

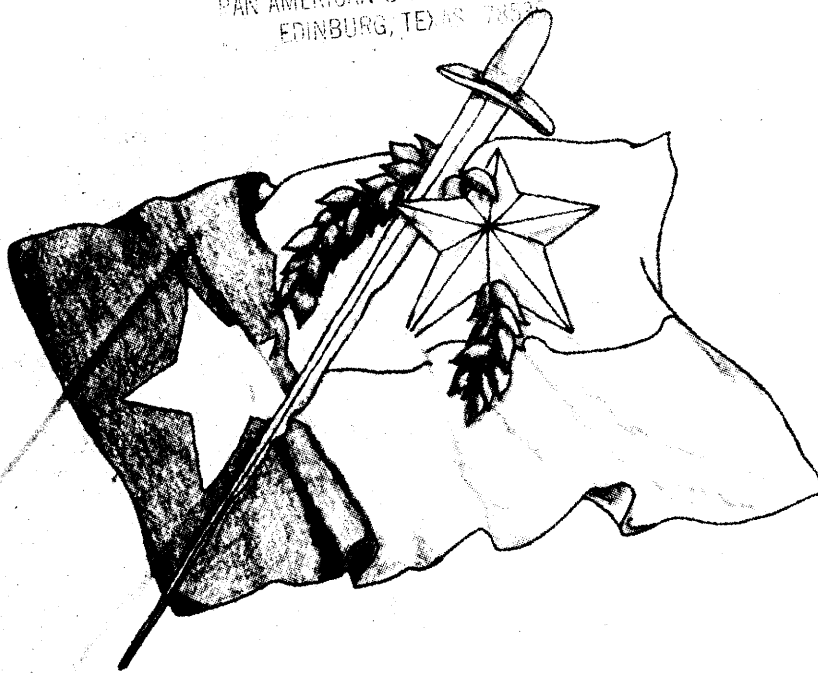
TXD S 500.6 R 263

# Texas Register

U.S. GOVERNMENT DOCUMENT  
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## Highlights

State Department of Highways and Public Transportation adopts on an emergency basis and simultaneously proposes for permanent adoption a new section concerning debarment of a contractor; effective date - January 29, proposed date of adoption - March 8. . . pages 476, 507  
 ★ Texas State Board of Examiners of Professional Counselors, in the final part of a two-part serialization, proposes new sections in its chapter on professional counselors; proposed date of adoption - March 5. . . page 480 ★ Texas Department of Health proposes new sections regarding a code of professional responsibility for inspectors and surveyors and veterinary public health; proposed date of adoption - March 8. . . 480 ★ Texas Parks and Wildlife Department proposes the repeal of old sections and adoptions of new sections affecting regulations in state parks; proposed date of adoption - March 8. . . page 494.

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As required by Texas Civil Statutes, Article 6252-13a, §6, the Register publishes executive orders issued by the Governor of Texas. Appointments made and proclamations issued by the governor are also published. Appointments are published in chronological order.

Additional information on documents submitted for publication by the Governor's Office can be obtained by calling (512) 475-3021.

# The Governor

## Appointments Made January 20 Texas Planning Council for Developmental Disabilities

For six-year terms to expire July 29, 1987:

James W. Cooper, D.D.S.  
5009 Lost Creek Circle  
Corpus Christi, Texas 78413

Gary F. Shreve  
1204 Leon  
Monahans, Texas 79756

Dr. Cooper is being reappointed and Mrs. Shreve is replacing Mrs. Carol Cervenka of Dallas, Dallas County, whose term expired.

## Texas Energy and Natural Resources Advisory Council

For a term at the pleasure of the governor:

James E. Russell  
James E. Russell Petroleum, Inc.  
P.O. Box 2618  
Abilene, Texas 79604

Mr. Russell is replacing Henry Burton Harkins of Alice, Jim Wells County, who resigned.

## State Commission on Judicial Conduct

For a six-year term to expire November 19, 1987:

Nathan Irving Reiter, Jr.  
Route 5, Box 285C  
Texarkana, Texas 75501

Colonel Reiter is replacing Godfrey Crawford of Jacksonville, Cherokee County, whose term expired.

## State Board of Nurse Examiners

Pursuant to Senate Bill 575, 67th Legislature, to be a public member for a term to expire January 31, 1987:

Cleve Bachman  
2120 Thomas Road  
Beaumont, Texas 77706

## The Prosecutor Council

For two-year terms to expire December 31, 1983:

Howard C. Derrick  
Box 736  
Eldorado, Texas 76936

Dick W. "Speedy" Hicks  
Box 836  
Bandera, Texas 78003

Claude J. Kelley, Jr.  
Route 2, Box 365  
Fredericksburg, Texas 78624

Joe L. Schott  
Box 906  
Castroville, Texas 78009

Mr. Derrick, Mr. Hicks, Mr. Kelley, and Mr. Schott are being reappointed.

## Pilot Commission for the Sabine Bar, Pass, and Tributaries

For two-year terms to expire August 22, 1983:

Sam Aguilina  
3889 Gulfway Drive  
Port Arthur, Texas 77640

J. Lynn Harden  
525 Yount  
Beaumont, Texas 77706

C. W. Hubbard  
1305 Shadowdale  
Bridge City, Texas 77611

John Cash Smith  
2711 Holcomb  
Orange, Texas 77630

Mr. Aguilina, Mr. Harden, Mr. Hubbard, and Mr. Smith are being reappointed.

Issued in Austin, Texas, on January 20, 1982.

TRD-820999

William P. Clements, Jr.  
Governor of Texas

## Appointments Made January 21 298th Judicial District Court of Texas

To be judge, Dallas County, until the next general election and until his successor shall be duly elected and qualified:

Sidney Allen Fitzwater  
8911 Stanwood Drive  
Dallas, Texas 75228

### **Texas Youth Council**

For a six-year term to expire August 31, 1987:

Dr. George J. Beto  
P.O. Box 1296  
Huntsville, Texas 77340

Dr. Beto is being reappointed.

Issued in Austin, Texas, on January 21, 1982.

TRD-820998

William P. Clements, Jr.  
Governor of Texas

### **Appointments Made January 22**

#### **Texas Rehabilitation Commission**

For a six-year term to expire August 31, 1987:

Jerry Kane  
1017 Sudan  
Corpus Christi, Texas 78412

Mr. Kane is replacing John D. Simpson Jr. of Austin, Travis County, whose term expired.

Issued in Austin, Texas, on January 22, 1982.

TRD-820997

William P. Clements, Jr.  
Governor of Texas

### **Appointments Made January 26**

#### **Nueces River Authority**

To serve on the board of directors for a six-year term to expire February 1, 1987:

George A. Finley III  
P.O. Box 9153  
Corpus Christi, Texas 78408

Mr. Finley is being reappointed.

### **State Board of Nurse Examiners**

Pursuant to Senate Bill 575, 67th Legislature, to serve as a public member for a term to expire January 31, 1985:

Mrs. Leo Evelyn Johnson  
P.O. Box 3400  
Corpus Christi, Texas 78404

### **Texas State Board of Examiners of Psychologists**

Pursuant to Senate Bill 359, 67th Legislature, for six-year terms to expire October 31, 1987:

Joseph C. Kobos, Ph.D.  
6621 Countess Adria  
Leon Valley  
San Antonio, Texas 78238

Macy Kinzel  
1202 Third Street  
Corpus Christi, Texas 78404

Joseph Siegel, Ph.D.  
11330 Hillcrest  
Dallas, Texas 75230

Dr. Kobos, psychologist, and Dr. Siegel, psychologist, are replacing Dr. James Ray Hays of Houston, Harris County, and Dr. George H. Kramer of Corpus Christi, Nueces County, respectively, whose terms expired. Ms. Kinzel, psychological associate, is being appointed to a new position.

Pursuant to Senate Bill 359, 67th Legislature, for a term to expire October 31, 1983:

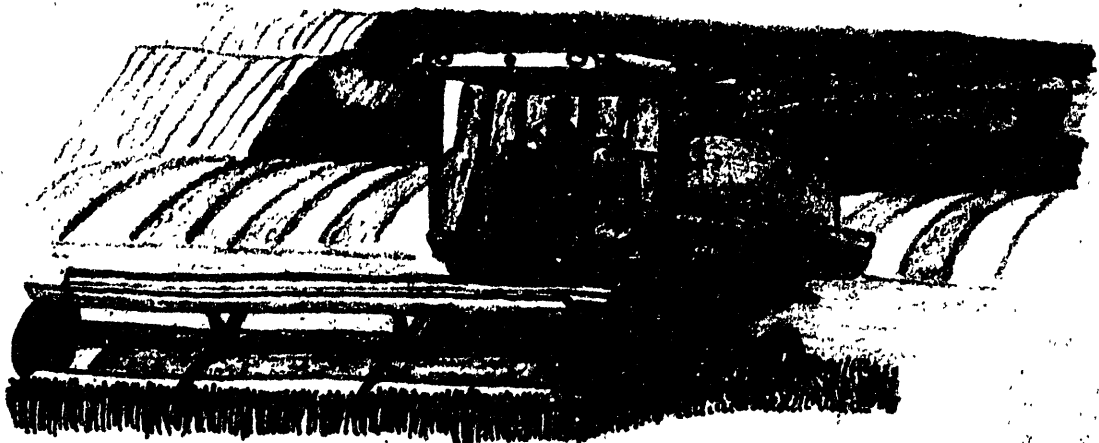
Elizabeth J. Rohn  
561 Cardinal Drive  
Kerrville, Texas 78028

Mrs. Rohn, public member, is being appointed to a new position.

Issued in Austin, Texas, on January 26, 1982.

TRD-820996

William P. Clements, Jr.  
Governor of Texas



## Executive Order WPC-27A

Executive Order WPC-27 is amended as follows and shall be known as WPC-27 as Amended January 4, 1982.

### *Establishing the Governor's Council on Career Education*

WHEREAS, public education and an educated citizenry in Texas are the foundation upon which our society, values, and economy are based; and

WHEREAS, the children and youth of Texas are one of our greatest resources and upon which the future of this great state is dependent; and

WHEREAS, the environment of modern society which involves advanced technology in both agriculture and industry demands that public education ally itself more closely with these sectors of our society; and

WHEREAS, these career education sectors of our society must recognize their obligation to advance public education through effective communication and cooperation with our public school system; and

WHEREAS, the total career education resources of Texas properly mobilized and directed are highly adequate to adapt to the specialized educational demands of our age; and

WHEREAS, the Governor of Texas is the proper official to receive input from and coordinate career educational plans with the educational leaders of the state.

NOW, THEREFORE, I, William P. Clements, Jr., Governor of Texas, under the authority vested in me, do hereby create and establish the Governor's Council on Career Education, hereinafter referred to as council.

The council will consist of no more than 30 members appointed by the governor who shall serve for two-year terms at the pleasure of the governor. The governor shall designate a chairman and vice-chairman from the membership who shall serve in those positions at the pleasure of the governor. The council shall be comprised of a broad representation from professional, industrial, business, agricultural, and governmental organizations, institutions of public education, and other interested citizens and organizations. The commissioner of education and the chairman of the Governor's Education Action Group shall sit as ex-officio members of the council.

