, which authorizes the board, after notice and hearing, to promulgate such reasonable rules and regulations as are necessary and proper to carry out the provisions of the Act.

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

Issued in Austin, Texas, on June 24, 1986.

TRD-8606205 Nicholas Murphy
Chief Clerk
State Board of Insurance

Effective date: July 15, 1986
Proposal publication date: December 24, 1986
For further information, please call
(512) 463-6327.

★ ★ ★

Subchapter I. Financial Requirements

★28 TAC §11.801

The State Board of Insurance adopts an amendment to §11.801, without changes to the proposed text published in the December 24, 1985, issue of the *Texas Register* (10 TexReg 4947).

Section 11.801 concerns capitalization of health maintenance organizations (HMOs). This amendment is necessary to regulate single health care service plan HMOs, under House Bill 1584, 69th Legislature, 1985. House Bill 1584 amended the Texas Health Maintenance Organization Act to recognize and provide for the regulation of single health care service plan HMOs.

The amendment deletes references to a \$200,000 surplus requirement for HMOs. This change is to recognize that single health care service plan HMOs have smaller surplus requirements than basic health care service plan HMOs. The amendment also requires that currently existing single health care service plan HMOs applying for a certificate of authority as provided in House Bill 1584, §10, need only have

assets in excess of uncovered liabilities to meet the minimum surplus requirements specified in the Texas Health Maintenance Organization Act, §13. This change recognizes that operational HMOs of whatever type need only have assets in excess of uncovered liabilities (in distinction to all liabilities).

No comments were received regarding adoption of the amendment.

The amendment is adopted under the Texas Health Maintenance Organization Act, §22, which authorizes the board, after notice and hearing, to promulgate such reasonable rules and regulations as are necessary and proper to carry out the provisions of the Act.

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

Issued in Austin, Texas, on June 24, 1986.

TRD-8606204 Nicholas Murphy
Chief Clerk
State Board of Insurance

Effective date: July 15, 1986
Proposal publication date: December 24, 1986
For further information, please call
(512) 463-6327.

★ ★ ★

TITLE 34. PUBLIC FINANCE

Part I. Comptroller of Public Accounts

Chapter 5. Funds Management (Fiscal Affairs)

Claims Processing—Purchase Vouchers

★34 TAC §5.54

The Comptroller of Public Accounts adopts the repeal of §5.54, without changes to the proposed text published in the May 6, 1986, issue of the *Texas Register* (11 TexReg 2083).

This section is repealed so that a substantially revised new section dealing with the same subject matter may be adopted.

The repeal deletes obsolete material concerning the special requirements for consultant contracts.

No comments were received regarding adoption of the repeal.

The repeal is adopted under Texas Civil Statutes, Article 4344, which provide that the comptroller may prescribe, adopt, and enforce rules relating to the payment of accounts 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 25, 1986.

TRD-8606230 Bob Bullock
Comptroller of Public Accounts

Effective date: July 16, 1986
Proposal publication date: May 6, 1986
For further information, please call
(512) 463-4004.

★ ★ ★

The Comptroller of Public Accounts adopts new §5.54, without changes to the proposed text published in the May 6, 1986, issue of the *Texas Register* (11 TexReg 2086).

The new section replaces existing §5.54, which is repealed due to substantial revision of the provisions of this subject. This new section adds professional services contracts to the title and the text of the section.

The new section functions to revise statutory references to reflect the Senate Bill citation of the original provisions, where certain amendments to the applicable statutes have been determined by attorney general's opinion to be invalid. The new section is changed to reflect the statutes without the invalid amendments.

No comments were received regarding adoption of the new section.

The new section is adopted under Texas Civil Statutes, Article 4344, which provide that the comptroller may prescribe, adopt, and enforce rules relating to the payment of accounts 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 25, 1986.

TRD-8606228 Bob Bullock
Comptroller of Public Accounts

Effective date: July 16, 1986
Proposal publication date: May 6, 1986
For further information, please call
(512) 463-4004.

★ ★ ★

★34 TAC §5.55

The Comptroller of Public Accounts adopts new §5.55, without changes to the proposed text published in the May 6, 1986, issue of the *Texas Register* (11 TexReg 2085).

The new section implements the provisions of House Bill 275, 69th Legislature, 1985, codified as Texas Civil Statutes, Article 601f.

The new section will function to provide guidelines and the procedures for agency compliance with the requirement of prompt payment for goods and services contracted for by the state. It also specifies the

documentation which must be submitted if interest accrues on the amount in question.

No comments were received regarding adoption of the new section.

The new section is adopted under Texas Civil Statutes, Article 4344, which provide that the comptroller may prescribe, adopt, and enforce rules relating to the payment of accounts 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 25, 1986.

TRD-8606229 Bob Bullock
 Comptroller of Public
 Accounts

Effective date: July 16, 1986
Proposal publication date: May 6, 1986
For further information, please call
(512) 463-4004.

★ ★ ★

**TITLE 40. SOCIAL
SERVICES AND
ASSISTANCE**
**Part XII. Texas Advisory
Board of Occupational
Therapy**
Chapter 377. License Certificate

★ 40 TAC §377.3

The Texas Advisory Board of Occupational Therapy adopts an amendment to §377.3, without changes to the proposed text published in the May 18, 1986, issue of the *Texas Register* (11 TexReg 2380)

The amendment clarifies responsibilities concerning the renewal of a license.

