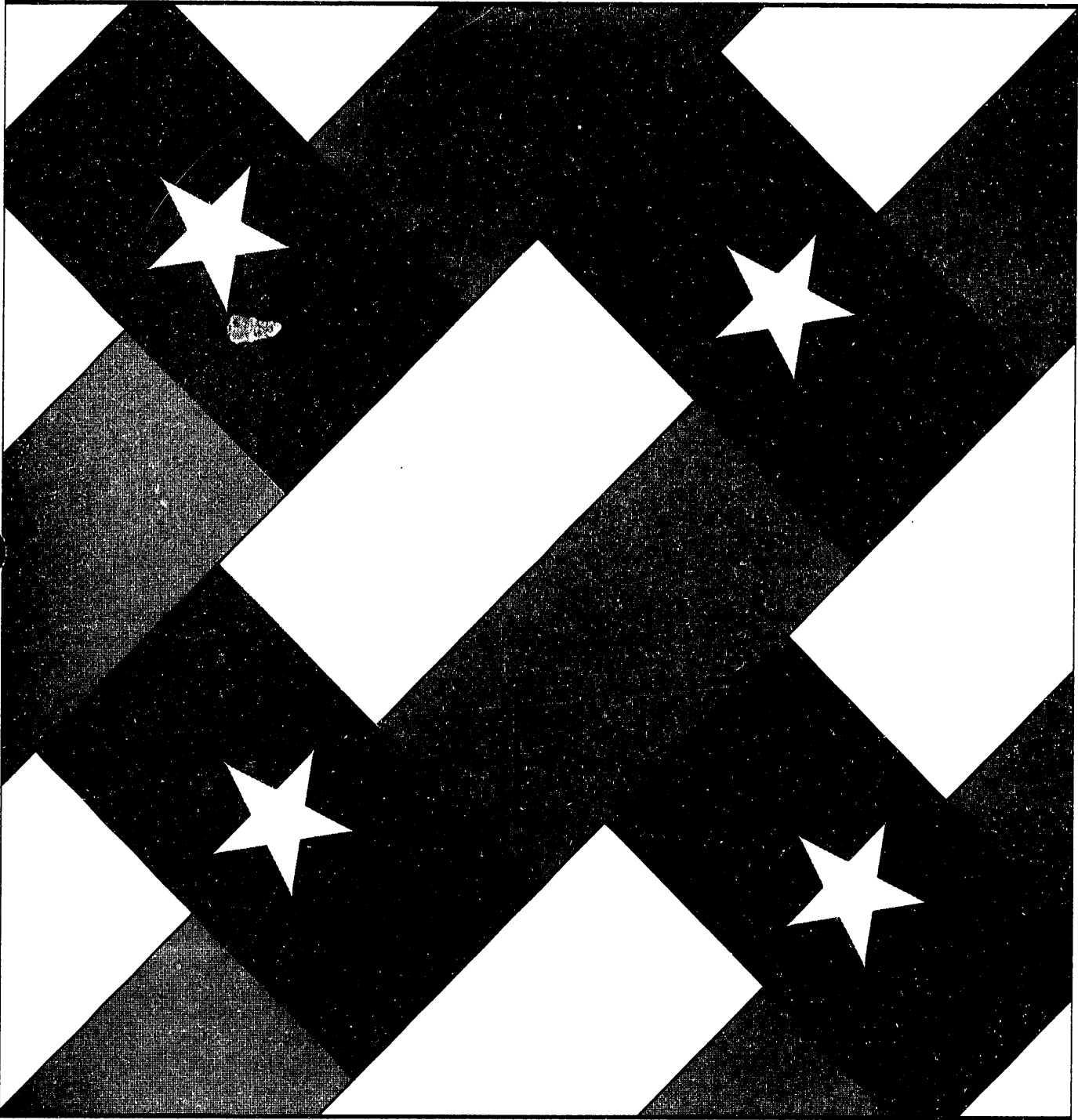


Texas Register

Volume 12, Number 16, March 3, 1987

Pages 693-745



Highlights

The **Railroad Commission of Texas** proposes new sections and amendments concerning regulations by the Liquefied Petroleum Gas Division. Proposed date of adoption - September 1 **page 699**
The **Board of Pardons and Paroles** adopts amendments clarifying roles, reflecting constitutional and statutory changes, and ef-

fecting rules and provisions of mandatory supervision. Effective date - March 17 **page 729**

The **Texas Department of Human Services** adopts a new rule concerning immediate care facilities for the mentally retarded. Effective Date - March 27 **page 737**

**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 1987 with the exception of January 6, September 1, December 1, and December 29 by the Office of the Secretary of State.

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

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- Withdrawn Rules—rules withdrawn by state agencies from consideration for adoption, or automatically withdrawn by the *Texas Register* six months after proposal publication date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

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

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

In order that readers may cite material more easily, page numbers are now written as citations. Example: on page 2, in the lower left-hand corner of the page, would be written: "12 TexReg 2 issue date," while on the opposite page, page 3, in the lower right-hand corner, would be written "issue date 12 TexReg 3."

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

Texas Administrative Code

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

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

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

TAC stands for the *Texas Administrative Code*;

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



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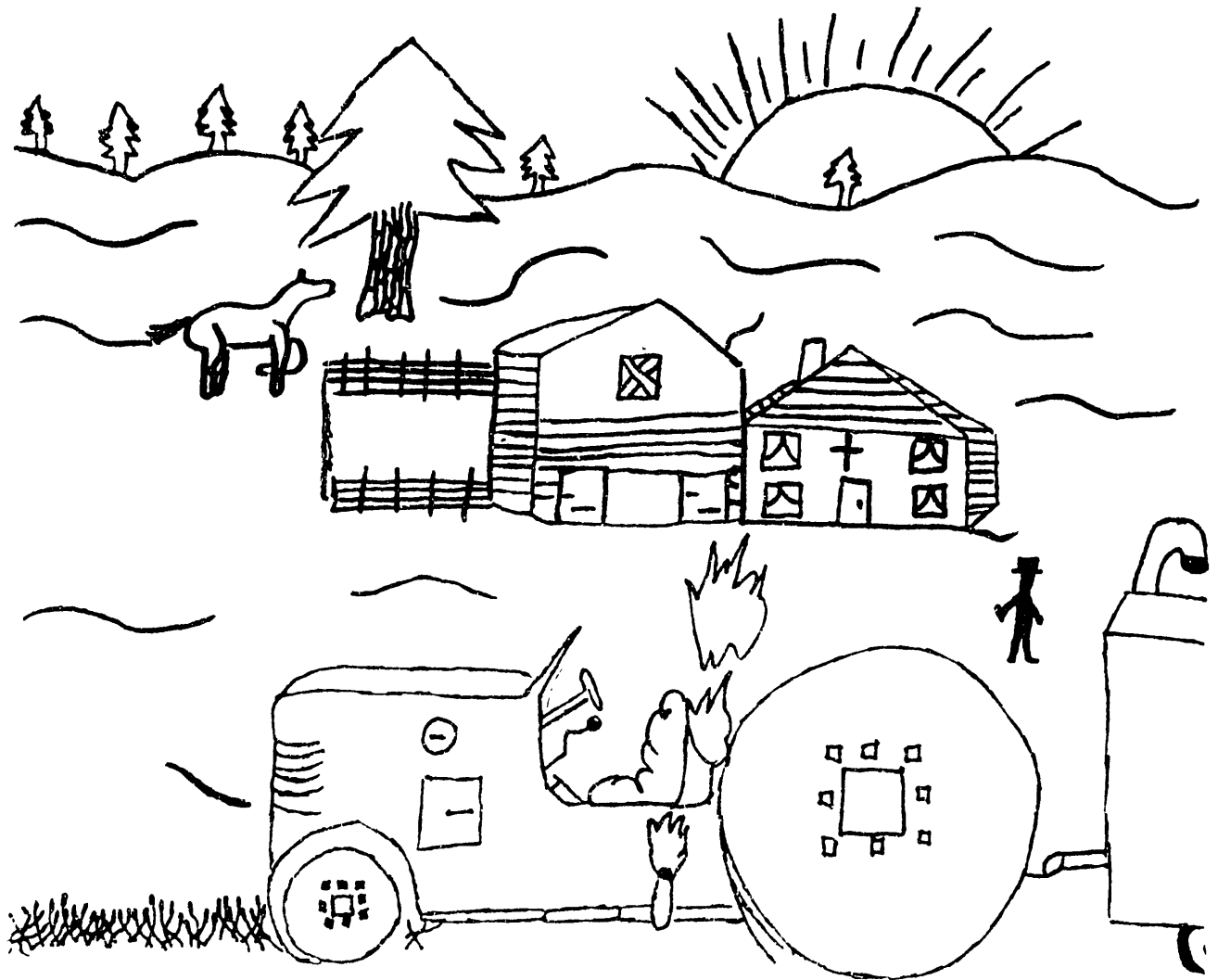
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Emergency Rules

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 REGULATION

Part I. Railroad

Commission of Texas

Chapter 3. Oil and Gas

Division

Conservation Rules and Regulations

★ 16 TAC §3.30

The Railroad Commission of Texas adopts on an emergency basis an amendment to §3.30 (Statewide Rule 30), concerning gas nomination required. The amendment deletes the change in the first purchaser definition, effective March 1, that a first purchaser shall mean the first purchaser of natural gas produced from a well and shall include any subsidiary or affiliate of the purchaser who transports any natural gas it purchases from a well by use of the same pipeline system used by the first purchaser of which it is a subsidiary or affiliate.

The amendment is adopted on an emergency basis to protect the state's public welfare interest in the ratable production

of natural gas and the conservation of natural resources and prevention of waste of gas.

The amendment is adopted on an emergency basis under the Texas Natural Resources Code, §§81.052, 85.202, 86.012, 86.041, 86.042, 111.083, 111.090, and 111.133, which provides the Railroad Commission of Texas with the authority to adopt sections for the following purposes: to govern and regulate persons and their operations under the jurisdiction of the Railroad Commission; to prevent waste of oil and gas in drilling and producing operations; to effectuate the provisions and purposes of the Texas Natural Resources Code, Chapter 86; to conserve and prevent waste of gas; and to regulate common purchasers of oil and gas to achieve the prior purposes.

§3.30. *Gas Nominations Required.*

(a) The following words and terms, when used in this section and in §§3.28, 3.31, and 3.34 of this title (relating to Potential and Deliverability of Gas Wells to be Ascertained and Reported; Gas Well Allowables; and Gas to be Produced and Purchased Ratably), shall have the following meanings, unless the context clearly indicates otherwise.

(i) Initial or first purchaser—The first purchaser of natural gas produced from a well. [, effective through February 28, 1987. Effective March 1, 1987, initial or first purchaser shall mean the first purchaser of natural gas produced from a well and shall include any subsidiary or affiliate of the purchaser who transports any natural gas it purchases from a well by use of the same pipeline system used by the first purchaser of which it is a subsidiary or affiliate.]

(2)-(4) (No change.)

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

Issued in Austin, Texas, on February 23, 1987.

TRD-8701755

Walter Earl Lillie
Special Counsel
Railroad Commission of
Texas

Effective date: February 25, 1987

Expiration date: June 25, 1987

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

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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.

(Editor's note: The LP-Gas Division of the Railroad Commission of Texas is extending the public comment period for the following proposals to end on June 1, 1987.)

TITLE 16. ECONOMIC REGULATION

Part I. Railroad

Commission of Texas

Chapter 9. Liquefied

Petroleum Gas Division

Subchapter A. General

Applicability and Requirements

★ 16 TAC §9.2

The Railroad Commission of Texas proposes §9.2, concerning definitions. The new section defines terms used in the LP-Gas safety rules.

Thomas D. Petru, director, LP-Gas Division, 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. Petru 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 increased understanding of the LP-Gas safety rules by the LP-gas industry. 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 Liz Younkin, Hearings Examiner, Railroad Commission of Texas, LP-Gas Division, P.O. Drawer 12967, Austin, Texas 78711-2967.

The new section is proposed under the Texas Natural Resources Code, §113.051, which provides the Railroad Commission of Texas with the authority to promulgate rules and standards to be used in the LP-gas industry which promote or tend to promote the health, safety, and welfare of the general public.

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

Applicance—Any apparatus or fixture that uses or consumes LP-gas furnished or supplied by an LP-gas system to which it is connected or attached.

Approved—Authorized for LP-gas service and/or installation by the commission.

ASME container—Any LP-gas container manufactured to the specifications of the American Society of Mechanical Engineers, Division 1, Section VIII, in effect at the time of fabrication.

Automatic dispenser—A dispensing device to which access is controlled by a key, a card, or a code locking system, without which the dispenser cannot be operated.

Certified—Authorized to perform LP-gas related work as set forth in the Texas Natural Resources Code. Employee certification alone does not allow an individual to perform those activities which require licensing.

Commission—The Railroad Commission of Texas.

Container—Any receptacle designed for the transportation or storage of LP-gas or any receptacle designed for the purpose of receiving injections of LP-gas for use or consumption by or through an LP-gas system.

Dispensing system—That combination of valves, meters, hoses, piping, electrical connections, and/or fuel connections at a stationary installation used to distribute LP-gas to portable DOT containers or DOT/ASME mobile or motor fuel containers.

Division—The liquefied petroleum gas division of the commission.

DOT container—Any LP-gas container manufactured to the specifications of the United States Department of Transportation and/or the United States Interstate Commerce Commission, regardless of whether those standards are still in effect or whether those agencies assert jurisdiction over a particular container.

Employee—Any individual who renders or performs any services or labor for compensation and includes individuals hired on a part-time or temporary basis or on a full-time or permanent basis including an owner-employee.

Licensee—A person, partnership, corporation, joint ventureship, or other business entity which has applied for and been granted an LP-gas license by the commission.

Liquefied petroleum gas, LPG, or LP-

gas—Any material that is composed predominantly of any of the following hydrocarbons or mixtures of hydrocarbons: propane, propylene, normal butane, isobutane, and butylenes.

LP-gas system—All piping fittings, valves, and equipment, excluding containers and appliances, that connect one or more containers to one or more appliances that use or consume LP-gas.

Material handling equipment—Includes, but is not limited to, pumps, meters, filling connections, compressors, emergency shut-off valves, and bulkheads. Material handling equipment does not include any automatic dispenser or manual dispenser (i.e. pipe riser).

Outlet—A site operated by a LP-gas licensee at which the business conducted materially duplicates the operations for which the licensee is initially granted a license. A final determination as to what constitutes an outlet will be made by the director as per §9.8(a) of this title (relating to Designation of Operations Supervisor).

Person—An individual, partnership, corporation, joint ventureship, or licensee.

Property line—That intangible boundary which designates the point at which one property interest ends and another begins.

Public building—Any building where the public conducts business on the premises which includes all commercial installations such as forklift, private motor fuel, and cylinder filling installations. A final determination as to what constitutes a public building will be made by the director.

Repair to container—The correction of damage or deterioration to an LP-gas container, or the alteration of the structure of such a container, or the welding on such container in a manner which causes the temperature of the container to rise above 400 degrees Fahrenheit.

Representative—The person designated by a license applicant or licensee as the principal person in authority who is responsible for actively supervising the licensee's LP-gas activities.

Subframing—The attachment of supporting structural members to the pads of a container, but does not include welding directly to or on the container.

Transfer system—All piping, fittings, valves, and equipment utilized in dispensing LP-gas between containers.

Transport—Any bobtail or semitrailer

equipped with one or more containers.

Transport system—Any and all piping, fittings, valves, and equipment on a transport, excluding the container.

Water capacity—The amount of water, in pounds or gallons, at 60°F (15.6°C) required to fill a container liquid full of water.

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

Issued in Austin, Texas, on February 24, 1987.

TRD-8701677 Walter Earl Lillie
Special Counsel
Railroad Commission of
Texas

Proposed date of adoption:
September 1, 1987
For further information, please call
(512) 463-7149.

★ ★ ★

★ 16 TAC §9.14

(Editor's note: The text of the following section proposed for repeal will not be published. The section may be examined in the offices of the Railroad Commission of Texas, 1124 IH 35 South, Austin, or in the Texas Register office, Room 503F, Sam Houston Building, 201 East 14th Street, Austin.)

The Railroad Commission of Texas proposes the repeal of §9.14, concerning definitions. The repeal deletes definitions of terms used throughout the LP-Gas safety rules.

Thomas D. Petru, director, LP-Gas Division, 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. Petru also has determined that for each year of the first five years the repeal is in effect there will be no public benefits anticipated as a result of enforcing the repeal. 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 Liz Younkin, Hearings Examiner, Railroad Commission of Texas, LP-Gas Division, P.O. Drawer 12967, Austin, Texas 78711-2967.

The repeal is proposed under the Texas Natural Resources Code, §113.051, which provides the Railroad Commission of Texas with the authority to promulgate rules and standards to be used in the LP-gas industry which promote or tend to promote the health, safety, and welfare of the general public.

§9.14. Definition.

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

Issued in Austin, Texas, on February 24, 1987.

TRD-8701719 Walter Earl Lillie
Special Counsel
Railroad Commission of
Texas

Proposed date of adoption:
September 1, 1987
For further information, please call
(512) 463-7149.

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★ 16 TAC §9.28

The Railroad Commission of Texas proposes new §9.28, concerning public hearing. The new section provides guidelines by which the public can request a public hearing to voice their safety concerns prior to placing LP-gas installations of 10,000 gallons or more, aggregate capacity, into service.

Thomas D. Petru, director, LP-Gas Division, has determined that for the first five-year period the proposed section will be in effect there will be fiscal implications for state or local government or small businesses as a result of enforcing or administering the section. The effect on state government will be a minimal cost anticipated by the division for personnel time involved in processing requests for public hearings and in participating in an estimated five hearings per year. This cost will remain the same throughout a five year period. There will be no effect on local government. The cost of compliance with the section for small businesses will be very minimal, since this section applies only to larger installations which are likely to be installed by larger businesses. The cost for large businesses will be the same as for small businesses, except for the small number of instances in which the division anticipates a public hearing will be convened.

Mr. Petru 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 a clear set of guideline, by which the public can object to a large LP-gas installation prior to placing it into service. The possible economic cost to individuals who are required to comply with the section as proposed will be the cost of participating in a public hearing, which will be convened only when a proper objection to the LP-gas installation is made. This cost will be the same each year in 1987-1990.

Comments on the proposal may be submitted to Liz Younkin, Hearings Examiner, Railroad Commission of Texas, LP-Gas Division, P.O. Drawer 12967, Austin, Texas 78711-2967.

The new section is proposed under the Texas Natural Resources Code, §113.051, which provides the Railroad Commission of Texas with the authority to promulgate rules and standards to be used in the LP-gas industry which promote or tend to promote the health, safety, and welfare of the general public.

§9.28. Public Hearing.

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

(1) Tentative approval—The authority issued by the commission allowing construction of an LP-gas installation.

(2) Final approval—The authority issued by the commission allowing the introduction of LP-gas into a container and system.

(b) Notice of the proposed installation. Any application for approval of LP-gas installation (LPG Form 500) which is received at the Austin office of the LP-Gas Division on or after September 1, 1987, which pertains to a new stationary LP-gas installation of 10,000 gallons or more, aggregate capacity, or an addition to an existing facility whose aggregate capacity will be 10,000 gallons or more when complete, shall ensure that notice of the proposed installation, (LPG Form 500a) is sent to all owners of real property situated within 500 feet of the proposed tank location. Sufficient notice shall be deemed given when the applicant has provided evidence that LPG Form 500a has been sent to all such property owners whose names and addresses may be determined upon diligent investigation of readily available sources of information. If such owners are not determinable as set out in this subsection, the applicant may send LPG Form 500a to all persons shown as owners on the current county tax rolls.

(c) Tentative approval considered. Each real property owner receiving notice shall have 18 days from the date of mailing of the notice to submit an objection in writing to the division. An objection is not deemed filed until it is actually received at the Austin office of the LP-Gas Division. The director of the division may grant tentative approval if each real property owner in this subsection has been given notice as certified by the applicant on LPG Form 500, even though objections have been received. Tentative approval may be granted by the director of the LP-Gas Division if he determines that the application meets all applicable rules of the LP-Gas Division, all applicable statutes of the State of Texas, and that the construction of the installation does not constitute a danger to the public health, safety, and welfare. If tentative approval, as defined herein, is granted, the applicant may begin construction of the proposed facility at its own risk that final approval may not be granted.

(d) When hearing held. The director of the division shall call a public hearing,

pursuant to the provisions of this section, if any of the following exist:

(1) sufficient notice is not deemed given to each real property owner in subsection (c) of this section;

(2) proper objection to the proposed installation is received by the division in a timely manner. A proper objection to a proposed installation shall include a statement in support of the matters alleged, and is one which alleges either:

(A) noncompliance with the LP-Gas Division safety rules, with reference to the particular rule(s) relied upon;

(B) noncompliance with the statutes of the State of Texas, with reference to the particular provisions relied upon;

(C) facts which indicate that the proposed installation constitutes a danger to the public health, safety, and welfare;

(3) the commission or the division director determines that a hearing is necessary to investigate the impact of the installation.

(e) Notice of public hearing. The division shall ensure that notice of the public hearing is given at least 10 days prior to the date of the hearing to the applicant and to all real property owners who have filed Proper objections.

(f) Procedure at hearing. The public hearing will be conducted in accordance with the Administrative Procedure and Texas Register Act (Texas Civil Statutes Article 6252-13a, §14) and the general rules of practice and procedure of the Railroad Commission of Texas and the LP-Gas Division safety rules. Once tentative approval has been granted by the division, it establishes a rebuttable presumption that all applicable LP-Gas safety rules have been complied with by the applicant.

(g) Commission orders. Following a public hearing, if the commission finds that the proposed installation is in accordance with the LP-gas safety rules, the statutes of the State of Texas, and that the installation does not constitute a danger to the Public health, safety, and welfare, an order shall be issued granting final approval. Any grant of final approval will include a provision that such approval may be suspended or revoked if physical inspection of the installation is not conducted by the division prior to the introduction of LP-gas or if a physical inspection of the installation indicates that it is not installed in accordance with the LP-gas safety rules, or the statutes of the State of Texas, or that the installation constitutes a danger to the public health, safety, and welfare. If no objection is filed to the proposed installation, final approval may be granted by the division director upon a similar finding and with a similar provision.

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

Issued in Austin, Texas, on February 24, 1987.

TRD-8701678

Walter Earl Lillie
Special Counsel
Railroad Commission of
Texas

Proposed date of adoption:

September 1, 1987

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

★ ★ ★

★ 16 TAC §9.29

The Railroad Commission of Texas proposes new §9.29, concerning filings required for LP-gas installations. The new section requires filings to be made for LP-gas installations which occur at all public buildings.

Thomas D. Petru, director, LP-Gas Division, has determined that for the first five-year period the proposed section will be in effect there will be fiscal implications as a result of enforcing or administering the section. The effect on state government will be an estimated reduction in cost of approximately \$23,000 per year in 1987-1991. There will be no effect on local government. The cost of compliance with the section for small businesses will be a substantial cost savings, since smaller installations can be installed prior to filing a completion report with the division. In addition, the completion report involves much less paperwork than the detailed plans required to be filed under the current safety rules. The cost of compliance for small businesses compared to the cost of compliance for the largest businesses will be the same, except where a larger installation is proposed. The cost of installing a larger installation will be equal to the cost associated with any delay in having a physical inspection of the facility conducted prior to being granted final approval by the division to place a larger installation into LP-gas service.

Mr. Petru 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 increased safety in larger LP-gas installations and LP-gas installations at schools, convalescent homes, hospitals, and bottle filling/service stations, since a physical inspection of such installation must indicate compliance with all applicable LP-Gas safety rules prior to final approval being granted. 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 Liz Younkin, Hearings Examiner, Railroad Commission of Texas, LP-Gas Division, P.O. Drawer 12967, Austin, Texas 78711-2967.

The new section is proposed under the Texas Natural Resources Code, §113.051,

which provides the Railroad Commission of Texas with the authority to promulgate rules and standards to be used in the LP-gas industry which promote or tend to promote the health, safety, and welfare of the general public.

§9.29. Filings Required for LP-Gas Installations.

(a) Prior to the installation of any LP-gas container at school, convalescent home, hospital, LP-gas bottle filling/motor fuel service station, or any LP-gas container installation which would result in an aggregate water capacity of 10,000 gallons or more, plans and specifications for the LP-gas container and/or piping system must be submitted on LPG Form 500 to the LP-Gas Division for tentative approval. Any alterations or additions (except maintenance and repairs) will necessitate resubmission of plans and specifications for approval. No LP-gas shall be introduced into any LP-gas container which has not been granted final approval by the division. Final approval will follow a physical inspection of the completed installation which indicates that the installation is found to be in compliance with all applicable LP-gas safety rules.

(b) Within 10 days of the completion of the installation of any LP-gas container having an aggregate water capacity under 10,000 gallons at a public building which includes all commercial installations, an LPG Form 501, Completion Report, must be submitted to the LP-Gas Division. No LP-gas shall be introduced into any LP-gas container which is not installed in accordance with the statutes of the State of Texas or with the rules of the Railroad Commission of Texas in effect at the time of installation.

(c) A manufacturer's data report must be submitted when requested by the division.

(d) The LP-Gas Division shall determine restrictions on individual LP-gas container capacity and total storage capacity for any LP-gas installation in a heavily populated or congested area.

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

Issued in Austin, Texas, on February 24, 1987.

TRD-8701679

Walter Earl Lillie
Special Counsel
Railroad Commission of
Texas

Proposed date of adoption.

September 1, 1987

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

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★ 16 TAC §9.48

The Railroad Commission of Texas proposes an amendment on §9.48, concerning transfer of liquid. The amendment provides for procedures for transferring liquid.

Thomas D. Petru, director, LP-Gas Division, 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. Petru also has determined that for each year of the first five years the section is in effect there will be no public benefit anticipated as a result of enforcing the section. 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 Liz Younkin, Hearings Examiner, Railroad Commission of Texas, LP-Gas Division, P.O. Drawer 12967, Austin, Texas 78711-2967.

The amendment is proposed under the Texas Natural Resources Code, §113.051, which provides the Railroad Commission of Texas with the authority to promulgate rules and standards to be used in the LP-gas industry which promote or tend to promote the health, safety, and welfare of the general public.

§9.48. Transfer of Liquid.

(a) Liquid may be transferred from one tank to another by means of any of the following methods: pumping, pressure differential, or gravity.

(b) Pumps where used shall be of an approved type and may be either truck mounted or stationary.

(c) Where pressure differential is used to transfer liquid, such differential shall be obtained only with liquefied petroleum gas.

(d) During the process of transferring liquid, at least one man shall remain in the immediate vicinity of the filling connection at all times.]

(d) [(f)] Truck and trailer containers shall be filled by weight, by meter, or by an approved liquid level gauging device.

(e) During the process of transferring liquids, no open flames, on explosive proof lights, or other sources of ignition shall be allowed in the vicinity. No smoking shall be allowed anywhere in the vicinity during the process of transferring liquid.