The council may employ an executive director to be hired from contributions made by industry. The council may not receive state funding assistance but may receive gifts, contributions, or assessments from its members.

The council will be charged with the following responsibilities:

- (a) encourage industry and business to work with the state's educational officials to support higher educational standards;
- (b) encourage industry and business representatives to work directly with students to inform them of career opportunities and their educational prerequisites;
- (c) assist school personnel in the development of career education exchange programs in the public school classrooms;
- (d) develop career education programs for public school students which involve practical work in career education fields;
- (e) develop a career education plan for Texas' students which makes optimum use of career educational resources both traditional and nontraditional, to ensure such a plan is responsive to the state's economic and social needs and complements the academic and cultural content of Texas' public education programs;
- (f) establish local councils for the purpose of implementing objectives outlined in this executive order; and
- (g) perform other duties as may be requested by the governor.

On or before January 1, 1983, the council shall make a complete written report of its activities and recommendations to the governor.

The council shall meet at least semiannually and at the call of the chairman. A majority of the membership shall constitute a quorum. The chairman shall, with the consultation of the governor, establish the agenda for council meetings.

The Texas Education Agency shall serve as coordinating staff to the council.

The members of the council shall serve without compensation and shall be responsible for their expenses.

All agencies of state and local governments are hereby directed to cooperate with and assist the council in the performance of its duties.

This amendment of WPC-27 shall be effective immediately and shall remain in full force and effect until modified, amended, or rescinded by me.

The complete text of WPC-27 as amended January 4, 1982, is as above.

Issued in Austin, Texas, on January 4, 1982.

TRD-821001

William P. Clements, Jr.  
Governor of Texas

# Emergency Rules

An agency may adopt a new or amended rule, or repeal an existing rule on an emergency basis, if it determines that such action is necessary for the public health, safety, or welfare of this state. The rule may become effective immediately upon filing with the Texas Register Division, 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.

An agency must submit written reasons, published in the *Register*, for emergency action on a rule. The submission must also include a statement of the legal authority under which the emergency action is promulgated and the text of the emergency adoption. Following each published emergency document is certification information containing the effective and expiration dates of the action and a telephone number from which further information may be obtained.

Symbology in amended 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 25. HEALTH SERVICES Part VIII. Interagency Council on Early Childhood Intervention Chapter 621. Early Childhood Intervention Program Conduct of Council Meetings 25 TAC §§621.1-621.5

The Interagency Council on Early Childhood Intervention is renewing the effectiveness of the emergency adoption of new §§621.1-621.5 for a 60-day period, effective January 29, 1982. The text of the new sections, as adopted on an emergency basis, was published in the October 9, 1981, issue of the *Texas Register* (6 TexReg 3723).

Issued in Austin, Texas, on January 27, 1982.

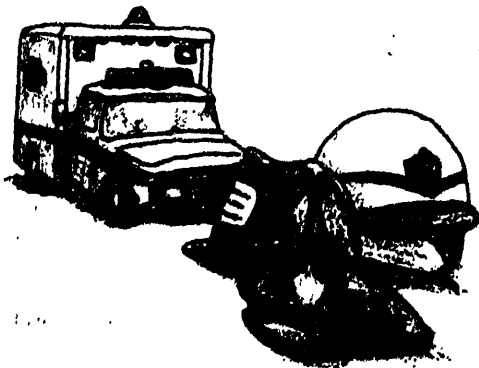
TRD-820942

Dan LaFleur  
Liaison Officer  
Interagency Council on Early  
Childhood Intervention

Effective date: January 29, 1982

Expiration date: March 30, 1982

For further information, please call (512) 458-7236.



## TITLE 43. TRANSPORTATION Part I. State Department of Highways and Public Transportation

### Chapter 9. Construction Division Construction Division Practice and Regulations—Contractor Debarment Procedure

#### 43 TAC §9.6

The State Department of Highways and Public Transportation adopts, on an emergency basis, new §9.6 (101.06.00.006) concerning procedures for debarment of a contractor. The pendency of antitrust litigation involving alleged collusion or bidding crimes in connection with highway construction contracts dictates that a procedure be immediately available for disqualification of potential bidders where guilt of such activities is shown in one form or another.

This emergency rule is adopted under Texas Civil Statutes, Articles 6666 and 6674i, which provides the State Highway and Public Transportation Commission with the authority to establish rules for the conduct of the work of the department and specifically as to bidders and bids.

#### §9.6. Procedure for Debarment of a Contractor.

(a) Purpose. It is the policy of the State Highway and Public Transportation Commission to protect the interest of the citizens of Texas by ensuring that contracts for highway improvements be awarded only to firms or individuals who, for each contract, qualify as the lowest responsible bidder. The commission will consider debarring a contractor under the circumstances and procedures outlined as follows.

(b) Definitions. The following words and terms,

when used in this section, shall have the following meanings unless the context clearly indicates otherwise:

(1) **Affiliates**—Two business entities are affiliates if they are so closely connected or associated that one of them, either directly or indirectly, controls or has the power to control the other, if a third party controls or has the power to control both of them, or if they have been so closely allied through an established course of dealings, including but not limited to the lending of financial assistance, engaging in joint ventures, etc., as to create a public perception that the two firms are a single entity.

(2) **Bidding crime**—Any act prohibited by state or federal law, committed in any jurisdiction, and involving fraud, conspiracy, collusion, perjury or material misrepresentation with respect to bidding on any public contract.

(3) **Commission**—The three-member body appointed by the governor of Texas to compose the State Highway and Public Transportation Commission.

(4) **Contractor**—An individual, partnership, corporation, or other business entity which is eligible through prequalification to bid on any contract let by the department.

(5) **Debar, debarment**—To disqualify (the disqualification of) a contractor from contracting with the state for contracts that are the responsibility of the department.

(6) **Department**—The State Department of Highways and Public Transportation.

(7) **Reinstate, reinstatement**—To lift, modify, or suspend (the lifting, modification, or suspension of) debarment.

(c) **Debarment.**

(1) The commission, at its sole discretion, may debar a contractor and/or its affiliates from bidding on contracts let by the department for any of the following reasons:

(A) the contractor's conviction of a bidding crime, any plea of guilty or nolo contendere by the contractor to a charge of a bidding crime, or any public admission to a bidding crime by a contractor, whether made individually or through one or more of its officers or partners, where any actions or activities in furtherance of such bidding crime occurred within the State of Texas or where the relevant public contract was or was to be performed within the State of Texas;

(B) conviction of the contractor within the boundaries of the State of Texas of any offense, including but not limited to the bribery of or the payment of kickbacks or secret rebates to officials, employees or agents of the State of Texas, which indicates a lack of moral or ethical integrity and which reasonably relates to or reflects upon the business practices of the contractor;

(C) debarment of the contractor by the Federal Highway Administration for substantially any of the reasons listed in this paragraph. In such a case, the period of debarment shall be that established by the Federal Highway Administration.

(2) The period of a single debarment shall be no longer than 36 months; however, in the case of multiple offenses by the same contractor arising out of separate occurrences, the commission, under the same process as set forth herein, may order additional periods of debar-

ment, even though the total debarment period exceeds 36 months.

(d) **Hearing prior to debarment.**

(1) It is the policy of the commission that a contractor be afforded the opportunity for a hearing prior to his debarment.

(2) Subject to an agreement between the commission and a contractor subject to debarment concerning some alternative procedure, the commission shall follow §§1.21-1.63 of this title (relating to Contested Case Procedure), in making its decision whether to debar a contractor.

(e) **Reinstatement as a qualified bidder.**

(1) At the discretion of the commission, a debarment may be lifted, modified, or suspended at any time, if it is in the public interest to do so.

(2) Subject to an agreement between the commission and a contractor seeking reinstatement concerning some alternative procedure, the commission shall follow §§1.21-1.63 of this title (relating to Contested Case Procedure), in making its decision whether to reinstate a contractor.

(f) **Factors considered in debarment and reinstatement decisions.**

(1) Any mitigating circumstances may be considered by the commission in making its decision whether to debar or reinstate a contractor. Such circumstances may include, but are not limited to:

(A) the degree of the contractor's culpability;

(B) whether under the facts and circumstances of the contractor's case a lengthy debarment is necessary to protect the interest of the state;

(C) any restitution paid by the debarred contractor for any perceived overcharges or other damages suffered by any unit of government as a result of the contractor's bidding crime;

(D) cooperation by the debarred contractor with the state, the United States, or any other sovereign body in the investigation of bidding crimes, including the contractor's providing a full and complete account of his or its particular involvement therein;

(E) the contractor's disassociation from individuals and firms that have been involved in a bidding crime.

(2) If the commission determines that a contractor falsified, misrepresented, or withheld information in order to secure reinstatement or the modification of an original debarment period, the commission may declare the reinstatement or modification null and void. The commission may seek the assistance and advice of the attorney general to determine whether information submitted by the contractor has in fact been falsified, misrepresented, or does not constitute a complete disclosure.

(g) **Rules applicable to debarment and reinstatement.**

(1) For the purposes of debarment, the illegal or improper conduct of an individual may be imputed to a firm with which he is or was associated or by which he is or was employed when the individual engaged in such conduct within the course of his employment or with the knowledge or approval of the firm.

(2) Debarment of a contractor in no way affects



his contractual obligations to the State of Texas for services already contracted for by the department.

(3) Any contractor qualified with the department to bid on its contracts shall have a duty to notify the department if he has been convicted of a bidding crime, within 30 days of the date of the conviction.

(4) Any procedures contained in the Administrative Procedure and Texas Register Act, Texas Civil Statutes, Article 6252-13a, but not specifically included in the department's "Contested Case Procedure," shall be applicable to proceedings held under these rules.

(h) Notices to contractors. A copy of the foregoing "Procedure for Debarment of a Contractor" shall be mailed to each prequalified contractor.

Issued in Austin, Texas, on January 29, 1982.

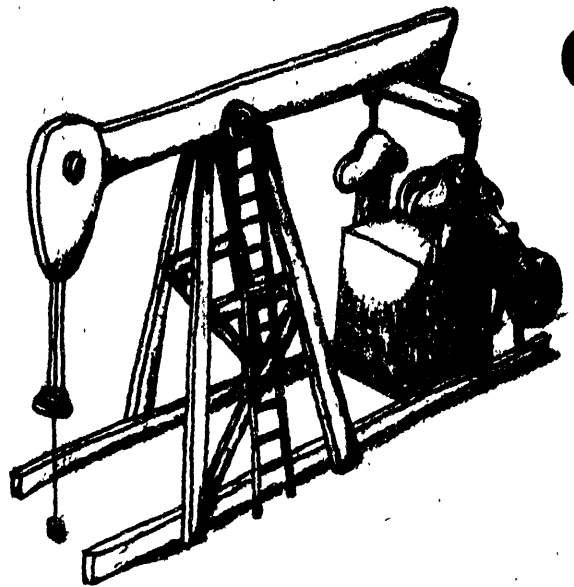
TRD-820992

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

Effective date: January 29, 1982

Expiration date: May 29, 1982

For further information, please call (512) 475-2141.



Thirty days before an agency intends to permanently adopt a new or amended rule, or repeal an existing rule, it must submit a proposal detailing the action in the *Register*. The 30-day time period gives interested persons an opportunity to review and make oral or written comments on the rule. A public hearing on the proposal may also be granted if such a procedure is requested by a governmental subdivision or agency, or by an association consisting of at least 25 members.