The amendment requires occupational therapists and occupational therapy assistants to take responsibility for renewing licenses in a timely manner, thereby resulting in increased consumer protection.

No comments were received regarding adoption of the amendment.

The amendment is adopted under Texas Civil Statutes, Article 8851, §5(e), which provide the Texas Advisory Board of Occupational Therapy with the authority to adopt rules consistent with this Act to carry out its duties in administering this Act.

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

Issued in Austin, Texas, on June 23, 1986.

TRD-8606203 Vernon H. Newman
 Assistant Commissioner
 Texas Rehabilitation
 Commission

Effective date: August 25, 1986
Proposal publication date: May 18, 1986
For further information, please call
(512) 445-8368.

★ ★ ★

Open Meetings

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

Wednesday, July 9, 1986, 3 p.m. The Texas Department of Agriculture (TDA) will meet in the TDA District Office, Expressway 83, two blocks west of Morningside Road, San Juan. According to the agenda, the department will consider an alleged violation of Texas Agriculture Code, §76.116(a)(1), by Thomas Arbuthonot, doing business as Coastal Bend Weed Control, holder of commercial applicator license.

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

Filed: June 25, 1986, 1:33 p.m.
TRD-8606279

Thursday, July 10, 1986, 3 p.m. The Texas Department of Agriculture will meet in the district office, Expressway 83, two blocks west of Morningside Road, San Juan. According to the agenda, the department will consider the alleged violation of Texas Agriculture Code, §103.001, by John Wallace, Inc., and John C. Wallace as petitioned by the Plantation Produce Company.

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

Filed: June 26, 1986, 8:46 a.m.
TRD-8606311

Thursday, July 10, 1986, 4 p.m. The Department of Agriculture will meet in the district office, Expressway 83, two blocks west of Morningside Road, San Juan. According to the agenda, the commission will consider the alleged violation of Texas Agriculture Code, §103.001, by John Wallace, Inc., as petitioned by Marvin Schwarz Produce.

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

Filed: June 26, 1986, 8:46 a.m.
TRD-8606310

Friday, July 11, 1986, noon. The Department of Agriculture will meet in the district office, 2935 Westhollow Drive, Houston. According to the agenda, the commission will consider the alleged violation of Texas

Agriculture Code, §103.001, by Santa Fe Produce and George L. Conner as petitioned by Brothers Wholesale Produce.

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

Filed: June 26, 1986, 8:45 a.m.
TRD-8606309

★ ★ ★

State Banking Board

Monday, June 30, 1986, 10 a.m. The State Banking Board made an emergency addition to the agenda for a meeting held at 2601 North Lamar Boulevard, Austin. The addition concerned the conversion applications for the First Bank of Celeste, Celeste; First Bank at Farmersville, Farmersville; and Security Bank of Whitesboro, Whitesboro. The emergency status was necessary in order that the affected applications be most efficiently and economically implemented.

Contact: William F. Aldridge, 2601 North Lamar Boulevard, Austin, Texas 78705, (512) 475-4451.

Filed: June 25, 1986, 1:55 p.m.
TRD-8606269

★ ★ ★

Coordinating Board, Texas College and University System

Committees of the Coordinating Board of the Texas College and University System will meet in the boardroom, Bevington A. Reed Building, 200 East Riverside Drive, Austin. Days, times, committees, and agendas follow.

Thursday, July 1, 1986, 1:05 p.m. The Campus Planning Committee will consider matters relating to facilities and campus planning.

Contact: Kenneth H. Ashworth, P.O. Box 12788, Austin, Texas 78711, (512) 462-6400.

Filed: June 25, 1986, 8:42 a.m.
TRD-8606284

Thursday, July 17, 1986, 9:30 a.m. The Coordinating Board will consider the report and recommendations of the Advisory Committee on Testing; and hear a report on Executive Order MW-36 by the Governor's Office.

Contact: Kenneth H. Ashworth, P.O. Box 12788, Austin, Texas 78711, (512) 462-6400.

Filed: June 25, 1986, 8:39 a.m.
TRD-8606289

Thursday, July 17, 1986, 10 a.m. The Financial Planning Committee will consider matters relating to financial planning and administration.

Contact: Kenneth H. Ashworth, P.O. Box 12788, Austin, Texas 78711, (512) 462-6400.

Filed: June 25, 1986, 8:41 a.m.
TRD-8606287

Thursday, July 17, 1986, 10:30 a.m. The Student Services Committee will consider matters relating to student services.

Contact: Kenneth H. Ashworth, P.O. Box 12788, Austin, Texas 78711, (512) 462-6400.

Filed: June 25, 1986, 8:39 a.m.
TRD-8606288

Thursday, July 17, 1986, 10:45 a.m. The Health Affairs Committee will consider matters relating to health affairs.

Contact: Kenneth H. Ashworth, P.O. Box 12788, Austin, Texas 78711, (512) 462-6400.

Filed: June 25, 1986, 8:41 a.m.
TRD-8606286

Thursday, July 17, 1986, 11 a.m. The Community Junior Colleges and Technical Institutes Committee will consider matters relating to community junior colleges and technical institutes.

Contact: Kenneth H. Ashworth, P.O. Box 12788, Austin, Texas 78711, (512) 462-6400.

Filed: June 25, 1986, 8:42 a.m.
TRD-8606285

Thursday, July 17, 1986, 1:45 p.m. The Senior Colleges and University Committee will consider matters relating to senior colleges and universities.