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

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TRD-8701693 Walter Earl Lillie
Special Counsel
Railroad Commission of
Texas

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

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Subchapter B. Basic Rules

★ 16 TAC §9.50

The Railroad Commission of Texas proposes new §9.50, concerning minimum design working pressure. The new section provides the minimum design working pressure required for all American Society of Mechanical Engineers (ASME) and Department of Transportation (DOT) containers constructed after September 1, 1987.

Thomas D. Petru, director, LP-Gas Division, has determined that for the first five-year period the proposed section will be in effect there will be fiscal implications as a result of enforcing or administering the section. There will be no effect on state or local government. The cost of compliance with the section for small businesses will be very minimal, since most manufacturers already construct LP-gas containers in accordance with this proposed new section. The cost for the largest businesses will be the same as for small businesses.

Mr. Petru 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 a cost savings in the purchase of an LP-gas container, since the increase in the minimum design working pressure for all containers will ensure that LP-gas currently sold on the market (with its increase in vapor pressure), will be able to be introduced into any LP-gas container purchased. 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 Liz Younkin, Hearings Examiner, Railroad Commission of Texas, LP-Gas Division, P.O. Drawer 12967, Austin, Texas 78711-2967.

The new section if proposed under the Texas Natural Resources Code, §113.051 and §113.052, which provides the Railroad Commission of Texas with the authority to promulgate rules and standards to be used in the LP-gas industry and to adopt national standards and codes which promote or tend to promote the health, safety, and welfare of the general public.

§9.50. Minimum Design Working Pressure. All ASME containers constructed after September 1, 1987, for use in the State of Texas shall have a minimum design working pressure of not less than 250 psig. All DOT containers constructed after September 1, 1987, for use in the State of Texas shall have a minimum design working pressure of not less than 240 psig.

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

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Walter Earl Lillie
Special Counsel
Railroad Commission of
Texas

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

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★ 16 TAC §9.55

(Editor's note: The text of the following section proposed for repeal will not be published. The section may be examined in the offices of the Railroad Commission of Texas, 1124 IH 35 South, Austin, or in the Texas Register office, Room 503F, Sam Houston Building, 201 East 14th Street, Austin.)

The Railroad Commission of Texas proposes the repeal of §9.55, concerning open flames. The repeal deletes language concerning the location of sources of ignition.

Thomas D. Petru, director, LP-Gas Division, 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. Petru also has determined that for each year of the first five years the repeal is in effect there will be no public benefits anticipated as a result of enforcing the repeal. 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 Liz Younkin, Hearings Examiner, Railroad Commission of Texas, LP-Gas Division, P.O. Drawer 12967, Austin, Texas 78711-2967.

The repeal is proposed under the Texas Natural Resources Code §113.051, which provides the Railroad Commission of Texas with the authority to promulgate rules and standards to be used in the LP-gas industry which promote or tend to promote the health, safety, and welfare of the general public.

§9.55. Open Flames.

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

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TRD-8701720 Walter Earl Lillie
Special Counsel
Railroad Commission of
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★ 16 TAC §9.62

The Railroad Commission of Texas proposes new §9.62, concerning removal from LP-gas service. The new section provides for the removal from LP-gas service of any unsafe container, system, appliance, or equipment whenever there is an immediate danger to the public health, safety, and welfare.

Thomas D. Petru, director, LP-Gas Division, 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. Petru also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be the immediate removal from LP-gas service of any unsafe container, system, appliance, or equipment whenever there is an immediate danger to the public health, safety, and welfare. The possible economic cost to individuals who are required to comply with the section as proposed will be as follows. The division estimates that a properly licensed company may impose a \$25 service charge on individuals for the removal of product and/or the disconnection of the container. This charge will be the same in 1987-1991.

Comments on the proposal may be submitted to Liz Younkin, Hearings Examiner, Railroad Commission of Texas, LP-Gas Division, P.O. Drawer 12967, Austin, Texas 78711-2967.

The new section is proposed under the Texas Natural Resources Code §113.051, which provides the Railroad Commission of Texas with the authority to promulgate rules and standards to be used in the LP-gas industry which promote or tend to promote the health, safety, and welfare of the general public.

§9.62. *Removal from LP-Gas Service.* If the commission or division director determines that any LP-gas container constitutes an immediate danger to the public health, safety, and welfare, it shall required the immediate removal of liquid and vapor LP-gas by a properly licensed company to the extent necessary to eliminate the danger. If the commission or division director determines that any LP-gas appliance, equipment, or system constitutes an immediate danger to the public health, safety, and welfare, it shall require the immediate disconnection by a properly licensed company of such appliance, equipment, or system from the LP-gas container it services.

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

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Walter Earl Lillie
Special Counsel
Railroad Commission of
Texas

Proposed date of adoption:
September 1, 1987

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

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★ 16 TAC §9.63

The Railroad Commission of Texas, proposes new §9.63, concerning uniform protection standards. The new section provides for uniform fencing and/or guard-rail standards for all types of LP-gas installations of 4,000 aggregate water capacity and above.

Thomas D. Petru, director, LP-Gas Division, has determined that for the first five-year period the section will be in effect there will be fiscal implications as a result of enforcing or administering the section. There will be no effect on state or local government. The cost of compliance with the section for small businesses will be a substantial cost savings to businesses that utilize LP-gas to fuel their operations, since a greater number of those businesses will be exempt from this section. Businesses that store LP-gas will also experience a substantial cost savings. If the installation is fenced, only the operation end of the installation, rather than the entire installation, must be fenced. In addition, more businesses will have the option to erect guardrails in lieu of fencing, which should result in a much lower cost for materials and labor. The cost savings to large businesses will be about the same as for small businesses.

Mr. Petru, 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 protection of LP-gas installations which are currently exempt from protection requirements where circumstances indicate that such safeguards are needed to adequately protect the health, safety, and welfare of the general public. 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 Liz Younkin, Hearings Examiner, Railroad Commission of Texas, LP-Gas Division, P.O. Drawer 12967, Austin, Texas 78711-2967.

The new section is proposed under the Texas Natural Resources Code, §113.051, which provides the Railroad Commission of Texas with the authority to promulgate rules and standards to be used in the LP-gas industry which promote or tend to promote the health, safety, and welfare of the general public.

§9.63. *Uniform Protection Standards.*

(a) All LP-gas transfer systems and storage containers shall be protected from tampering and damage and shall be maintained in good condition at all times and in accordance with one of the three standards set forth in this subsection. Cylinders in storage referred to in §9.272 of this title (relating to Cylinder Storage) and §9.303 of this title (relating to Cylinder Storage), however, shall be protected in accordance with paragraph (1) of this section

(1) Fencing.

(A) Fencing material shall be chain link type with wire no smaller than 12 1/2 American wire gauge in size.

(B) Fencing shall be no less than six feet in height at all points. Fencing may be five feet in height when topped with at least three strands of barbed wire, with the strands no more than four inches apart.

(C) All uprights, braces, and/or cornerposts of the fence shall be composed of noncombustible material if located within 25 feet of the enclosed LP-gas transfer system or LP-gas container.

(D) All fenced enclosures shall have at least one gate suitable for entrance and egress. All gates shall be locked whenever the area enclosed is unattended.

(E) A minimum clearance of five feet shall be maintained between the fencing and the container, material handling equipment, and the entire dispensing system.

(F) Fencing which is located more than 25 feet from any point of an LP-gas transfer system or container is designated as perimeter fencing. If an LP-gas transfer system or container is located inside perimeter fencing and is subject to vehicular traffic, it shall be protected against damage by the use of guardrails and guard posts, installed according to the specifications set forth in paragraph (2) of this subsection.

(G) The operating end of the container (including all material handling equipment and the entire dispensing system) must be completely enclosed by fencing.

(2) Guardrails.

(A) Valve locks, electric control locks, or other suitable means shall be placed to prevent unauthorized withdrawal of LP-gas.

(B) Vertical supports for guard-rail shall be a minimum of three-inch schedule 40 steel pipe, or an equivalent material. The supports must be capped on the top and firmly anchored in concrete, with a minimum height of 30 inches above the level of the ground. Supports shall be spaced no more than four feet apart.

(C) Horizontal guardrailing shall be secured between the vertical guard posts. It shall be no less than three-inch schedule 40 steel pipe, or an equivalent material. The railing shall be welded or bolted to the guard posts.

(D) No opening in the railing may exceed 36 inches.

(E) A minimum clearance of 24

inches shall be maintained between the railing and any part of an LP-gas transfer system or container. The two posts at the ends of any railing which protects a bulkhead, shall be located at 45° angles to the corners of the bulkhead.

(F) Guardrail protection shall extend at least 24 inches beyond any part of the LP-gas transfer system or container which is exposed to vehicular traffic.

(G) The operating end of the container (including all material handling equipment and the entire dispensing system) must be protected from damage by vehicular traffic.

(H) Each LP-gas storage installation of 4,000 gallons aggregate water capacity or more which is not protected by continuous fencing, pursuant to this chapter, shall have posted the following warning, printed in letters not less than four inches high: "Warning-Flammable Gas," printed in red letters; "No Trespassing," printed in black letters; and "No Smoking," printed in red letters. The background for such lettering shall be white or aluminum. All warning signs shall be readily visible to any person approaching such an installation. This applies to Division II (commercial), Divisions III, IX, XI, and XII.

(3) Fencing and guardrails. A combination of the protection standards authorized by paragraphs (1) and (2) of this subsection shall not result in less protection than either standard. Note: This subsection does not apply to the following.

(A) LP-gas systems and containers located at a private residence;

(B) LP-gas systems and containers which service vapor systems, where the aggregate storage capacity of the installation is less than 4,000 gallons, and where the transfer system is not subject to vehicular traffic;

(C) LP-gas piping which contains no valves and which complies with the provisions of §9.218 of this title (relating to Exterior Piping); and

(D) LP-gas storage containers located on a rural consumer's property from which engine or mobile fuel containers are filled.

(b) The provisions of this section notwithstanding, the director of the division may require an installation to be protected in accordance with subsection (a) of this section when evidence exists that because of exceptional circumstances added safeguards are needed to adequately protect the health, safe-

ty, and welfare of the general public. If a person owning or operating such an installation disagrees with the determination of the director made under this subsection, then that person may request a public hearing on the matter. However, until a decision is issued, subsequent to a hearing on the matter, the subject installation shall either be protected in the manner prescribed by the director, or it shall be closed with all product withdrawn from it.

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

Issued in Austin, Texas, on February 24, 1987.

TRD-8701682

Walter Earl Lillie
Special Counsel
Railroad Commission of
Texas

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September 1, 1987

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

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★ 16 TAC §9.64

The Railroad Commission of Texas proposes new §9.64, concerning uniform safety requirements. The new section provides uniform safety requirements pertaining to location of sources of ignition, procedures for fuel dispensing operations, and closed container valve requirements.

Thomas D. Petru, director, LP-Gas Division, 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. Petru 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 increased safety in unattended LP-gas installations, since the container valves must be kept in a closed position under such circumstances. 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 Liz Younkin, Hearings Examiner, Railroad Commission of Texas, LP-Gas Division, P.O. Drawer 12967, Austin, Texas 78871-2967.

The new section is proposed under the Texas Natural Resources Code, §113.051, which provides the Railroad Commission of Texas with the authority to promulgate rules and standards to be used in the LP-gas industry which promote or tend to promote the health, safety and welfare of the general public.

§9.64. Uniform Safety Requirements.

(a) Open flames and other sources of ignition. No sources of ignition may be located within the vicinity of an LP-gas container, an LP-gas system, or an LP-gas transfer system in accordance with the distances set forth in Figure 1 of this section, while LP-gas is being transferred, including the time of connection and disconnection, and for a reasonably safe period of time after the transfer has been completed. Potential sources of ignition include, but are not limited to, all smoking materials, open flames, pilot lights, nonexplosive proof lights, and electrical installations not constructed in accordance with the National Electrical Code (NEC) for Class 1, Group D: Hazardous Locations. This shall not be construed to prohibit the operation of a transport engine which is required for the transfer of LP-gas. Vaporizers, tank heater burners, and pilots shall be extinguished during transfer operations, but need not be extinguished where located in accordance with the distances set forth in Figure 1 of this section.

(b) Combustible materials. The vicinity of a stationary LP-gas container, transfer, handling, or dispensing equipment shall be kept clear of all types of combustible materials which includes, but is not limited to, trash, weeds, and wood, in accordance with the distances set forth in Figure 1 of this section. Note: This applies only to Division II (commercial), Divisions III, IX, and XI.

Aggregate Water Capacity of LP-gas Containers	Required Distance from Containers and Systems
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0 - 500 gallons	10 feet
501 - 2000 gallons	15 feet
2001 gallons and over	25 feet

FIGURE 1

(c) Transfer or dispensing of fuel. During the transfer or dispensing of LP-gas, which includes the time period from connection to disconnection, at least one person shall remain in the immediate vicinity of the transfer or dispensing equipment in a position to monitor the flow of fuel and to control the transfer or dispensing equipment.

(d) Use of chock blocks. Each LP-gas transport shall carry no fewer than two chock blocks designed to effectively prevent the rolling of the transport. These blocks shall be used any time the transport is parked and during the transfer of fuel regardless of the level of the surrounding terrain.

(e) Storage of LP-gas next to flammable liquids. Suitable means shall be taken by diking, diversion curbs, and regarding to prevent the accumulation of flammable liquids such as gasoline, diesel, etc., under LP-gas containers. The minimum separation between LP-gas containers and flammable liquid tanks shall be 20 feet, and the minimum separation between a container and the center line to the dike shall be 10 feet. Note: This applies to aboveground LP-gas containers as described in Division II (commercial), III, IX, and XI.

(f) Valves in closed position. Except in vaporizers and vapor systems, all vapor and liquid container shutoff valves shall be kept in the fully closed position when the LP-gas installation is unattended. All valves on any transport shall be kept in the fully closed position except during the transfer of fuel to or from the transport.

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

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TRD-8701683

Walter Earl Lillie
Special Counsel
Railroad Commission of
Texas

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September 1, 1987

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

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★ 16 TAC §9.65

The Railroad Commission of Texas proposes new §9.65, concerning LP-gas storage distance requirements. The new section provides uniform distance requirements from stationary LP-gas containers and material handling equipment and buildings, property lines, and rights of way.

Thomas D. Petru, director, LP-gas Division, has determined that for the first five-year period the proposed section will be in effect there will be fiscal implications for state or local government or small businesses as a result of enforcing or administering the section. There will be no effect on state or local government. The cost of compliance with the section for

small businesses will be a cost savings for some LP-gas installations, as a smaller tract of land will be required to comply with shorter distance requirements. The cost savings will be about the same for small and larger businesses.

Mr. Petru 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 protection of the public to the same extent as it is under current sections. 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 Liz Younkin, Hearings Examiner, Railroad Commission of Texas, LP-Gas Division, P.O. Drawer 12967, Austin, Texas 78711-2967.

The new section is proposed under the Texas Natural Resources Code, §113.051, which provides the Railroad Commission of Texas with the authority to promulgate rules and standards to be used in the LP-gas industry which promote or tend to promote the health, safety, and welfare of the general public.

§9.65. LP-gas Storage Distance Requirements

(a) Distances to buildings and property lines. Stationary LP-gas storage containers and material handling equipment shall be located outside of and no closer to any building or to any adjacent property line as indicated in Figure 1:

Aggregate Water Capacity of Storage	Minimum Distance
0 - 500 gallons	10 feet
501 - 2000 gallons	15 feet
2001 - 4000 gallons	25 feet
4001 - 8000 gallons	50 feet
8001 - 12,000 gallons	75 feet
12,001 gallons and over	100 feet

(b) Distances to rights-of-way. Stationary LP-gas storage containers, automatic

dispensing equipment, and material handling equipment shall be located no closer to any

roadway, highway, and railroad right-of-way, as indicated in Figure 2:

Aggregate Water Capacity of Storage	Minimum Distance
0 - 500 gallons	10 feet
501 - 2000 gallons	15 feet
2001 - 4000 gallons	25 feet
4001 gallons and over	50 feet

(c) Mobile home provisions. The following requirements apply only to mobile homes.

(1) When U.S. Department of Transportation containers of 300 pounds or less, aggregate capacity, are located and used for fuel at a mobile home or group of mobile homes, and when the 10 feet required in subsection (a) of this rule is unobtainable, such containers may be located within 10 feet of the mobile home or group of mobile homes.

(2) When an ASME container of 500 gallons or less, water capacity, located and used for fuel at a mobile home or group of mobile homes, and when the 10 feet required in subsection (a) of this section is unobtainable, such containers may be located within 10 feet of the mobile or group of mobile homes.

(3) Under no circumstances may any container referred to in this subsection be closer than three feet from any mobile home nor closer than 10 feet from any source of ignition.

(4) When any container is located less than 10 feet from a mobile home, the relief valve shall be positioned to prevent the discharge of vapor or any mobile home.

(5) All containers shall be secured in such a way that they shall not be subject to dislocation.

(d) Electric transmission line. No stationary LP-gas storage container shall be placed under an electric transmission line (which does not include a customer service line) in that area directly beneath the transmission line and that area which is 20 feet to either side of the line. If this distance is not adequate to prevent the broken ends of the electric transmission lines from contacting the LP-gas container in the event of breakage of any conductor, then either suitable means of protection can be taken to prevent such contact which are acceptable to the director or the container must be located a sufficient distance from the transmission line to prevent such contact.

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

Issued in Austin, Texas, on February 24, 1987.

TRD-8701684 Walter Earl Lillie
Special Counsel
Railroad Commission of
Texas

Earliest possible date of adoption:
September 1, 1987
For further information, please call
(512) 463-7149.

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★ 16 TAC §9.66

The Railroad Commission of Texas proposes new §9.66, concerning maximum capacity of LP-gas storage containers. The new section provides the maximum capacity of LP-gas storage containers.

Thomas D. Petru, director, LP-Gas Division has determined that for the first five-year period the proposed section will be in effect there will be fiscal implications for state or local government or small businesses as a result of enforcing or administering the section. The effect on state government will be a cost savings equal in personnel time involved in processing exceptions to the current section (which places a lower limit on the capacity of certain storage containers). This cost will be the same each year in 1987-1991. There will be no effect on local governments or small businesses.

Mr. Petru also has determined that for each year of the first five years the section is in effect there will be no public benefit anticipated as a result of enforcing the section. 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 Liz Younkin, Hearings Examiner, Railroad Commission of Texas, LP-Gas Division, P.O. Drawer 12967, Austin, Texas 78711-2967.

The new section is proposed under the Texas Natural Resources Code, §113.051, which provides the Railroad Commission of Texas with the authority to promulgate rules and standards to be used in the LP-gas industry which promote or tend to promote the health, safety, and welfare of the general public.

§9.66. Maximum Capacity of LP-gas Storage Containers.

No LP-gas storage container used in Texas may exceed 30,000 gallons water capacity.

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

Issued in Austin, Texas, on February 24, 1987.

TRD-8701685 Walter Earl Lillie
Special Counsel
Railroad Commission of
Texas

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

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★ 16 TAC §9.67

The Railroad Commission of Texas proposes new §9.67, concerning LP-gas storage protection. The new section provides for the installation of bulkheads and emergency shutoff valves at LP-gas installations of 4,000 gallons or more, aggregate capacity.

Thomas D. Petru, director, LP-Gas Division, has determined that for the first five-year period the proposed section will be in effect there will be fiscal implications

as a result of enforcing or administering the section. There will be no cost to small businesses, since bulkheads and emergency shutoff valves are only required at larger LP-gas installations. The total cost for materials and labor will be approximately \$2,500 per bulkhead and emergency shutoff valve.

Mr. Petru, 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 increased safety in LP-gas transfer operations, since the bulkheads will prevent the displacement of LP-gas piping in the event of a pull-away and the emergency shutoff valves are designed to shut off the flow of LP-gas by several different means in an emergency situation. 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 Liz Younkin, Hearings Examiner, Railroad Commission of Texas, LP-Gas Division, P.O. Drawer 12967, Austin, Texas 78711-2967.

The new section is proposed under the Texas Natural Resources Code, §113.051, which provides the Railroad Commission of Texas with the authority to promulgate rules and standards to be used in the LP-gas industry which promote the health, safety, and welfare of the general public.

§9.67. LP-gas Storage Protection.

(a) Each LP-gas stationary storage installation of 4,000 gallons or more, aggregate capacity, installed on or after September 1, 1987, shall incorporate in its design bulkheads and emergency shutoff valves (ESVs) for liquid and vapor transfer systems. Note: This section shall not apply where the liquid transfer hose is connected directly to a 1 1/4 inch or less acme-threaded filler valve when such valve is installed directly into the container.

(b) Bulkheads shall be of concrete or steel and anchored sufficiently to prevent displacement of piping and fittings in the event of a truck pull-away while the transfer hose is connected.

(1) Piping through a bulkhead shall be secured to the bulkhead to prevent shifting. Piping shall terminate through the bulkhead with a Schedule 80 pipe collar and a 12-inch length of Schedule 80 pipe and forged steel elbow between the bulkhead and hose coupling.

(2) Bulkheads shall not be less than 10 feet from a container.

(c) Emergency shutoff valves (ESVs) shall be installed in fixed piping of the transfer system upstream of the bulkhead and within four feet of the bulkhead with a flexible wire braided hose not more than 24 inches long installed between the ESVs and the bulkhead.

(1) ESVs shall be installed according to the manufacturer's instructions.

(2) ESVs shall incorporate all of the following means of closing:

(A) automatic shutoff through thermal (fire) actuation using fusible elements with a melting point not to exceed 250°F;

(B) manual shutoff at the installed location; and

(C) manual shutoff from a remote location. Remote controls shall be connected to each ESV. Emergency remote controls shall be conspicuously marked and shall be located and maintained to be readily accessible in emergencies.

(3) Where the flow of LP-gas is in one direction only, a back-flow check valve may be used in lieu of an ESV in the fixed piping, provided that the back-flow check valve has a metal-to-metal seat or a primary resilient seat with a secondary metal seat not hinged with combustible material.

(4) ESVs or back-flow check valves shall be installed in the piping system in such a manner that any break resulting from a pull-away will occur on the transfer hose side of the bulkhead and the valves and piping on the container side of the bulkhead will remain in tact.

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

Issued in Austin, Texas, on February 24, 1987.

TRD-8701686

Walter Earl Lillie
Special Counsel
Railroad Commission of
Texas

Proposed date of adoption:

September 1, 1987

For further information, please call

(512) 463-7149.

★ ★ ★

★ 16 TAC §9.69

The Railroad Commission of Texas proposes new §9.69, concerning grounding and electrical fields. The new section provides for grounding of above-ground LP-gas installations and minimum distance requirements for LP-gas containers from electrical installations.

Thomas D. Petru, director, LP-Gas Division, 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. The cost of compliance with the rule for small businesses will be a cost savings, since LP-gas containers having less than 1,200 gallons water capacity will be exempt from grounding requirements. Under current safety rules, certain LP-gas containers which have less than a 1,200 water gallon capacity are not exempted from grounding requirements. Larger businesses will not be fiscally impacted by this new section, grounding requirements will not change from current requirements.

Mr. Petru also has determined that for each year of the first five years the section is in effect there will be no public benefit anticipated as a result of enforcing the section. 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 Liz Younkin, Hearings Examiner, Railroad Commission of Texas, LP-Gas Division, P.O. Drawer 12967, Austin, Texas 78711-2967.

The new section is proposed under the Texas Natural Resources Code, §113.051, which provides the Railroad Commission of Texas with the authority to promulgate rules and standards to be used in the LP-gas industry which promote or tend to promote the health, safety, and welfare of the general public.

§9.69. Grounding and Electrical Fields.

(a) Stationary aboveground LP-gas storage containers exceeding 1,200 gallons shall be grounded by a separate and adequate ground. The grounding shall consist of a ground rod placed at a sufficient depth to ensure grounding of any static charge generated, and shall be connected to the container by copper wire equivalent in conductive capacity to a Number 10 American Wire Gauge wire. The ground wire must be attached by a means that ensures a good electrical bond.

(b) Electrical installations within the vicinity of LP-gas storage containers or LP-gas transfer, handling, or dispensing equipment shall be in accordance with the National Electrical Code (NEC) for Class 1, Group D: Hazardous Locations. The vicinity of storage containers or equipment is that area indicated by the following chart:

Aggregate Water Capacity

Distance Requirements from Container

or Equipment for Class 1, Group D,

Hazardous Locations NEC Classification

Measured in all Directions

0 - 500 gallons	10 feet
501 - 2000 gallons	15 feet
2001 gallons and over	25 feet

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

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TRD-8701687 Walter Earl Lillie
Special Counsel
Railroad Commission of
Texas

Proposed date of adoption:

September 1, 1987

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

★ ★ ★

★16 TAC §9.70

The Railroad Commission of Texas proposes new §9.70, concerning maintenance. The new section provides for uniform maintenance standards and minimum distance requirements between LP-gas containers and transmission lines.

Thomas D. Petru, director, LP-Gas Division, has determined that for the first five-year period the proposed section will be in effect there will be fiscal implications as a result of enforcing or administering the section. There will be no effect on state or local government. The cost of compliance with the rule for small businesses will be a cost savings, as a smaller tract of land will be required at some installations to comply with shorter distances to be maintained between LP-gas containers and transmission lines. The cost savings for large businesses will be the same as for small businesses.

Mr. Petru also has determined that for each year of the first five years the section is in effect there will be no public benefits anticipated as a result of enforcing the section. 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 Liz Younkin, Hearings Examiner, Railroad Commission of Texas, LP-Gas Division, P.O. Drawer 12967, Austin, Texas 78711-2967.

The new section is proposed under the Texas Natural Resources Code, §113.051, which provides the Railroad Commission of Texas with the authority to promulgate rules and standards to be used in the LP-

gas industry which promote or tend to promote the health, safety, and welfare of the general public.

§9.70. Maintenance.

(a) All LP-gas storage containers, valves, dispensers, accessories, piping, and transfer equipment shall be maintained in good operating condition.

(b) All LP-gas transport units, including the transport systems, cargo vessels, brakes, tires, and lighting systems of those units, shall be maintained in good operating condition.

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

Issued in Austin, Texas, on February 24, 1987

TRD-8701688 Walter Earl Lillie
Special Counsel
Railroad Commission of
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Proposed date of adoption:

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

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Subchapter C. Division I.

★16 TAC §9.71

The Railroad Commission of Texas proposes an amendment to §9.71, concerning requirements for construction, original test, and working pressure of containers. The amendment provides for the construction, testing, inspection, and minimum working pressure of DOT containers.

Thomas D. Petru, director, LP-Gas Division, 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. Petru also has determined that for each year of the first five years the section is in effect there will be no public benefit anticipated as a result of enforcing the section. 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 Liz Younkin, Hearings Examiner, Railroad Commission of Texas, LP-Gas Division, P.O. Drawer 12967, Austin, Texas 78711-2967.

The amendment is proposed under the Texas Natural Resources Code, §113.05, which provides the Railroad Commission of Texas with the authority to promulgate rules and standards to be used in the LP-gas industry which promote or tend to promote the health, safety, and welfare of the general public.