Unless a later date is specified or unless a federal statute or regulation requires implementation of the action on shorter notice, the proposal may not be adopted until 30 days after publication. The document, as published in the *Register*, must include a brief explanation of the proposed action; a fiscal statement indicating effect on state or local government; a statement explaining anticipated public benefits and possible economic costs to individuals required to comply with the rule; a request for public comments; a statement of legal authority under which the proposed rule is to be adopted (and the agency's interpretation of the legal authority); the text of the proposed action; and a certification statement. The certification information which includes the earliest possible date that the agency may file notice to adopt the proposal, and a telephone to call for further information, follows each submission.

Symbology in amended 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.

# Proposed Rules

## TITLE 22. EXAMINING BOARDS Part I. Texas Board of Architectural Examiners

### Chapter 3. Landscape Architects Subchapter C. Written Examinations 22 TAC §3.46

The Texas Board of Architectural Examiners proposes amendments to §3.46 (376.02.03.306) concerning grading.

Philip D. Creer, FAIA, executive director, has determined that for the first five-year period the rule will be in effect there will not be fiscal implications to state or local government as a result of enforcing or administering the rule.

The executive director has also determined that for each year of the first five years the rule as proposed is in effect, the public benefits anticipated as a result of enforcing the rule as proposed will be conforming Texas grading practices with national practice to take care of the increased numbers of examination candidates. There will be no economic cost to individuals who are required to comply with the rule as proposed.

Comments on the proposal may be submitted to Philip D. Creer, FAIA, executive director, Board of Architectural Examiners, 5555 North Lamar, H-106, Austin, Texas 78751.

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

Philip Creer  
January 27, 1982

The amendments are proposed under Texas Civil Statutes, Article 249c, §4, which provides the Texas Board of Architectural Examiners with the authority to adopt rules and prescribe forms necessary to administer this Act.

#### §3.46 (376.02.03.306). Grading.

(a) (No change.)

(b) The subjective (problem) portions of Subjects C and D are graded [by the board,] in strict compliance with CLARB standards [and the assistance of professional practitioners] at a place designated by the board.

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

Issued in Austin, Texas, on January 27, 1982.

TRD-820965

Philip D. Creer, FAIA  
Executive Director  
Texas Board of Architectural  
Examiners

Proposed date of adoption: March 8, 1982  
For further information, please call (512) 458-4126.

# Part XXX. Texas State Board of Examiners of Professional Counselors Chapter 681. Professional Counselors

*(Editor's note: This is the final part of a two-part serialization of proposals submitted by the Texas State Board of Examiners of Professional Counselors. Subchapters A through D appeared in the February 2, 1982, issue; Subchapters E through J follow this note and the common preamble below. Proposed date of adoption for all the proposals is March 5, 1982.)*

The Texas State Board of Examiners of Professional Counselors proposes to adopt new sections concerning professional counselors.

Daniel L. Boone, executive secretary, has determined that for the first five-year period the rule will be in effect, there will be fiscal implications as a result of enforcing or administering the rule.

## (A) Effect on state government:

	1982	1983	1984	1985	1986
Estimated additional cost	\$109,798	\$106,322	\$103,322	\$103,322	\$103,322
Estimated reduction in cost	0	0	0	0	0
Estimated increase in revenue	\$109,798	\$106,322	\$103,322	\$103,322	\$103,322

(B) There is no anticipated effect on local government.

Mr. Boone has also determined that for each year of the first five years the rule as proposed is in effect:

(A) The public benefits anticipated as a result of enforcing the rule as proposed will be the establishment of minimum standards of training and conduct for persons providing counseling services; identification of competent counselors offering services to the public; protection of the public's right to choose and to be served by qualified counselors licensed and regulated by the state; and recourse for consumers with complaints against licensees.

(B) The possible economic cost to individuals who are required to comply with the rule as proposed will be:

	1982	1983	1984	1985	1986
Application processing fee	\$25	\$25	\$25	\$25	\$25
Licensure examination fee	0	\$55	\$55	\$55	\$55
Licensure fee	\$50	\$50	\$50	\$50	\$50
Licensure renewal fee	\$45	\$45	\$45	\$45	\$45

Comments on the proposal may be submitted to Daniel L. Boone, executive secretary, Texas State Board of Examiners of Professional Counselors, 1100 West 49th Street, Austin, Texas 78756. A public hearing on the proposals will be held on February 26, 1982, at 2 p.m., in Room T604, 1100 West 49th Street, Austin.

This agency hereby certifies that the proposals have

been reviewed by legal counsel and found to be within the agency's authority to adopt.

Robert A. MacLean, M.D.  
January 22, 1982

The new sections are proposed under Texas Civil Statutes, Article 4512g, §6(e)(2), which provides the Texas State Board of Examiners of Professional Counselors with the authority to adopt and revise with the approval of the Department of Health rules not inconsistent with the law of this state that are necessary to administer this Act.

## Subchapter E. Academic Requirements for Examination and Licensure

### 22 TAC §§681.121-681.125

§681.121. *Purpose.* The purpose of this rule is to set out the academic requirements for examination and licensure as a counselor.

### §681.122. *General.*

(a) The board shall accept as meeting licensure requirements graduate work done only at American universities which hold accreditation or candidacy status from accepted regional educational accrediting associations.

(b) Degrees and course work received at foreign universities shall be acceptable only if such course work could be fully counted as transfer credit from accredited universities as reported by the American Association of Collegiate Registrars and Admissions Officers.

(c) The relevance to the licensing requirements of academic courses the titles of which are not self-explanatory must be substantiated through course descriptions in official school catalogs of bulletins or other means.

(d) The board shall count no undergraduate courses taken by an applicant as meeting any academic requirement unless the applicant's official graduate transcript clearly shows that the course was taken for and given graduate credit by the school.

(e) The board shall accept no course work which an applicant's transcript indicates was not completed or was withdrawn from either passing or failing.

(f) The board shall not accept as meeting an academic requirement any course for which the applicant received a failing grade. In the case of course work taken outside a program of studies for which a degree was granted, no course in which the applicant received a grade below C shall be counted toward meeting academic requirements for examination or licensure.

(g) In evaluating transcripts, the board shall consider a quarter hour of academic credit as 2/3 of a semester hour.

(h) A person who wishes to make up academic deficiencies may assure that the additional work done will be acceptable to the board by submitting an official application and a proposed plan to complete academic requirements which the board will evaluate.

### §681.123. *Academic Requirements for Licensure before September 1, 1982.*

(a) Persons applying for licensure before September

1, 1982, must have at least a master's degree from an accredited school and

(b) thirty semester hours in the field of counseling or its substantial equivalent.

(1) The 30 hours may be a part of the course work taken for required master's degree.

(2) The substantial equivalent of 30 semester hours of counseling shall be 30 semester hours in course work designed to train a person to provide direct services to assist individuals or groups in a counseling relationship in the resolution of personal-social, educational, or occupational problems.

(c) Licensure of counselors before September 1, 1982, shall be without examination except that the board may require an examination if it is unable to determine the applicant's competence through an examination of the credentials submitted.

**§681.124. Academic Requirements Effective on September 1, 1982.**

(a) Persons applying for examination and licensure after August 31, 1982, must have:

(1) a graduate degree on at least the master's level,

(2) a planned graduate program in counseling or its substantial equivalent of at least 45 semester hours which an applicant completed at an accredited school. The 45 semester hours may be course work taken in the required graduate degree program.

(b) The substantial equivalent of a planned graduate program in counseling of at least 45 semester hours shall be any planned graduate program of at least 45 semester hours which was designed to train a person to provide direct services to assist individuals or groups in a counseling relationship in the resolution of personal-social, educational, or occupational problems.

(c) Applicants must also have a supervised practicum in counseling of at least 300 clock hours which was a part of the required planned graduate program.

(1) The required practicum must have been primarily in the provision of direct counseling services.

(2) Academic credit or other acknowledgement of the practicum must appear on the applicant's official graduate transcript.

(3) No practicum course intended primarily for practice in the administration and grading of appraisal or assessment instruments shall count toward the 300 clock hour requirement.

**§681.125. Academic Requirements Effective on September 1, 1984.**

(a) Effective on September 1, 1984, an applicant must have as a part of the required graduate degree or planned graduate program in counseling or the substantial equivalent course work in the following specific areas:

(1) Normal human growth and development—Any course which deals with the process and stages of human intellectual, physical, social, and emotional development from prenatal origins through old age.

(2) Abnormal human behavior—Any course which offers study in the principles of understanding dysfunction in human behavior or social disorganization.

(3) Appraisal or assessment techniques—Any

course which deals with the principles, concepts, and procedures of systematic appraisal or assessment of client needs which may include the use of both nontesting approaches and test instruments but not projective techniques.

(4) Counseling theories—Any course which surveys the major theories of counseling.

(5) Counseling methods or techniques—At least two courses in methods or techniques used to provide counseling services including one course in counseling individuals.

(6) Group dynamics, theories, techniques—Any course dealing with the theory and types of groups including dynamics and the methods of practice with groups.

(7) Research—Any course in the methods of research which may include the study of statistics or a thesis project in an area relevant to the practice of counseling.

(8) Life style and career development—Any course which deals primarily with areas such as theories of vocational choice, career choice and life style, sources of occupational and educational information, and career decision-making processes.

(9) Social and cultural foundations—Any course which deals primarily in areas such as studies of change, ethnic groups, roles of women, urban and rural societies, population patterns, cultural patterns, and differing life styles.

(10) Professional orientation—Any course which deals primarily with the objectives of professional organizations, codes of ethics, legal aspects of practice, standards of preparation, and the role identity of persons providing direct counseling services.

(11) The remaining courses needed to meet the 45 graduate hour requirement shall be in areas directly supporting the development of an applicant's counseling skills such as practicum or internship credit, courses to meet specialty requirements, and other counseling-related courses.

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TRD-820810 Robert A. MacLean, M.D.  
Deputy Commissioner  
Professional Services  
Texas Department of Health

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For further information, please call (512) 458-7511.

**Subchapter F. Experience Requirements for Examination and Licensure**

**22 TAC §§681.141-681.145**

**§681.141. Purpose.** The purpose of this rule is to set out the experience requirements for examination and licensure as a counselor.

**§681.142. Experience Requirements for Licensure before September 1, 1982.**

(a) Persons applying for licensure before September

1, 1982, must have completed two calendar years or 2,000 clock hours of experience working in a counseling setting.

(b) Experience submitted to meet the two years or 2,000 clock hour requirement must have been primarily in the provision of direct counseling services within a professional relationship.

**§681.143. Experience Requirements Effective on September 1, 1982.**

(a) Effective September 1, 1982, applicants for examination must have completed two calendar years or 2,000 clock hours of supervised counseling experience acceptable to the board.

(b) Experience submitted in terms of years reflects a total of at least 2,000 clock hours of practice or an average of at least 20 clock hours per week or practice.