Contact: Kenneth H. Ashworth, P.O. Box 12788, Austin, Texas 78711, (512) 462-6400.

Filed: June 25, 1986, 8:39 a.m.
TRD-8606280

Friday, July 18, 1986, 9 a.m. The Coordinating Board will consider matters relating to the Committee on Senior Colleges and Universities, the Committee on Health Affairs; the Committee on Community Junior Colleges and Technical Institutes; the Committee on Student Services; the Committee on Facilities and Campus Planning; and the Committee on Financial Planning and Administration.

Contact: Kenneth H. Ashworth, P.O. Box 12788, Austin, Texas 78711, (512) 462-6400.

Filed: June 25, 1986, 8:42 a.m.
TRD-8606283

★ ★ ★

Texas Employment Commission

Thursday, July 3, 1986, 8:30 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 conduct a public comment period; and consider the proposed budget.

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

Filed: June 25, 1986, 11:33 a.m.
TRD-8606246

★ ★ ★

Texas Historical Commission

Saturday, July 12, 1986, 9 a.m. The State Board of Review of the Texas Historical Commission will meet in Room 503G, Sam Houston Building, 201 East 14th Street, Austin. According to the agenda summary, the board will approve the minutes of the last meeting; and the National Register nominations.

Contact: Marlene Casarez, P.O. Box 12276, Austin, Texas 78711, (512) 463-6094.

Filed: June 25, 1986, 11:25 a.m.
TRD-8606268

Monday, July 21, 1986, 10 a.m. The Division of Architecture of the Texas Historical Commission will meet in Room 107, John H. Reagan Building, 105 West 15th Street, Austin. According to the agenda, the division reviewed the Texas Historic Preserva-

tion Grant Program; and discussed grant ratings.

Contact: Stanley Graves, P.O. Box 12276, Austin, Texas 78711, (512) 463-6094.

Filed: June 25, 1986, 11:24 a.m.
TRD-8606267

★ ★ ★

Texas Industrial Accident Board

Monday, June 30, 1986, 9:30 a.m. The Texas Industrial Accident Board met in Room 107, Bevington A. Reed Building, 200 East Riverside Drive, Austin. According to the agenda, the board discussed the crime victims matter. The board also met in executive session pursuant to workers' compensation statute to review board files.

Contact: William Treacy, 200 East Riverside Drive, Austin, Texas 78704, (512) 448-7962.

Filed: June 25, 1986, 3:37 p.m.
TRD-8606290

★ ★ ★

State Board of Insurance

Monday, June 30, 1986, 9 a.m. The State Board of Insurance met in emergency session in Room 414, State Insurance Building, 1110 San Jacinto Street, Austin. According to the agenda, the board considered a rate increase of 100% for Professional Mutual Insurance Company in conjunction with a court directed rehabilitation program. The emergency status was necessary in order to provide a regulatory framework for rate filings in conjunction with a rehabilitation plan devised by the courts of Missouri and supported by the State of Missouri Division of Insurance.

Contact: Pat Wagner, 1110 San Jacinto Street, Austin, Texas 78701-1998, (512) 463-6328.

Filed: June 25, 1986, 11:19 a.m.
TRD-8606239

★ ★ ★

Texas Board of Land Surveying

Tuesday and Wednesday, July 15 and 16, 1986, 8 a.m. daily. The Texas Board of Land Surveying will meet in Suite 304, 7703 North Lamar Boulevard, Austin. According to the agenda, the board will approve the minutes of the previous meeting; conduct interviews; hear committee reports; review new applications; reconsider old applications; adopt a new rule regarding branch offices; and consider any other business to come before the board.

Contact: Betty J. Pope, Suite 304, 7703 North Lamar Boulevard, Austin, Texas 78752, (512) 452-9427.

Filed: June 25, 1986, 8:46 a.m.
TRD-8606234

★ ★ ★

North Texas State University

Thursday, June 26, 1986, 4 p.m. The Role and Scope Committee of the Board of Regents of Texas College of Osteopathic Medicine (TCOM) of North Texas State University (NTSU) met in emergency session in the boardroom, Administration Building, North Texas State University, Denton. According to the agenda, the committee discussed NTSU items including: the end of semester enrollment report; the faculty on modified service; and a request for a private club license in the NTSU Union. The committee also met in executive session. The committee discussed TCOM items including: the association agreement; personnel transactions; and a promotion recommendation. The emergency status was necessary because the notice was mailed on June 16, 1986, but did not arrive in time to make the 72-hour deadline.

Contact: Jan Dobbs, P.O. Box 13737, Denton, Texas 76203, (817) 565-2198.

Filed: June 24, 1986, 10:31 a.m.
TRD-8606200

Friday, June 27, 1986, 9 a.m. The Board of Regents of Texas College of Osteopathic Medicine (TCOM) of North Texas State University (NTSU) met in emergency session in the boardroom, Administration Building, North Texas State University, Denton. According to the agenda, the board discussed NTSU items including: approval of minutes; the faculty on modified service; the end of semester enrollment report; a request for a private club license at the union; the 1986-1987 budget; the student service fee increase; the union fee increase; the fee register for 1987; roof repairs for residence halls and cafeterias; the purchase of the Hewlett-Packard 3000 System 70; sorority housing; the renovation of the women's gym; replacement of ceiling tiles and installation of the energy management system; construction of a large classroom building; and the replacement of stage lighting for the Speech and Drama Building. The board discussed TCOM items including: the association agreement; a promotion recommendation; a personnel transaction; the 1986-1987 budget recommendation; and approved the minutes. The board also met in executive session. The emergency status was necessary because the notice was mailed on June 16, 1986, but did not arrive in time to make the 72 hour deadline.