§9.71. Requirements for Construction, Original Test, and Working Pressure of Containers.

[(a)] All Division 1 containers for use with LP-gas shall be manufactured, tested, and inspected in accordance with the Department of Transportation regulations and specifications.

[(b) The minimum working pressure of Division 1 containers shall not be less than 240 pounds per square inch gauge.]

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

Issued in Austin, Texas, on February 24, 1987.

TRD-8701694 Walter Earl Lillie
Special Counsel
Railroad Commission of
Texas

Proposed date of adoption:

September 1, 1987

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

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★16 TAC §9.72

The Railroad Commission of Texas proposes an amendment on §9.72, concerning markings on containers. The amendment provides for required markings on DOT containers.

Thomas D. Petru, director, LP-Gas Division, 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. Petru also has determined that for each year of the first five years the section is in effect there will be no public benefit anticipated as a result of enforcing the section. 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 Liz Younkin, Hearings Examiner, Railroad Commission of Texas, LP-Gas Division, P.O. Drawer 12967, Austin, Texas 78711-2967.

The amendment is proposed under the Texas Natural Resources Code, §113.051, which provides the Railroad Commission of Texas with the authority to promulgate rules and standards to be used in the LP-gas industry which promote or tend to promote the health, safety, and welfare of the general public.

§9.72. *Markings on Containers.*

All [Interstate Commerce Commission or] Department of Transportation containers for use with LP-gas must be marked in accordance with the regulations current at the time of fabrication. Such containers shall at all times be plainly stamped to show that they have been requalified within the required test period.

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

Issued in Austin, Texas, on February 24, 1987.

TRD-8701695 Walter Earl Lillie
Special Counsel
Railroad Commission of
Texas

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

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★17 TAC §9.73

(Editor's note: The text of the following section proposed for repeal will not be published. The section may be examined in the offices of the Railroad Commission of Texas, 1124 IH 35 South, Austin, or in the Texas Register office, Room 503F, Sam Houston Building, 201 East 14th Street, Austin.)

The Railroad Commission of Texas proposes the repeal of §9.73, concerning location of containers. The repeal deletes language concerning minimum distance requirements for Department of Transportation containers.

Thomas D. Petru, director, LP-Gas Division, 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. Petru also has determined that for each year of the first five years the repeal is in effect there will be no public benefits anticipated as a result of enforcing the repeal. 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 Liz Younkin, Hearings Examiner, Railroad Commission of Texas, LP-Gas Division, P.O. Drawer 12967, Austin, Texas 78711-2967.

The repeal is proposed under the Texas Natural Resources Code, §113.051, which provides the Railroad Commission of Texas with the authority to promulgate rules and standards to be used in the LP-gas industry which promote or tend to promote the health, safety, and welfare of the general public.

§9.73. *Location of Containers.*

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

Issued in Austin, Texas, on February 24, 1987.

TRD-8701721 Walter Earl Lillie
Special Counsel
Railroad Commission of
Texas

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

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★16 TAC §9.77

The Railroad Commission of Texas proposes an amendment on §9.77, concerning filling of department of transportation containers. The amendment provides for filling procedures for Department of Transportation containers.

Thomas D. Petru, director, LP-Gas Division, has determined that for the first five-year period the proposed section will be in effect there will be fiscal implications for state or local government or small businesses as a result of enforcing or administering the section. The cost of compli-

ance with the rule for small businesses will be a cost savings equal to personnel time involved in calculating proper filling weight. The cost for larger businesses will be the same as for small businesses.

Mr. Petru 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 increased safety in the filling of Department of Transportation containers by weight since this proposed rule explains proper weighing procedures to ensure that overfilling of such containers does not occur. 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 Liz Younkin, Hearings Examiner, Railroad Commission of Texas, LP-Gas Division, P.O. Drawer 12967, Austin, Texas 78711-2967.

The amendment is proposed under §113.051 Texas Natural Resources Code which provides the Railroad Commission of Texas with the authority to promulgate rules and standards to be used in the LP-gas industry which promote or tend to promote the health, safety, and welfare of the general public.

§9.77. *Filling of Department of Transportation Containers [Cylinders].*

(a) [ICC or] DOT containers of 100 pounds LP-gas capacity or less shall be filled by weight only.

(b) [ICC or] DOT Containers [cylinders] of 101 pounds LP-gas capacity or more may be filled by either a fixed liquid level gauge or be weighing.

[(c)] Fixed tube devices, where permitted, shall be so arranged that the maximum liquid level to which the container may be filled is not in excess of the maximum permitted under the filling density table in §9.47 of this title (relating to Filling Density) based on an initial liquid temperature not in excess of 40°F.

(c) 42% of the water capacity in pounds equals total weight of LP-gas which can be put into a cylinder.

(1) The formula for filling LP-gas containers by weight under this section is as follows:

(A) The propane capacity in pounds is determined by multiplying the total water capacity in pounds by .42.

(B) Add the tare weight of a cylinder to the liquid weight of the product plus the weight of the hose and nozzle. The total weight of these three is the proper scale setting.

(2) The following chart is the list of typical filling limits for propane:

LIST OF TYPICAL FILLING LIMITS FOR
PROPANE, SPECIFIC GRAVITY AT
60° OF 0.504 - 0.510.

CONTAINER CAPACITY IN POUNDS

<u>WATER</u>	<u>PROPANE</u>	<u>WATER</u>	<u>PROPANE</u>
12	5	80	33.5
15	6	96	40
24	10	104	43.5
26	11	120	50
48	20	144	60
60	25	239	100
67	28	477	200
69	29	715	300
72	30	1000	420

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TRD-8701696 Walter Earl Lilie
 Special Counsel
 Railroad Commission of
 Texas

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

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★ **16 TAC §9.81**

(Editor's note: The text of the following section proposed for repeal will not be published. The section may be examined in the offices of the Railroad Commission of Texas, 1124 IH 35 South, Austin, or in the Texas Register office, Room 503F, Sam Houston Building, 201 East 14th Street, Austin.)

The Railroad Commission of Texas proposes the repeal of §9.81, concerning installations at public buildings—ICC and DOT containers. The repeal deletes language concerning the installation of Department of Transportation containers. Thomas D. Petru, director, LP-Gas Division, 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. Petru also has determined that for each year of the first five years the section is in effect there will be no public benefits anticipated as a result of enforcing the section. 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 Liz Younkin, Hearings Examiner, Railroad Commission of Texas, LP-Gas Division, P.O. Drawer 12967, Austin, Texas 78711-2967.

The repeal is proposed under the Texas Natural Resources Code, §113.051, which provides the Railroad Commission of Texas with the authority to promulgate

rules and standards to be used in the LP-gas industry which promote or tend to promote the health, safety, and welfare of the general public.

§9.81. *Installation at Public Buildings—ICC and DOT Containers.*

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

Issued in Austin, Texas, on February 24, 1987.

TRD-8701722 Walter Earl Lilie
 Special Counsel
 Railroad Commission of
 Texas

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September 1, 1987

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

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Subchapter D. Division II

★ **16 TAC §9.100**

(Editor's note: The text of the following section proposed for repeal will not be published. The section may be examined in the offices of the Railroad Commission, 1124 IH 35 South, Austin, or in the Texas Register office, Room 503F, Sam Houston Building, 201 East 14th Street, Austin.)

The Railroad Commission of Texas proposes the repeal of §9.100, concerning location of consumer fuel storage containers. The repeal deletes language concerning minimum distance requirements for consumer fuel storage containers.

Thomas D. Petru, director, LP-Gas Division, 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. Petru also has determined that for each year of the first five years the repeal is in effect there will be no public benefits

anticipated as a result of enforcing the repeal. 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 Liz Younkin, Hearings Examiner, Railroad Commission of Texas, LP-Gas Division, P.O. Drawer 12967, Austin, Texas 78711-2967.

The repeal is proposed under the Texas Natural Resources Code, §113.051, which provides the Railroad Commission of Texas with the authority to promulgate rules and standards to be used in the LP-gas industry which promote or tend to promote the health, safety, and welfare of the general public.

§9.100. *Location of Consumer Fuel Storage Containers.*

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

Issued in Austin, Texas, on February 24, 1987.

TRD-8701723 Walter Earl Lilie
 Special Counsel
 Railroad Commission of
 Texas

Proposed date of adoption:
September 1, 1987

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

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★ **16 TAC §9.102**

The Railroad Commission of Texas proposes an amendment to §9.102, concerning containers installed underground. The amendment provides for the installation of underground containers.

Thomas D. Petru, director, LP-Gas Division, has determined that for the first five-year period the proposed section will be in effect there will be fiscal implications as a result of enforcing or administering

the section. Small businesses will probably not be affected by this proposed section. Larger businesses will save a substantial amount of money as a result of a lower inventory of containers to be sold since this amendment encourages the manufacture of one type of container for both underground and aboveground use.

Mr. Petru 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 safety will be increased as less corrosion will occur on containers installed underground due to the amended language which requires that all primer and subsequent coatings be chemically compatible. The possible economic cost to individuals who are required to comply with the section as proposed will be that a significant cost savings will result for installation charges since approved underground/aboveground containers will not be required to be buried as far underground as containers are currently required to be.

Comments on the proposal may be submitted to Liz Younkin, Hearings Examiner, Railroad Commission of Texas, LP-Gas Division, P.O. Drawer 12967, Austin, Texas 78711-2967.

The amendment is proposed under the Texas Natural Resources Code, §113.051, which provides the Railroad Commission of Texas with the authority to promulgate rules and standards to be used in the LP-gas industry which promote or tend to promote the health, safety, and welfare of the general public.

§9.102. Containers Installed Underground.

(a) Containers installed underground shall be so placed that the top of the container is not less than two feet below the normal surface of the ground, **except for approved underground/aboveground (UG/AG) containers marked as such in accordance with §9.40 of this title (relating to Manufacturer's Name Plates and Markings on ASME Containers), which may be installed not less than 6 inches below grade from the top of the UG/AG container** [unless such container is protected against mechanical injury by means of substantial curbs two feet from container or slabs]. **All containers referred to in this subsection shall be protected against mechanical injury if the container is subject to vehicular traffic by a system of guardrails in accordance with §9.63 of this title (relating to Uniform Protection Standards).**

(b) Underground containers shall be set on a firm foundation (firm earth may be used) and surrounded with soft earth or sand, well tamped in place.

(c) **Underground and UG/AG containers shall be properly prepared and primed by the manufacturer with a suitable corrosion resisting coating. All primer and subsequent coatings must be chemically compatible**

and must provide suitable protection from corrosion and abrasion. [As a means of resisting corrosion, prior to being placed underground, the container shall be given a suitable protective coating consisting of a suitable metal priming, followed by a coating of anticorrosive mastic enamel or paint.]

(d) (No change.)

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

Issued in Austin, Texas, on February 24, 1987.

TRD-8701698

Walter Earl Lillie
Special Counsel
Railroad Commission of
Texas

Proposed date of adoption:

September 1, 1987
For further information, please call
(512) 463-7149.

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★ 16 TAC §9.105

(Editor's note: The text of the following section proposed for repeal will not be published. The section may be examined in the offices of the Railroad Commission of Texas, 1124 IH 35 South, Austin, or in the Texas Register office, Room 503F, Sam Houston Building, 201 East 14th Street, Austin.)

The Railroad Commission of Texas proposes the repeal of §9.105, concerning installations at public buildings. The repeal deletes language concerning plans and specifications required for installations at public buildings.

Thomas D. Petru, director, LP-Gas Division, 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. Petru also has determined that for each year of the first five years the repeal is in effect there will be no public benefits anticipated as a result of enforcing the repeal. 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 Liz Younkin, Hearings Examiner, Railroad Commission of Texas, LP-Gas Division, P.O. Drawer 12967, Austin, Texas 78711-2967.

The repeal is proposed under §113.051, the Texas Natural Resources Code, which provides the Railroad Commission of Texas with the authority to promulgate rules and standards to be used in the LP-gas industry which promote or tend to promote the health, safety, and welfare of the general public.

§9.105. Installation at Public Building.

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

Issued in Austin, Texas, on February 24, 1987.

TRD-8701724

Walter Earl Lillie
Special Counsel
Railroad Commission of
Texas

Proposed date of adoption:

September 1, 1987
For further information, please call
(512) 463-7149.

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★ 16 TAC §9.107

The Railroad Commission of Texas proposes an amendment to §9.107, concerning protection of tank and accessories. The amendment provides for the protection of tanks and tank accessories.

Thomas D. Petru, director, LP-Gas Division, 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. Petru also has determined that for each year of the first five years the section is in effect there will be no public benefit anticipated as a result of enforcing the section as proposed. 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 Liz Younkin, Hearings Examiner, Railroad Commission of Texas, LP-Gas Division, P.O. Drawer 12967, Austin, Texas 78711-2967.

The amendment is proposed under the Texas Natural Resources Code, §113.051, which provides the Railroad Commission of Texas with the authority to promulgate rules and standards to be used in the LP-gas industry which promote or tend to promote the health, safety, and welfare of the general public.

§9.107. Protection of Tank and Accessories.

(a) **Tanks and tank** [, valves, regulators, gauges, and other tank] accessory equipment shall be protected against tampering and mechanical damage in an approved manner. Such accessories shall also be protected during the transit of tanks intended for installation underground.

(b) (No change.)

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

Issued in Austin, Texas, on February 24, 1987.

TRD-8701699

Walter Earl Lillie
Special Counsel
Railroad Commission of
Texas

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(512) 463-7149.



★ 16 TAC §9.108

(Editor's note: The text of the following section proposed for repeal will not be published. The section may be examined in the offices of the Railroad Commission of Texas, 1124 IH 35 South, Austin, or in the Texas Register office, Room 503F, Sam Houston Building, 201 East 14th Street, Austin.)

The Railroad Commission of Texas, LP-Gas Division, proposes the repeal of §9.108, concerning grounding of containers. The repeal deletes language concerning grounding requirements for aboveground consumer containers in excess of 1,200 gallons water capacity.

Thomas D. Petru, director, LP-Gas Division, 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. Petru also has determined that for each year of the first five years the repeal is in effect there will be no public benefits anticipated as a result of enforcing the repeal. 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 Liz Younkin, Hearings Examiner, Railroad Commission of Texas, LP-Gas Division, P.O. Drawer 12967, Austin, Texas 78711-32wqa2967.

The repeal is proposed under the Texas Natural Resources Code, §113.051, which provides the Railroad Commission of Texas with the authority to promulgate rules and standards to be used in the LP-gas industry which promote or tend to promote the health, safety, and welfare of the general public.

§9.108. *Grounding of Containers.*

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

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TRD-8701725 Walter Earl Lillie
Special Counsel
Railroad Commission of
Texas

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(512) 463-7149.

★ 16 TAC §9.111

(Editor's note: The text of the following section proposed for repeal will not be published. The section may be examined in the offices of the Railroad Commission of Texas, 1124 IH 35 South, Austin, or in the Texas Register office, Room 503F, Sam Houston Building, 201 East 14th Street, Austin.)

The Railroad Commission of Texas proposes the repeal of §9.111, concerning electrical lines. The repeal deletes language concerning distances between consumer storage containers and electric transmission lines.

Thomas D. Petru, director, LP-Gas Division, 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. Petru also has determined that for each year of the first five years the repeal is in effect there will be no public benefits anticipated as a result of enforcing the repeal. 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 Liz Younkin, Hearings Examiner, Railroad Commission of Texas, LP-Gas Division, P.O. Drawer 12967, Austin, Texas 78711-2967.

The repeal is proposed under the Texas Natural Resources Code, §113.051, which provides the Railroad Commission of Texas with the authority to promulgate rules and standards to be used in the LP-gas industry which promote or tend to promote the health, safety, and welfare of the general public.

§9.111. *Electrical Lines.*

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

Issued in Austin, Texas, on February 24, 1987.

TRD-8701726 Walter Earl Lillie
Special Counsel
Railroad Commission of
Texas

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(512) 463-7149.



★ 16 TAC §9.113

(Editor's note: The text of the following section proposed for repeal will not be published. The section may be examined in the offices of the Railroad Commission of Texas, 1124 IH 35 South, Austin, or in the Texas Register office, Room 503F, Sam

Houston Building, 201 East 14th Street, Austin.)

The Railroad Commission of Texas proposes the repeal of §9.113, concerning location of industrial or large commercial storage containers. The repeal deletes language concerning the installation of industrial or large commercial containers.

Thomas D. Petru, director, LP-Gas Division, 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. Petru also has determined that for each year of the first five years the repeal is in effect there will be no public benefits anticipated as a result of enforcing the repeal. 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 Liz Younkin, Hearings Examiner, Railroad Commission of Texas, LP-Gas Division, P.O. Drawer 12967, Austin, Texas 78711-2967.

The repeal is proposed under the Texas Natural Resources Code, §113.051, which provides the Railroad Commission of Texas with the authority to promulgate rules and standards to be used in the LP-gas industry which promote or tend to promote the health, safety, and welfare of the general public.

§9.113. *Location of Industrial or Large Commercial Storage Containers.*

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

Issued in Austin, Texas, on February 24, 1987.

TRD-8701727 Walter Earl Lillie
Special Counsel
Railroad Commission of
Texas

Proposed date of adoption:
September 1, 1987
For further information, please call
(512) 463-7149.



Subchapter E. Division III

★ 16 TAC §9.121

(Editor's note: The text of the following section proposed for repeal will not be published. The section may be examined in the offices of the Railroad Commission of Texas, 1124 IH 35 South, Austin, or in the Texas Register office, Room 503F, Sam Houston Building, 201 East 14th Street, Austin.)

The Railroad Commission of Texas proposes the repeal of §9.121, concerning

location of containers. The repeal deletes language concerning the installation of bulk storage containers.

Thomas D. Petru, director, LP-Gas Division, 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. Petru also has determined that for each year of the first five years the repeal is in effect there will be no public benefits anticipated as a result of enforcing the repeal. 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 Liz Younkin, Hearings Examiner, Railroad Commission of Texas, LP-Gas Division, P.O. Drawer 12967, Austin, Texas 78711-2967.

The repeal is proposed under the Texas Natural Resources Code, §113.051, which provides the Railroad Commission of Texas with the authority to promulgate rules and standards to be used in the LP-gas industry which promote or tend to promote the health, safety, and welfare of the general public.

§9.121. Location of Containers.

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

Issued in Austin, Texas, on February 24, 1987.

TRD-8701728 Walter Earl Lillie
Special Counsel
Railroad Commission of
Texas

Proposed date of adoption:
September 1, 1987
For further information, please call
(512) 463-7149.

★ ★ ★

★ 16 TAC §9.123

(Editor's note: The text of the following section proposed for repeal will not be published. The section may be examined in the offices of the Railroad Commission of Texas, 1124 IH 35, Austin, or in the Texas Register office, Room 503F, Sam Houston Building, 201 East 14th Street, Austin.)

The Railroad Commission of Texas proposes the repeal of §9.123, concerning protection of bulk storage areas. The repeal deletes language concerning the protection of bulk storage containers.

Thomas D. Petru, director, LP-Gas Division, 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. Petru also has determined that for each year of the first five years the repeal is in effect there will be no public benefit anticipated as a result of enforcing the repeal. 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 Liz Younkin, Hearings Examiner, Railroad Commission of Texas, LP-Gas Division, P.O. Drawer 12967, Austin, Texas 78711-2967.

The repeal is proposed under the Texas Natural Resources Code, §113.051, which provides the Railroad Commission of Texas with the authority to promulgate rules and standards to be used in the LP-gas industry which promote or tend to promote the health, safety, and welfare of the general public.

§9.123. Protection of Bulk Storage Areas.

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

Issued in Austin, Texas, on February 24, 1987

TRD-8701729 Walter Earl Lillie
Special Counsel
Railroad Commission of
Texas

Proposed date of adoption:
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(512) 463-7149.

★ ★ ★

★ 16 TAC §9.126

(Editor's note: The text of the following section proposed for repeal will not be published. The section may be examined in the offices of the Railroad Commission of Texas, 1124 IH 35 South, Austin, or in the Texas Register office, Room 503F, Sam Houston Building, 201 East 14th Street, Austin.)

The Railroad Commission of Texas proposes the repeal of §9.126, concerning grounding. The repeal deletes language concerning grounding requirements for bulk storage containers.

Thomas D. Petru, director, LP-Gas Division, 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 section.

Mr. Petru also has determined that for each year of the first five years the repeal is in effect there will be no public benefit anticipated as a result of enforcing the repeal. 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 Liz Younkin, Hearings Examiner, Railroad Commission of Texas, LP-Gas Division, P.O. Drawer 12967, Austin, Texas 78711-2967.

The repeal is proposed under the Texas Natural Resources Code, §113.051, which provides the Railroad Commission of Texas with the authority to promulgate rules and standards to be used in the LP-gas industry which promote or tend to promote the health, safety, and welfare of the general public.

§9.126. Grounding.

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

Issued in Austin, Texas, on February 24, 1987.

TRD-8701730 Walter Earl Lillie
Special Counsel
Railroad Commission of
Texas

Proposed date of adoption:
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For further information, please call
(512) 463-7149

★ ★ ★

★ 16 TAC §9.128

(Editor's note: The text of the following section proposed for repeal will not be published. The section may be examined in the offices of the Railroad Commission of Texas, 1124 IH 35 South, Austin, or in the Texas Register office, Room 503F, Sam Houston Building, 201 East 14th Street, Austin.)

The Railroad Commission of Texas proposes the repeal of §9.128, concerning pump installation. The repeal deletes language concerning requirements for pump installations.

Thomas D. Petru, director, LP-Gas Division, 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. Petru also has determined that for each year of the first five years the repeal is in effect there will be no public benefit anticipated as a result of enforcing the repeal. 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 Liz Younkin, Hearings Examiner, Railroad Commission of Texas, LP-Gas Division, P.O. Drawer 12967, Austin, Texas 78711-2967.

The repeal is proposed under the Texas Natural Resources Code, §113.051, which provides the Railroad Commission of Texas

as with the authority to promulgate rules and standards to be used in the LP-gas industry which promote or tend to promote the health, safety, and welfare of the general public.

§9.128. Pump Installation.

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

Issued in Austin, Texas, on February 24, 1987.

TRD-8701731 Walter Earl Lille
Special Counsel
Railroad Commission of
Texas

Proposed date of adoption:

September 1, 1987

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

★ ★ ★

★ 16 TAC §9.131

(Editor's note: The text of the following section proposed for repeal will not be published. The section may be examined in the offices of the Railroad Commission of Texas, 1124 IH 35 South, Austin, or in the Texas Register office, Room 503F, Sam Houston Building, 201 East 14th Street, Austin.)

The Railroad Commission of Texas proposes the repeal of §9.131, concerning maintenance of bulk storage containers. The repeal deletes language concerning maintenance requirements for bulk storage containers.

Thomas D. Petru, director, LP-Gas Division, 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. Petru also has determined that for each year of the first five years the repeal is in effect there will be no public benefit anticipated as a result of enforcing the repeal. 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 Liz Younkin, Hearings Examiner, Railroad Commission of Texas, LP-Gas Division, P.O. Drawer 12967, Austin, Texas 78711-2967.

The repeal is proposed under the Texas Natural Resources Code, §113.051, which provides the Railroad Commission of Texas with the authority to promulgate rules and standards to be used in the LP-gas industry which promote or tend to promote the health, safety, and welfare of the general public.

§9.131. Maintenance of Bulk Storage Containers.

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

Issued in Austin, Texas, on February 24, 1987.

TRD-8701732 Walter Earl Lille
Special Counsel
Railroad Commission of
Texas

Proposed date of adoption:

September 1, 1987

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

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★ 16 TAC §9.134

(Editor's note: The text of the following section proposed for repeal will not be published. The section may be examined in the offices of the Railroad Commission, 1124 IH 35 South, Austin, or in the Texas Register office, Room 503F, Sam Houston Building, 201 East 14th Street, Austin.)

The Railroad Commission of Texas proposes the repeal of §9.134, concerning electrical installations. The repeal deletes language concerning requirements for electrical installations at bulk storage installations.

Thomas D. Petru, director, LP-Gas Division, 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. Petru also has determined that for each year of the first five years the repeal is in effect there will be no public benefits anticipated as a result of enforcing the repeal. 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 Liz Younkin, Hearings Examiner, Railroad Commission of Texas, P.O. Drawer 12967, Austin, Texas 78711-2967.

The repeal is proposed under the Texas Natural Resources Code, §113.051, which provides the Railroad Commission of Texas with the authority to promulgate rules and standards to be used in the LP-gas industry which promote or tend to promote the health, safety, and welfare of the general public.

§9.134. Electrical Installation.

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

Issued in Austin, Texas, on February 24, 1987.

TRD-8701733 Walter Earl Lille
Special Counsel
Railroad Commission of
Texas

Proposed date of adoption:

September 1, 1987

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

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★ 16 TAC §9.135

The Railroad Commission of Texas proposes an amendment to §9.135, concerning bulkheads and emergency shutoff valves. The amendment provides for bulkheads and emergency shut off valves.

Thomas D. Petru, director, LP-Gas Division, 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. Petru also has determined that for each year of the first five years the section is in effect there will be no public benefit anticipated as a result of enforcing the section as proposed. 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 Liz Younkin, Hearings Examiner, Railroad Commission of Texas, LP-Gas Division, P.O. Drawer 12967, Austin, Texas 78711-2967.

The amendment is proposed under the Texas Natural Resources Code, §113.051, which provides the Railroad Commission of Texas with the authority to promulgate rules and standards to be used in the LP-gas industry which promote or tend to promote the health, safety, and welfare of the general public.

§9.135. Bulkheads and Emergency Shutoff Valves.

(a) (No change.)

(b) Bulkheads shall be of concrete or steel and anchored sufficiently to prevent displacement of piping and fittings in the event of a truck pull-away which the transfer hose is connected.

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

(3) Bulkheads, piping, and hoses shall be protected in accordance with §9.63 [§9.123(b) or (d)] of this title (relating to Uniform Protection Standards). [(relating to Protection of Bulk Storage Areas).]

(c) (No change.)

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

Issued in Austin, Texas, on February 24, 1987.

TRD-8701701 Walter Earl Lille
Special Counsel
Railroad Commission of
Texas

Proposed possible date of adoption
September 1, 1987
For further information, please call
(512) 463-7149

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Subchapter F. Division IV

★ 16 TAC §9.147

The Railroad Commission of Texas proposes an amendment to §9.147, concerning transfer of liquids. The amendment provides for procedures for transferring liquid to cargo tanks.

Thomas D. Petru, director, LP-Gas Division, 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. Petru also has determined that for each year of the first five years the section is in effect there will be no public benefit anticipated as a result of enforcing the section as proposed. 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 Liz Younkin, Hearings Examiner, Railroad Commission of Texas, LP-Gas Division, P.O. Drawer 12967, Austin, Texas 78711-2967.

The amendment is proposed under the Texas Natural Resources Code, §113.051, which provides the Railroad Commission of Texas with the authority to promulgate rules and standards to be used in the LP-gas industry which promote or tend to promote the health, safety, and welfare of the general public.