(c) Experience shall be acceptable to the board if:

(1) it was begun and completed after the completion of a graduate degree in counseling or its substantial equivalent or after the completion of a planned graduate program of at least 45 semester hours in counseling or its substantial equivalent; however, on a case by case basis, the board may count practicum or internship which was part of an applicant's academic training and in excess of the required practicum hours toward the supervised experience requirement provided that the applicant requests this consideration in writing;

(2) it consisted primarily of the provision of direct counseling services within a professional relationship to individuals or groups to assist them in the resolution of personal-social, educational, or occupational problems;

(3) the applicant received direct supervision consisting of at least one hour a week of face-to-face supervision in individual or group supervision with no more than one-half of the total hours of supervision having been received in group supervision; and

(4) the experience was under the direct supervision of a professional acceptable to the board.

**§681.144. Supervisor Requirements.**

(a) A supervisor acceptable to the board must be one of the following.

(1) A person licensed by the board who has the academic training and experience or specialty designation to supervise the counseling services being provided by a counseling intern.

(2) A person licensed in another state or in a profession other than counseling with the academic training and experience to supervise the counseling services offered by the intern. The person must submit to the board proof of licensure and certification, official graduate transcripts, and other appropriate documentation.

(3) A person in a geographical area where no appropriate licensure is available who submits to the board a completed application form, relevant official graduate transcripts, documentation of practicum and experience, and any professional certifications which demonstrate that the person meets the current requirements for examination and licensure by the board and is qualified to supervise the type of counseling practice performed by the intern.

(b) Beginning on September 1, 1982, a supervisor must be registered and approved by the board by sub-

mitting an annual notarized board form as well as the other required documentation of credentials before any supervision provided by the supervisor will be considered.

**§681.145. Other Conditions for Supervised Experience.**

(a) A person who is in the process of completing requirements for licensure shall not engage in any private independent practice of counseling until officially licensed by the board.

(b) During the period of supervised experience, a counseling intern must be employed on a salary basis. The board may require that the applicant provide documentation of all work experience.

(c) During internship, the full professional responsibility for the counseling activities of an intern shall rest with the intern's official supervisor.

(d) All supervised experience submitted in fulfillment of the board's requirements must have been on a formal basis by contract or other specific arrangement prior to the period of supervision. Supervision arrangements must include all specific conditions agreed to by the supervisor and supervisee.

(e) Group supervised experience of an applicant for examination may count toward an applicant's experience requirement only if the supervision group consisted of no more than six supervisees.

(f) Individual supervision of an applicant shall count toward the applicant's experience requirement only if the supervisor supervised no more than eight persons at any one time either in group or individual supervision for the inclusive dates of the applicant's supervised experience.

(g) An applicant may have no more than two supervisors without board approval. The applicant's former supervisor or agency must submit a notarized statement explaining the reasons for the change of supervisor.

(h) A person beginning internship may assure that it meets the requirements of the board by submitting an application form and fee, documentation of practicum and a copy of the signed supervision contract, a notarized statement from the supervisor or official document from an agency or other organization outlining the details of the internship to which the board will reply. The documents and fee submitted will be considered part of the application for examination and will not need to be resubmitted.

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Texas Department of Health

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## **Subchapter G. Licensure Examinations**

### **22 TAC §§681.161-681.170**

**§681.161. Purpose.** The section on licensure examinations sets out the board's rules governing the administration, content, grading, and other procedures for examination for licensure.

**§681.162. Frequency.** The board shall administer licensure examinations at least twice a year or as often as deemed necessary.

**§681.163. Applying for Examination.**

(a) The board shall notify an applicant whose application has been approved at least 30 days prior to the date of the next scheduled examination.

(b) An applicant who wishes to take a scheduled examination must complete an examination registration form and return it to the board with the required fee at least 15 days prior to the date of the examination.

**§681.164. Forms of Examination.** The examination for licensure may be any of the following:

(1) a field examination through questionnaires answered by persons competent to evaluate an applicant's professional competence which may include the submission of written case studies and taped interviews with an applicant's instructors, employers, supervisors, and others or submission of such documentary evidence relating to an applicant's experience and competence as required by the board;

(2) a written examination; or

(3) any other examination prescribed by the board.

**§681.165. Locations.** Written examinations will be administered in Austin, Texas, unless otherwise announced by the board.

**§681.166. Grading.**

(a) Licensure examinations shall be graded by the board.

(b) Written examinations shall be identified by number and graded anonymously in order to insure impartiality.

**§681.167. Failures.**

(a) An applicant who fails the licensure examination may reapply and take a subsequent examination.

(b) An applicant who fails two successive examinations may not reapply until two years have elapsed from the date of the last examination or until the applicant has completed nine graduate semester hours recommended by the board.

(c) If requested, the board shall furnish an applicant who fails an examination an analysis of performance.

**§681.168. Notice of Results.**

(a) The board shall notify each examinee of the examination results within 30 days of the date of the examination.

(b) No matter what numerical or other scoring system, the board may use in arriving at examination results, the official notice of results to applicants shall be stated in terms of "pass" or "fail."

(c) If the notice of examination results will be delayed for more than 90 days after the date of the examination, the board shall notify the applicant before the 90th day.

**§681.169. Failure To Appear for Examination.** If an applicant fails to appear for examination for reasons other than documented illness or other cause beyond the applicant's control after having agreed to do so by apply-

ing to take a particular examination, the applicant must reapply and pay another examination fee before being admitted to a subsequent examination.

**§681.170. Failure To Apply.** The application of a person who fails to apply for and take one of the first two examinations scheduled after the applicant has been notified in writing of his approval for examination, shall be voided and the applicant shall be so notified.

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## Subchapter H. Application Procedures

### 22 TAC §§681.181-681.183

**§681.181. Purpose.** The purpose of these rules is to set out the application procedures for examination and licensure.

**§681.182. General.**

(a) Unless otherwise indicated, an applicant must submit all required information and documentation of credentials on official board forms.

(b) The board will not consider an application as officially submitted until the applicant pays the application fee. The fee must accompany the application form.

(c) The board must receive all required application materials at least 45 days prior to the date the applicant wishes to take the examination.

(d) The board will send a notice to an applicant who does not complete application in a timely manner listing the additional materials required. An application not completed within 30 days after the date of the board's notice may be voided.

(e) The board will consider a person who files a completed application form and fee before September 1, 1982, as meeting the deadline for licensure without examination and may complete the processing of the person's materials after that date. A person allowed to submit materials after August 31, 1982, to meet requirements for licensure without examination must have completed all academic and experience requirements by that date.

**§681.183. Required Application Materials.**

(a) Application form. The application form shall contain:

(1) specific information regarding personal data, employment and type of practice, other state licenses and certifications held, felony convictions, educational background including practicum experience, supervised experience, and references;

(2) a statement that the applicant has read the Licensed Professional Counselor Act and board rules and agrees to abide by them;

(3) a statement by which the applicant holds the board and its agents free from any damage or claim for damage by reason of any action taken in connection with

the application, an examination, or any other aspect of licensing;

(4) the applicant's permission to the board to seek any information or references it deems fit to determine the applicant's qualifications;

(5) a statement that the applicant, if issued a license, shall return the license to the board upon the revocation or suspension of the license;

(6) a statement that the applicant understands that fees submitted in the licensure process are nonrefundable;

(7) the signature of the applicant, dated and notarized; and

(8) have affixed a recent full face wallet size photograph of the applicant with the imprint of the notary seal on the edge.

(b) Practicum report form. The practicum report form shall contain:

(1) the applicant's name;

(2) the name and address of agency or organization where the practicum was done (a separate form should be used for each practicum);

(3) the name, address, degree, position, and licensure status of the supervisor of the practicum;

(4) the inclusive dates of the practicum, the number of clock hours of practice, the number of academic semester hours awarded, and the name of the school at which the practicum was taken;

(5) the type of setting, the kinds of clients seen, and the counseling methods employed;

(6) an evaluation of the counseling skills of the applicant; and

(7) the signature of the supervisor or agency or school official who can formally attest to the applicant's practicum experience.

(c) Supervised experience form. The supervised experience form must be completed by the applicant's supervisor and contain:

(1) the name of the applicant;

(2) the name, address, degree, licensure status, and references to credentials of the applicant's supervisor;

(3) the name and address of the agency or organization where the experience was gained;

(4) the inclusive dates of the supervised experience and the total number of hours of practice;

(5) the number of hours of weekly face-to-face supervision given to the applicant, the total number of supervisory hours received by the applicant in the experience, and the types of supervision used;

(6) the applicant's employment status during supervised experience;

(7) the types of clients seen and counseling methods used;

(8) the supervisor's evaluation of the applicant's counseling skills and competence for independent or private practice; and

(9) the supervisor's notarized signature.

(d) Graduate transcripts. An applicant must have the official transcript(s) of all relevant graduate work sent directly to the board by the applicant's school(s).

(e) References. An applicant must have board reference forms submitted by three persons who can at-

test to the applicant's counseling skills and professional standards of practice.

(1) The references shall be persons who are not named elsewhere in the applicant's application and are not current members of the board.

(2) After September 1, 1982, references must include at least one instructor and one licensed counselor. All references must be persons in the counseling profession or appropriately related professions.

(f) Other documents. Vitas, resumes, and other documentation of the applicant's credentials may be submitted.

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Texas Department of Health

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## **Subchapter I. Licensing**

### **22 TAC §§681.191-681.193**

§681.191. *Purpose.* The purpose of these rules is to set out licensing procedures of the board.

§681.192. *Issuance of Licenses.*

(a) The board will send each applicant whose application has been approved and has passed the examination, if applicable, a licensure form to complete and return with the licensure fee in the form of a certified check or money order.

(b) Upon receiving an applicant's licensure form and fee, the board shall issue the person a license containing a license number and specialty designation, if any.

(c) The board will replace a lost, damaged, or destroyed license certificate upon a written request from the counselor and payment of the license replacement fee. Request must include a notarized statement detailing the loss or destruction of the counselor's original license or be accompanied by the damaged certificate.

(d) Upon the written request and payment of the license certificate duplicate fee by a licensee, the board will provide a licensee with a duplicate for a second place of practice which is designated in a licensee's file.

§681.193. *Reciprocity.* The board may grant a license without examination to a person who holds at the time of application a license or certificate issued by a state or territory acceptable to the board if the minimum requirements for the license or certificate are equivalent to or exceed the licensing requirements of the board which are in effect at the time of application.

(1) The board shall consider only states and territories of the United States acceptable for the purposes of reciprocal licensing.

(2) In the case of licensing by reciprocity, the board shall waive only the examination requirement for licensure. All application materials and the application and licensure fees must be paid by the applicant.

(3) An applicant applying to licensing by

reciprocity must submit a copy of the license or certificate by which the reciprocal licensure is requested, a copy of the statute, and rules of the agency issuing the license and the name and address of the licensing agency.

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## Subchapter J. License and Specialty Renewal

### 22 TAC §681.201-681.206

**§681.201. Purpose.** The purpose of these rules is to set out the rules governing license and specialty renewal.

**§681.202. General.**

(a) A counselor must renew licensure and specialty designation annually.

(b) Each counselor is responsible for renewing licensure and specialty designation before the expiration date and shall not be excused from paying late additional fees or penalties for late renewal.

(c) The renewal date of a license shall be the last day of the month in which the license was originally issued.

(d) Regardless of the date the board granted a specialty designation, the date of a specialty renewal shall become the same date as that for licensure renewal.

(e) The board will not renew the license of a counselor who is in violation of the Licensed Professional Counselor Act or board rules at the time of application for renewal.