Contact: Jan Dobbs, P.O. Box 13737, Denton, Texas 76203, (817) 565-2198.

Filed: June 24, 1986, 10:31 a.m.
TRD-8606201

★ ★ ★

Texas State Board of Pharmacy

Wednesday-Friday, July 9-11, 1986, 1 p.m., 9 a.m., and 9 a.m. respectively. The Texas State Board of Pharmacy will meet in the Sundial Room, Padre Island Hilton, 500 Padre Boulevard, South Padre Island. According to the agenda summary, the board will review and approve the Texas Colleges of Pharmacy internship programs and colleges of pharmacy professional degree programs; review issues relating to comments received regarding Class D Rules 22 TAC 291.91-291.96; consider the final adoption of §281.24, and §291.76; discuss Chapters 291.71-291.75, 291.51-291.54, 291, and 291.8; approve the board strategic plan and fiscal year 1987 goals and objectives; the fiscal report; the presentation regarding the hearing and rehearing process; review staff assistance in the Compliance/Adjudication Divisions; consider proposed agreed board orders; the adoption of the Texas State Board of Pharmacy logo as official seal; the reports on the NABP annual meeting; the proposed legislation; approve the May 12 and 13, 1986, board minutes and the February 1986 disciplinary hearing minutes; present the fiscal year 1987 calendar of events; approve the professional service contracts; and elect the officers. The board also will meet in executive session to discuss pending litigation and personnel matters.

Contact: Fred S. Brinkley, Jr., Suite 1121, 211 East Seventh Street, Austin, Texas 78701, (512) 832-0661.

Filed: June 26, 1986, 8:55 a.m.
TRD-8606317

★ ★ ★

State Property Tax Board

Wednesday, July 9, 1986, 9 a.m. The State Property Tax Board will meet in the Agency Conference Room, 9501 IH 35 North, Austin. According to the agenda, the board will approve the minutes of the May 22 and 23, 1986, meeting; and consider an appeal by Coastal States Gathering Company, concerning the intangible value of its transportation operation.

Contact: Ron Patterson, 9501 IH 35 North, Austin, Texas 78753, (512) 834-4800.

Filed: June 25, 1986, 2:40 p.m.
TRD-8606278



School Land Board

Tuesday, July 1, 1986, 10 a.m. The School Land Board made an emergency revision to the agenda for a meeting to be held in Room 831, Stephen F. Austin Building, 1700 North Congress Avenue, Austin. The revision concerns the approval of the minutes of the previous board meeting and the direct land sale, Houston County. The emergency status is necessary to clear title for completion of the land transaction.

Contact: Linda K. Fisher, Room 836, 1700 North Congress Avenue, Austin, Texas 78701, (512) 463-5016.

Filed: June 25, 1986, 2:17 p.m.
TRD-8606270

★ ★ ★

State Securities Board

Wednesday, July 9, 1986, 2 p.m. The Securities Commissioner of the State Securities Board will meet at 1800 San Jacinto Street, Austin. According to the agenda summary, the commissioner will hold a hearing to determine whether to grant or deny the application of James Ignatius Richardson as a salesman for Jefferies & Company, Inc.

Contact: Sue B. Roberts, 1800 San Jacinto Street, Austin, Texas 78701, (512) 474-2233.

Filed: June 25, 1986, 11:52 a.m.
TRD-8606252

★ ★ ★

Texas Tech University

Wednesday, July 2, 1986, 10 a.m. The Finance and Administration Committee of the Board of Regents of Texas Tech University and Texas Tech University Health Sciences Center will meet jointly in the board suite, Administration Building, Texas Tech Campus, Lubbock. According to the agenda, the committees will review the fiscal year 1987 budget status; the fiscal years 1988 and 1989 appropriations budget requests; and appoint 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 26, 1986, 8:42 a.m.
TRD-8606315, 8606316

★ ★ ★

Board of Vocational Nurse Examiners

Monday-Wednesday, July 21-23, 1986, 8 a.m. daily. The Board of Vocational Nurse Examiners will meet in the Mesquite Room, Executel Motor Inn, 925 East Anderson

Lane, Austin. On Monday, the board will approve the minutes; consider the executive director's report, unfinished business, new business, and conduct administrative hearings. On Tuesday, the board will conduct administrative hearings. On Wednesday, the board will consider the education report including program matters and program actions, and any unfinished business. The board also will meet in executive session on call.

Contact: Joyce A. Hammer, Suite 285, Building C, 1300 East Anderson Lane, Austin, Texas 78752, (512) 835-2071.

Filed: June 26, 1986, 8:50 a.m.
TRD-8606313

★ ★ ★

Regional Agencies Meetings Filed June 24

The Bexar Appraisal District, Board of Directors, met at 535 South Main, San Antonio, on June 30, 1986, at 5 p.m. The Appraisal Review Board also met at the same location, on June 27, 1986, at 9 a.m. The Board of Directors will also meet at the same location, on July 14, 1986, at 5 p.m. Information may be obtained from Bexar Appraisal District, 535 South Main, San Antonio, Texas 78204, (512) 224-8511.