§9.147. *Transfer of Liquids.*

(a) Liquid may be transferred from one tank to another by means of any of the following methods: pumping, pressure differential, or gravity.

(b) Pumps, where used, shall be of an approved type and may be either truck-mounted or stationary.

(c) Where pressure differential is used to transfer liquid, such differential shall be obtained only with liquefied petroleum gas.

[(d) During the process of transferring liquid at least one operator shall remain in the immediate vicinity of the filling connection at all times.]

[(d)] Truck and trailer containers shall be loaded by weight, by meter, or any approved liquid level gauging device.

[(e) During the process of transferring liquids, no open flames, nonexplosive proof lights, or motors shall be allowed in the vicinity. Smoking shall not be allowed anywhere in the vicinity during the process of transferring liquid. The use of power take-off, powered by truck motor, is not prohibited.]

[(g) Each tank truck or trailer shall carry chock blocks which shall be used to prevent rolling of the vehicle whenever it is parked, including when loading and unloading.]

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

Issued in Austin, Texas, on February 24, 1987.

TRD-8701702 Walter Earl Lilie
Special Counsel
Railroad Commission of
Texas

Proposed date of adoption:

September 1, 1987
For further information, please call
(512) 463-7149.

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★ 16 TAC §9.156

(Editor's note: The text of the following section proposed for repeal will not be published. The section may be examined in the offices of the Railroad Commission of Texas, 1124 IH 35 South, Austin, or in the Texas Register office, Room 503F, Sam Houston Building, 201 East 14th Street, Austin.)

The Railroad Commission of Texas proposes the repeal of §9.156, concerning static straps. The repeal deletes the static strap requirement for tank trucks and semi-trailers.

Thomas D. Petru, director, LP-Gas Division, has determined that for the first five-year period the proposed repeal will be in effect there will be fiscal implications as a result of enforcing or administering the rule. There will be no effect on state or local government. The cost of compliance with the repeal for small businesses will be a cost savings of approximately \$4.00 per static strap. The cost savings for large businesses will be approximately the same as for small businesses.

Mr. Petru also has determined that for each year of the first five years the repeal is in effect there will be no public benefit anticipated as a result of enforcing the repeal as proposed. 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 Liz Younkin, Hearings Examiner, Railroad Commission of Texas, LP-Gas Division, P.O. Drawer 12967, Austin, Texas 78711-2967.

The repeal is proposed under the Texas Natural Resources Code, §113.051, which provides the Railroad Commission of Texas with the authority to promulgate rules and standards to be used in the LP-gas industry which promote or tend to

promote the health, safety, and welfare of the general public.

§9.156. *Static Straps.*

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

Issued in Austin, Texas, on February 24, 1987.

TRD-8701734 Walter Earl Lilie
Special Counsel
Railroad Commission of
Texas

Proposed date of adoption:

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

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★ 16 TAC §9.160

(Editor's note: The text of the following section proposed for repeal will not be published. The section may be examined in the offices of the Railroad Commission of Texas, 1124 IH 35 South, Austin, or in the Texas Register office, Room 503F, Sam Houston Building, 201 East 14th Street, Austin.)

The Railroad Commission of Texas proposes the repeal of §9.160, concerning maintenance of equipment. The repeal deletes language concerning maintenance of mobile unit equipment.

Thomas D. Petru, director, LP-Gas Division, 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. Petru also has determined that for each year of the first five years the repeal is in effect there will be no public benefit anticipated as a result of enforcing the repeal as proposed. 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 Liz Younkin, Hearings Examiner, Railroad Commission of Texas, LP-Gas Division, P.O. Drawer 12967, Austin, Texas 78711-2967.

The repeal is proposed under the Texas Natural Resources Code, §113.051, which provides the Railroad Commission of Texas with the authority to promulgate rules and standards to be used in the LP-gas industry which promote or tend to promote the health, safety, and welfare of the general public.

§9.160. *Maintenance of Equipment.*

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

Issued in Austin, Texas, on February 24, 1987.

TRD-8701735 Walter Earl Lillie
Special Counsel
Railroad Commission of
Texas

Proposed date of adoption:
September 1, 1987
For further information, please call
(512) 463-7149.

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★ **16 TAC §9.162**

(Editor's note: The text of the following section proposed for repeal will not be published. The section may be examined in the offices of the Railroad Commission of Texas, 1124 IH 35 South, Austin, or in the Texas Register office, Room 503F, Sam Houston Building, 201 East 14th Street, Austin.)

The Railroad Commission of Texas proposes the repeal of §9.162, concerning smoking. The repeal deletes language concerning the prohibition against smoking in, around, or near a truck.

Thomas D. Petru, director, LP-Gas Division, 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. Petru also has determined that for each year of the first five years the repeal is in effect there will be no public benefit anticipated as a result of enforcing the repeal as proposed. 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 Liz Younkin, Hearings Examiner, Railroad Commission of Texas, LP-Gas Division, P.O. Drawer 12967, Austin, Texas 78711-2967.

The repeal is proposed under the Texas Natural Resources Code, §113.051, which provides the Railroad Commission of Texas with the authority to promulgate rules and standards to be used in the LP-gas industry which promote or tend to promote the health, safety, and welfare of the general public.

§9.162. *Smoking.*

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

Issued in Austin, Texas, on February 24, 1987.

TRD-8701736 Walter Earl Lillie
Special Counsel
Railroad Commission of
Texas

Proposed date of adoption:
September 1, 1987
For further information, please call
(512) 463-7149.

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The Railroad Commission of Texas proposes new §9.162, concerning smoking. The new section prohibits smoking or having lighted materials on or within 25 feet of an LP-gas bobtail or transport.

Thomas D. Petru, director, LP-Gas Division, 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. Petru 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 increased safety, due to the additional prohibition against lighted materials on or within 25 feet of an LP-gas bobtail or transport. 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 Liz Younkin, Hearings Examiner, Railroad Commission of Texas, LP-Gas Division, P.O. Drawer 12967, Austin, Texas 78711-2967.

The new section is proposed under the Texas Natural Resources Code, §113.051, which provides the Railroad Commission of Texas with the authority to promulgate rules and standards to be used in the LP-gas industry which promote or tend to promote the health, safety, and welfare of the general public.

§9.162. *Smoking.* Smoking at anytime in, around, or near truck is prohibited.

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

Issued in Austin, Texas, on February 24, 1987.

TRD-8701689 Walter Earl Lillie
Special Counsel
Railroad Commission of
Texas

Proposed date of adoption:
September 1, 1987
For further information, please call
(512) 463-7149.

★ ★ ★

★ **16 TAC §9.164**

The Railroad Commission of Texas proposes an amendment to §9.164, concerning parking of liquified petroleum gas transports. The amendment provides for the parking of LP-gas transports.

Thomas D. Petru, director, LP-Gas Division, 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. Petru also has determined that for each year of the first five years the section is in effect there will be no public benefit anticipated as a result of enforcing the section. 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 Liz Younkin, Hearings Examiner, Railroad Commission of Texas, LP-Gas Division, P.O. Drawer 12967, Austin, Texas 78711-2967.

The amendment is proposed under the Texas Natural Resources Code, §113.051, which provides the Railroad Commission of Texas with the authority to promulgate rules and standards to be used in the LP-gas industry which promote or tend to promote the health, safety, and welfare of the general public.

§9.164. *Parking of Liquified Petroleum Gas Transports.*

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

[(c) Liquified petroleum gas transports shall not be parked beneath or adjacent to any electric transmission line in such position that there is a possibility of a conductor contacting the tank in event of breakage.]

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

Issued in Austin, Texas, on February 24, 1987.

TRD-8701704 Walter Earl Lillie
Special Counsel
Railroad Commission of
Texas

Proposed date of adoption:
September 1, 1987
For further information, please call
(512) 463-6947.

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Subchapter G. Division V

★ **16 TAC §9.190**

The Railroad Commission of Texas proposes an amendment to §9.190, concerning filling of motor fuel and mobile fuel containers. The amendment provides for the filling of motor and mobile fuel containers.

Thomas D. Petru, director, LP-Gas Division, 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. Petru also has determined that for each year of the first five years the section is in effect there will be no public benefit anticipated as a result of enforcing the section as proposed. 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 Liz Younkin, Hearings Examiner, Railroad Commission of Texas, LP-Gas Division, P.O. Drawer 12967, Austin, Texas 78711-2967.

The amendment is proposed under the Texas Natural Resources Code, §113.051, which provides the Railroad Commission of Texas with the authority to promulgate rules and standards to be used in the LP-gas industry which promote or tend to promote the health, safety, and welfare of the general public.

§9.190. Filling of Motor Fuel and Mobile Fuel Containers.

(a) Filling of containers shall be done in a safe manner as provided in §9.47 of this title (relating to Filling Density), §9.64 [§9.48] of this title (relating to Uniform Safety Requirements), [(relating to Transfer of Liquid)], and §9.49 of this title (relating to Venting Gas or Liquid Prohibited).

(b)-(c) (No change.)

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

Issued in Austin, Texas, on February 24, 1987.

TRD-8701705 Walter Earl Lillie
Special Counsel
Railroad Commission of
Texas

Proposed date of adoption:
September 1, 1987
For further information, please call
(512) 463-7149.

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Subchapter H. Division VI

★ 16 TAC §9.203

The Railroad Commission of Texas proposes an amendment to §9.203, concerning direct gas-fired vaporizers. The amendment provides for minimum distance requirements between direct gas-fired vaporizers and buildings, property lines, or rights-of-way.

Thomas D. Petru, director, LP-Gas Division, 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. Petru also has determined that for each year of the first five years the section is in effect there will be no public benefit anticipated as a result of enforcing the section as proposed. 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 Liz Younkin, Hearings Examiner, Railroad Commission of Texas, LP-Gas Division, P.O. Drawer 12967, Austin, Texas 78711-2967.

The amendment is proposed under the Texas Natural Resources Code, §113.051, which provides the Railroad Commission of Texas with the authority to promulgate rules and standards to be used in the LP-gas industry which promote or tend to promote the health, safety, and welfare of the general public.

§9.203. Direct Gas-Fired Vaporizers.

(a)-(h) (No change.)

(i) Direct gas-fired vaporizers shall be spaced from any building, and adjacent property line, roadway, highway, and railroad right-of-way as indicated in figure 1. [or a container having such a vaporizer attached thereto shall be spaced from the nearest building or group of buildings in accordance with the provisions of §9.4 of this title (relating to Division II).]

Aggregate Water Capacity of Storage	Minimum Distance
0 - 500 gallons	10 feet
501 - 2000 gallons	15 feet
2001 - 4000 gallons	25 feet
4001 gallons and over	50 feet

(j) (No change.)

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

Issued in Austin, Texas, on February 24, 1987.

TRD-8701706 Walter Earl Lillie
Special Counsel
Railroad Commission of
Texas

Proposed date of adoption:
September 1, 1987
For further information, please call
(512) 463-7149.

★ 16 TAC §9.204

The Railroad Commission of Texas proposes an amendment to §9.204, concerning direct gas-fired tank heaters. The amendment provides for minimum distance requirements between direct gas-fired heaters and buildings, property lines, or rights of way.

Thomas D. Petru, director, LP-Gas Division, 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. Petru also has determined that for each year of the first five years the section is in effect there will be no public benefit anticipated as a result of enforcing the section as proposed. 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 Liz Younkin, Hearings Examiner, Railroad Commission of Texas, LP-Gas Division, P.O. Drawer 12967, Austin, Texas 78711-2967.

The amendment is proposed under the Texas Natural Resources Code, §113.051,

which provides the Railroad Commission of Texas with the authority to promulgate rules and standards to be used in the LP-gas industry which promote or tend to promote the health, safety, and welfare of the general public.

§9.204. *Direct Gas-Fired Tank Heaters.*

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

(g) Containers and regulating equipment shall be located outside of buildings other than those specially provided for such

purpose. Except as provided in this section, each individual container shall be located with respect to any building or group of buildings or to any railroad or highway right-of-way or to any adjoining property line in accordance with the following table:

Water capacity of container (in gallons)	Minimum Distance	
	Aboveground	Underground
0 to 500	10 feet	10 feet
501 to 1200	25 feet	20 feet
1201 to 2000	50 feet	35 feet
above 2000	75 feet	50 feet

(g)(i) In the case of buildings devoted exclusively to gas manufacturing and distributing operations, the [above] distances prescribed in §9.65 of this title (relating to LP-gas Storage Distance Requirements) may be reduced, provided that in no case shall containers exceeding 500 gallons water capacity be located closer than 10 feet to such gas manufacturing and distributing buildings.

(h) Where the construction of a building or group of buildings will result in violation of the applicable distance requirement, all operations of the affected LP-gas installation shall cease immediately after construction begins and any product stored at the installation removed until such time, if any, that the installation is relocated in conformity with subsection (g) of this section.]

(b)(j) No direct-fired tank heater shall raise the vapor pressure of the product within the storage container to a pressure exceeding the working pressure of the container.

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

Issued in Austin, Texas, on February 24, 1987.

TRD-8701707 Walter Earl Lillie
Special Counsel
Railroad Commission of
Texas

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

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Subchapter K. Division IX

★16 TAC §9.264

(Editor's note: The text of the following section proposed for repeal will not be published. The section may be examined in the offices of the Railroad Commission of Texas, Austin, or in the Texas Register office, Room 503F, Sam Houston Building, 201 East 14th Street, Austin.)

The Railroad Commission of Texas, proposes the repeal of §9.264, concerning capacity of LP-gas service station and bottle filling storage. The repeal deletes language concerning the maximum capacity of service station and bottle filling installations.

Thomas D. Petru, director, LP-Gas Division, 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. Petru also has determined that for each year of the first five years the repeal is in effect there will be no public benefit anticipated as a result of enforcing the repeal. 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 Liz Younkin, Hearings Examiner, Railroad Commission of Texas, LP-Gas Division, P.O. Drawer 12967, Austin, Texas 78711-2967.

The repeal is proposed under the Texas Natural Resources Code, §113.051, which provides the Railroad Commission of Texas with the authority to promulgate rules and standards to be used in the LP-

gas industry which promote or tend to promote the health, safety, and welfare of the general public.

§9.264. *Capacity of LP-Gas Service Station and Bottle Filling Storage.*

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

Issued in Austin, Texas, on February 24, 1987.

TRD-8701737 Walter Earl Lillie
Special Counsel
Railroad Commission of
Texas

Proposed date of adoption
September 1, 1987
For further information, please call
(512) 463-7149

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★16 TAC §9.266

The Railroad Commission of Texas proposes an amendment to §9.266, concerning protection of storage containers. The amendment provides for protection of service station and bottle filling installations.

Thomas D. Petru, director, LP-Gas Division, 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. Petru also has determined that for each year of the first five years the section is in effect there will be no public benefit anticipated as a result of enforcing the section. 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 Liz Younkin, Hearings Examiner, Railroad Commission of Texas, LP-Gas Division, P.O. Drawer 12967, Austin, Texas 78711-2967.

The amendment is proposed under the Texas Natural Resources Code, §111.051, which provides the Railroad Commission of Texas with the authority to promulgate rules and standards to be used in the LP-gas industry which promote or tend to promote the health, safety, and welfare of the general public.

§9.266. Protection of Storage Containers and Fittings.

(a) Areas occupied by LP-gas service station and bottle filling plant storage containers, valves, gauges, pumps, and other fittings shall be enclosed by a substantial heavy weight woven or welded wire fence of not less than 14½ American wire gauge at least five feet high, topped by three strands of barbed wire spaced four inches apart. All uprights and braces shall be of noncombustible material. This enclosure shall be provided with a locked entrance to prevent tampering by unauthorized persons. Fencing shall not be installed closer than three feet to the tank at any point.

(b) Upon application to the commission, an exception to the fencing requirements may be granted for completely self-contained and securely housed LP-gas service station or bottle filling units. Such units shall have been specifically approved for this use by the Railroad Commission in accordance with plans and specifications covering the design, fabrication, assembly, and method of mounting. Such units shall be locked when not in use.

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

Issued in Austin, Texas, on February 24, 1987.

TRD-8701710 Walter Earl Lillie
Special Counsel
Railroad Commission of
Texas

Proposed date of adoption:
September 1, 1987
For further information, please call
(512) 463-7149.

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Subchapter K. Division IX

★16 TAC §9.272

The Railroad Commission of Texas proposes an amendment to §9.272, concerning cylinder storage. The amendment provides for the protection of cylinders in storage.

Thomas D. Petru, director, LP-Gas Division, 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. Petru also has determined that for each year of the first five years the section is in effect there will be no public benefit anticipated as a result of enforcing the section. 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 Liz Younkin, Hearings Examiner, Railroad Commission of Texas, LP-Gas Division, P.O. Drawer 12967, Austin, Texas 78711-2967.

The amendment is proposed under the Texas Natural Resources Code, §113.051, which provides the Railroad Commission of Texas with the authority to promulgate rules and standards to be used in the LP-gas industry which promote or tend to promote the health, safety, and welfare of the general public.

§9.272. Cylinder Storage.

(a) LP-gas [ICC and DOT] cylinders that have been in service shall not be stored closer than 10 feet to any building or group of buildings or to any adjoining property. [Cylinders in storage shall be protected against tampering by unauthorized persons.]

(b) Cylinders in storage shall be protected against tampering by unauthorized persons in accordance with §9.63(a)(1) of this title (relating to Uniform Protection Standards.) [Cylinder storage areas shall be enclosed by a substantial heavy weight woven or welded wire fence of not less than 14½ American wire gauge at least five feet high, topped by three strands of barbed wire spaced four inches apart. All uprights and braces shall be on noncombustible material. This enclosure shall be provided with a locked entrance.]

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

Issued in Austin, Texas, on February 24, 1987.

TRD-8701711 Walter Earl Lillie
Special Counsel
Railroad Commission of
Texas

Proposed date of adoption:
September 1, 1987
For further information, please call
(512) 463-7149.

★16 TAC §9.273

(Editor's note: The text of the following section proposed for repeal will not be published. The section may be examined in the offices of the Railroad Commission of Texas, 1124 IH 35 South, Austin, or in the Texas Register office, Room 503F, Sam Houston Building, 201 East 14th Street, Austin.)

The Railroad Commission of Texas proposes the repeal of §9.273, concerning electrical installations. The repeal deletes distance requirements for electrical installations at service station and bottle filling installations.

Thomas D. Petru, director, LP-Gas Division, 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. Petru also has determined that for each year of the first five years the repeal is in effect there will be no public benefit anticipated as a result of enforcing the repeal as proposed. 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 Liz Younkin, Hearings Examiner, Railroad Commission of Texas, LP-Gas Division, P.O. Drawer 12967, Austin, Texas 78711-2967.

The repeal is proposed under the Texas Natural Resources Code, §113.051, which provides the Railroad Commission of Texas with the authority to promulgate rules and standards to be used in the LP-gas industry which promote or tend to promote the health, safety, and welfare of the general public.

§9.273. Electrical Installations.

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

Issued in Austin, Texas, on February 24, 1987.

TRD-8701738 Walter Earl Lillie
Special Counsel
Railroad Commission of
Texas

Proposed date of adoption:
September 1, 1987
For further information, please call
(512) 463-7149.

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★16 TAC §9.274

(Editor's note: The text of the following section proposed for repeal will not be published. The section may be examined in the offices of the Railroad Commission of Texas, 1124 IH 35 South, Austin, or in the Texas Register office, Room 503F, Sam Houston Building, 201 East 14th Street, Austin.)

The Railroad Commission of Texas proposes the repeal of §9.274, concerning maintenance of fuel storage containers. The repeal deletes requirements concerning maintenance.

Thomas D. Petru, director, LP-Gas Division, 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. Petru also has determined that for each year of the first five years the repeal is in effect there will be no public benefit anticipated as a result of enforcing the repeal as proposed. 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 Liz Younkin, Hearings Examiner, Railroad Commission of Texas, LP-Gas Division, P.O. Drawer 12967, Austin, Texas 78711-2967.

The repeal is proposed under the Texas Natural Resources Code, §113.051, which provides the Railroad Commission of Texas with the authority to promulgate rules and standards to be used in the LP-gas industry which promote or tend to promote the health, safety, and welfare of the general public.

§9.274. *Maintenance of Fuel Storage Containers.*

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

Issued in Austin, Texas, on February 24, 1987.

TRD-8701739 Walter Earl Lillie
Special Counsel
Railroad Commission of
Texas

Proposed possible date of adoption:
September 1, 1987
For further information, please call
(512) 463-7149.

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★ 16 TAC §9.275

The Railroad Commission of Texas proposes an amendment to §9.275, concerning safety during fueling operations. The amendment provides for LP-gas fueling procedures.

Thomas D. Petru, director, LP-Gas Division, 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. Petru also has determined that for each year of the first five years the section is in effect there will be no public benefits anticipated as a result of enforcing the section as proposed. 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 Liz Younkin, Hearings Examiner,

Railroad Commission of Texas, LP-Gas Division, P.O. Drawer 12967, Austin, Texas 78711-2967.

The amendment is proposed under the Texas Natural Resources Code, §113.051, which provides the Railroad Commission of Texas with the authority to promulgate rules and standards to be used in the LP-gas industry which promote or tend to promote the health, safety, and welfare of the general public.

§9.275. *Safety During Fueling Operations.* [There shall be no smoking on the driveway of service stations or bottle filling plants in the dispensing areas or transport truck unloading areas.] Conspicuous signs prohibiting smoking shall be posted within sight of the customer being served. Letters on such signs shall be not less than four inches high. The motors of all vehicles being fueled shall be shut off during the fueling operations.

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

Issued in Austin, Texas, on February 24, 1987.

TRD-8701712 Walter Earl Lillie
Special Counsel
Railroad Commission of
Texas

Proposed date of adoption:
September 1, 1987
For further information, please call
(512) 463-7149.

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Subchapter L. Division X

★ 16 TAC §9.285

The Railroad Commission of Texas proposes an amendment to §9.285, concerning the transfer of liquids. The amendment provides for the transferring liquid to LP-gas farm carts.

Thomas D. Petru, director, LP-Gas Division, 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. Petru also has determined that for each year of the first five years the section is in effect there will be no public benefits anticipated as a result of enforcing the section. 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 Liz Younkin, Hearings Examiner, Railroad Commission of Texas, LP-Gas Division, P.O. Drawer 12967, Austin, Texas 78711-2967.

The amendment is proposed under the Texa Natural Resources Code, §113.051,

which provides the Railroad Commission of Texas with the authority to promulgate rules and standards to be used in the LP-gas industry which promote or tend to promote the health, safety, and welfare of the general public.

§9.285. *Transfer of Liquids.*

(a) Liquid may be transferred from one tank to another by means of any of the following methods: pumping, pressure differential, or gravity.

(b) Pumps, where used, shall be of an approved type and may be either trailer mounted or stationary.

(c) Where pressure differential is used to transfer liquid, such differential shall be obtained only with liquefied petroleum gas.

[(d)] During the process of transferring liquid at least one operator shall remain in the immediate vicinity of the filling connection at all times.]

[(d)](f) Farm cart containers shall be loaded by weight, by meter, or any approved liquid level gauging device.

[(e)] During the process of transferring liquids, neither open flames nor nonexplosive proof lights shall be allowed in the immediate vicinity of the transfer. Smoking shall not be allowed anywhere in the immediate vicinity during the process of transferring liquid.]

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

Issued in Austin, Texas, on February 24, 1987.

TRD-8701713 Walter Earl Lillie
Special Counsel
Railroad Commission of
Texas

Proposed date of adoption:
September 1, 1987
For further information, please call
(512) 463-7149.

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★ 16 TAC §9.290

The Railroad Commission of Texas proposes an amendment to §9.290, concerning liquid level gauging devices. The amendment provides for liquid level gauging devices.

Thomas D. Petru, director, LP-Gas Division, 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. Petru also has determined that for each year of the first five years the section is in effect there will be no public benefit anticipated as a result of enforcing the section as proposed. 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 Liz Younkin, Hearings Examiner, Railroad Commission of Texas, LP-Gas Division, P.O. Drawer 12967, Austin, Texas 78711-2957.

The amendment is proposed under the Texas Natural Resources Code, §113.051, which provides the Railroad Commission of Texas with the authority to promulgate rules and standards to be used in the LP-gas industry which promote or tend to promote the health, safety, and welfare of the general public.

§9.290. *Liquid Level Gauging Devices.* Each farm cart container shall be equipped with an accurate liquid level gauging device of approved design; for example, a rotary gauge, slip tube, or a fixed tube device. A fixed tube device consists of a dip pipe of small size, equipped with a valve at the outer end. Fixed tube devices shall be so arranged that the maximum liquid level to which a container may be filled is not in excess of the maximum permitted under the filling density table in §9.47(a) of this title (relating to Filling Density), but based on an initial temperature not to exceed 40°F. Liquid level gauging devices of the rotary tube and slip tube type may be used without installation of an excess flow valve, provided that the bleed valve opening is not larger than a No. 54 drill size. (Refer to [§9.233 of the title (relating to) Appendix C]. [, which is incorporated herein and made a part hereof for any and all purposes for method of calculating length of fixed tube.]

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

Issued in Austin, Texas, on February 24, 1987.

TRD-8701714 Walter Earl Lillie
Special Counsel
Railroad Commission of
Texas

Proposed date of adoption:
September 1, 1987
For further information, please call
(512) 463-7149.

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Subchapter M. Division XI

★ 16 TAC §9.302

The Railroad Commission of Texas proposes an amendment to §9.302, concerning protection of fuel storage containers and fittings. The amendment provides for the protection of fuel storage containers.

Thomas D. Petru, director, LP-Gas Division, 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. Petru also has determined that for each year of the first five years the section is in effect there will be no public benefit anticipated as a result of enforcing the section. 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 Liz Younkin, Hearings Examiner, Railroad Commissioner of Texas, LP-Gas Division, P.O. Drawer, Austin, Texas 78711-2967.

The amendment is proposed under the Texas Natural Resources Code, §113.051, which provides the Railroad Commission of Texas with the authority to promulgate rules and standards to be used in the LP-gas industry which promote or tend to promote the health, safety, and welfare of the general public.

§9.302. *Protection of Fuel Storage Containers and Fittings.* [Areas occupied by LP-gas fuel storage containers, valves, gauges, pumps, and other fittings shall be enclosed by a substantial heavy weight woven or welded wire fence or not less than 14½ American wire gauge at least five feet high, topped by three strands of barbed wire spaced four inches apart. All uprights and braces shall be of non-combustible material. This enclosure shall be provided with a locked entrance to prevent tampering by unauthorized persons. Fencing shall not be installed closer than five feet to the tank at any point. This fence shall be maintained in good condition at all times.] Completely self-contained and securely housed LP-gas fuel storage units which have been approved for use by the Railroad Commission of Texas, and are locked when not in operation, may be excepted from such fencing requirements.

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

Issued in Austin, Texas, on February 24, 1987.