(f) A counselor must have fulfilled any continuing education requirements prescribed by board rule in order to renew licensure or specialty designation.

**§681.203. Staggered Renewals.** The board shall use a staggered system for licensure renewals.

(1) Licensure fees will be prorated if the licensee's initial renewal date as determined by the board occurs less than 12 months after the original date of licensure.

(2) Prorated fees shall be rounded off to the nearest dollar.

**§681.204. Licensure Renewal.**

(a) At least 45 days prior to the expiration date of a person's license, the board will send notice to the licensee of the expiration date of the license, the amount of the renewal fee due and a licensure renewal form which the licensee must complete and return to the board with the required fee.

(b) The licensure renewal form shall require the licensee to provide current addresses and telephone numbers, and such information as continuing education completed and type of practice.

(c) The board shall not consider a license to be renewed until it receives both the completed license renewal form and the renewal fee.

(d) The board shall issue a renewal certificate to a licensee who has met all requirements for renewal. The licensee must display the renewal certificate in association with the license.

**§681.205. Specialty Renewal.**

(a) In addition to the annual licensure renewal notice, the board will provide a specialty renewal form to a licensee who holds a specialty designation.

(b) The specialty renewal form and fee is due the same day as the licensure renewal.

(c) A licensee approved for a specialty must meet all current renewal requirements including continuing education requirements in order to renew that specialty.

(d) Upon receipt of the licensee's completed specialty renewal form and the fee for the renewal of a license issued with a specialty designation, the board shall include the specialty on the licensure renewal certificate.

(e) The board shall issue a licensee who meets licensure renewal requirements but fails to meet specialty renewal requirements a license renewal certificate without the specialty designation.

**§681.206. Late Renewal.**

(a) A person who renews a license or a license with a specialty designation after the expiration due date but within 30 days after the expiration date shall pay the appropriate late renewal fee.

(b) The board shall inform a person who has not renewed a license or a license with a specialty designation after a period of more than 30 days of the expiration date of the license and the amount of the fee required for renewal.

(c) The board shall revoke the license of any person not renewing within 90 days of the expiration date.

(1) The board shall revoke an unrenewed license by a majority vote at a regular meeting and no formal hearing will be scheduled unless the revocation is contested.

(2) Upon the revoking of a person's license for failure to renew, the board shall notify the person by certified mail of the revocation and shall require the person to return the license to the board.

(d) A person whose license has been revoked for failure to renew may apply for reinstatement within one year of the expiration date by paying the appropriate licensure renewal fee plus a late penalty fee in the form of a certified check or money order which the person must submit with the required license renewal form and a letter stating the reasons for the failure to make a timely renewal.

(e) After one year from the expiration date, a person may no longer reinstate the license and must reapply by submitting a new application, paying the required fees, and passing the licensure examination.

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**TITLE 25. HEALTH SERVICES**  
**Part I. Texas Department of Health**  
**Chapter 119. Health Care Facilities**  
**Code of Professional Responsibility**  
**25 TAC §§119.1-119.7**

The Texas Department of Health proposes new §§119.1-119.7 concerning a code of professional responsibility regulating the conduct of department employees who carry out inspections and surveys of health care facilities.

Stephen Seale, chief accountant III, budget and planning office, has determined that for the first five-year period the rule will be in effect, there will be fiscal implications as a result of enforcing or administering the rule. The effect on state government will be an estimated additional cost of \$5,000 in 1982; and \$5,290 each year for years 1983-1986. There will be no effect on local government.

Mr. Seale has also determined that for each year of the first five years the rule as proposed is in effect the public benefits anticipated as a result of enforcing the rule as proposed will be establishing standards of conduct and ethics for health care inspectors having a direct impact upon the lives, safety, health, and welfare of Texas citizens cared for in health care facilities. There will be no economic cost to individuals who are required to comply with the rule as proposed.

Comments on the proposal may be submitted to Cesar M. Elizondo, M.D., chief, Bureau of Long-Term Care, Texas Department of Health, 1100 West 49th Street, Austin, Texas 78756. Public comments will be received for 30 days after publication. A hearing will be conducted February 25, 1982, at 10 a.m. at the Texas Department of Health auditorium.

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

Robert A. MacLean, M.D.  
January 22, 1982

The new sections are proposed under Texas Civil Statutes, Article 4437h, §5, which provides the Texas Department of Health with the authority to promulgate a code of professional responsibility which shall regulate the conduct of employees of the agency who carry out inspections and surveys of health care facilities.

**§119.1. Introduction and Purpose.**

(a) Inasmuch as the procedures, judgments, decisions, and conduct have a direct and vital impact upon the lives, safety, health, and welfare of all Texas citizens cared for in health care facilities, the Texas Legislature has charged the Texas Department of Health with the responsibility and authority for making and enforcing all rules and regulations necessary to establishing standards

of conduct and ethics for department employees who carry out inspections and surveys of health care facilities. The legislature has expressly declared that a code of conduct is imperative and is a public necessity.

(b) Accordingly, the Texas Department of Health does hereby make and establish such standards of ethics and conduct for the inspectors and surveyors of health care facilities by authority of Texas Civil Statutes, Article 4437h, §5 and §6. Such standards and ethics shall be known as the code of professional responsibility. The canons are concise, axiomatic statements of the obligations and responsibility of state employees to the public and to the State of Texas. They embody general concepts from which the ethical considerations and the disciplinary rules are derived.

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

Board—Texas Board of Health.

Complainant—Any party who has filed a signed, written complaint with the board against any party subject to the jurisdiction of the board.

Department—Texas Department of Health.

Patient—Resident, patient, client, or person who is provided care by the health care facility.

Person—Any individual, partnership, corporation, association, governmental subdivision, or public or private organization of any character other than an agency.

Shall—Indicates mandatory requirements.

Should—Indicates a recommendation.

Surveyor or inspector—An employee of the Texas Department of Health whose responsibility it is to inspect and survey health care facilities.

State employee—An employee of the Texas Department of Health.

**§119.3. Canon I: Ethical Considerations Which Shall Govern the State Employee Who Inspects and Surveys Health Care Facilities.**

(a) The state employee shall avoid all conflicts of interest.

(b) The state employee shall not accept unauthorized compensation, material favors, or benefits of any substantial nature.

(c) The state employee shall not, directly or indirectly, use or make use of any property, facility, or service of any governmental body, agency, or department for the benefit of any private business or activity.

(d) The state employee shall not commit any act that reflects adversely on his or her fitness to engage in the performance of duty.

(e) The state employee shall maintain high standards of personal conduct.

(f) The state employee shall strive to become and remain proficient in the performance of his or her professional function.

(g) The state employee shall act in accordance with the highest standard of professional integrity and conduct.

(h) The state employee will have access to confidential information on facilities, their personnel, medical staff, patients, and state agency matters. It is a critical responsibility of his or her position to protect the confidentiality of this information from unauthorized disclosure.

(i) The state employee shall not discuss findings and any information gained during the course of duty, except as authorized by law or statute.

(j) The state employee shall not discuss with facility personnel, patients, visitors, or family members, the findings in other named facilities.

(k) The state employee, during the course of duty, shall base his or her relations with others without distinction to race, color, creed, economic, or social status.

(l) The state employee, during the course of duty, shall endeavor to understand the points of view of facility personnel, patients, and other persons affected by the inspection or survey.

**§119.4. Canon II: Ethical Considerations Which Shall Be a Guide to the State Employee Entering a Health Care Facility.**

(a) The state employee shall inform the administrator/owner or person in charge of the facility of the purpose of the visit.

(b) The state employee shall endeavor to establish initial rapport with the health facility staff.

(c) The state employee shall arrange to enter the facility during normal facility business hours, except where the nature of the inspection requires otherwise.

**§119.5. Canon III: Ethical Considerations Which Shall Be a Guide to the State Employee During the Performance of Duty in a Health Care Facility.**

(a) The state employee, to the extent practical, shall conduct the inspection or survey during the normal business hours of the facility.

(b) The state employee required to enter restricted areas shall observe all rules of courtesy and use the prescribed aseptic technique.

(c) The state employee shall observe all rules of the facility which do not conflict with regulatory responsibilities.

(d) The state employee shall not visit areas where a patient is being treated or examined unless deemed necessary for completion of the inspection. Observation shall be done by qualified staff.

(e) The state employee, during the course of duty, shall be quiet, brief, but thorough, and not make critical comments in the presence of patients, visitors, and family members.

(f) The state employee shall not disturb any patient unless necessary to conduct the inspection. If the patient is aware of his or her presence, he or she shall endeavor to put the patient at ease.

(g) The state employee shall not criticize a fellow employee/or facility employee or regulation while performing his or her duty.

(h) The state employee shall avoid discussion of any sensitive topic not related to his or her visit to the facility.

(i) The state employee shall collaborate with appropriate members of related health disciplines in the interest of the patients' health care.

(j) The state employee shall be responsible for accurate reporting and documentation of information accumulated in the facility.

(k) The state employee shall be prompt, brief, but thorough, and concise when communicating with families.

(l) The state employee shall in no way come into physical contact with a patient other than in a professional manner.

(m) The state employee shall secure the permission of the patient, or when such is not possible, appropriate facility staff acting on behalf of the patient, if it becomes necessary in the course of duty to investigate the patient's private possessions.

**§119.6. Canon IV: Ethical Considerations Which Shall Be a Guide to the State Employee While Conducting the Exit Critique.**

(a) The state employee approach shall be one of education, consultation, and implementation of regulations.

(b) The state employee shall endeavor to establish a rapport with the health facility staff so that the staff will realize his or her sincere interest in the facility and the care given.

(c) The state employee shall deal with issues that show deviation from the accepted and customary practices of all disciplines.

(d) The state employee shall observe the proper protocol in the exit conference, documentation of findings, clear and precise statements of deficiencies, and proper action necessary for correction.

(e) The state employee shall not discuss any information gained in communicating with the families except as necessary to perform his or her regulatory responsibilities.

**§119.7. Canon V: Complaints of Code Violations.**

(a) It is the policy of the Texas Department of Health that all complaints against a surveyor or inspector of a health care facility be fully and impartially investigated within a specific period. All complaints received shall be considered allegations until such time as an on-site or other appropriate investigation can document the validity of the allegations.

(b) The public health regional director shall appoint an investigating team, whose duty it shall be to receive, investigate, and forward their findings to him or her. The regional director shall then take appropriate action and forward the results to the complainant.

(c) The public health regional director shall make every effort to eliminate the possibility of vindictiveness on the part of an inspector or surveyor after a complaint has been filed.

Issued in Austin, Texas, on January 22, 1982.

TRD-820926

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

Proposed date of adoption: March 8, 1982  
For further information, please call (512) 458-7706.

## Chapter 169. Veterinary Public Health

### Care of Animals by Circuses, Carnivals, and Zoos

25 TAC §§169.41-169.48

The Texas Department of Health proposes new §§169.41-169.48 concerning the operation of circuses, carnivals, and zoos. The rules include definitions; standards for facilities for housing animals; transportation of animals; food and water requirements; care in transit; license applications, fees, physical location, renewal, denial, suspension and revocation; and inspection agents.