The Dallas Area Rapid Transit Authority, Board of Directors, met at 601 Pacific Avenue, Dallas, on June 24, 1986, at 4 p.m. Information may be obtained from Nancy McKethan, 601 Pacific Avenue, Dallas, Texas 75202, (214) 658-6237.

The Hansford County Appraisal District, Appraisal Review Board, will meet at 709 West Seventh Avenue, Spearman, on July 1, 1986, at 10 a.m. Information may be obtained from Alice Peddy, P.O. Box 567, Spearman, Texas 79081, (806) 659-5575.

The Lee County Appraisal District, Appraisal Review Board, will meet at 218 East Richmond Street, Giddings, on July 2, 1986, at 9 a.m. Information may be obtained from Delores Shaw, 218 East Richmond Street, Giddings, Texas 78942, (409) 542-9618.

The Sabine River Authority of Texas, Board of Directors, will meet at Lake Country Inn Lounge, Center, on July 2, 1986, at 10 a.m. Information may be obtained from Sam F. Collins, P.O. Box 579, Orange, Texas 77630, (New Number) (409) 746-3200.
TRD-8606199

★ ★ ★

Meetings Filed June 25

The Dawson County Central Appraisal District, Board of Directors, will meet at 611

North Dallas Avenue, Lamesa, on July 2, 1986, at 7 a.m. Information may be obtained from Tom Anderson, P.O. Box 797, Lamesa, Texas 79331, (806) 872-7060.

The Eastland County Appraisal District, Board of Directors, met in the commissioners' courtroom, Eastland County Courthouse, on June 25, 1986, at 2 p.m. Information may be obtained from Steve Thomas, Box 914, Eastland, Texas 76448, (817) 629-8597.

The Education Service Center, Region XI, Board of Directors, will meet at 3001 North Freeway, Fort Worth, on July 1, 1986, at noon. Information may be obtained from R. P. Campbell, Jr., 3001 North Freeway, Fort Worth, Texas 76106, (817) 625-5311.

The Central Appraisal District of Erath County, Board of Directors, will meet in the boardroom, 1390 Harbin Drive, Stephenville, on July 2, 1986, at noon. Information may be obtained from Jerry Lee, 1390 Harbin Drive, Stephenville, Texas 76401, (817) 965-5434 or 965-7301.

The Golden Crescent Regional Planning Commission, Board of Directors, will meet in the Americana Room, Interfirst Bank, 1908 North Laurent, Victoria, on July 2, 1986, at 5 p.m. Information may be obtained from Patrick J. Kennedy, P.O. Box 2028, Victoria, Texas 77902, (512) 578-1587.

The Hamilton County Appraisal District, will meet in the boardroom, 119 East Henry, Hamilton, on July 10, 1986, at 7 p.m. Information may be obtained from Doyle Roberts, 119 East Henry, Hamilton, Texas 76531, (817) 386-8945, 386-8946.

The Hunt County Tax Appraisal District, Board of Directors, will meet in the boardroom, 4815-B King Street, Greenville, on July 1, 1986, at noon. Information may be obtained from Joe Pat Davis or Jeanette Jordan, P.O. Box 1339, Greenville, Texas 75401, (214) 454-3510.

The Lampasas County Appraisal District, Appraisal Review Board, met at 403 East Second, Lampasas, on June 30, 1986, and will meet July 1-3, 1986, at 9 a.m. Information may be obtained from Dana Ripley, P.O. Box 175, Lampasas, Texas 76550.

The Lavaca County Central Appraisal District, Board of Directors, will meet at 113 North Main, Hallettsville, on July 3, 1986, at 10 a.m. Information may be obtained from Diane Munson, P.O. Box 386, Hallettsville, Texas 77964, (512) 798-4396.

The Sabine River Industrial Development Authority, Board of Directors, met at the general office, Highway 87 North, Orange, on June 27, 1986, at 10 a.m. Information may be obtained from Sam F. Collins, P.O. Box 579, Orange, Texas 77630, (New Number) (409) 746-3200.

The Scurry County Appraisal District, Board of Directors, will meet at 2612 College Avenue, Snyder, on July 1, 1986, at 8 p.m. Information may be obtained from L. R. Peveler, 2612 College Avenue, Snyder, Texas 79549, (915) 573-8549.

The Tyler County Tax Appraisal District, Board of Directors, will meet at 103 Pecan, Woodville, on July 7 and 8, 1986, at 10 a.m. Information may be obtained from Mary F. Mann, P.O. Drawer 9, Woodville, Texas 75979, (409) 283-3736.

The Wheeler County Appraisal District, Board of Directors, will meet in the district office, County Courthouse Square, Wheeler, on July 7, 1986, at 2 p.m. Information may be obtained from Marilyn Copeland, P.O. Box 349, Wheeler, Texas 79096, (806) 826-5900.

TRD-8606233

★ ★ ★

Meeting Filed June 26

The Dallas Central Appraisal District, Board of Directors, will meet in Suite 500, 1420 West Mockingbird Lane, Dallas, on July 2, 1986, at 7:30 a.m. Information may be obtained from Rick L. Kuehler, 1420 West Mockingbird Lane, Suite 500, Dallas, Texas 75247, (214) 631-0520.

TRD-8606308

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.

Texas Department of Banking Notice of Application

Texas Civil Statutes, Article 342-401a, requires any person who intends to buy control of a state bank to file an application with the banking commissioner for the commissioner's approval to purchase control of a particular bank. A hearing may be held if the application is denied by the commissioner.