TRD-8701716 Walter Earl Lillie
Special Counsel
Railroad Commission of
Texas

Proposed date of adoption:
September 1, 1987
For further information, please call
(512) 463-7149.

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★ 16 TAC §9.303

The Railroad Commission of Texas proposes an amendment on §9.303, concerning cylinder storage. The amendment provides for the protection of cylinders in storage.

Thomas D. Petru, director, LP-Gas Division, 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. Petru also has determined that for each year of the first five years the section is in effect there will be no public benefit anticipated as a result of enforcing the section. 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 Liz Younkin, Hearings Examiner, Railroad Commission of Texas, LP-Gas Division, P.O. Drawer 12967, Austin, Texas 78711-2967.

The amendment is proposed under the Texas Natural Resources Code, §113.051, which provides the Railroad Commission of Texas with the authority to promulgate rules and standards to be used in the LP-gas industry which promote or tend to promote the health, safety, and welfare of the general public.

§9.303. *Cylinder Storage.*

(a) Storage indoors. The quantity of LP-gas stored within buildings shall be confined to the actual cylinders in use on an operating industrial truck. The quantity of LP-gas stored in building not frequented by the public, such as industrial buildings, shall not exceed 100 pounds, in addition to the cylinders affixed to the industrial trucks operating therein, provided the storage area is well ventilated. However, the local authority having jurisdiction may exclude storage in certain building or parts of buildings.]

(b) Storage outdoors. **Cylinders in storage shall be protected against tampering by unauthorized persons in accordance with §9.63(a)(1) of this title (relating to Uniform Protection Standards).** [Cylinder stored outdoors shall not be closer than 10 feet to any building or group of buildings. Where the construction of a building or group of buildings will result in violation of the 10-foot distance requirement, the affected storage cylinders shall be relocated immediately in conformity with such distance requirement. Cylinders in storage shall be protected against tampering by unauthorized persons. Cylinder storage areas shall be enclosed by a substantial heavy weight woven or welded wire fence of not less than 14½ American wire gauge at least five feet high, topped by three strands of barbed wire spaced four inches apart. All uprights and braces shall be of noncombustible material. This enclosure shall be provided with a locked entrance.] Completely self-contained, securely housed, and well ventilated cylinder storage racks which have been approved for use by the Railroad Commission of Texas, and are locked when not in operation, may be excepted from such fencing requirements. However, cylinders may be located against a noncombustible building with the follow-

ing provisions:

(1) That they be stored in a protected ventilated area, so as to be inaccessible to unauthorized persons.

(2) Such protected ventilated areas shall be so located as to comply with regulations of the Railroad Commission in conjunction with the local authority having jurisdiction.

(c) General rules governing cylinders in storage. The outlet valves of cylinders in storage shall be closed. Empty containers which have been in LP-gas service, when stored inside, shall be considered as full containers for the purpose of determining the maximum quantity of LP-gas permitted by this division.]

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

Issued in Austin, Texas, on February 24, 1987.

TRD-8701717 Walter Earl Lille
Special Counsel
Railroad Commission of
Texas

Earliest possible date of adoption:

September 1, 1987

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

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Subchapter N. Division XII

★ 16 TAC §9.340

The Railroad Commission of Texas proposes amendments to §9.340, concerning automatic dispenser installation. The amendment provides for minimum distance requirements for automatic dispensers.

Thomas D. Petru, director, LP-Gas Division, 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. Petru also has determined that for each year of the first five years the section is in effect there will be no public benefit anticipated as a result of enforcing the section as proposed. 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 Liz Younkin, Hearings Examiner, Railroad Commission of Texas, LP-Gas Division, P.O. Drawer 12967, Austin, Texas 78711-2967.

The amendment is proposed under the Texas Natural Resources Code, §113.051, which provides the Railroad Commission of Texas with the authority to promulgate rules and standards to be used in the LP-

gas industry which promote or tend to promote the health, safety, and welfare of the general public.

§9.340. Automatic Dispenser Installation.

(a) (No change.)

(b) Fuel storage containers shall meet all distance requirements set forth in §9.65 of this title (relating to LP-Gas Storage Distance Requirements). [Other divisions of these rules.] No dispenser may be closer to a building, easement, or right-of-way than the fuel storage container to which it is connected, although the distance need not, in any case, exceed 50 feet between the dispenser and any building, easement, or right-of-way.

(c) (No change.)

(d) (No change.)

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

Issued in Austin, Texas, on February 24, 1987.

TRD-8701718 Walter Earl Lille
Special Counsel
Railroad Commission of
Texas

Proposed date of adoption:

September 1, 1987

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

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★ 16 TAC §9.395

The Railroad Commission of Texas proposes new §9.395, concerning distance of manual dispensers. The new section provides for distances to be maintained between manual dispensers and buildings, property lines, easements, or rights of way.

Thomas D. Petru, director, LP-Gas Division, has determined that for the first five-year period the proposed section will be in effect there will be fiscal implications as a result of enforcing or administering the section. The effect on state government will be an estimate reduction in cost, since personnel time spent on processing exceptions to allow filling operations from bulk storage containers will be eliminated. This reduction will be the same each year in 1987-1991. There will be no effect on local government. This new section will have a minimal effect on small operators, since they do not have larger installations. A substantial cost savings will result for those larger operators who wish to engage in filling operations since the need to install an additional bottle filling plant or forklift installation will be eliminated.

Mr. Petru also has determined that for each year of the first five years the section is in effect there will be no public benefit anticipated as a result of enforcing the section as proposed. 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 Liz Younkin, Hearings Examiner, Railroad Commission of Texas, LP-Gas Division, P.O. Drawer 12967, Austin, Texas 78711-2967.

The new section is proposed under the Texas Natural Resources Code, §113.051, which provides the Railroad Commission of Texas with the authority to promulgate rules and standards to be used in the LP-gas industry which promote or tend to promote the health, safety, and welfare of the general public.

§9.395. Distance of Manual Dispensers.

Manual dispensers and pipe risers shall be located no closer than 15 feet from the nearest building, property line, easement, or right-of-way.

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

Issued in Austin, Texas, on February 24, 1987.

TRD-8701690 Walter Earl Lille
Special Counsel
Railroad Commission of
Texas

Proposed date of adoption:

September 1, 1987

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

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TITLE 19. EDUCATION

Part II. Texas Education

Agency

Chapter 141. Teacher

Certification

Subchapter U. Alternative

Teacher Certification

★ 19 TAC §141.481

The Texas Education Agency proposes an amendment to §141.481, concerning alternative certification of teachers. The amendment provides for cooperative alternative certification programs between school districts and institutions of higher education, adds a certificate for prekindergarten—12 English as a second language, strengthens the grade point average requirement from 2.5 in selected semester hours to an overall GPA of 2.5, as well as in the semester hours applied to the certificate, adds provisions for program accountability, and adds options for extensions of internships, added certificates, and requests to vary from the approved program.

Lynn M. Moak, deputy commissioner for research and information, 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. Moak and Dr. Beverly Bardsley, director for policy development, have 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 strengthening of the alternative teacher certification program to provide an alternate route for entry into the teaching profession and help ensure the quality of alternative certification candidates and participants. There is no anticipated economic cost to individuals who are required to comply with the proposed section. 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 Dr. Beverly Bardsley, Director for Policy Development, 1701 North Congress Avenue, Austin, Texas, 78701, (512) 463-9682. All requests for a public hearing on proposed sections submitted in accordance with the Administrative Procedure and Texas Register Act must be received by the commissioner of education not more than 15 calendar days after notice of a proposed change in sections has been published in the *Texas Register*.

The amendment is proposed under the Texas Education Code, §13.035, which directs the State Board of Education to provide by rule for the certification of persons who are not graduates of teacher education programs.

§141.481. Requirements for the Alternative Certification of Teachers.

(a) General provisions. Approval of alternative certification of teachers by the State Board of Education shall be based on the following requirements:

(1) that alternative certification of teachers is to be a **local education agency program or a cooperative program between local education agencies and institutions of higher education and delivered through [school directed function of] Texas public schools [school districts; whereby an individual may be recommended to the commissioner of education for teacher certification based upon satisfactory completion of specified requirements];**

(2) **that no individual who is a graduate of a teacher education program or holds or has held a teacher certificate may be admitted to an alternative teacher certification program;**

(3) **that an individual may be recommended to the commissioner of education for teacher certification based upon at least satisfactory completion of specified requirements of the approved program by the program administrator and/or the district superintendent as provided in the approved program;**

(4) **that the certificates which may**

be earned through an alternative certification program are grades prekindergarten-six, grades six-12, prekindergarten-six bilingual/English as a second language (ESL), and prekindergarten-12 English as a second language;

(5)[(2)] **that the implementation of this procedure for the training and certifying of teachers be precipitated by staffing needs for which a participating [the] district has actual or projected teaching positions to be filled; [and]**

(6) **an individual admitted into an alternative teacher certification program that has been approved in accordance with the requirements of this section shall be issued an intern certificate, upon receipt of application and appropriate fee, that is valid for one calendar year and may be extended for one additional year only in accordance with provisions set forth in the Texas Education Code, §13.306;**

(7)[(3)] **that the year of supervised internship as the teacher of record shall be creditable as a year of teaching experience on probationary contract status with probationary certification for purposes of the teacher career ladder; and [that full appraisal requirements of the state and the local district be implemented as a prerequisite for recommendation for certification in accordance with §141.2(a) of this title (relating to Classes of Certificates).]**

(8) **that the fee for an intern teaching certificate be established at a level which is commensurate with costs for program oversight.**

(b) Requirements for an approved plan. Effective with the 1985-1986 school year, **local education agencies or cooperatives as described in subsection (a)(1) of this section which choose [districts choosing] to staff positions via the alternative certification process shall be required to submit a plan to be approved by the State Board of Education prior to implementation. [The district plan for alternative certification must include, but need not be limited to, the following statutory and State Board of Education quality assurances for the individual being certified] The plan must include, but not be limited to, evidence of the following:**

(1) **accreditation status of the participating school districts, colleges or universities;**

(2) **commitment to program through adequate funding, a sufficient number of qualified personnel, and other resources to deliver the approved program;**

(3) **clearly designated program administration;**

(4) **a calendar of program activities for the duration of each school year for which the program was approved;**

(5) **the alternative certification plan must include, but need not be limited to, training during the year of classroom assignment as an intern in teaching methods and classroom management, including:**

(A) **knowledge and skills concerning the unique needs of all students, including emphasis upon special learners, such as the impact of cultural, ethnic, language, and social differences upon the instructional processes as well as the characteristics, assessment, least restrictive alternatives, and admission, review, and dismissal processes for special students requiring individualized or specialized education programs, and growth and development of learners;**

(B) **legal and ethical aspects of teaching, including special responsibilities in recognizing and responding to signs of abuse and neglect in students and to dyslexia and related disorders;**

(C) **instructional methods and strategies that emphasize practical applications of the teaching learning process; and**

(D) **curriculum organization, planning, and evaluation which focus upon the curriculum to be taught, especially the essential elements to be included;**

(6) **an internship of at least one calendar year under the supervision of a teacher or teachers in the subject area or areas and/or at the level for which the intern is to be certified; provisions shall be made for each intern to have scheduled released time during the internship to observe the teaching of the supervising teacher or teachers;**

(7) **the supervising teacher shall be identified on the career ladder as level two or higher and shall have scheduled released time periodically to observe and evaluate the actual teaching of the intern;**

(8) **pre-assignment training and student contact experiences supervised by the district prior to assignment as a teacher of record;**

(9) **pre-assignment screening, including initiation of a criminal record review, for interns;**

(10) **monitoring, review, and evaluation of the program;**

(11) **maintenance of follow-up data which attest to the effectiveness of interns; and**

(12) **post-internship appraisal and preparation with remediation as needed.**

(c) Admission, assignment, and certification. Each applicant shall meet the following minimum requirements for admission as an intern to the alternative teacher certification program:

(1) **a bachelor's degree from a regionally-accredited institution of higher education with a grade point average of no less than 2.5 on a four-point system on all semester hours attempted and on semester hours required for the certificate as specified in paragraph (3) (A-D) of this subsection;**

(2) **possession of basic skills in mathematics, reading, and writing as evidenced by acceptable scores on the state-mandated basic skills test or its equivalent as determined by the commissioner of education;**

(3)[(2)] **appropriate semester hours**

[with a grade point average of no less than 2.5 on a four-point system for those semester hours] in a subject or combination of subjects to be taught and related to the certificate to be earned [as required in this paragraph for purposes of alternative certification]:

(A) grades six [nine]-12: 24 semester hours in a [the] subject included in Chapter 75 of this title (relating to Curriculum) for the secondary level of assignment; 12 semester hours must be upper division;

(B) grades six-eight: 18 semester hours in the subject;

(B)(C) grades prekindergarten-six [prekindergarten-five]: 24 semester hours in a combination of subjects taught in the elementary school which must include English, mathematics, a natural science, and a subject in the social studies; [history or political science; and six semester hours of reading which must be completed prior to placement as a teacher of record; or]

(C)(D) grades prekindergarten-grade six bilingual/English as a second language (ESL): evidence of oral and written language proficiency for bilingual education assignments for the target population and 24 [;12] semester hours in a combination of subjects which must include English, mathematics, a natural science, and a subject in the social studies; [subject; and 12 semester hours, six semester hours of which must be completed prior to assignment as a teacher of record for the 1985-1986 school year in language study, language acquisition, bilingual/ESL methodology, culture (concepts, patterns, contribution). The remaining six semester hours must be completed no later than the completion of the internship;]

(D) grades prekindergarten-12 English as a second language (ESL): 18 semester hours in English, six semester hours must be upper division; and

(E) courses which focus on topics closely related to the semester hour requirements listed in subparagraphs (A)-(D) of this paragraph may be accepted for admission to the alternative certification program; however, such substitutions shall not exceed six hours for the six-12 certificate or three semester hours for all other certificates.

(4) Prior to assignment as a teacher of record, each intern must complete requirements for the certificate to be earned:

(A) grades prekindergarten-six: three semester hours of reading, with an additional three hours to be completed no later than the completion of the first semester as an intern; and

(B) grades prekindergarten-six bilingual/ESL and prekindergarten-12 ESL: six semester hours, inclusive of the concepts of linguistics, language acquisition, bilingual/ESL methodology, and culture (concepts, patterns, contribution) of the target population.

(5) Prior to certification, each intern must complete requirements for the cer-

tificate to be earned:

(A) for grades prekindergarten-six bilingual/ESL and grades prekindergarten-12 ESL: six additional hours, inclusive of the concepts of linguistics, language acquisition, bilingual/ESL methodology, and culture (concepts, patterns, contribution) of the target population;

(B) for grades prekindergarten-six: six additional semester hours emphasizing early childhood and kindergarten curriculum and instructional methods;

(C) possession of acceptable scores on appropriate state-adopted examination(s) of content knowledge in the teaching fields) related to the certificate sought and the level of assignment; and

(D) full appraisal requirements of the state and the local district in accordance with §149.41 of this title (relating to General Provisions).

(3) possession of basic skills in mathematics, reading, and writing, prior to assignment as a teacher of record, as evidenced by acceptable scores on the state-mandated basic skills test or its equivalent as determined by the commissioner of education;

(4) teaching methods and classroom management training provided during the year of classroom assignment as an intern, which includes, but need not be limited to:

[(A) knowledge and skills concerning the unique needs of special learners, such as the impact of cultural, ethnic, language and social differences upon the instructional processes, as well as the characteristics, assessment, least restrictive alternatives, and admission, review, and dismissal processes for special students requiring individualized or specialized education programs;

[(B) legal and ethical aspects of teaching;

[(C) instructional methods and strategies that emphasize practical applications of the teaching learning process; and

[(D) curriculum organization, planning, and evaluation which focus upon the curriculum to be taught, especially the essential elements to be included; and

(5) an internship of one calendar year, inclusive of pre-assignment training and student contact experiences supervised by the district prior to assignment as a teacher of record and under the supervision of a teacher or teachers in the subject area or areas and/or at the level for which the intern is to be certified; provisions shall be made for each intern to have released time during the internship to observe the teaching of the supervising teacher or teachers.]

[(c) Supervising teacher. The supervising teacher shall be identified on the career ladder as level two or higher and shall be provided released time during the school day to observe and evaluate the actual teaching of the intern.]

(d) Procedures for approval, review, and reapproval of alternative certification

programs. [of district plans and recommendation for certification].

(1) School districts choosing to staff positions by means of the alternative certification process shall direct the program administrator to submit to the commissioner of education, prior to implementing a program, a [district] plan that specifies its means of fulfilling requirements for school district plans in accordance with subsections (b) and (c) of this section.

(2) An individual admitted into a district alternative teacher certification program that has been approved in accordance with the requirements of this section shall be issued a probationary teacher certificate, upon receipt of application and appropriate fee, that is valid for one calendar year and may be extended for one additional year only in accordance with provisions set forth in the Texas Education Code, §13.306.

(3) The school district shall recommend the teacher intern to the commissioner of education for certification in accordance with §141.2 of this title (relating to Classes of Certificates) upon:

[(A) completion of the one year internship;

[(B) satisfactory or better appraisal in accordance with Chapter 149. Subchapter of this title (relating to Appraisal of Certified Personnel); and

[(C) for the 1985-1986 school year and thereafter, possession of acceptable scores on the state-mandated certification test or tests for the subject or subjects that are to be taught.

(4) Each district approved for alternative teacher certification shall annually monitor, review, and evaluate its program and maintain follow up data to attest to the effectiveness of its teacher interns. Each plan shall provide for pre-assignment screening and preparation as well as post-internship appraisal and preparation with remediation as needed.]

(2)(5) As of the effective date of this section, the commissioner of education may approve a limited number of plans for alternative teacher certification [to be implemented for the 1985-1986 school year]. Initial approval of alternative teacher certification plans shall not extend more than one year [past August 31, 1986]. In subsequent years, after evaluation of the program by the State Board of Education, plans may be approved for a period not to exceed three years and shall be reviewed annually [renewable].

(3)(6) The administrator of an [local district] approved [for implementing an] alternative teacher certification program shall submit to the commissioner of education an annual report that includes the names of candidates in the program and other information that may be required, including monitoring, review, and evaluation of the program.

(4)(7) Programs for alternative teacher certification shall be subject to review

by the Central Education Agency.

(5) Requests for reapproval of alternative teacher certification programs must include the percentage of interns receiving acceptable scores by test on the state-mandated tests for content specialization(s) and at least satisfactory scores on performance appraisals. The State Board of Education shall consider these program results when granting requests.

(e) Options available to alternative certification programs and interns.

(1) During the internship, the intern may choose to pursue an additional alternative certificate at the same level of assignment or to add additional subject areas at the level of assignment to the certificate by taking the appropriate state-mandated test for certification when the requirements stated in subsection (c)(3)(A)-(D) of this section are met for the certificate or subject area to be added.

(2) In the event that an intern fails to complete all program requirements within the internship year, the superintendent or his or her designee may apply to retain the intern in the alternative certification program for an additional year.

(3) If the sponsor of an alternative certification program chooses not to seek reapproval or the State Board of Education does not grant a reapproval request, interns currently enrolled in the program will be provided an opportunity to complete requirements within a reasonable time.

(4) In the event that local conditions prevent the assignment of an intern as a teacher of record as provided in the approved program, the commissioner of education may recognize an alternative assignment, at the level and in the area appropriate for the certificate sought, which will fulfill internship requirements, so long as all requirements for supervision and appraisal are met.

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

Issued in Austin, Texas, on February 18, 1987

TRD-8701750 W N Kirby
Commissioner of
Education

Proposed date of adoption.
April 11, 1987
For further information, please call
(512) 463-9212

★ ★ ★



TITLE 34. PUBLIC FINANCE
Part VII. State Property Tax Board
Chapter 161. Valuation Procedures
Special Property Valuation
★34 TAC §161.1

The State Property Tax Board proposes an amendment to §161.1, concerning the guidelines for the valuation of open space and agricultural land. The current section adopts by reference the SPTB publication, *Guidelines for the Valuation of Agricultural Lands*. The proposed amendment adopts a new edition of the manual, which sets forth the method of appraising qualified open-space and agricultural land and develops procedures to verify that land qualifies for a special agricultural appraisal for property tax purposes.

John Franklin Niles, general counsel, 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. Niles also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be to provide an updated version of the agricultural valuation manual so that taxpayers and public officials can better understand their rights and obligations under the law. 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 John Franklin Niles, General Counsel, State Property Tax Board, P.O. Box 15900, Austin, Texas 78761.

This amendment is proposed under the Property Tax Code, §23.41, which requires the board to promulgate rules specifying the methods to apply and the procedures to use in appraising land designated for agricultural use; §23.52, which requires the board to develop and distribute to each appraisal office manuals setting forth methods of appraising and administering special appraisal of open-space agricultural land; and §5.07, which requires the board to prescribe the contents of all forms necessary for the administration of the property tax system, and a uniform record system to be used by all appraisal offices.

§161.1. Valuation of Open-Space and Agricultural Lands. The State Property Tax Board adopts by reference the Guidelines for the Valuation of Agricultural Lands [as amended January 1, 1986, the amendment to be effective on February 1, 1986].

This document is published by and available from the State Property Tax Board, 9501 North IH 35, P.O. Box 15900, Austin, Texas 78761.

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

Issued in Austin, Texas, on February 23, 1987.

TRD-8701599 Ron Patterson
Executive Director
State Property Tax Board

Earliest possible date of adoption:
April 30, 1987
For further information, please call
(512) 834-4800.

★ ★ ★

TITLE 40. SOCIAL SERVICES AND ASSISTANCE
Part I. Texas Department of Human Services
Chapter 12. Child Nutrition Programs
Child Care Food Program
★40 TAC §12.3, §12.25

The Texas Department of Human Services (DHS) proposes amendments to §12.3 and §12.25, concerning eligibility for and denials and terminations in the Child Care Food Program. The purpose for amending the sections is to specify that contractors are ineligible for the program in certain circumstances involving the presence in facilities of convicted persons.

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

Mr. Packard also has determined that for each year of the first five years the proposed sections are in effect, the public benefit anticipated as a result of enforcing the sections will be the facilitation of effective program administration. There is no anticipated economic cost to individuals who are required to comply with the proposed amendments.

Comments on the proposal may be submitted to Cathy Rossberg, Administrator, Policy Development Support Division-016, Texas Department of Human Services 222-E, P.O. Box 2960, Austin, Texas 78769, within 30 days of publication in the *Texas Register*.

The amendments are proposed under the Human Resources Code, Title 2, Chapter 22, which provides the department with

the authority to administer public assistance programs.

§12.3. Eligibility of Contractors and Facilities.

(a)-(c) (No change.)

(d) Contractors are ineligible for the Child Care Food Program if they have permitted a member of the governing body, an agent, a consultant, or an employee of the contractor to enter the facility when children are present and any of these persons have been convicted of:

(1) a felony or misdemeanor classified as an offense against the person or the family, or as public indecency; or

(2) a felony violation of any statute intended to control the possession or distribution of a substance included in the Texas Controlled Substances Act.

§12.25. Denials and Terminations.

(a)-(c) (No change.)

(d) DHS denies applications and terminates agreements with contractors if they have permitted any individual identified in §12.3(d) of this title (relating to Eligibility of Contractors and Facilities) to enter the facility when children are present.

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

Issued in Austin, Texas, on February 24, 1987.

TRD-8701640 Marlin W. Johnston
Commissioner
Texas Department of
Human Services

Earliest possible date of adoption:
April 3, 1987
For further information, please call
(512) 450-3766.

★ ★ ★

Chapter 15. Medicaid
Eligibility
Subchapter GGG. Special
Procedures

★ 40 TAC §15.5801

(Editor's note: The text of the following section proposed for repeal will not be published. The section may be examined in the offices of the Department of Human Services, 701 West 51st Street, Austin, or in the Texas Register office, Room 503F, Sam Houston Building, 201 East 14th Street, Austin.)

The Texas Department of Human Services (TDHS) proposes to repeal §15.5801, concerning the explanation of benefits (EOB) survey, in its Medicaid Eligibility chapter. Section 15.5801 is repealed because some of the described processes are no longer applicable and current survey procedures have no effect on client or provider rights.

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

Mr. Packard also has determined that for each year of the first five years the repeal in effect the public benefit anticipated as a result of enforcing the repeal will be that the department's rules will not include administrative procedure that is not pertinent to providers and clients. 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 Cathy Rossberg, Administrator, Policy Development Support Division-023, Texas Department of Human Services 222-E, P.O. Box 2960, Austin, Texas 78769, within 30 days of publication in the Texas Register.

The repeal is proposed under the Human Resources Code, Title 2, Chapters 22 and 32, which authorizes the department to administer public and medical assistance programs.

§15.5801. Recipient's Statement.

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

Issued in Austin, Texas, on February 24, 1987.

TRD-8701639 Marlin W. Johnston
Commissioner
Texas Department of
Human Services

Earliest possible date of adoption:
April 3, 1987
For further information, please call
(512) 450-3766.

★ ★ ★

Chapter 48. CCAD
Minimum Standards

★ 40 TAC §48.8901

The Texas Department of Human Services (TDHS) proposes an amendment to §48.8901, concerning minimum standards for adult foster care providers, in its community care for aged and disabled chapter. The proposed amendment would allow adult foster care homes to be certified for up to four clients, including private pay clients, without licensure from the Texas Department of Health (TDH). The proposed amendment also would change the square footage requirements for single and multiple occupancy rooms in adult foster care homes to be consistent with those in the TDH minimum licensing standards for personal care homes.

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

Mr. Packard has also determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be that the number of potential adult foster care providers may increase because of less stringent certification requirements. This increase may allow provision of services to more adult foster care clients. There is no anticipated economic cost to individuals who are required to comply with the proposed section.

Comments on the proposal may be submitted to Cathy Rossberg, Administrator, Policy Development Support Division-021, Texas Department of Human Services 222-E, P.O. Box 2960, Austin, Texas 78769, within 30 days of publication in the Texas Register.

The amendment is proposed under the Human Resources Code, Title 2, Chapters 22 and 32, which provides the department with the authority to administer public and medical assistance programs.

§48.8901. Standards for Adult Foster Care. Providers of adult foster care services must meet these minimum standards.

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

(3) Facility requirements. Adult foster homes must:

(A) be certified for no more than four [three] DHS adult clients in the home; and

(B) serve no more than four [three] clients, including private pay clients.

(4) Small group homes. Licensed small group homes providing adult foster care must:

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

(C) ensure the presence of an additional qualified member of the staff at least two hours a day for homes serving five [four] clients, and four hours a day for homes serving six [five] clients, including private pay clients;

(D) ensure the presence of an additional qualified member of the staff at least six hours a day for homes serving seven [six] clients, and eight hours a day for homes serving [seven or] eight clients, including private pay clients; and

(E) (No change.)

(5) All homes. All homes providing adult foster care must:

(A) (No change.)

(B) have bedrooms with at least 80 [100] square feet of floor space per client in a single occupancy room, and at least 60 [72] square feet of floor space per client, in a multiple occupancy room;

(C)-(N) (No change.)