Stephen Seale, Chief Accountant III, Program Budgetary Services Division, has determined that for the first five-year period the rule will be in effect, there will be fiscal implications as a result of enforcing or administering the rule. The effect on state government will be an estimated additional cost of \$3,769 in 1982 and \$5,412 each year for years 1983 through 1986. There will be an estimated increase in revenue of \$3,900 in 1982 and \$5,500 each year for years 1983 through 1986. There will be no effect on local government.

Mr. Seale has also determined that for each year of the first five years the rule as proposed is in effect the public benefits anticipated as a result of enforcing the rule as proposed will be to provide for more humane conditions for animals and to protect public health and safety by establishing standards for housing, sanitation, control, care and transportation of animals in circuses, carnivals and zoos. The possible economic cost to individuals who are required to comply with the rule as proposed will be a license fee of \$200-\$400 per year for years 1982 through 1986. There will be no increase in facility cost if current facilities meet rule requirements. Cost to upgrade substandard facilities will vary according to conditions and size of facilities.

Comments on the proposal may be submitted to F.V. McCasland, D.V.M., M.P.H., Texas Department of Health, 1100 West 49th Street, Austin, Texas 78756.

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

Robert A. MacLean, M.D.  
January 26, 1982

The new sections are proposed under Texas Civil Statutes, Article 4447v, §11, which provides the Texas Board of Health with the authority to adopt rules to cover the care of animals in circuses, carnivals, and zoos.

**§169.41. Introduction.** The purpose of these rules is to establish standards regarding the care of animals in circuses, carnivals, and zoos which will promote humane conditions for these animals and public health and safety.

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

Act—Texas Civil Statutes, Article 4447v, the legislative authority for these rules.

Animal—Any live, warm-blooded animal which is used for exhibition purposes; except birds, rats, mice, and domestic farm animals used for food and fiber.

Board—Texas Board of Health.

Commissioner—Commissioner of the Texas Department of Health.

Department—Texas Department of Health (TDH).

Housing facility—Any room, building, or area used to contain a primary enclosure or enclosures.

Primary enclosure—Any structure used to immediately restrict an animal or animals to a limited amount of space, such as a room, pen, compartment, or hutch.

Sanitize—To make physically clean and to destroy disease producing agents.

Zoonosis Control Division (ZCD)—Division of the Bureau of Veterinary Public Health of the Texas Department of Health to which the responsibility for implementing these rules as assigned.

**§169.43. Facilities for Housing the Animals.**

(a) Housing facilities shall:

(1) be structurally sound and maintained in good repair in order to protect the animals from injury, to contain them, and to prevent exposure to other animals;

(2) have reliable and adequate electric power, if required to comply with other provisions of this subsection, and adequate potable water shall be available;

(3) store and adequately protect supplies of food and bedding against infestation or contamination by vermin and provide refrigeration for supplies of perishable food;

(4) make provision for the removal and disposal of animal and food wastes, bedding, dead animals, and debris, and provide and operate disposal facilities so as to minimize vermin infestations, odors, and disease hazards; and

(5) provide for employees facilities for personal hygiene, including washrooms, basins, or sinks.

(b) Indoor facilities shall:

(1) be sufficiently heated to protect the animals when necessary;

(2) be adequately ventilated to provide for the health and comfort of the animals at all times by providing fresh air either by means of windows, doors, vents, or air conditioning; and be ventilated so as to minimize drafts, odors, and moisture condensation;

(3) have ample light to permit routine inspection and cleaning during the entire work period;

(4) have interior building surfaces constructed and maintained so that they are impervious to moisture and may be readily sanitized; and

(5) have a method to eliminate excess water rapidly.

(A) If drains are used, they shall be properly constructed and kept in good repair to prevent foul odors.

(B) If closed drainage systems are used, they shall be equipped with traps and so installed as to pre-

vent any backup of sewage onto the floor of the room.

(c) Outdoor holding facilities shall:

(1) be of adequate size and construction to handle any animal housed therein;

(2) provide adequate shelter to protect animals from any form of overheating or cold or inclement weather;

(3) be constructed in such a manner that they will protect the animal;

(4) be readily sanitized, and not create a nuisance; and

(5) provide a suitable method to eliminate excess water rapidly.

(d) Primary enclosures shall:

(1) be structurally sound and maintained in good repair;

(2) provide convenient access to clean food and water;

(3) enable the animal to remain dry and clean;

(4) be constructed so as to protect the animal's feet and legs from injury; and

(5) provide sufficient space to allow each animal to turn around fully, stand, sit, and lie in a comfortable, normal position.

(e) Feeding shall:

(1) be at least once a day except as otherwise directed by a licensed veterinarian and with food free from contamination, wholesome, palatable, and of sufficient quality and nutritive value to meet the normal daily requirements for the condition and size of the animal(s); and

(2) be in food receptacles accessible to each animal and located so as to minimize contamination by excreta.

(A) Feeding pens shall be durable and kept clean and sanitary.

(B) Disposable food receptacles may be used but must be discarded after each feeding.

(C) Self feeders may be used, but must be kept clean and sanitary to prevent molding, deterioration, or caking of feed.

(f) If potable water is not accessible to the animal(s) at all times, it shall:

(1) be offered at least twice daily for periods of not less than one hour, except as directed by a licensed veterinarian; and

(2) be in watering receptacles which are kept clean and sanitary.

(g) Sanitation of primary enclosures shall include:

(1) having excreta removed as often as necessary to prevent contamination of the inhabitant(s) and to reduce disease hazards and odors;

(2) having cages, rooms, and pens maintained in a sanitary condition; and

(3) having building and premises kept clean.

(h) A regular program for the control of insects, ectoparasites, and other pests shall be established and maintained.

#### **§169.44. Transportation of Animals.**

(a) Primary enclosure construction. All compartments, transport cages, cartons, or crates shall be constructed in such a manner that:

(1) structural strength and size are sufficient to

contain the live animals and to withstand the normal rigors of transportation;

(2) the interior is free of protrusions that could be injurious to the animal(s);

(3) the openings to the enclosure are easily accessible at all times for emergency removal;

(4) the enclosure is adequately ventilated to allow free movement of air through the enclosure;

(5) projection rims on the outside of the enclosure are sufficiently wide to prevent adjacent containers from restricting the air flow;

(6) l and holds are provided to enable the primary enclosure to be lifted without tilting and to ensure that the person handling the primary enclosure will not be in contact with the animal(s);

(7) the size is adequate to allow the animal to turn about freely and to make normal postural adjustments, except when restriction of movement is essential to prevent danger to the animals, handlers, or other persons; and

(8) the bottom is solid to prevent leakage in shipment and still be sanitized at destination prior to reuse. Litter will be clean and of a suitable absorbent material which is safe and nontoxic and in sufficient quantity to absorb and cover excreta.

(b) Transportation in primary enclosure. Primary enclosures used to transport live animals shall:

(1) separate animals by species and maintain them in compatible groups;

(2) not have live animals that have not reached puberty in the same primary enclosure with adult animals other than their dam; and

(3) not transport a female animal in season (estrus) in the same primary enclosure with any male animal.

(c) Primary conveyances. The animal cargo space of primary conveyances transporting live animals shall:

(1) be designed and constructed to protect the health, and ensure the safety and comfort of the live animals contained therein at all times;

(2) have no ingress of engine exhaust fumes and gases from the primary conveyance into the animal cargo space;

(3) have adequate air for normal breathing and the primary enclosures so arranged that there is no restriction of air flow;

(4) be arranged for easy opening in case of emergency;

(5) have the interior of the animal cargo space kept clean; and

(6) be free of hazardous materials unless proper precautions have been taken to prevent injury.

#### **§169.45. Food and Water Requirements.**

(a) Each live animal shall be fed a sufficient quantity of food once in each 24-hour period unless there are special instructions given by a licensed veterinarian.

(b) Potable water shall be provided every 12 hours.

#### **§169.46. Care in Transit.** The carrier, driver, or other employee shall be responsible to:

(1) observe the live animals visually during surface transportation as frequently as circumstances may dictate, but not less than once every four hours;

(2) provide any needed veterinary care as soon as possible if a live animal becomes in obvious physical stress;

(3) not remove wild or otherwise dangerous animals from their primary enclosure except under extreme emergency conditions, and if the wild animal requires moving, provide a secondary enclosure of adequate strength and size to contain the animal;

(4) provide shade to protect the live animal when sunlight is likely to cause overheating or discomfort in such a manner that the surrounding air temperature should not fall below 7.2° C. (45° F.) nor be allowed to exceed 29.5° C. (85° F.); and

(5) provide protection to live animals allowing them to remain dry during rain or snow.

**§169.47. Licenses.**

**(a) Types.**

(1) A regular operating license is issued for a period of two years from date of issue or such lesser period as the board shall deem appropriate for circuses or animal variety shows which are not resident in Texas and which are not exempt by law.

(2) A temporary operating license is issued until a regular license is issued or the temporary license is revoked for cause and is valid for two years from the date of application or until approval or denial of a regular operating license.

(b) Application. Each person amenable to provisions of the Act shall make application for an operating license on forms provided by the department.

(c) Renewal procedure. Each licensee desiring to review an operating license shall, on or before expiration of the current license, make application for renewal on forms provided by the department.

(d) Information. Application, renewal forms, and/or information may be obtained by contacting Texas Department of Health, Zoonosis Control Division, 1100 West 49th Street, Austin, Texas 78756.

(e) Fees. The following fees shall accompany each application for an operating license and/or renewal of a license:

- (1) 1 to 25 animals—\$400;
- (2) 26 to 50 animals—\$500;
- (3) 51 to 500 animals—\$600; and
- (4) 501 on up—\$800.

(f) Physical location. The license shall be displayed at the place of business named in the license. The license shall not be transferable or assignable.

(g) Denial, suspension, and revocation. The basis and procedure for these actions will be as outlined in Texas Civil Statutes, Article 4447v, §9; Texas Civil Statutes, Article 6252-13a, §§13-20; and the board's formal hearing procedures, §§1.21-1.32 (301.01.02.001-.012) of this title (relating to Formal Hearing Procedures).

**§169.48. State Inspection Agents.** Each agent employed to inspect circuses, carnivals, or zoos under

Texas Civil Statutes, Article 4443, §8, will be certified by the director, Zoonosis Control Division.

Issued in Austin, Texas, on January 26, 1982.

TRD-820925

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

Proposed date of adoption: March 5, 1982

For further information, please call (512) 458-7236.

## **TITLE 28. INSURANCE**

### **Part I. State Board of Insurance**

#### **Life, Accident, and Health Insurance**

#### **Indeterminate Premium Reduction Policies 059.03.50**

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

The State Board of Insurance is proposing to amend Rules 059.03.50.001, .003, .004, .008, .009, and .011 of its indeterminate premium reduction policy rules.

Subsection (a) of Rule 059.03.50.001 is amended so that the rules will apply to participating as well as nonparticipating policies.

Rule 059.03.50.003 (b) is amended to require certain disclosure if a possible or likely future charge is mentioned, illustrated, or referred to for a future premium. Heretofore, subsection (b) permitted only certain statements concerning a possible or likely future charge.

In Rule 059.03.50.004, further disclosure is required for dividends payable respecting participating indeterminate premium reduction policies. The requirements of Rule 059.03.50.004 are also applied to group certificates.