On May 16, 1986, the banking commissioner received an application to acquire control of the Canyon Lake Bank, Canyon Lake, by William D. Dodge, III, Corpus Christi; Joel K. Loehman, Schertz; Charles B. Hankins, San Antonio; Tom J. Sheridan, San Antonio; Harry E. Kenny, III, Marlin; and Raymond Dietert, New Braunfels.

On May 29, 1986, notice was given that the application would not be denied.

Additional information may be obtained from William F. Aldridge, 2601 North Lamar, Austin, Texas 78705. (512) 475-4451.

Issued in Austin, Texas, on May 29, 1986.

TRD-8606187

William F. Aldridge
Director of Corporate Activities
Texas Department of Banking

Filed: June 23, 1986

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

★ ★ ★

Texas Department of Community Affairs

Consultant Proposal Request

Pursuant to Texas Civil Statutes, Article 6252-11c, and funds management ruling, §5.54(g) promulgated by the Office of the Comptroller of Public Accounts, the Texas Department of Community Affairs (TDCA) is soliciting applications for the use of Job Training Partnership Act (JTPA) funds to complete the development of one course currently being prepared under consultant services contract with Linda Moran. The course is entitled Planning to meet JTPA Performance Standards. The bidder will provide curriculum writing and pilot-test training services. The course is currently in draft form. The bidder will complete the writing, test the materials by offering training, and revise the trainee's guide and support materials.

The total funds available for this work is \$15,000. Ms. Moran is currently under contract for \$9,860. To ensure the continuity of services, the TDCA intends to award the balance of the funds to complete the curriculum development tasks to the private consultant who is currently performing the services, unless a better offer is submitted. The contract extension period will be approximately July

30-September 30, 1986. Bidders will be evaluated on evidence of capability to perform scope of work, demonstrated effectiveness, reasonableness of fees for services, competence, and training skills.

The TDCA retains the right to accept or reject any or all proposals. The TDCA is under no legal requirement to execute a resulting contract, and intends the material provided herein only as a means of identifying and considering various contractor alternatives and the general cost of services desired. All provisions and conditions must conform to relevant federal and state regulations. Technical assistance will not be provided by the TDCA in the preparation of proposals.

This application package does not commit the TDCA to pay for any cost incurred prior to execution of a contract or prior to fund availability from the U.S. Department of Labor for this procurement. The TDCA specifically reserves the right to vary the provisions set forth herein at any time prior to execution of a contract where the TDCA deems such variance to be in the best interests of the State of Texas, and to act otherwise as it deems in its sole discretion.

The deadline for submission of complete applications is 4 p.m., July 10, 1986. Any modifications to the original application must be received prior to the closing date. Applications will not be accepted after the 4 p.m. deadline.

Interested bidders may obtain an application package on or after June 25, 1986, from the Texas Department of Community Affairs, Training and Employment Development Division at the following address: Texas Department of Community Affairs, Training and Employment Development Division, 8317 Cross Park Drive, P.O. Box 13166, Austin, Texas 78711, Attention: Enrique Barrera.

Issued in Austin, Texas, on June 19, 1986.

TRD-8606188

Douglas C. Brown
General Counsel
Texas Department of Community
Affairs

Filed: June 23, 1986

For further information, please call (512) 834-8000.

★ ★ ★

Pursuant to Texas Civil Statutes, Article 6252-11c, and funds management ruling, §5.54(g) promulgated by the Office of the Comptroller of Public Accounts, the Texas Department of Community Affairs (TDCA) is soliciting applications for the use of Job Training Partnership Act (JTPA) funds to complete the development of one course currently being prepared under a consultant services con-

tract with Dr. Nancy Jo Derby. The course is entitled Interviewing to Determine JTPA Eligibility. The bidder will provide curriculum writing and pilot-test training services. The course is currently in draft form. The bidder will complete the writing, test the materials by offering training, and revise the trainer's guide and support materials.

The total funds available for this work is \$15,000. Dr. Derby is currently under contract for \$9,860. To ensure the continuity of services, the TDCA intends to award the balance of the funds to complete the curriculum development tasks to the private consultant who is currently performing the services, unless a better offer is submitted. The contract extension period will be approximately July 30 to September 30, 1986. Bidders will be evaluated on evidence of capability to perform scope of work, demonstrated effectiveness, reasonableness of fees for services, competence, and training skills.

The TDCA retains the right to accept or reject any or all proposals. The TDCA is under no legal requirement to execute a resulting contract, and intends the material provided herein only as a means of identifying and considering various contractor alternatives and the general cost of services desired. All provisions and conditions must conform to relevant federal and state regulations. Technical assistance will not be provided by the TDCA in the preparation of proposals.

This application package does not commit the TDCA to pay for any cost incurred prior to execution of a contract or prior to fund availability from the U.S. Department of Labor for this procurement. The TDCA specifically reserves the right to vary the provisions set forth herein at any time prior to execution of a contract where the TDCA deems such variance to be in the best interests of the State of Texas, and to act otherwise as it deems in its sole discretion.

The deadline for submission of complete applications is 4 p.m., July 10, 1986. Any modifications to the original application must be received prior to the closing date. Applications will not be accepted after the 4 p.m. deadline.