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

Issued in Austin, Texas, on February 25, 1987.

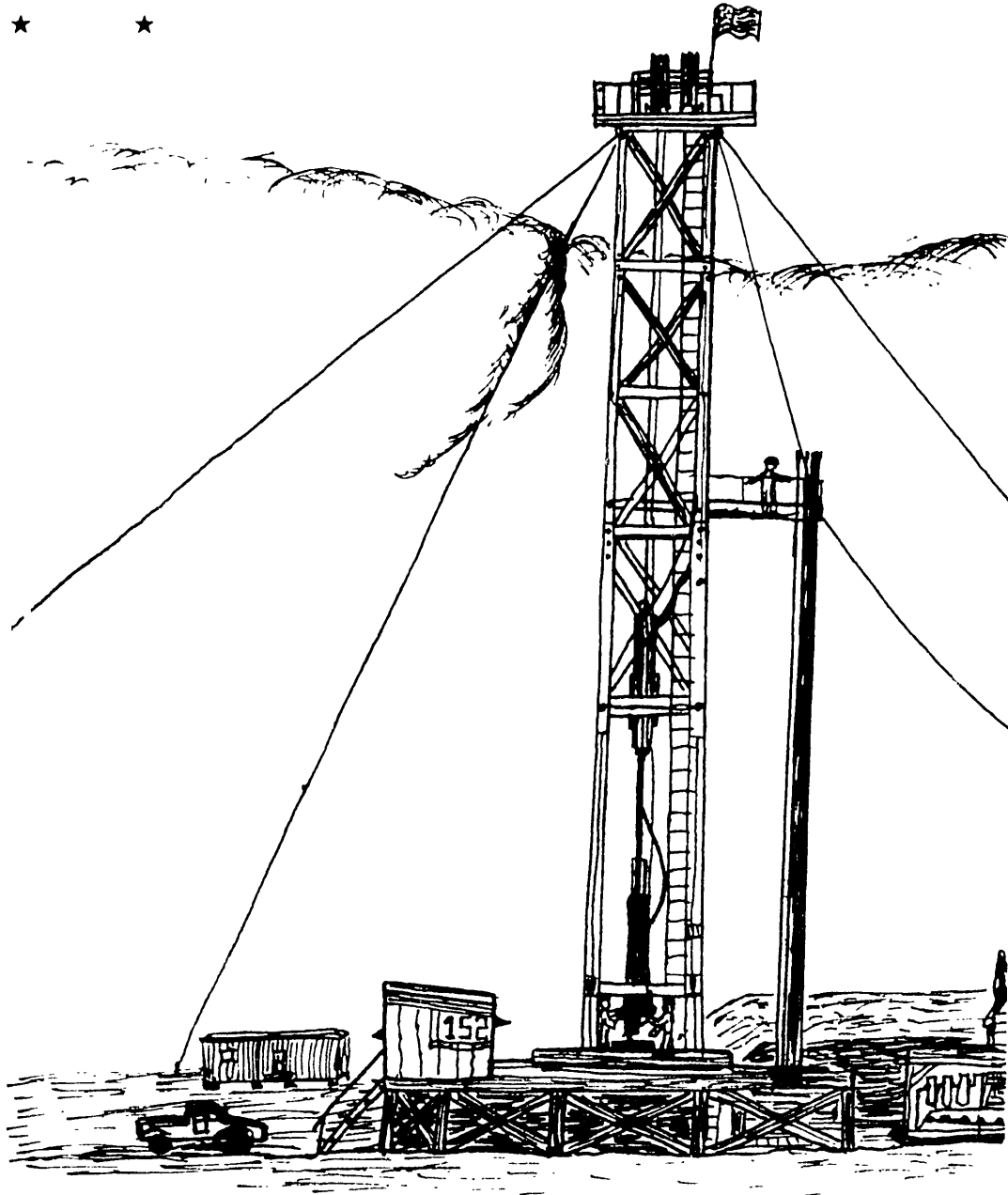
TRD-8701752 Marlin W. Johnston
 Commissioner
 Texas Department of
 Human Services

Earliest possible date of adoption:

April 3, 1987

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

★ ★ ★



Chris McClendon

Name: Chris McClendon
Grade: 11
School: Marshall High School, Marshall

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 or 20 days after 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 7. BANKING AND SECURITIES

Part I. State Finance Commission

Chapter 3. Banking Section Subchapter E. Banking House and Other Facilities

★ 7 TAC §3.91

The State Finance Commission has withdrawn the emergency effectiveness of new §3.91, concerning the banking house and other facilities. The text of the emergency new section appeared in the December 12, 1986, issue of *Texas Register* (11 TexReg 4962).

Issued in Austin, Texas, on February 23, 1987.

TRD-8701611 Jorge A. Gutierrez
General Counsel
State Finance
Commission

Filed, February 23, 1987
For further information, please call
(512) 479-1200.

★ ★ ★

TITLE 25. HEALTH SERVICES

Part II. Texas Department of Mental Health/Mental Retardation

Chapter 405. Client (Patient Care)

Subchapter BB. Admissions, Transfers, Furloughs, and Discharges—State Schools for the Mentally Retarded

★ 25 TAC §405.693, §405.725

Pursuant to Texas Civil Statutes, Article 6252-13a, §5(b), and 1 TAC §91.24(b), the proposed amendments to §405.693 and §405.725, submitted by the Texas Department of Mental Health/Mental Retardation have been automatically withdrawn, effective February 24, 1987. The amendments as proposed appeared in the August 22, 1986, issue of the *Texas Register* (11 TexReg 3726).

TRD-8701645
Filed February 24, 1987

★ ★ ★

TITLE 34. PUBLIC FINANCE

Part I. Comptroller of Public Accounts

Chapter 3. Tax Administration Subchapter V. Bingo Regulation and Tax

★ 34 TAC §3.545

The Comptroller of Public Accounts has withdrawn from consideration §3.545, concerning bingo regulation and tax. The text of the amendment appeared in the August 22, 1986, issue of the *Texas Register* (11 TexReg 3727). The effective date of this withdrawal is February 23, 1987.

Issued in Austin, Texas, on February 23, 1987

TRD-8701625 Wade Anderson
Rules Coordinator
Comptroller of Public
Accounts

Filed, February 23, 1987
For further information, please call
(512) 463-4004.

★ ★ ★

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 37. PUBLIC SAFETY AND CORRECTIONS Part V. Board of Pardons and Paroles Chapter 141. General Provisions

Board of Pardons and Paroles ★ 37 TAC §§141.1-141.5, 141.10

The Texas Board of Pardons and Paroles adopts amendments to §§141.1-141.5, and §141.10, without changes to the proposed text published in the January 20, 1987, issue of the *Texas Register* (12 TexReg 228).

The amendments reflect the changed and amended constitutional and statutory references; change the number of board members from three to six to comply with the constitutional and statutory amendments; add the vice chairman and change the method of designation of chairman and vice chairman to appointment by the governor rather than by will of the board majority; clarify the role of the chairman as spokesman for the board and further require him to obtain the views and positions of other board members only if they are present to voice their position on issues; change the statutory reference to comply with the amended law; clarify the role of the chairman of the board; make clear that board action by the whole board or any panel of less than the complete membership requires a majority be present before any business can be transacted; clarify that under the constitutional provision authorizing executive clemency that the governor's action must be based on a recommendation made by the majority of the board membership rather than a simple majority of those voting on the issue; and clarify that with a board made up of an even number (six), the chairman will only vote on matters, other than executive clemency, considered by a quorum of the six-member board if his vote is needed to make or break a tie vote of the other members voting.

The board adopts these amendments to comply with amendments to the law and to show the changed and amended statutory authority.

No comments were received regarding adoption of the amendments.

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

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

Issued in Austin, Texas, on February 11, 1987.

TRD-8701646

John W. Byrd
Executive Director
Texas Board of Pardons
and Paroles

Effective date. March 17, 1987
Proposal publication date January 20, 1987
For further information, please call
(512) 459-2708

★ ★ ★

Parole Commissioners

★ 37 TAC §§141.21-141.25, 141.29

The Texas Board of Pardons and Paroles adopts amendments to §§141.21-141.25, and 141.29, without changes to the proposed text published in the January 20, 1987, issue of the *Texas Register* (12 TexReg 229).

The amendments designate the duty stations of parole commissioners as employees of the board rather than appointed officers, and omit the governor's office from decisions or review of parole or mandatory supervision cases as provided for constitutional and statutory changes and amendments.

The amendments are adopted to comply with amendments to the law and to show the changed and amended statutory authority.

No comments were received regarding adoption of the amendments.

The amendments are adopted under the Texas Code of Criminal Procedure, Article 42.18, §8(g), which authorizes the Board of Pardons and Paroles to adopt such rea-

sonable rules not inconsistent with law as it may deem proper and necessary.

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

Issued in Austin, Texas, on February 11, 1987.

TRD-8701647

John W. Byrd
Executive Director
Texas Board of Pardons
and Paroles

Effective date. March 17, 1987
Proposal publication date: January 20, 1987
For further information, please call
(512) 459-2708

★ ★ ★

★ 37 TAC §141.27, §141.28

The Texas Board of Pardons and Paroles adopts the repeal of §141.27 and §141.28, without changes to the proposed text published in the January 20, 1987, issue of the *Texas Register* (12 TexReg 230).

The repeals delete provisions authorizing 30 days annual leave a year for commissioners and authorizing travel reimbursement at the same rate as board members, because of the constitutional and statutory changes making commissioners state employees rather than appointive officials. These sections are therefore obsolete.

The repeals are adopted to comply with amendments to the law and to show the changed and amended statutory authority.

No comments were received regarding adoption of the repeals.

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

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

Issued in Austin, Texas, on February 11, 1987

TRD-8701648

John W. Byrd
Executive Director
Texas Board of Pardons
and Paroles

Effective date: March 17, 1987

Proposal publication date: January 20, 1987

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

★ ★ ★

Parole Panels

★ 37 TAC §§141.41-141.43, 141.45

The Texas Board of Pardons and Paroles adopts amendments to §§141.41-141.43, and §141.45, without changes to the proposed text published in the January 20, 1987, issue of the *Texas Register* (12 Tex-Reg 230).

The amendments show the amended statutory authority citation and clarify the language of the sections to make clear that decisions on parole and mandatory supervision made by the board or commissioners are final orders rather than recommendations to the governor, as required by constitutional and statutory amendments.

The amendments are adopted to comply with amendments to the law and to show the changed and amended statutory authority.

No comments were received regarding adoption of the amendments.

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

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

Issued in Austin, Texas, on February 11, 1987

TRD-8701649

John W. Byrd
Executive Director
Texas Board of Pardons
and Paroles

Effective date: March 17, 1987

Proposal publication date: January 20, 1987

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

★ ★ ★

Rulemaking

★ 37 TAC §141.51

The Texas Board of Pardons and Paroles adopts an amendment to §141.51, without

changes to the proposed text published in the January 20, 1987, issue of the *Texas Register* (12 TexReg 231)

The amendment replaces the slang expression "free world" with the synonymous term "community"; for reasons of clarity. This amendment does not change the meaning of the section in any way.

Adoption of the section as proposed serves to clarify the language used in the section without changing the meaning of the section.

No comments were received regarding adoption of the amendment.

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

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

Issued in Austin, Texas, on February 11, 1987.

TRD-8701650

John W. Byrd
Executive Director
Texas Board of Pardons
and Paroles

Effective date: March 17, 1987

Proposal publication date: January 20, 1987

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

★ ★ ★

Records and Reports

★ 37 TAC §141.71, §141.73

The Texas Board of Pardons and Paroles adopts amendments to §141.71 and §141.73, without changes to the proposed text published in the January 20, 1987, issue of the *Texas Register* (12 TexReg 231).

The amendment to §141.71 specifies that decisions of parole panels must be final and not partial or immediate in nature before they become subject to public disclosure. Since parole panels are made up of at least three members whose consideration of a case may be at different times, the board feels it wise to consider any case decision as pending until all votes are entered on the minute sheet. This amendment simply prohibits public disclosure of pending actions until they become final. The statutory citations in §141.73 are amended to reflect the amended statutes.

The amendments cite statutory references as changed by the legislature.

No comments were received regarding adoption of the amendments.

The amendments are adopted under the

Texas Code of Criminal Procedure, Article 42.18, §8(g), which authorizes the Board of Pardons and Paroles to adopt such reasonable rules not inconsistent with law as it may deem proper or necessary.

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

Issued in Austin, Texas, on February 11, 1987.

TRD-8701651

John W. Byrd
Executive Director
Board of Pardons and
Paroles

Effective date: March 17, 1987

Proposal publication date: January 20, 1987

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

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Registration of Visitors and Fee Affidavits

★ 37 TAC §141.81, §141.82

The Texas Board of Pardons and Paroles adopts amendments to §141.81 and §141.82, without changes to the proposed text published in the January 20, 1987, issue of the *Texas Register* (12 TexReg 231).

The amendment to §141.81 clarifies the distinction between those visitors at the central office who present information or argument to board members or staff and those who appear or who are subpoenaed to testify at a violation hearing. Those in the latter category are identified and sworn by the hearing officer, whereas those in the former category need to be registered in accordance with the statute. Section 141.82 is amended to reflect the amended statutory references.

The adopted amendments serve to clarify language for ease of understanding and to reflect amended statutory references.

No comments were received regarding adoptions of the amendments.

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

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

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John W. Byrd
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Texas Board of Pardons
and Paroles

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

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Interviews

★ 37 TAC §141.94

The Texas Board of Pardons and Paroles adopts an amendment to §141.94, without changes to the proposed text published in the January 20, 1987, issue of the *Texas Register* (12 TexReg 232).

The amendment clarifies that the order of revocation of parole or mandatory supervision is made by the board and not by the governor as reflected in the constitutional and statutory changes.

Compliance with changes in the constitution and statutes removing the governor from the parole decision process is the function of the section as adopted

No comments were received regarding adoption of the amendment

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

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

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TRD-8701653 John W. Byrd
Executive Director
Texas Board of Pardons
and Paroles

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

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Subpoenas

★ 37 TAC §141.101, §141.102

The Texas Board of Pardons and Paroles adopts amendments to §141.101 and §141.102, without changes to the proposed text published in the January 20, 1987 issue of the *Texas Register* (12 TexReg 232).

The amendments provide correct statutory references and citation as required by the amended statutes.

The amendments conform the statutory references in the sections to be amended statutes

No comments were received regarding adoption of the amendments.

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

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

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TRD-8701654 John W. Byrd
Executive Director
Texas Board of Pardons
and Parole

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

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Definition of Terms

★ 37 TAC §141.111

The Texas Board of Pardons and Paroles adopts an amendment to §141.111, without changes to the proposed text published in the January 20, 1987, issue of the *Texas Register* (12 TexReg 232)

The amendment is necessitated by amendments to the constitution and statutes

The amendment reflects changes in statutory and constitutional authority as needed, and clarify language used to more clearly define terms used in the rules and procedures.

No comments were received regarding adoption of the amendments.

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

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

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Executive Director
Texas Board of Pardons
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(512) 459-2708.

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Chapter 143. Executive Clemency

Full Pardon and Restoration of Rights of Citizenship

★ 37 TAC §§143.1—143.3, §143.8, §143.10

The Texas Board of Pardons and Paroles adopts amendments to §§143.1-143.3, §143.8, and §143.10, without changes to the proposed text published in the January 20, 1987, issue of the *Texas Register* (12 TexReg 234).

The amendments clarify to the public that it is not the primary jurisdiction of the board to re-try the guilt or innocence of a convicted felon, but rather that the duty is primarily that of the courts and court officials. The amendment makes it clear that before the board will act on any recommendation to the governor for pardon on the grounds of innocence of the crime convicted of, the applicant must furnish evidence of such a finding from the courts along with the recommendation from the trial officials for the board's recommendation. The amendment also references the amended constitutional and statutory authority for clemency considerations by the board. Section 143.2 and §143.3 are adopted to clarify that the authority to recommend pardons for those successfully serving for 12 months on parole, or discharging their sentence, is limited to the statutory language before the amendment to the statute made by the 59th Legislature and was only effective for offenses and convictions prior to August 28, 1977. The statute as it now exists does not provide authority to the board for this type of clemency recommendation. Amendments to §143.8 and §143.10 are adopted to clarify language and to reflect amended statute reference.

The amendments serve to clarify language and to conform statutory references to the legislative changes in law.

No comments were received regarding adoption of the amendments.

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

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

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TRD-8701656 John W. Byrd
Executive Director
Texas Board of Pardons
and Paroles

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

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Full Pardon and Restoration of Rights of Citizenship

★37 TAC §143.11

The Texas Board of Pardons and Paroles adopts new §143.11, without changes to the proposed text published in the January 20, 1987, issue of the *Texas Register* (12 TexReg 235).

The federal government has by legislation and practice pre-empted this area as far as the right to buy, possess, and transport firearms in interstate commerce. The federal authorities, through the secretary of the treasury, has the statutory authority to exempt, upon proper application, anyone from the penalty imposed by law. This new section recognizes the jurisdiction of the secretary of the treasury and subordinates the recommendation of this board for conditional and partial clemency concerning firearm rights to the primary jurisdiction of federal law and the exemption provided thereunder.

The new section provides that the board's recommendation concerning firearm rights will be subordinate to the federal jurisdiction.

No comments were received regarding adoption of the new section.

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

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

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TRD-8701657 John W. Byrd
Executive Director
Texas Board of Pardons
and Paroles

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

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Conditional Pardon

★37 TAC §143.24

The Texas Board of Pardons and Paroles an amendment to §143.24, without changes to the proposed text published

in the January 20, 1987, issue of the *Texas Register* (12 TexReg 235).

The agency adopts the amendment in order that the statutory reference will conform to the amended law.

The amendment conforms the statutory authority cited to the amended statute with no textual change to the section.

No comments were received regarding adoption of the amendment.

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

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

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TRD-8701658 John W. Byrd
Executive Director
Texas Board of Pardons
and Paroles

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

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Reprieve

★37 TAC §143.31, §143.33

The Board of Pardons and Paroles adopts amendments to §143.31 and §143.33, without changes to the proposed text published in the January 20, 1987, issue of the *Texas Register* (12 TexReg 235)

The amendment to §143.31 makes clear that the constitutional authority for the governor's authority to grant a reprieve upon the recommendation therefore by the Board of Pardons and Paroles requires a majority vote of the board for such recommendation. The amendment to §143.33 inserts new language in subsection (b)(1) so that the board will have specific facts before it to determine the need for such a reprieve recommendation and the exact times involved. These details are necessary for the board's consideration of the request and the exact duration of the reprieve requested and/or recommended.

No comments were received regarding adoption of the amendments.

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

This agency hereby certifies that the rule

as adopted has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority

Issued in Austin, Texas, on February 11, 1987

TRD-8701659 John W. Byrd
Executive Director
Texas Board of Pardons
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For further information, please call
(512) 459-2708

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Reprieve of Execution

★37 TAC §143.41, §143.43

The Texas Board of Pardons and Paroles adopts amendments to §143.41 and §143.43, without changes to the proposed text published in the January 20, 1987, issue of the *Texas Register* (12 TexReg 236).

The amendments insert language to clarify that executive clemency can only be conditionally granted upon a recommendation therefor, by a majority of the board or upon recommendation of four out of six members. This is to distinguish the constitutionally authorized section from the parole and mandatory decisions which are statutorily authorized by a simple majority vote.

The amendments function to clarify the language concerning the constitutional requirements of a majority of the board (four out of six) for clemency recommendations by the board to the governor

No comments were received regarding adoption of the amendments

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

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

Issued in Austin, Texas, on February 11, 1987

TRD-8701660 John W. Byrd
Executive Director
Texas Board of Pardons
and Paroles

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

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Commutation of Sentence

★ 37 TAC §143.52, §143.58

The Texas Board of Pardons and Paroles adopts amendments to §143.52 and §143.58, without changes to the proposed text published in the January 20, 1987, issue of the *Texas Register* (12 TexReg 236).

The amendments change the statutory citations to reflect the statutory amendments and to reflect that all requests from the office of the governor to the board are submitted consistently in writing to minimize any misunderstanding of the request.

The amendments conforms the statutory references to the amended statute.

No comments were received regarding adoption of the amendments.

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

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

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TRD-8701661 John W. Byrd
Executive Director
Texas Board of Pardons
and Paroles

Effective date: March 17, 1987
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For further information, please call
(512) 459-2708

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★ 37 TAC §143.56

The Texas Board of Pardons and Paroles adopts the repeal of §143.56, without changes to the proposed text published in the January 20, 1987, issue of the *Texas Register* (12 TexReg 237).

The repeal is necessary because the procedure for recommendation for commutation of sentence for blood donation is no longer used. There are no longer any statutory authorizations for this procedure and the Texas Department of Corrections no longer requests such commutation recommendations from the board.

The function of the repeal is to delete obsolete language.

No comments were received regarding adoption of the repeal.

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

necessary.

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

Issued in Austin, Texas, on February 11, 1987.

TRD-8701662 John W. Byrd
Executive Director
Texas Board of Pardons
and Paroles

Effective date: March 17, 1987
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For further information, please call
(512) 459-2708.

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Remission of Fines and Forfeiture

★ 37 TAC §§143.71-143.74

The Board of Pardons and Paroles adopts amendments to §§143.71-143.74, without changes to the proposed text published in the January 20, 1987, issue of the *Texas Register* (12 TexReg 237).

The amendments to §§143.71-143.73 specify authentic documentary evidence of the trial officials' recommendations and official actions by requiring same to be on official letterhead or certified as official documents. The board feels this is the minimum authentication needed for its recommendation or consideration. The amendment to §143.74 conforms the statutory references to the amended statutes.

The function of the amendments is to provide clarifying language and to comply with amendments to statutes.

No comments were received regarding adoption of the amendments.

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

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

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TRD-8701663 John W. Byrd
Executive Director
Texas Board of Pardons
and Paroles

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

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Chapter 145. Parole Parole Process

★ 37 TAC §§145.1—145.3, §145.5, §145.7—145.11, §145.14, §145.15

The Texas Board of Pardons and Paroles adopts amendments to §§145.1—145.3, §145.5, §145.7—145.11, §145.14, and §145.15, without changes to the proposed text published in the January 20, 1987, issue of the *Texas Register* (12 TexReg 238).

The amendments to §145.1, §145.2, §145.9, §145.11, and §145.15 add or delete language effectively removing the governor or his office from any decision or processing concerning parole or mandatory release to comply with the constitutional and statutory changes removing the governor from the parole and mandatory release decision process. Also amendments are made where necessary to citations or referrals to reflect any changes or amendments in relevant statutes. Amendments to §145.3, §145.5, and §145.14 clarify that these respective dates are tentative and subject to alteration dependent upon classification and other actions taken by the Texas Department of Corrections. The amendment to §145.7 adds paragraph (5), recommending pre-parole transfer to approved community residential facilities of an eligible inmate who is within 180 days of parole eligibility. The amendment to §145.8 requires notice to qualified victims who file impact statements as required by law.

The amendments function to make the sections comply with constitutional and statutory changes removing the governor from the parole process; with Texas Department of Corrections classifications; and with statutory law.

No comments were received regarding adoption of the amendments.

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

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

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TRD-8701664 John W. Byrd
Executive Director
Texas Board of Pardons
and Paroles

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

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Parole Process

★ 37 TAC §145.13

The Texas Board of Pardons and Paroles adopts the repeal of §145.13, without changes to the proposed text published in the January 20, 1987, issue of the *Texas Register* (12 TexReg 239).

The repeal is adopted because the centers for pre-release are no longer operated by the department and there is no reason to continue this section in effect.

The adoption removes an obsolete section as pre-release centers are no longer being operated by the department.

No comments were received regarding adoption of the repeal.

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

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

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

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★ 37 TAC §145.16

The Texas Board of Pardons and Paroles adopts new §145.16, without changes to the proposed text published in the January 20, 1987, issue of the *Texas Register* (12 TexReg 239).

The new section describes procedures for processing applications for parole in absentia consideration for prisoners serving a Texas sentence in some other facility rather than the Texas Department of Corrections.

The new section will substantially reduce costs to the state by saving the state the expense of transporting prisoners to the Texas Department of Corrections before being released on parole, by paroling them directly from other institutions where they may be incarcerated; also the Texas Department of Corrections will not be required to support these inmates awaiting their release.

No comments were received regarding adoption of the new section.

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

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

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John W. Byrd
Executive Director
Texas Board of Pardons
and Paroles

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

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Terms and Conditions of Parole

★ 37 TAC §§145.21, 145.24—145.28

The Texas Board of Pardons and Paroles adopts amendments to §§145.21, 145.24—145.28. Section 145.21 is adopted with changes to the proposed text published in the January 20, 1987, issue of the *Texas Register* (12 TexReg 240). Sections 145.24—145.28 are adopted without changes to the proposed text and will not be republished.

The amendment to §145.21 allows for more flexibility in tailoring specific requirements of supervision to meet the particular needs of each releasee. The amendments to §§145.24—145.28 add clarifying language and delete obsolete language to make the sections consistent with the amendment to rules and conditions of release and conform them to the amended constitution and statutes removing the governor from the parole process.

Adoption of the amendments will enable the board to tailor specific conditions of release to the needs and risks of the individual being supervised; the amendments will also conform statutory references to changes in the amended statutes.

No comments were received regarding adoption of the amendments.

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

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

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

(1) Release and reporting. Upon release from the institution, report immediately, as instructed to my parole officer; thereafter, report as directed and follow all instructions from my parole officer which are authorized by the board. If at any time it becomes necessary to communicate with my parole officer for any reason and he/she is not available, I shall direct my communication to the Board of Pardons and Paroles, (512) 459-2700.

(2) Legal obligation. I shall obey all municipal, county, state and federal laws.

(3) Residence. I shall obtain the written permission of my parole officer prior to changing my place of residence.

(4) Travel. I shall obtain written permission of my parole officer prior to leaving the State of Texas.

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

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

(A) The releasee shall participate in a maintenance free program for the treatment of alcohol abuse (Special Condition A).

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

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

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

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

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

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

(H) The releasee shall participate in an MH/MR counseling program (Special Condition H).

(I) The releasee shall not use methadone (Special Condition M).

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

(K) The releasee shall comply

with any other condition as specified (Special Condition O).

(L) The releasee shall participate in a psychological counseling program (Special Condition P).

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

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

(O) The releasee shall totally abstain from the use of alcoholic beverages of any kind (Special Condition T).

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

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

(7) General provisions.

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

(B) I shall pay, during the period of my supervision, any and all outstanding fines, court costs, and fees adjudged against me, to the clerk of the court of conviction, and I agree to provide my supervising officer with documentation verifying the payment by me of said amounts.

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

(D) In the event I am granted the privilege of residing in and being under the supervision of any other state or territory under the Interstate Compact for the supervision of parolees and Texas Code of Criminal Procedure, Article 42.11, and in consideration of being granted parole by the Texas Board of Pardons and Paroles, or for any reason I may be outside of the State of Texas, I hereby agree to and I hereby do waive extradition to the State of Texas from any jurisdiction in or outside the United States where I may be found; I do hereby

further agree that I will not in any manner contest any effort by the State of Texas, or any state of jurisdiction, to return me to the State of Texas.