Rule 059.03.50.008(a) is amended so that the minimum nonforfeiture values for indeterminate premium reduction policies are made applicable to group policies as authorized by Texas Insurance Code, Article 3.50, §2.

Rules 059.03.50.008(b) and .009(b) are amended to provide that minimum cash values and minimum reserves are to be determined by the use of premiums the insurer markets as the premiums it expects to charge for an indeterminate premium reduction policy, except that a deficiency reserve will not be required as a result of the calculation.

Rule 059.03.50.011 is amended so that a

plans and specifications and recommends corrective action.

(f) In addition to normal testing procedures required of the participating political subdivision, the executive director may require reasonable additional tests of construction materials or processes which the executive director determines to be necessary during the construction of projects. All tests, whether for the executive director or the project engineer, will conform to current American Concrete Institute, American Association of State Highway and Transportation Officials, American Society of Testing and Materials, American Water Works Association, or Texas Department of Highways and Public Transportation published procedures or similar criteria. The executive director shall specify which tests are applicable. Samples for testing shall be furnished free of cost to the executive director upon request on the construction site.

**§355.85. Approval of Completion of Work.** Upon the resolution of disputes, if any, and satisfactory completion of work, the executive director shall issue a final, written approval of the construction work.

Issued in Austin, Texas, on January 29, 1982.

TRD-821019

M. Reginald Arnold II  
General Counsel  
Texas Department of Water  
Resources

Proposed date of adoption: March 8, 1982  
For further information, please call (512) 475-7838.

ing properly fulfilled or that integrity of the state's investment is being endangered, the executive director shall require the participating political subdivisions to take corrective action.

(2) Financial requirements. The development fund manager may request certified copies of all minutes, operating budgets, monthly operating statements, contracts, leases, deeds, audit reports, and other documents concerning the operation and maintenance of the project in addition to the requirements of the covenants of the bond indenture or other agreements. The financial assistance provided by the board is based on the project's economic feasibility and the board shares the participating political subdivision's desire to maintain this feasibility in the project's operation and maintenance at all times. The project revenues must repay the total cost of the project. The executive director shall periodically inspect, analyze, and monitor the project's revenues, operation, and any other information the board requires in order to perform its duties and to protect the public interest.

Issued in Austin, Texas, on January 29, 1982.

TRD-821020

M. Reginald Arnold II  
General Counsel  
Texas Department of Water  
Resources

Proposed date of adoption: March 8, 1982  
For further information, please call (512) 475-7838.

## **Post-Construction Responsibilities Compliance Procedure**

### **31 TAC §355.91**

The Texas Water Development Board proposes new §355.91 concerning post-construction responsibilities compliance procedures. This rule describes the general responsibilities of a political subdivision after completion of construction of a project financed under the Water Loan Assistance Fund Program. The rules include information concerning operation and maintenance requirements and financial requirements.

**§355.91. General Responsibilities.** The board will make every effort to ensure that the original purposes of the project are preserved and pursued with technical and economic efficiency. Even after the satisfactory completion of the project, the participating political subdivisions shall be held accountable by the board for the continued validity of all representations and assurances made to the board. Continuing cooperation with the board is expected. To facilitate such cooperation and to enable the board to protect its investment and the public interest, the following provisions shall be observed.

(1) Operation and maintenance requirements. The executive director is authorized to inspect the project and the records of operation and maintenance of the project at any time. If it is found that the project is being improperly or inadequately operated and maintained to the extent that the project purposes are not be-



## TITLE 34. PUBLIC FINANCE

### Part I. Comptroller of Public Accounts

#### Chapter 3. Tax Administration

##### Subchapter E. Miscellaneous Tax Division—Miscellaneous Taxes Based on Gross Receipts

#### 34 TAC §3.54

The Comptroller of Public Accounts proposes new §3.54, concerning business within this state—telegraph companies. The purpose of the rule is to clearly identify what business is considered business within this state and subject to the gross receipts tax contained in Texas Tax Code, §182.002.

Bill Allaway, director of revenue estimating, has determined that for the first five year period the rule will be in effect, there will not be fiscal implications to state or local government as a result of administering or enforcing the rule.

Mr. Allaway has also determined that no public benefit or economic cost will result from the administration or enforcement of this rule.

Public comments on the rule is invited. Comments should be submitted in writing to Lewis Conway, P.O. Box 13528, Austin, Texas 78711.

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

Joe H. Thrash  
January 29, 1982

This section is proposed under the authority of Texas Civil Statutes, Article 4344, which provides that the comptroller may adopt regulations not inconsistent with the constitution and laws as he may deem essential to the speedy and proper assessment and collection of the revenues of the state.

**§3.54. Business within this State—Telegraph Companies.** Business within this state includes all telegrams, aerograms, mailgrams, or other similar communications, which are sent from and are received in the State of Texas. The fact that the message was transmitted through facilities outside of Texas is not relevant to the determination of whether a particular transaction is business within this state.

Issued in Austin, Texas, on February 1, 1982.

TRD-821022      Bob Bullock  
Comptroller of Public Accounts

Proposed date of adoption: March 8, 1982  
For further information, please call (512) 475-1932.

#### Subchapter O. Sales Tax Division— State Taxes

#### 34 TAC §3.342

*(Editor's note: The text of the following rule proposed for repeal will not be published. The rule may be ex-*

*amined in the offices of the Comptroller of Public Accounts, LBJ Building, Austin, or in the Texas Register Division office, 503E Sam Houston Building, Austin.)*

The Comptroller of Public Accounts proposes the repeal of §3.342 (026.02.20.062) concerning rounding off. The language was incorporated in §3.286 (026.02.20.006) of this title (relating to Monthly Reporting) thereby making this section unnecessary.

Bill Allaway, director of revenue estimating, has determined that the repeal would have no fiscal impact on the state or any unit of local government.

Mr. Allaway has also determined that no public benefits or economic cost would be incurred by the public.

Public comment is invited and should be submitted in writing to Judy Cunningham, P.O. Box 13528, Austin, Texas 78711.

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

Joe H. Thrash  
January 29, 1982

The repeal is proposed under the authority of Texas Tax Code, §111.002, which provides that the comptroller may prescribe, adopt, and enforce rules and regulations, relating to the administration and enforcement of the sales tax.

#### §3.342 (026.02.20.062). Rounding Off.

Issued in Austin, Texas, on February 1, 1982.

TRD-821023      Bob Bullock  
Comptroller of Public Accounts

Proposed date of adoption: March 8, 1982  
For further information, please call (512) 475-3815.

## TITLE 37. PUBLIC SAFETY AND CORRECTIONS

### Part I. Texas Department of Public Safety

#### Chapter 23. Vehicle Inspection Inspection Items, Procedures, and Requirements

#### 37 TAC §23.41

The Texas Department of Public Safety proposes amendments to §23.41 (201.12.03.001) concerning the vehicle equipment required to be inspected according to the classification of the vehicle. This amendment changes the effective date of the revision to the vehicle inspection chart.

Melvin C. Peebles, chief accountant II, has determined that for the first five-year period the rule will be in effect, there will be no fiscal implications to state or local government as a result of enforcing or administering the rule.

Joe E. Milner, traffic law enforcement chief, has determined that for each year of the first five years the rule as proposed is in effect, the public benefits anticipated as a result of enforcing the rule as proposed will be ensuring compliance with the legislative intent to require the inspection of tail lamps on mopeds and no peds. There will be no cost to individuals who are required to comply with the rule.

Comments on the proposal may be submitted to Charles Bailey, Texas Department of Public Safety, Box 4087, Austin, Texas 78773, (512) 465-2000.

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

Charles Bailey  
January 22, 1982

The amendment is proposed under Texas Civil Statutes, Article 6701d, Article XV, §§140, 141, and 142, which provides Texas Department of Public Safety with the authority to adopt rules necessary for the administration and enforcement of the Act.

**§23.41 (201.12.03.001). Inspection Items.**

(a) Section 1. The attached chart, as amended in January, 1982 [August 1977], lists the vehicle equipment required to be inspected according to the classification of the vehicle.

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

Issued in Austin, Texas, on January 22, 1982.

TRD-820871 James G. Adams  
Director  
Texas Department of Public  
Safety

Proposed date of adoption: March 8, 1982  
For further information, please call (512) 465-2000.

## **TITLE 40. SOCIAL SERVICES AND ASSISTANCE**

### **Part I. Texas Department of Human Resources**

#### **Medicaid Eligibility**

#### **Resources for Individuals Related to the SSI Program 326.25.33**

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

The Texas Department of Human Resources proposes to amend Rule 326.25.33.006 about the home as a resource in determining Medicaid eligibility. The department is proposing the amendments to include changes received from the Social Security Administra-

tion. Formerly, a recipient's homestead could be excluded as a resource after an absence of six months only if a spouse or dependent relative still lived there, or if a physician stated that the recipient would be returning to the home within a specified time period. Under the revised regulations, a statement of intent to return can also be accepted from the recipient, a relative close to the case, legal guardian, or representative payee. Unless a physician strongly disagrees with the intent of the recipient to return home, the statement of the recipient or other involved party can be accepted at face value.

David Hawes, director of programs budget and rate setting, has determined that for the first five-year period the amendments will be in effect, there will be no fiscal implications for the state or units of local government as a result of enforcing or administering the amendments. There is no estimated loss or increase in revenue.

Mr. Hawes has also determined that the public benefits anticipated as a result of enforcing the amendments as proposed will be prevention of some individuals being denied Medicaid eligibility for having excess resources. There are no economic costs to persons who are required to comply with the amendments.

Written comments are invited and may be sent to Susan L. Johnson, administrator, Policy Development Support Division-295, Department of Human Resources 153-B, P.O. Box 2960, Austin, Texas 78769, within 30 days of publication in this Register.

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

J. B. McReynolds  
January 27, 1982

The following amendments are proposed under Chapter 32, Title 2 of the Human Resources Code, which authorizes the department to administer medical assistance.

**.006. Home.**

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

(c) If [In order for] the home is to be excluded as a resource, [it is required that] the home must be the primary place of residence. If an individual vacates his [his/her] home for health reasons, [the determination of whether] the home is [may be] excluded as a resource if [depends upon whether] the absence is [of a] temporary [or permanent nature]. [Normally,] An absence of up to six months is regarded as temporary, unless [there is] medical evidence indicates [indicating] that the individual will be unable to return to his [his/her] home. If the spouse or other dependent relative continues to occupy the home, it is excluded. [If the home continues to be occupied by a spouse or other dependent relative, it is excluded.]

(d) When the individual has lived [resided] outside his [his/her] home for six months or more, [a re-evaluation of] the individual's ability to return home is re-evaluated [explored]. The primary evidence is the individual's statement of intent to return home. Either the



individual's physician, a relative who knows the facts, a legal guardian, or a representative payee must submit at least one other statement. The purpose of the statement is to support or contradict the individual's statement of intent. If statements provided by the other sources are inconclusive, then the individual's statement of intent to return home is final. If the physician strongly disagrees with the intent of the individual to return home, department staff can overrule the individual's statement. Department staff use information from the physician's statement, nursing facility records, and the medical-nursing care evaluation to overrule the individual's statement. [If the individual is residing in a nursing facility, the Medical-Nursing Care Evaluation and other nursing facility records may serve as the basis for the determination of whether the individual will be returning to his/her home. Documentation of the exclusion is required in the case record.]