Interested bidders may obtain an application package on or after June 25, 1986, from the Texas Department of Community Affairs, Training and Employment Development Division at the following address: Texas Department of Community Affairs, Training and Employment Development Division, 8317 Cross Park Drive, P.O. Box 13166, Austin, Texas 78711, Attention: Enrique Barrera.

Issued in Austin, Texas, on June 19, 1986.

TRD-8606208 Douglas C. Brown
General Counsel
Texas Department of Community Affairs

Filed: June 23, 1986
For further information, please call (512) 834-6060.

★ ★ ★

Notice of Block Grant Hearings

As part of the public information, consultation, and public hearing requirements for federal block grants funds, the Texas Department of Community Affairs (TDCA) is conducting public hearings throughout the state in July, 1986. These hearings will be to solicit comments on the intended use of federal fiscal year 1987 funds from the communi-

ty services block grant (CSBG) and the Low-Income Home Energy Assistance Program (LIHEAP) block grant—weatherization and energy crisis program operations. Comments will also be solicited relative to the state's intended use of the Solar Energy and Energy Conservation Bank Program funding (U.S. Department of Housing and Urban Development, and LIHEAP) as well as the new state grant funds for dependent care planning and development from the U.S. Department of Health and Human Services.

At these hearings, proposed intended use reports on these funds for federal fiscal year 1987 (beginning October 1, 1986) will be provided, and public comments will be solicited for use in the preparation of final plans.

Four public hearings have been scheduled at the following locations and times: San Antonio, July 23, 1986, 6:30 p.m.-8:30 p.m., Barbara Jordan Community Center—Conference Room, 2803 East Commerce; Fort Worth, July 24, 1986, 11 a.m.-1 p.m., Fort Worth Central Library—Tandy Lecture Hall, 300 Taylor Street; El Paso, July 24, 1986, 1:30 p.m.-3:30 p.m., City Hall—City Council Chambers, Two Civic Center Plaza; Wichita Falls, July 24, 1986, 6:30 p.m.-8:30 p.m., Community Action Corporation of Wichita Falls, and North Texas—Auditorium, 602 Broad Street.

Representatives from the Texas Department of Community Affairs will be present to explain the planning process and consult with and receive comments from interested citizens and affected groups regarding the proposed plans. All written and oral comments will be used in preparation of the federal fiscal year 1987 block grant state plans.

Proposed intended use reports can be obtained from all regional councils of governments by on or about July 10th or by contacting the Texas Department of Community Affairs, Bob D. Williams, Executive Director, P.O. Box 13166, Austin, Texas 78711-3166. The programs' contact person is Barbara Cigainero, Division Director, TDCA-Economic Opportunity Division, (512) 834-6224.

Oral testimony regarding comments on the plans will be heard during the hearings; written comments on the plans may be submitted to the TDCA immediately or at any time within 30 days after publication of this notice.

Issued in Austin, Texas, on June 25, 1986.

TRD-8606208 Douglas C. Brown
General Counsel
Texas Department of Community Affairs

Filed: June 24, 1986
For further information, please call (512) 834-6060.

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⁾ Agricultural/Commercial ⁽⁴⁾ intra \$250,000	Commercial ⁽⁴⁾ over \$250,000
--	---	--

Indicated (Weekly) Rate—Article 1.04(a)(1) 06/30/86-07/06/86	18.00%	18.00%
--	--------	--------

Monthly Rate— Article 1.04(c) ⁽¹⁾ 06/01/86-06/30/86	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⁾ 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 23, 1986.

TRD-8606231 Al Endsley
Consumer Credit
Commissioner

Filed: June 25, 1986
For further information, please call (512) 479-1280.

★ ★ ★

Texas Education Agency Availability of Report

The Texas Education Agency has prepared a report on public education concerns related to families in compliance with House Resolution 139. The report will be presented to the State Board of Education for consideration September 13, 1986. Public commentary on the report is invited prior to State Board of Education consideration. Interested parties may secure a copy of the report by calling the Office of Research and Information, (512) 463-9701, or by writing to J. B. Morgan, Assistant Commissioner for Research, Texas Education Agency, 1701 North Congress Avenue, Austin, Texas 78701.

Issued in Austin, Texas, on June 19, 1986.

TRD-8606188 W. N. Kirby
Commissioner of Education

Filed: June 23, 1986
For further information, please call (512) 463-9212.

★ ★ ★

Consultant Proposal Request

In accordance with the provisions of Texas Civil Statutes, Article 6252-11c, the Texas Education Agency is requesting proposals to assist the agency's Division of Services for the Deaf, which is charged with the responsibility to develop and administer a statewide program of educational services for deaf students, in the refinement and continued implementation of an objective data-based accountability system for measuring educational outcomes within the regional day school programs for the deaf.

Description. The system must include the revision or design of data collection instruments which will, when data so collected has been entered on computer, provide ready access to individual and composite pupil profiles. Pupil data to be collected may include, but shall not necessarily be limited to the following: name, sex, date of birth, address, audiological findings, cause of hearing loss, age at onset of hearing loss, additional handicapping conditions, ethnic background, and results of standardized achievement tests. A plan for output products and data analyses appropriate to local, regional, state, and national levels will be required.

Continuation of Service Previously Performed. This is a continuation of a service previously performed by the Center for Assessment and Demographic Studies, Gallaudet College, Washington, D.C. This agency intends to award a contract to Gallaudet College unless a better offer is submitted.

Procedure for Selecting Consultant. The organization demonstrating the broadest and deepest knowledge of demographic and educational performance data analysis of the deaf will be selected for cost and contract negotiations.