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

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TRD-8701667 John W. Byrd
Executive Director
Texas Board of Pardons
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For further information, please call
(512) 459-2708

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Revocation of Administrative Release (Parole and Mandatory Supervision)

★ 37 TAC §§145.41-145.53, 145.55

The Texas Board of Pardons and Paroles adopts amendments to §§145.41-145.53, and 145.55, without changes to the proposed text published in the January 20, 1987, issue of the *Texas Register* (12 Tex-Reg 243).

The amendment §145.41 modifies the section, where needed, to remove the governor from the parole process but leave the governor in the process where the case is one involving the grant or revocation of an act involving executive clemency; adds language involving issuing a summons as well as a warrant for requiring the appearance of a releasee at a violation hearing; adds clarifying language to the process for revocation of releasees convicted of a felony committed while on administrative release status without requiring the releasee's personal appearance at a hearing and providing a method for notice and supplying of documentary evidence before revocation. The amendment to §145.43 adds language specifying under what limitations an appointed attorney is provided a releasee in a violation hearing where the releasee is not under arrest, and adds subsection (e), which specifies the criteria used in determining the need for appointment of an attorney. The amendment to §145.56 shortens the time limit on providing revocation hearings from 90 days to 70 days; adds (g)(3) and adds new language to subsection (h); and provides an exemption from the requirement for conducting a hearing at the situs of arrest or violations in case the releasee has been hospitalized at a remote location. The amendment to §145.46 clarifies the fact that calling of a prehearing conference in any case is discretionary and under the control of the assigned hearing officer. The amendment to §145.48(b) adds language allowing the hearing officer to modify the bifurca-

tion of any hearing if the agreement of the releasee and his attorney, if any, is first obtained. Section 145.49 and §145.50 are amended to bring their terminology in line with the current personnel assignments of the board by changing the term "staff attorney/coordinator of hearings" to the "staff person(s)". All amendments add clarifying language and correct any citations to the amended statutes and make clear when the governor is not involved in the process.

The amendments clarify language used and removes the governor from parole and mandatory supervision decision in accordance with statutory changes, and corrects statutory citations to conform with amended statutes.

No comments were received regarding adoption of the amendments.

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

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

Issued in Austin, Texas, on February 11, 1987

TRD-8701668 John W. Byrd
Executive Director
Texas Board of Pardons
and Paroles

Effective date: March 17, 1987
Proposal publication date: January 20, 1987
For further information, please call
(512) 459-2708

★ ★ ★

Parole After Revocation

★ 37 TAC §145.62

The Texas Board of Pardons and Paroles adopts an amendment to §145.62, without changes to the proposed text published in the January 20, 1987, issue of the *Texas Register* (12 TexReg 246).

The amendment allows credit toward eligibility for all time spent incarcerated in any jail or penal institution as a direct result of the revocation process, consonant with court decisions requiring the Texas Department of Corrections to credit all time served in custody on the sentence of record.

The amendment functions to make the section comply with court decisions requiring that inmates be given credit for calendar time spent in jail pending return to the Texas Department of Corrections.

No comments were received regarding adoption of the amendment.

The amendment is adopted under the

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

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

Issued in Austin, Texas, on February 11, 1987

TRD-8701669 John W. Byrd
Executive Director
Texas Board of Pardons
and Paroles

Effective date: March 17, 1987
Proposal publication date: January 20, 1987
For further information, please call
(512) 459-2708.

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

★ 37 TAC §145.71

The Texas Board of Pardons and Paroles adopts an amendment to §145.71, with changes to the proposed text published in the January 20, 1987, issue of the *Texas Register* (12 TexReg 246).

The amendment replaces terminology no longer applicable because of changes in personnel organization and staffing; it also clarifies that due to constitutional and statutory changes the governor is no longer involved in parole or mandatory release revocations. The amended language in subsection (c) conforms terminology to make it consistent with other sections.

The amendment clarifies language used and removes the governor from the parole and mandatory release revocation process in accordance with statutory and constitutional changes.

No comments were received regarding adoption of the amendment from sources outside the agency. The need for amended language in subsection (c) was determined by agency general counsel.

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

§145.71 *Reinstatement; Exceptional Circumstances; Hearing.*

(a) (No change.)

(b) A request for reinstatement of a revoked administrative release may be addressed to the board and should specify the purported exceptional circumstances which justify such action, as follows:

(1) judicial reversal of a judgment

of conviction of a criminal offense, which offense constituted an underlying factor in the initial revocation decision;

(2)-(3) (No change.)

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

(d) Upon review of the releasee's request for reinstatement of administrative release, along with transmittal of the staff counsel the board shall:

(1) order that the revoked administrative release be reinstated;

(2)-(3) (No change.)

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

(f) (No change.)

(g) After hearing under the applicable sections therefore under Chapter 147 of this title (relating to Hearings), the parole panel shall make final disposition, as follows:

(1) reinstatement under the same or modified conditions of release; or

(2) deny the request for reinstatement.

(h) Upon approval by a parole panel of reinstatement, a proclamation shall be delivered to the person whose administrative release is reinstated and he/she shall be released from confinement, subject to the provisions of §145.24 of this title.

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

Issued in Austin, Texas, on February 11, 1987.

TRD-8701670 John W. Byrd
Executive Director
Texas Board of Pardons
and Paroles

Effective date: March 17, 1987
Proposal publication date: January 20, 1987
For further information, please call
(512) 459-2708.

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Standards and Certification Procedures for Community Residential Facilities

★ 37 TAC §§145.81, 145.86, 145.98

The Texas Board of Pardons and Paroles adopts amendments to §§145.81, 145.86, and 145.98 without changes to the proposed text published in the January 20, 1987, issue of the *Texas Register* (12 Tex-Reg 247).

The amendments change the statutory reference in §145.81, and add language defining and requiring demonstrated public support before certification as suggested by the Sunset Commission review of this agency; and facilitate an accountability audit of each facility.

The amendments correct statutory references to conform to amended statutes, clarify language, and provide for public hearings in the facility certification procedure as suggested by Sunset review.

No comments were received regarding adoption of the amendments.

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

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

Issued in Austin, Texas, on February 11, 1987.

TRD-8701671 John W. Byrd
Executive Director
Texas Board of Pardons
and Paroles

Effective date: March 17, 1987
Proposal publication date: January 20, 1987
For further information, please call
(512) 459-2708.

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Chapter 147. Hearings General Rules for Hearings

★ 37 TAC §§147.1, 147.2, 147.6, 147.7

The Texas Board of Pardons and Paroles adopts amendments to §§147.1, 147.2, 147.6, and 147.7, without changes to the proposed text published in the January 20, 1987, issue of the *Texas Register* (12 Tex-Reg 248).

The amendments conform the statutory references to the amended statutes and add clarifying language. The amendments also add warrants and other documents to the material authorized to be issued by hearing officers and indicate discretion of the board on how to copy for production under open record request a recording of a recording of a revocation hearing.

The amendments add clarifying language and conform statutory references to the amended statutes.

No comments were received regarding adoption of the amendments.

The amendments are adopted under the Texas Code of Criminal Procedure, Article 42.18, §8(g), which provides the Board of Pardons and Paroles with the authority to

adopt such reasonable rules not inconsistent with law as it may deem proper or necessary.

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

Issued in Austin, Texas, on February 11, 1987.

TRD-8701672 John W. Byrd
Executive Director
Texas Board of Pardons
and Paroles

Effective date: March 17, 1987
Proposal publication date: January 20, 1987
For further information, please call
(512) 459-2708.

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Chapter 149. Mandatory Supervision Rules and Conditions of Mandatory Supervision

★ 37 TAC §§149.1, 149.2, 149.4-149.7

The Texas Board of Pardons and Paroles adopts amendments to §§149.1, 149.2, and 149.4-149.7, without changes to the proposed text published in the January 23, 1987, issue of the *Texas Register* (12 TexReg 268).

These amendments conform the rules of mandatory supervision to those rules applied to parole as required by statute and/or reasons stated in the adoption of the amendments to §§145.21-145.28.

The sections, as amended, set out regulations regarding conditions of mandatory supervision (with updated statutory citations). These regulations conform to those regarding parole.

No comments were received regarding adoption of the amendments.

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

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

Issued in Austin, Texas, on February 11, 1987.

TRD-8701673 John W. Byrd
Executive Director
Texas Board of Pardons
and Paroles

Effective date: March 17, 1987

Proposal publication date: January 23, 1987
For further information, please call
(512) 459-2708

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Selection for Mandatory Supervision

★ 37 TAC §149.11, §149.16

The Texas Board of Pardons and Paroles adopts amendments to §149.11 and §149.16, without changes to the proposed text published in the January 20, 1987, issue of the *Texas Register* (12 TexReg 248).

The amendments conform the statutory citation in the sections to the amended statutes.

The sections, as amended, set out regulations regarding release orders and early release of inmates, with updated statutory citations.

No comments were received regarding adoption of the amendments.

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

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

Issued in Austin, Texas, on February 11, 1987

TRD-8701674 John W. Byrd
Executive Director
Texas Board of Pardons
and Paroles

Effective date: March 17, 1987
Proposal publication date: January 20, 1987
For further information, please call
(512) 459-2708

★ 37 TAC §149.15

The Texas Board of Pardons and Paroles adopts the repeal of §149.15, without changes to the proposed text published in the January 20, 1987, issue of the *Texas Register* (12 TexReg 249).

The Texas Department of Corrections no longer operates pre-release centers for inmates so the section is obsolete.

The repeal removes a rule no longer applicable since the pre-release centers are no longer operated by the Texas Department of Corrections.

No comments were received regarding adoption of the repeal.

The repeal is adopted under the Texas Code of Criminal Procedure, Article 42.18, §8(g), which provides the Board of Pardons and Paroles with the authority to

adopt such reasonable rules not inconsistent with law as it may deem proper or necessary.

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

Issued in Austin, Texas, on February 11, 1987.

TRD-8701675 John W. Byrd
Executive Director
Texas Board of Pardons
and Paroles

Effective date: March 17, 1987
Proposal publication date: January 20, 1987
For further information, please call
(512) 459-2708.

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TITLE 40. SOCIAL SERVICES AND ASSISTANCE Part I. Texas Department of Human Services Chapter 27. ICF-MR Subchapter M. Admissions Policies

★ 40 TAC §27.1206

The Texas Department of Human Services (DHS) adopts an amendment to §27.1206, with changes to the proposed text published in the September 5, 1986, issue of the *Texas Register* (11 TexReg 3860).

The amendment clarifies the requirements and circumstances under which facilities may claim vendor payment when recipient-residents are absent from intermediate care facilities for the mentally retarded (ICF-MR). The amendment addresses time frames for absences, circumstances under which payment will not be made, bed-hold reservation charges, and regulation of vendor payment when recipient-residents attend special activities.

The effect of the amendment will be clearer DHS policy for providers to use in determining when audit exceptions may be taken for bed-hold charges and vendor payments for residents on special-activities leave.

The department received two comments regarding adoption of the amendment. Although both commentors generally supported the amendment, they requested clarification of the definition of day. The comments were from the Texas Department of Mental Health and Mental Retardation and from Advocacy, Incorporated. The department agrees with the comments and has changed the text to further clarify the definition of day. The department has also changed the term "resident" to "recipient-resident," to conform with other ICF-MR sections.

The amendment is adopted under the Human Resources Code, Title 2, Chapters 22 and 32, which provides the department with the authority to administer public and medical assistance programs.

§27.1206. Visits away from the Facility.

(a) In order for vendor payments to be made for ICF-MR recipient-residents who are away from the facility on therapeutic visits, the following criteria must be met.

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

(3) Each therapeutic visit cannot exceed three days duration. A day means a 24-hour period extending from midnight to midnight, with the first of these 24-hour periods beginning at midnight following the recipient-resident's departure. If a visit extends beyond the third day, the facility must submit the discharge form effective on the fourth day of absence.

(4) The facility must maintain a record of each therapeutic visit and ensure that these records are available for review by staff of the Texas Department of Human Services (DHS). Facility staff must also ensure that the records provide statistics concerning the number of visits for which vendor payments have not been made.

(5) During audits of facilities, DHS audit-staff verify therapeutic visits.

(b) (No change.)

(c) DHS does not make vendor payments when a Title XIX recipient-resident is absent from the facility because of:

(1) hospitalization;

(2) therapeutic home visits that extend beyond three days; or

(3) unauthorized departures that extend beyond three days.

(d) The ICF-MR may enter into a written agreement with the recipient-resident or responsible party to hold a bed during a recipient-resident's temporary absence from the facility. The written agreement must be signed and dated by the facility administrator or QMRP and by the recipient-resident or responsible party each time arrangements are made to hold a bed. The ICF-MR may charge the recipient-resident an amount not to exceed DHS' daily vendor rate according to the recipient-resident's classification at the time the individual leaves the facility.

(1) The ICF-MR must document each bed-hold charge in the recipient-resident's financial record at the time the bed-hold service is provided, and must specify that it is a bed-hold charge.

(2) If a bed-hold charge is made against the recipient-resident's personal-funds account managed by the ICF-MR, the ICF-MR must comply with §27.4803(c)(4) of this title (relating to Protection of Funds).

(3) During audits of facilities, DHS audit-staff verify bed-hold charges.

(e) When a recipient-resident is absent from the ICF-MR for special activities including, but not limited to, Special Olympics and camping trips, DHS makes vendor payments if:

(1) the need special activity is docu-

mented in the recipient-resident's individual program plan (IPP) with designation of IPP training provided;

(2) sufficient facility personnel are present at the special activity to meet the direct-care staff requirements outlined in §27.3213 of this title (relating to Resident Living Staff); and

(3) the provider incurs usual costs for caring for the recipient-resident, including, but not limited to, costs for meals, lodging, staff, supervision, and medication administration; and provides the indicated active-treatment 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 February 24, 1987.

TRD-8701641 Marlin W. Johnston
Commissioner
Texas Department of
Human Services

Effective date: March 27, 1987
Proposal publication date: September 5, 1986
For further information, please call
(512) 450-3766.

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

The Texas Department of Human Services adopts the repeal of §§33.1, 33.31, 33.62, 33.64, 33.65, 33.133, 33.135, 33.137, 33.138, 33.228, and 33.309, without changes to the proposed text published in the January 2, 1987, issue of the *Texas Register* (12 Tex-Reg 28).

The sections are repealed because they are obsolete or contain policies that are included in other sections.

By repealing these sections, the department is ensuring that sections governing the Early and Periodic Screening, Diagnosis, and Treatment (EPSDT) Program are current.

No comments were received regarding adoption of the repeals.

Subchapter A. Overview

★ 40 TAC §33.1

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

This agency hereby certifies that the

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

Issued in Austin, Texas, on February 24, 1987.

TRD-8701628 Marlin W. Johnston
Commissioner
Texas Department of
Human Services

Effective date: April 1, 1987
Proposal publication date: January 2, 1987
For further information, please call
(512) 450-3766.

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Subchapter C. Administration

★ 40 TAC §33.31

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

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

Issued in Austin, Texas, on February 24, 1987.

TRD-8701629 Marlin W. Johnston
Commissioner
Texas Department of
Human Services

Effective date: April 1, 1987
Proposal publication date: January 2, 1987
For further information, please call
(512) 450-3766.

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Subchapter E. Recipient Rights

★ 40 TAC §§33.62, 33.64, 33.65

The repeals are adopted under the Human Resources Code, Title 2, Chapters 22 and 32, which authorizes the department to administer public and medical assistance programs.

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

Issued in Austin, Texas, on February 24, 1987.

TRD-8701630 Marlin W. Johnston
Commissioner
Texas Department of
Human Services

Effective date: April 1, 1987
Proposal publication date: January 2, 1987
For further information, please call
(512) 450-3766.

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★ 40 TAC §33.62

The Texas Department of Human Services adopts new §§33.62, 33.133, and 33.309, without changes to the proposed text published in the January 2, 1987, issue of the *Texas Register* (12 TexReg 29).

The new sections are adopted to clarify and update policies regarding confidentiality of records, approved medical screening providers, and termination of provider agreements.

The department is not making substantive changes in the program or its policies, but is ensuring that the sections governing the program are current.

No comments were received regarding adoption of the new sections.

The new section is adopted under the Human Resources Code, Title 2, Chapters 22 and 32, which authorizes the department to administer public and medical assistance programs.

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

Issued in Austin, Texas, on February 24, 1987

TRD-8701634 Marlin W. Johnston
Commissioner
Texas Department of
Human Services

Effective date: April 1, 1987
Proposal publication date: January 2, 1987
For further information, please call
(512) 450-3766.

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The Texas Department of Human Services adopts amendments to §33.63 and §33.123, without changes to the proposed text published in the January 2, 1987, issue of the *Texas Register* (12 TexReg 29).

The amendments are adopted to clarify and update policies regarding consent for medical services and the definition of periodic screening due date.

The department is not making substantive changes in the program or its policies, but is ensuring that the sections governing the program are current.

No comments were received regarding adoption of the amendments.

★ 40 TAC §33.63

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

This agency hereby certifies that the rule as adopted has been reviewed by legal counsel and found to be a valid

exercise of the agency's legal authority

Issued in Austin, Texas, on February 24, 1987.

TRD-8701637 Marlin W. Johnston
Commissioner
Texas Department of
Human Services

Effective date: April 1, 1987
Proposal publication date: January 2, 1987
For further information, please call
(512) 450-3766

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Subchapter I. Periodicity

★ 40 TAC §33.123

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

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

Issued in Austin, Texas, on February 24, 1987.

TRD-8701638 Marlin W. Johnston
Commissioner
Texas Department of
Human Services

Effective date: April 1, 1987
Proposal publication date: January 2, 1987
For further information, please call
(512) 450-3766.

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Subchapter J. Medical Phase

★ 40 TAC §§33.133, 33.135, 33.137, 33.138

The repeals are adopted under the Human Resources Code, Title 2, Chapters 22 and 32, which authorizes the department to administer public and medical assistance programs.

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

Issued in Austin, Texas, on February 24, 1987.

TRD-8701631 Marlin W. Johnston
Commissioner
Texas Department of
Human Services

Effective date: April 1, 1987
Proposal publication date: January 2, 1987
For further information, please call
(512) 450-3766.

★ ★ ★

★ 40 TAC §33.133

The new section is adopted under the Human Resources Code, Title 2, Chapters 22 and 32, which authorizes the department to administer public and medical assistance programs.

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

Issued in Austin, Texas, on February 24, 1987.

TRD-8701635 Marlin W. Johnston
Commissioner
Texas Department of
Human Services

Effective date: April 1, 1987
Proposal publication date: January 2, 1987
For further information, please call
(512) 450-3766

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Subchapter N. Dental Program Benefits

★ 40 TAC §33.228

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

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

Issued in Austin, Texas, on February 24, 1987.

TRD-8701632 Marlin W. Johnston
Commissioner
Texas Department of
Human Services

Effective date: April 1, 1987
Proposal publication date: January 2, 1987
For further information, please call
(512) 450-3766

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Subchapter R. Dental Services

★ 40 TAC §33.309

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

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

Issued in Austin, Texas, on February 24, 1987.

TRD-8701633 Marlin W Johnston
Commissioner
Texas Department of
Human Services

Effective date: April 1, 1987
Proposal publication date: January 2, 1987
For further information, please call
(512) 450-3766.

★ ★ ★

★ 40 TAC §33.309

The new section is adopted under the Human Resources Code, Title 2, Chapters 22 and 32, which authorizes the department to administer public and medical assistance programs.

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

Issued in Austin, Texas, on February 24, 1987.

TRD-8701636 Marlin W Johnston
Commissioner
Texas Department of
Human Services

Effective date: April 1, 1987
Proposal publication date: January 2, 1987
For further information, please call
(512) 450-3766.

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State Board of Insurance Exempt Filings

State Board of Insurance
Notification Pursuant to the
Insurance Code, Chapter
5, Subchapter L

(Editor's note: As required by the Insurance Code, Article 5.96 and Article 5.97, the Register publishes notices of actions taken by the State Board of Insurance pursuant to Chapter 5, Subchapter L, of the Code. Board action taken under these articles is not subject to the Administrative Procedure and Texas Register Act, and the final actions printed in this section have not been previously published as proposals.

These actions become effective 15 days after the date of publication or on a later specified date.

The text of the material being adopted will not be published, but may be examined in the offices of the State Board of Insurance, 1110 San Jacinto Street, Austin.)

The State Board of Insurance has considered a filing by The Aetna Casualty & Surety Company proposing an amendment to the standard Pension and Welfare Fund Fiduciary Responsibility Insurance Policy to conform to the rules included in Board Order No. 48578 dated March 27,

1986, amending the rules on notice of cancellation and nonrenewal.

This revision was approved to become effective April 1, 1987.

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

Issued in Austin, Texas, on February 19, 1987

TRD-8701627 Nicholas Murphy
Chief Clerk
State Board of Insurance

Effective date: April 1, 1987
For further information, please call
(512) 463-6327

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The State Board of Insurance has adopted amendments to the Texas Automobile Manual.

The board has adopted physical damage rating symbols for certain 1987 model private passenger automobiles.

The symbols adopted were developed from Manufacturers F.O.B. List Price Data and adjusted in accordance with the prescribed Vehicle Series Rating Rule.

The F.O.B. List Price/Symbol Chart from which the appropriate symbols are derived is on Page 2 of the Symbol and Identification Section of the Texas Automobile Manual.

If applicable, the appropriate symbol has been raised or lowered based on the experience thresholds set out in the Vehicle Series Rating Rule in the Symbol and Identification Section of the Texas Automobile Manual

The amendment is effective at 12:01 a.m. on the fifteenth day after notice of this action is published in the *Texas Register*.

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

Issued in Austin, Texas, on February 19, 1987.

TRD-8701626 Nicholas Murphy
Chief Clerk
State Board of Insurance

Effective date: March 17, 1987
For further information, please call
(512) 463-6327

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Name: Marty Queton
Grade: 9
School: Carter Jr. High, Arlington



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 on Aging

Thursday, March 12, 1987, 10 a.m. The Texas Board on Aging of the Texas Department on Aging, will meet in the Third Floor Conference Room, 1949 South IH 35, Austin. According to the agenda, the board will approve minutes of the joint meeting of December 11, 1986, hear report on the State Citizens Advisory Council, introduce new staff members, hear fiscal report on carry-over, report on silver haired legislature, frozen home delivered meals, subcommittee on AAA staffing report, report from Minority/Elderly Task Force, report on budget hearings, consider legislative update, and state plan for fiscal years 1988 and 1989.

Contact: Texas Department on Aging, P.O. Box 12786, Austin, Texas 78711, (512) 444-2727.

Filed: February 25, 1987, 8:50 a.m.
TRD-8701754

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Texas Commission on Alcohol and Drug Abuse

Thursday, March 5, 1987, 9:30 a.m. The Texas Commission on Alcohol and Drug Abuse, will meet in the TCADA Conference Room, 1705 Guadalupe, Austin. According to the agenda, the commission will approve minutes of the December 15, 1986, meeting, consider decision on appeal of the Oaks at Denton, proposed use of 1987 fiscal year federal funds-revised, adoption of DWI rules, hear the Advisory Council report, legislative update, hear the executive director's report, the chairman's report, and public comments.

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

Filed: February 25, 1987, 9:41 a.m.
TRD-8701756

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State Bar of Texas

Thursday, February 26, 1987, 9 a.m. The Executive Committee of the State Bar of Texas made an emergency addition to the agenda of a meeting held in Room 206-207, Texas Law Center, 1414 Colorado Street, Austin. According to the agenda, the committee met in executive session pursuant to Texas Civil Statutes, Article 6252-17, §2(e), to hear a report on special prosecutor and IRS matters. The emergency status was necessary because urgent information was not received for inclusion in original agenda.

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

Filed: February 25, 1987, 8:23 a.m.
TRD-8701751

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Interagency Council on Early Childhood Intervention

Thursday, March 5, 1987, 8:30 a.m. The Interagency Council on Early Childhood Intervention will meet in the Second Floor Conference Room, Texas Department of Health, 1101 East Anderson Lane, Austin. According to the agenda summary, the council will approve minutes of the previous meeting; hear status reports on Senate Bill 60 (proposed amendments to Early Childhood Intervention (ECI) legislation), settlement with Brazoria County Center for the retarded, visit to the Center for the Development of Non-Formal Education, new statistician II position, update on accountant III desk audits, move of Texas Department of Health (TDH)/ECI staff, directors forum meeting, once-a-year survey results, and report on legislative hearings; consider proposed rules relating hearing issues, health standards, and interagency team composition; appointment of Advisory Committee member; hear staff report on acquired immune deficiency syndrome (AIDS) issues, discussion of planning and setting of priorities for grant under PL99-457; letter to the gover-

nor on federal law designation (PL99-457); and discussion of doctor Mary Cerreto's proposal.

Contact: Mary Elder, 1100 West 49th Street, Austin, Texas 78756, (512) 465-2671.

Filed: February 25, 1987, 4:11 p.m.
TRD-8701774

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State Department of Highways and Public Transportation

Wednesday-Thursday, February 25-26, 1987, 10 a.m. daily. The State Highway and Public Transportation Commission of the State Department of Highways and Public Transportation made an emergency addition to the agenda of a meeting held in Room 101-A, First Floor, Dewitt C. Greer Highway Building, 11th and Brazos Streets, Austin. According to the agenda summary, the commission considered action to request formal opinions of the Attorney General with regard to the constitutionality of the transfer of certain monies from the state highway fund as provided in Senate Bill 215, Acts 1987, 70th Legislature; the transfer, diversion, or borrowing of certain other monies that have been, may, or ought to be deposited into the state highway fund; and funds being considered included dedicated, any general revenue, and federal. The emergency status was necessary because commission action is necessary this month due to immediate emergency action required by immediate impact on department budget/planning process.

Contact: Lois Jean Turner, Dewitt C. Greer Highway Building, Room 203, 11th and Brazos Streets, Austin, Texas 78711, (512) 463-8616.

Filed: February 24, 1987, 2:05 p.m.
TRD-8701741

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State Board of Insurance

Thursday, March 19, 1987, 9 a.m. The State Board of Insurance will meet in the Hearing Room, Dewitt Greer Building, 11th and Brazos Streets, Austin. According to the agenda, the board will consider revision of the commercial fire and allied lines and commercial multi-peril rates, and manual rates, classification plans, forms, clauses, permits, warranties, classes, rating plans and amendments to the general basis schedules.

Contact: Pat Wagner, 1110 San Jacinto Street, Austin, Texas 78701-1998, (512) 463-6328.

Filed: February 25, 1987, 2:33 p.m.
TRD-8701766

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Texas Department of Labor and Standards

Thursday-Friday, March 5-6, 1987, 1 p.m. and 9 a.m., respectively. The Boiler Division, Board of Boiler Rules of the Texas Department of Labor and Standards, will meet in Room 103, E. O. Thompson Building, 920 Colorado Street, Austin. According to the agenda, the board will approve minutes of the September 4 and 5, 1986, meetings, hear membership and task force reports, and consider new business.