Dates of Contract. The beginning date of the contract is September 1, 1986, and the ending date of the contract is August 31, 1987.

Amount of Contract. The amount of the contract shall not exceed \$38,500.

Contact. Further information may be obtained by writing or calling Gary A. Curtis, Director, Division of Services for the Deaf, Texas Education Agency, 1701 North Congress Avenue, Austin, Texas 78701-1494, (512) 463-9424.

Deadline. Proposals must be received in the agency no later than July 15, 1986.

Issued in Austin, Texas, on June 24, 1986.

TRD-8606212 W. N. Kirby
Commissioner of Education

Filed: June 24, 1986
For further information, please call (512) 463-9212.

★ ★ ★

Texas Department of Health Intent to Renew Radioactive Material License

Notice is hereby given by the Texas Department of Health for the renewal of the following radioactive material license:

Issued to Conoco, Inc., (mailing address: Conoco, Inc., Trevino Project, P.O. Box 579, Hebronville, Texas 78361) for their Trevino Project located in Duval County, Hebronville, Texas, for the purpose of restoration and re-

clamation to applicable state and federal standards only. In situ mining operations and uranium extraction have ceased at the project.

The Division of Licensing, Registration, and Standards has determined that the license renewal has no significant impact on the human environment; the licensee is qualified by reason of training and experience to use the material in question for the purpose requested in accordance with these regulations in such a manner as to minimize danger to public health and safety and the environment; the licensee's equipment, facilities, and procedures are adequate to minimize danger to public health and safety and the environment; the renewal of the license will not be inimical to public health and safety, or have a detrimental impact on the environment; and the licensee satisfies any applicable special requirements in the *Texas Regulations for Control of Radiation* (TRCR), Part 43.

This notice affords the opportunity for a public hearing upon written request by a person affected as required by Texas Civil Statutes, Article 4590f, §11(b), and as set out in TRCR 13.4(a). A person affected is defined as a person who is a resident of a county, or a county adjacent to a county, in which the radioactive materials are or will be used, including any person who is doing business or who has a legal interest in land in the county or adjacent county, and any local government in the county; and who can demonstrate that he has suffered or will suffer actual injury or economic damage. A written hearing request must be received within 30 days from the date of this notice by David K. Lacker, Chief, Bureau of Radiation Control (Director, Radiation Control Program), 1100 West 49th Street, Austin, Texas 78756. Should no request for a public hearing be timely filed, the license will be issued 14 days following the end of the 30-day period of notice.

A copy of all material submitted is available for public inspection at the Bureau of Radiation Control, 1212 East Anderson Lane, Austin, Texas. Information relative to the proposed renewal of this specific radioactive material license may be obtained by contacting David K. Lacker, Chief, Bureau of Radiation Control (Director, Radiation Control Program), 1100 West 49th Street, Austin, Texas 78756. For further information, please call (512) 835-7000.

Issued in Austin, Texas, on June 20, 1986.

TRD-8606202 Robert A. MacLean, M.D.
Deputy Commissioner
Professional Services
Texas Department of Health

Filed: June 24, 1986
For further information, please call (512) 458-7236.

Houston-Galveston Area Council Consultant Proposal Request

This request for proposals is filed under the provisions of Texas Civil Statutes, Article 6252-11c.

Description of Service. Services will be provided to eligible applicants for dislocated worker training programs authorized by Title III of the Job Training Partnership Act of 1982. These services include outreach, intake eligibility determination, assessment, skills training, on-the-job training,

job search training and assistance, support services, placement, and follow up. Services will be provided in the 13-county Gulf Coast state planning region for the 1986-1987 program year, August 1, 1986-June 30, 1987.

Funds. Available funds for the 1986-1987 program year are estimated to be \$1.9 million.

Contact. For information, interested individuals should contact Rodney Bradshaw or Mike Temple at the Houston-Galveston Area Council, (713) 627-3200.

Intent. The Houston-Galveston Area Council currently contracts with the Texas Employment Commission, AFL-CIO Human Resources Development Institute, College of the Mainland, and Texas A&M Research Foundation to provide these services. Performance by each of these contractors during the 1985-1986 program year has been satisfactory.

Houston-Galveston Area Council intends to award contracts to the Texas Employment Commission, AFL-CIO Human Resources Development Institute, College of the Mainland, and Texas A&M Research Foundation for these same services during the 1986-1987 program year, unless a better offer is received. This decision to procure contract services through sole source is made according to the public exigency rules found in Attachment C, State of Texas Uniform Grant and Contract Management Standards. Number of workers eligible for services continues to rise dramatically in the Houston-Galveston area. Late issuance of allocations and plan guidelines by the State of Texas does not allow sufficient time to properly bid and evaluate proposals for services without delay which will seriously hamper efforts to serve individuals in need.

Closing date. Closing date for offers is 5 p.m., Monday, July 4, 1986.

Issued in Houston, Texas, on June 20, 1986.

TRD-8606190 Jack Steele
Executive Director
Houston-Galveston Area Council

Filed: June 23, 1986
For further information, please call (713) 627-3200.

★ ★ ★



Texas Department of Human Services Correction of Error

A proposed repeal submitted by the Texas Department of Human Services contained an error as published in the June 13, 1986, issue of the *Texas Register* (11 TexReg 2717).

Chapter 69 should be "Purchased Social Services."