Contact: Steven M. Matthews, P.O. Box 12157, Austin, Texas 78711, (512) 463-2904.

Filed: February 25, 1987, 12:16 p.m.
TRD-8701764

Tuesday, March 31, 1987.

The Labor, Licensing, and Enforcement Division of the Texas Department of Labor and Standards will meet in Room 105, E. O. Thompson Building, 920 Colorado Street, Austin. Times and agendas follow

10 a.m. The division will consider suspension and revocation of the auctioneer license for Asher Wainer for violations of the department's rules and regulations.

Contact: Orlando S. Mata, P.O. Box 12157, Austin, Texas 78711, (512) 463-3130.

Filed: February 25, 1987, 9:57 a.m.
TRD-8701757

1:30 p.m. The division will consider suspension or revocation of the boxing license for Iram Zavala for violations of the department's rules and regulations.

Contact: Orlando S. Mata, P.O. Box 12157, Austin, Texas 78711, (512) 463-3130.

Filed: February 25, 1987, 9:57 a.m.
TRD-8701758

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Texas Municipal Retirement System

Saturday, March 14, 1987, 9 a.m. The Board of Trustees of the Texas Municipal Retirement System, will meet at 1200 North IH 35, Austin. According to the agenda summary, the board will approve minutes of the December 6, 1987, meeting, review and approve service retirements, disability retirements, supplemental death benefits, consider extended supplemental death benefits, review and act on financial statements, consider personnel market survey, pending legislation review reports of the actuary, legal counsel and director, and consider any other business to come before the board.

Contact: Jimmie L. Mormon, 1200 North IH 35, Austin, Texas 78701, (512) 476-7577.

Filed: February 24, 1987, 11:59 a.m.
TRD-8701676

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Board of Pardons and Paroles

Wednesday, February 25, 1987, 3 p.m. The Board of Pardons and Paroles met in emergency session at 8610 Shoal Creek Boulevard, Austin. According to the agenda, the board considered recommendations to the governor regarding necessary administrative good conduct time awards upon implementation of the Prison Management Act. The emergency status was necessary because board members could not adjust their schedules to meet at any other reasonable time.

Contact: Juanita Llamas, 8610 Shoal Creek Boulevard, Austin, Texas 78758, (512) 459-2749.

Filed: February 25, 1987, 12:22 p.m.
TRD-8701765

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State Pension Review Board

Tuesday, March 3, 1987, 8:30 a.m. The Legislative Advisory Committee of the State Pension Review Board will meet in emergency session in Room 501, Employees Retirement System Building, 18th and Brazos Streets, Austin. According to the agenda, the committee will discuss upcoming legislation. The emergency status is necessary to prepare impact statements on legislation with scheduled committee hearings.

Contact: Ginger P. Smith, P.O. Box 13498, Austin, Texas 78711, (512) 463-1736.

Filed: February 24, 1987, 2:33 p.m.
TRD-8701742

Public Utility Commission of Texas

The Public Utility Commission of Texas will meet in Suite 450N, 7800 Shoal Creek Boulevard, Austin. Dates, times, and agendas follow.

Tuesday, March 10, 1987, 1:30 p.m. The Hearings Division will consider Docket 7343—application of Southwestern Public Service Company for approval of American Smelting and Refining Company Service agreement.

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

Filed: February 24, 1987, 1:49 p.m.
TRD-8701747

Tuesday, April 7, 1987, 9 a.m. The Hearings Division will consider Docket 6568—request of City of Allen for extended area service to Dallas metro calling area.

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

Filed: February 24, 1987, 1:49 p.m.
TRD-8701478

Tuesday, May 26, 1987, 10 a.m. The Hearings Division will consider Docket 7375—petition of Houston Lighting and Power Company for approval of interim accounting treatment for limestone unit two.

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

Filed: February 25, 1987, 3:04 p.m.
TRD-8701772

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School Land Board

Tuesday, March 3, 1987, 10 a.m. The School Land Board made an emergency revised agenda to the meeting to be held in Room 831, Stephen F. Austin Building, General Land Office, 1700 North Congress Avenue, Austin. The additions concern reconsideration of Matagorda Peninsula acquisition. The emergency status is necessary because pending closing to comply with closing deadline for land contract.

Contact: Linda K. Fisher, 1700 North Congress Avenue, Austin, Texas 78701, (512) 463-5016.

Filed: February 25, 1987, 2:47 p.m.
TRD-8701771

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Texas Water Commission

The Texas Water Commission will meet in Room 118, Stephen F. Austin Building, 1700 North Congress Avenue, Austin. Dates, times, and agendas follow.

Wednesday, March 11, 1987, 10 a.m. According to the agenda, the commission will consider administrative penalties of Paktank Corporation (solid waste registration 33579), cancellation of certificate of adjudication 23-626, and cancellation of certificate of adjudication 23-111.

Contact: Mary Ann Hefner, P.O. Box 13087, Austin, Texas 78711, (512) 463-7898.

Filed: February 25, 1987, 11:29 a.m.
TRD-8701760

Wednesday, March 18, 1987, 2 p.m. According to the agenda, the commission will consider application by County Line 324, joint venture for proposed permit 13282-01, Travis County, Colorado River Basin, and motion filed by Aqua Water Supply Corporation for a cease and desist order against Bastrop West Water Systems.

Contact: Mary Ann Hefner, P.O. Box 13087, Austin, Texas 78711, (512) 463-7898.

Filed: February 25, 1987, 11:29 a.m.
TRD-8701761

Tuesday, March 24, 1987, 2 p.m. According to the agenda, the commission will consider application by W. L. Partners I for proposed permit 13275-01, Rockwall County, Trinity River Basin, application by G.S./D.K. joint venture for proposed permit 13311-01, Kaufman County, Trinity River Basin, applications by Steiner Utility Company, Inc. for certificates of convenience and necessity to provide water and sewer service to a proposed 4500 acre development in north-west Travis County and application by Donald Dempsey for proposed permit 13293-01, Hays County, Guadalupe River Basin.

Contact: Mary Ann Hefner, P.O. Box 13087, Austin, Texas 78711, (512) 463-7898.

Filed: February 25, 1987, 11:30 a.m.
TRD-8701762

Wednesday, March 25, 1987 2 p.m. According to the agenda, the commission will consider administrative penalties of Green Light Company (solid waste registration 30693), application by Lloyd Hayes and Riverwoods, Inc. doing business as The Forest at Riverbend Development Company for proposed permit 13202-01, and application by H & J Water Company and Affiliates including H & J Water Company, Crystal Forest Water Company, Deerwood Water Supply and Tassfield Water Company for a proposed rate/tariff charge (Docket 7054-R).

Contact: Mary Ann Hefner, P.O. Box 13087, Austin, Texas 78711, (512) 463-7898.

Filed: February 25, 1987, 11:29 a.m.
TRD-8701763

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Texas Water Development Board

Thursday, March 5, 1987, 2:30 p.m. The Texas Water Development Board will meet at 99 Church Street, New York, New York. According to the agenda, the board will meet with members of Moody's Investors Services, Inc. to seek a rating on the upcoming sale of Texas Water Development Bonds.

Contact: Charls E. Nemir, P.O. Box 13231, Austin, Texas 78711, (512) 463-7847.

Filed: February 24, 1987, 1:39 a.m.
TRD-8701743

Friday, March 6, 1987, 10:30 a.m. The Texas Water Development Board will meet at 25 Broadway, New York, New York. According to the agenda, the board will meet with members of Standard & Poors Corporation to seek a rating on the upcoming sale of Texas Water Development Bonds.

Contact: Charles E. Nemir, P.O. Box 13231, Austin, Texas 78711, (512) 463-7847.

Filed: February 24, 1987, 1:39 p.m.
TRD-8701744

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Regional Agencies Meeting Filed February 24

The Dallas Area Rapid Transit, Board of Directors, met in the DART Office, 601 Pacific Avenue, Dallas, on February 24, 1987, at 4 p.m. Information may be obtained from Nancy McKethan, 601 Pacific Avenue, Dallas, Texas 75202, (214) 658-6237.

TRD-8701740

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Meetings Filed February 25

The Austin-Travis County Mental Health and Mental Retardation Center, Board of Trustees, met in the classroom, Shoal Creek Hospital, 3501 Mills Avenue, Austin, on February 26, 1987, at 7 a.m. Information may be obtained from Sharon Taylor, 611 South Congress Avenue, Suite 501, Austin, Texas 78704, (512) 447-4141.

The Colorado River Municipal Water District, Board of Directors, will meet at 400 East 24th Street, Big Spring, on March 5, 1987, at 10 a.m. Information may be obtained from O.H. Ivie, P.O. Box 869, Big Spring, Texas 79721, (915) 267-6341.

The Dawson County Central Appraisal District, Board of Directors, will meet at 920 North Dallas Avenue, Lamesa, on March 4, 1987, at 7 a.m. Information may be obtained from Tom Anderson, P.O. Box 797, Lamesa, Texas 79331, (806) 872-7060.

The Harris County Appraisal District, Board of Directors, will meet on the Eighth Floor, 2800 North Loop West, Houston, on March 3, 1987, at 10 a.m. Information may be obtained from Margie Hilliard, P.O. Box 920975, Houston, Texas 77292, (713) 957-5291.

The Lee County Appraisal District, Board of Directors, will meet at 218 East Richmond Street, Giddings, on March 4, 1987, at 9 a.m. Information may be obtained from Roy L. Holcomb, 218 East Richmond Street, Giddings, Texas 78942, (409) 542-9618.

The Scurry County Appraisal District, Board of Directors, will meet at 2612 College Avenue, Snyder, on March 3, 1987, at 7 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 March 3, 1987, at 4 p.m. Information may be obtained from Mary F. Mann, P.O. Drawer 9, Woodville, Texas 75979, (409) 283-3736.

TRD-8701753

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Meetings Filed February 26

The Burnet County Appraisal District, will meet at 215 South Pierce Street, Burnet, on March 12, 1987, at 6:30 p.m. Information may be obtained from Alvin C. Williams, P.O. Drawer E, Burnet, Texas 78611, (512) 756-8291.

The Texas Political Subdivision Workers' Compensation Joint Insurance Fund, Board of Trustees, met in the Austin Club, 110 East Ninth Street, Austin, on March 2, 1987, at 9:30 a.m. Information may be obtained from Thomas P. Vick, P.O. Box 2759, Dallas, Texas 75221, (214) 760-6183.

TRD-8701777

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 Community Affairs

Announcement of Contract Awards

The Texas Department of Community Affairs announces that the units of local government listed below have each been selected as a contract recipient for planning/capacity building grant under the Texas Community Development Program established pursuant to Texas Civil Statutes, Article 4413 (201), §4A for the second semi-competition of 1986.

Socorro—\$23,600; Starr County—\$25,000; Daingerfield—\$25,000; Calhoun County—\$17,700; Falfurrias—\$18,300; Zavala County—\$20,400; Eagle Lake—\$21,400; Menard—\$23,000; Carrizo Springs—\$17,200; Blanco—\$23,100; Mustang Ridge—\$18,675; Ferris—\$12,957.

Issued in Austin, Texas, on February 24, 1987.

TRD-8701749 Anne O. Paddock
Acting General Counsel
Texas Department of Community Affairs

Filed: February 24, 1987
For further information, please call (512) 834-8060.

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Office of Consumer Credit Commissioner

Notice of Rate Ceilings

The consumer credit commissioner of Texas has ascertained the following rate ceilings by use of the formulas and methods described in Texas Civil Statutes, Title 79, Articles 1.04, 1.05, 1.11, and 15.02, as amended (Texas Civil Statutes, Articles 5069-1.04, 1.05, 1.11, and 15.02).

Type of Rate Ceilings Effective Period (Dates are Inclusive)	Consumer ⁽³⁾ Agricultural/Commercial ⁽⁴⁾ thru \$250,000	Commercial ⁽⁴⁾ over \$250,000
Indicated (Weekly) Rate—Article 1.04(a)(1) 03/02/87-03/08/87	18.00%	18.00%
Monthly Rate—Article 1.04(c)(1) 03/01/87-03/31/87	18.00%	18.00%
Standard Quarterly Rate—Article 1.04(a)(2) 04/01/87-06/30/87	18.00%	18.00%
Retail Credit Card Quarterly Rate—Article 1.11 ⁽³⁾ 04/01/87-06/30/87	18.00%	N/A

Lender Credit Card Quarterly Rate—Article 15.02(d) ⁽³⁾ 04/01/87-06/30/87	14.00%	N/A
Standard Annual Rate—Article 1.04(a)(2) ⁽²⁾ 04/01/87-06/30/87	18.00%	18.00%
Retail Credit Card Annual Rate—Article 1.11 ⁽³⁾ 04/01/87-06/30/87	18.00%	N/A
Annual Rate Applicable to Pre-July 1, 1983, Retail Credit Card and Lender Credit Card Balances with Annual Implementation Dates from 04/01/87-06/30/87	18.00%	N/A
Judgment Rate—Article 1.05, §2 03/01/87-03/31/87	10.00%	10.00%

- (1) For variable rate commercial transactions only.
(2) Only for open-end credit as defined in Texas Civil Statutes, Article 5069-1.01(f).
(3) Credit for personal, family, or household use.
(4) Credit for business, commercial, investment, or other similar purpose.

Issued in Austin, Texas, on February 23, 1987.

TRD-8701745 Al Endsley
Consumer Credit Commissioner

Filed: February 24, 1987
For further information, please call (512) 479-1280.

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Public Utility Commission of Texas

Least Cost Planning Task Force

A meeting of the Task Force on Least-Cost Planning will be held on March 18, 1987, at 2 p.m. in Hearing Room C at the Public Utility Commission of Texas, 7800 Shoal Creek Boulevard, Austin, Texas 78757. At this meeting the task force will continue to address whether or not additional rulemaking is necessary to work toward least-cost planning for electric utilities in Texas.

Issued in Austin, Texas, on February 23, 1987.

TRD-8701746 Phillip A. Holder
Secretary
Public Utility Commission of Texas

Filed: February 24, 1987
For further information, please call (512) 458-0100.

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Texas Water Commission Notice of Application for Waste Disposal Permit

Notice is given by the Texas Water Commission of public notices of waste disposal permit applications issued during the period of February 16-20, 1987. No public hearing will be held on these applications unless an affected person has requested a public hearing. Any such request for a public hearing shall be in writing and contain (1) the name, mailing address, and phone number of the person making the request; and (2) a brief description of how the requester, or persons represented by the requester, would be adversely affected by the granting of the application. If the Commission determines that the request sets out an issue which is relevant to the waste discharge permit decision, or that a public hearing would serve the public interest, the Commission shall conduct a public hearing, after the issuance of proper and timely notice of the hearing. If no sufficient request for hearing is received within 30 days of the date of publication of notice concerning the applications, the permit will be submitted to the Commission for final decision on the application.

Information concerning any aspect of these applications may be obtained by contacting the Texas Water Commission, P.O. Box 13087, Capitol Station, Austin, Texas 78711, telephone (512) 463-7905.

Listed is the name of the applicant and the city in which each facility is located; type of facility; location of the facility; permit number; and type of application—new permit, amendment, or renewal.

Period of February 16-20, 1987

Houston 290 joint venture; wastewater treatment plant; approximately 7300 feet southeast of the intersection of U.S. Highway 290 and Barker Cypress Road; 3000 feet southwest of Cypress-Fairbanks High School in Harris County; city of Houston; 13327-01; new permit

Houston 290 joint venture; wastewater treatment plant; approximately 2.3 miles due south of the intersection of U.S. Highway 290 and Barker Cypress Road in Harris County; City of Houston; 13328-01; new permit

City of Houston, utilities operations; wastewater treatment plant; adjacent to and east of the intersection of Central Street and Galveston Road in southeast Houston, Harris County; 10495-120; new permit

City of Lewisville; wastewater treatment plant; approximately 2,000 feet southwest of the AT & SF Railway crossing of the Elm Fork of the Trinity River northeast of the City of Lewisville, Denton County; 10662-01; amendment

Gifford-Hill and Company, Inc.; sand and gravel mining business; approximately 1.5 miles south of the intersection of State Highway 6 and Loop 340 in McLennan County; city of Dallas; 02893; new permit

City of Jacksboro; wastewater treatment facilities; approximately 1500 feet north of U.S. Highway 281 and 4600 feet west of State Highway 148 in the City of Jacksboro in Jack County; 10994-01; renewal

CSA Limited Inc.; wastewater treatment facilities; just east of FM Road 149, approximately 1.7 miles south of FM Road 1960, 1,000 feet south of Greens Bayou and northwest of the City of Houston in Harris County;

city of Houston; 11661-01; renewal

Fuller Company; wastewater treatment facilities; in the Jacinto Port industrial development, approximately 1½ miles southwest of the confluence of the Houston Ship Channel and Carpenters Bayou in the eastern part of Harris County; city of Houston; 12318-01; renewal

ARCO Pipe Line Company; tank farm and marine terminal facility; on the northeast side of Highway 146 between Galveston County Seawall and Loop 197 (tank farm) and at 900 South Bay Street (dock) in the City of Texas City, Galveston County; 02111; renewal

General Dynamics and U.S. Department of the Air Force; aircraft and missile manufacturing plant with scientific research and development facilities; on the south shore of Lake Worth, approximately eight miles west-northwest of downtown Fort Worth, adjacent to the northeast edge of White Settlement, Tarrant County; City of Fort Worth; 01764; amendment

Armco, Inc., environmental engineering; Greens Bayou Landfill; between Church Street, Greens Bayou Drive, Maxey Road and Greens Bayou, approximately .5 mile north of IH 10 in Harris County; City of Houston; 02549; renewal

City of Bridgeport; water treatment facilities; approximately ½ mile west-northwest of the intersection of the Chicago, Rock Island and Pacific Railroad with State Highway 114 on the north side of the West Fork Trinity River, south of the City of Bridgeport in Wise County; 10389-01; renewal

Northwest ISD; sewage treatment plant; south of State Highway 114, approximately 1 mile west of the intersection of State Highway 114 and FM Road 156 in Denton County; City of Justin; 11760-01; renewal

Lithcote Company, Inc.; small package plant; on FM Road 2087 approximately ½ mile southwest of its intersection with FM 1845 southwest of the City of Longview in Gregg County; City of Longview; 02066; amendment

Williamson County Mud No. 7; wastewater treatment plant; approximately 4.6 miles northwest of the intersection of IH 35 and FM Road 2338 and northwest of the City of Georgetown in Williamson County, Texas; 13329-01; new permit

Issued in Austin, Texas, on February 20, 1987.

TRD-8701603 Mary Ann Hefner
Chief Clerk
Texas Water Commission

Filed: February 23, 1987
For further information, please call (512) 463-7898.

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16 Economic Regulation	\$ 15	\$ 15	\$ 15
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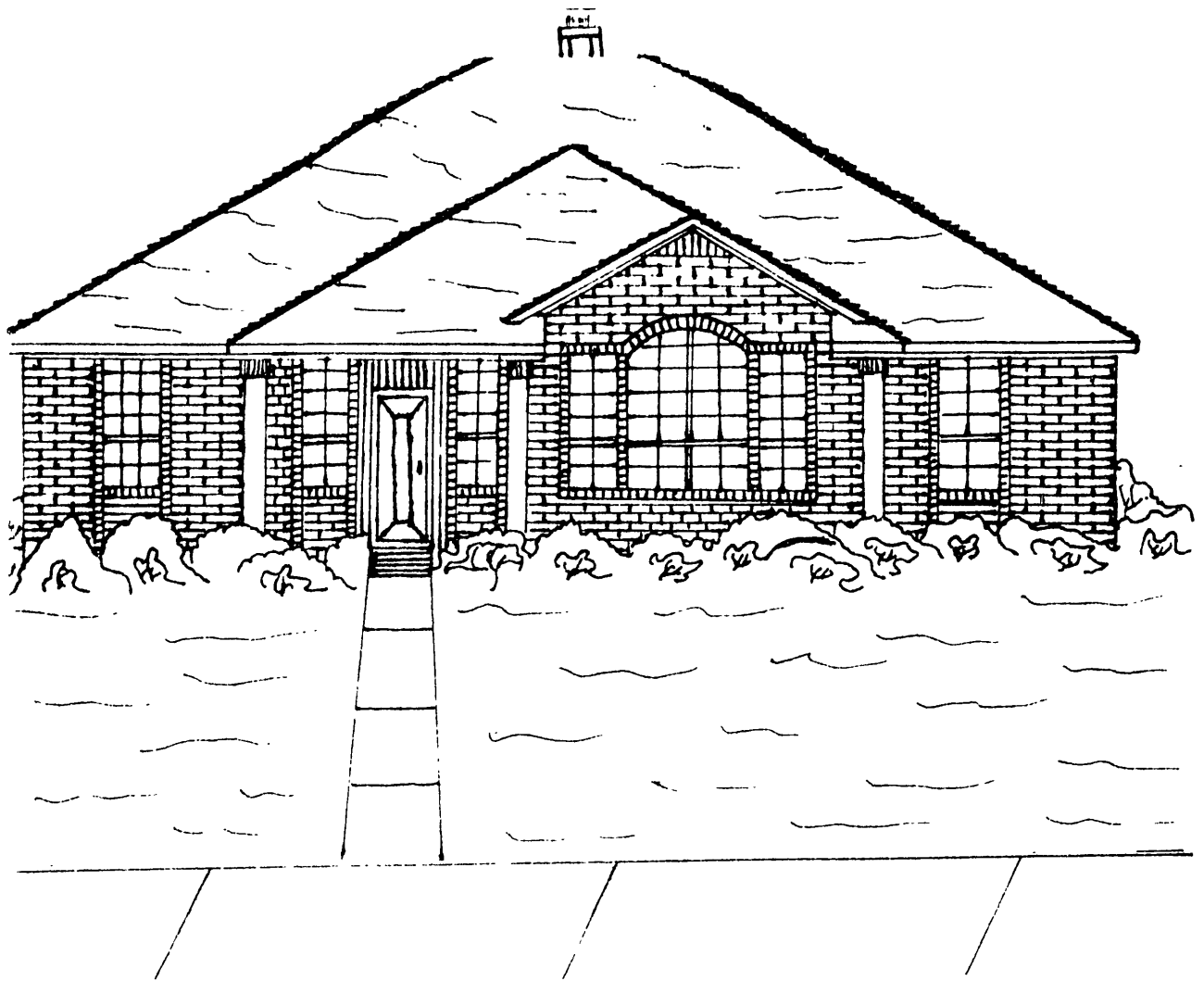
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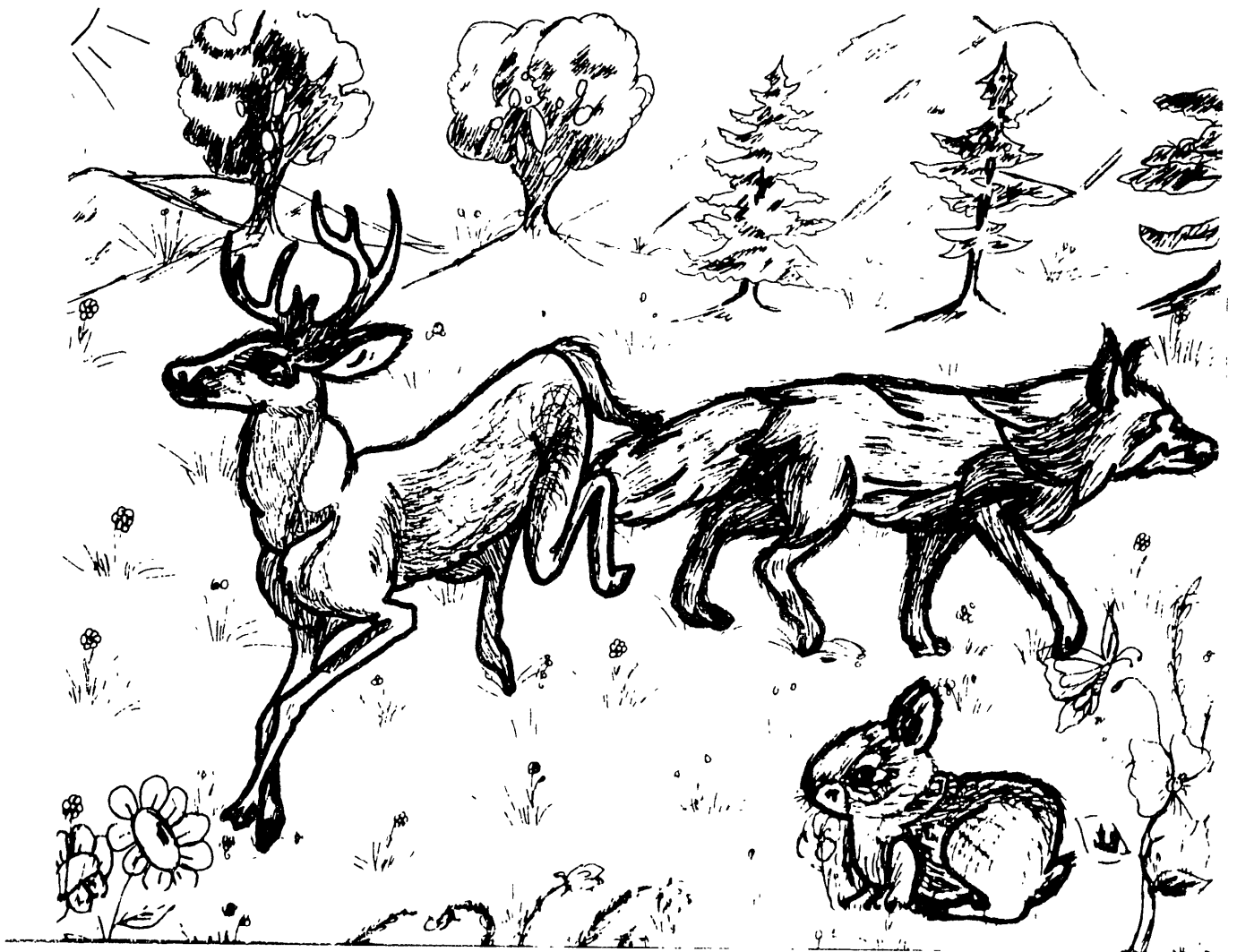
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Grade: 7
School: Carter Jr. High, Arlington



Name: Tuan Nguyen
Grade: 9
School: Carter Jr. High, Arlington



Name: Uyen Chau
Grade: 9
School: Carter Jr. High, Arlington

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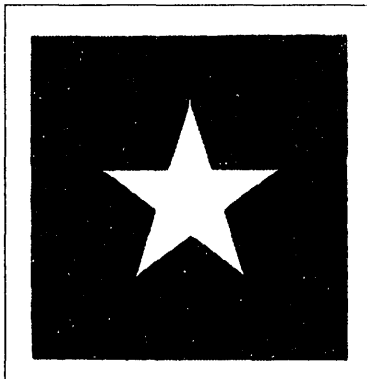




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