(e) If the individual is incompetent, comatose, or otherwise unable to furnish a statement regarding temporary absence and intent to return, the physician, relative, representative payee, or legal guardian must submit the statement. A statement from these parties is considered the same as a statement made by the individual.

(f)(c) If available [medical] information does not [is not available which would] indicate that the individual may return to his [his/her] home within a definite period of time, the home becomes a resource. If the value exceeds SSI resource limitations, the individual is not eligible for Title XIX benefits. [However, prior to the denial of the case, the worker must contact the individual's physician to ensure the validity of the information and evaluate the physician's statements.]

Issued in Austin, Texas, on February 1, 1982.

TRD-821024      Marlin W. Johnston  
Commissioner  
Texas Department of Human  
Resources

Proposed date of adoption: March 8, 1982  
For further information, please call (512) 441-3355,  
ext. 2037.

## TITLE 43. TRANSPORTATION

### Part I. State Department of Highways and Public Transportation

#### Chapter 9. Construction Division Practice and Regulations— Contractor Debarment Procedure

#### 43 TAC §9.6

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

The State Department of Highways and Public Transportation proposes new §9.6 (10-08-00-006) concerning contractor debarment procedure. The rule

is designed to establish a procedure whereby potential bidders on highway construction contracts, who have been guilty of bidding crimes in connection with public contracts, can be disqualified from so bidding for an appropriate period of time.

James D. Fraiser, general counsel, has determined that for the first five-year period the rule will be in effect, there will be fiscal implications as a result of enforcing or administering the rule. The estimated additional cost to state government will be \$50,000 in 1982; \$50,000 in 1983; \$40,000 in 1984; \$30,000 in 1985; and \$30,000 in 1986. There is no estimated reduction in cost nor loss or increase in revenue. There will be no effect on local government.

The general counsel has also determined that for each year of the first five years the rule as proposed is in effect: the public benefits anticipated as a result of enforcing the rule as proposed will be implementation of legal sanctions against parties who have engaged in collusion or bidding crimes in connection with highway construction contracts. The possible economic cost to individuals who are required to comply with the rule as proposed is not predictable because identity and number of parties to be affected will depend largely upon judicial process now in motion or to be subsequently initiated.

Comments on the proposal may be submitted to James D. Fraiser, general counsel, State Department of Highways and Public Transportation, 11th and Brazos, Austin, Texas 78701.

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

Diane L. Northam  
January 29, 1982

The new section is proposed under Texas Civil Statutes, Articles 6666 and 6674i, which provide the State Highway and Public Transportation Commission with the authority to establish rules for the conduct of the work of the department and specifically as to bidder and bids.

Issued in Austin, Texas, on January 29, 1982.

TRD-820993      Diane L. Northam  
Administrative Technician  
State Department of Highways  
and Public Transportation

Proposed date of adoption: March 8, 1982  
For further information, please call (512) 475-2141.



# 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 Division, unless a later date is specified or unless a federal statute or regulation requires implementation of the action on shorter notice.

The document, as published in the *Register*, must indicate whether the rule is adopted with or without changes to the proposal. The notice must also include paragraphs which: explain the legal justification for the rule; how the rule will function; contain comments received on the proposal; list parties submitting comments for and against the rule; explain why the agency disagreed with suggested changes; and contain the agency's interpretation of the statute it adopted the action under.

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. The text of the rule, as appropriate, will be published only if final action is taken with alterations to the proposal. The certification information, following the submission, contains the effective date of the final action, the proposal's publication date, and a telephone number to call for further information.

## TITLE 1. ADMINISTRATION Part V. State Purchasing and General Services Commission Chapter 113. Central Purchasing Division Purchasing

### 1 TAC §113.7

The State Purchasing and General Services Commission adopts amendments to §113.7 (028.12.01.056) without changes to the proposed text published in the November 20, 1981, issue of the *Texas Register* (6 TexReg 4270).

Prior to the addition of Texas Civil Statutes, Article 601b, §3.30, the commission was prevented by Attorney General Opinion WW-983(1961) from paying restocking charges or any other similar charges in the event that the state had to cancel an order, and the rule so stated. Section 3.30 was permissive rather than mandatory and did not alter the rule. This change in the rule had to be made to give effect to the statute.

This amendment to the rule will make it possible for the state to pay a restocking charge, or any similar charge, as a result of a canceled order, if the commission determines that the charge is justifiable.

No comments were received regarding adoption of the amendments.

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.

James H. Quick  
January 28, 1982

The amendments are adopted under Texas Civil Statutes, Article 601b, §3.30, which now permits the

commission to pay restocking charges upon cancellation of a contract in justifiable cases.

Issued in Austin, Texas, on January 29 1982.

TRD-820972

Homer A. Foerster  
Executive Director  
State Purchasing and General  
Services Commission

Effective date: February 19, 1982

Proposal publication date: November 20, 1981

For further information, please call (512) 475-5966.

## TITLE 7. BANKING AND SECURITIES Part VII. State Securities Board Chapter 133. Forms

### 7 TAC §133.29

The State Securities Board adopts new §133.29 (065.91.00.072), which adopts by reference notice for Sales Under Regulation 109.4(11), Investments of \$100,000 or More, without changes to the proposed text published in the November 20, 1981, issue of the *Texas Register* (6 TexReg 4273).

The form is being adopted in order to conform with §109.4(11)(E) (065.05.00.009(11)(E)), and to allow the agency adequate time to process the notices in 10 business days prior to consummation of any sales made under such rule, instead of the previous five-day period.

The form gives notification to the agency by issuers claiming the exemption provided by §109.4(11)

(085.05.00.009(11)) but not selling the issue in Texas through a licensed Texas broker-dealer, and the form must be filed 10 days prior to any sales being consummated in order for the exemption to be available.

No comments were received in regard to adoption of the new section.

The 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.

Russell R. Oliver  
January 25, 1982

The new section is adopted under Texas Securities Act, §5.T and §28-1, which provide, respectively, that the agency may promulgate rules exempting certain transactions from the registration requirements of the Act and that the agency may promulgate rules and regulations governing registration statements, applications, notices, and reports.

Issued in Austin, Texas, on January 27, 1982.

TRD-820864      Richard D. Latham  
Commissioner  
State Securities Board

Effective date: February 18, 1982  
Proposal publication date: November 20, 1981  
For further information, please call (512) 474-2233.

## **TITLE 22. EXAMINING BOARDS**

### **Part I. Texas Board of Architectural Examiners**

#### **Chapter 1. Architects**

#### **Subchapter B. Registration and Definitions**

#### **22 TAC §§1.21, 1.29**

The Texas Board of Architectural Examiners adopts amendments to §1.21 and §1.29 (376.01.02.001 and .009) without changes to the proposed text published in the October 13, 1981, issue of the *Texas Register* (6 TexReg 3793).

The rule better prepares candidates for examination through more thorough preparation in all phases of professional practice, and should produce a higher percentage rate of examination passes.

No comments were received regarding adoption of the amendments.

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

Philip D. Greer  
January 22, 1982

The amendments are adopted under Texas Civil Statutes, Article 249a, which authorizes the board to promulgate rules for examination and registration.

Issued in Austin, Texas, on January 22, 1982.

TRD-820778      Philip D. Greer, FAIA  
Executive Director  
Texas Board of Architectural  
Examiners

Effective date: February 12, 1982  
Proposal publication date: October 13, 1981  
For further information, please call (512) 458-1363.

## **Subchapter C. Written Examinations**

#### **22 TAC §§1.41, 1.43, 1.46, 1.48**

The Texas Board of Architectural Examiners adopts amendments to §§1.41, 1.43, 1.46, and 1.48 (376.01.03.001, .003, .006, and .008) without changes to the proposed text published in the October 13, 1981, issue of the *Texas Register* (6 TexReg 3788).

The rule better prepares candidates for examination and allows the nondegree candidates, who otherwise qualify, an opportunity to take the professional examination earlier. The rules clarify requirements for all candidates for examination and should result in better understanding and thus better prepared candidates.

No comments were received regarding adoption of the amendments.



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.

Philip D. Creer  
January 22, 1982

The amendments are adopted under Texas Civil Statutes, Article 249a, which authorizes the board to promulgate rules for examination and registration.

Issued in Austin, Texas, on January 22, 1982.

TRD-820779 Philip D. Creer, FAIA  
Executive Director  
Texas Board of Architectural  
Examiners

Effective date: February 12, 1982  
Proposed publication date: October 13, 1981  
For further information, please call (512) 458-1363.

### **Subchapter E. Fees**

#### **22 TAC §1.84**

The Texas Board of Architectural Examiners adopts amendments to §1.84 (376.01.05.004) without changes to the proposed text published in the October 13, 1981, issue of the *Texas Register* (6 TexReg 3794).

The rule deletes wording which had been put in prior to the 1980 license renewals. It is now obsolete, therefore, being replaced.

No comments were received regarding adoption of the amendments.

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.

Philip D. Creer  
January 22, 1982

The amendments are adopted under Texas Civil Statutes, Article 249a, which authorizes the board to promulgate rules regarding annual registration and fees.

Issued in Austin, Texas, on January 22, 1982.

TRD-820780 Philip D. Creer, FAIA  
Executive Director  
Texas Board of Architectural  
Examiners

Effective date: February 12, 1982  
Proposed publication date: October 13, 1981  
For further information, please call (512) 458-1363.

### **Subchapter F. Architect's Seal**

#### **22 TAC §1.104**

The Texas Board of Architectural Examiners adopts amendments to §1.104 (376.01.06.004) without changes to the proposed text published in the October 13, 1981, issue of the *Texas Register* (6 TexReg 3794).

The rule better informs licensees of the proper, legal identification of certain contract documents used in practice.

No comments were received regarding adoption of the amendments.

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.

Philip D. Creer  
January 22, 1982

The amendments are adopted under Texas Civil Statutes, Article 249a, §5, which provides the board with the authority to make all rules consistent with the laws of this state which are reasonably necessary.

Issued in Austin, Texas, on January 22, 1982.

TRD-820781 Philip D. Creer, FAIA  
Executive Director  
Texas Board of Architectural  
Examiners

Effective date: February 12, 1982  
Proposed publication date: October 13, 1981  
For further information, please call (512) 458-1363.

### **Subchapter G. Titles, Firm Names, and Assumed Names**

#### **22 TAC §1.124**

The Texas Board of Architectural Examiners adopts amendments to §1.124 (376.01.07.004) without changes to the proposed text published in the October 13, 1981 issue of the *Texas Register* (6 TexReg 3795).

The rule directs those concerned to an additional, pertinent section of the board rules as to firm titles and practice.

No comments were received regarding adoption of the amendments.

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.

Philip D. Creer  
January 22, 1982

The amendments are adopted under Texas Civil Statutes, Article 249a, §5, which authorizes the board to make all rules consistent with the laws of this state which are reasonably necessary.

Issued in Austin, Texas, on January 22, 1982.

TRD-820782 Philip D. Creer, FAIA  
Executive Director  
Texas Board of Architectural  
Examiners

Effective date: February 12, 1982  
Proposed publication date: October 13, 1981  
For further information, please call (512) 458-1363.

## **Chapter 3. Landscape Architects**

### **Subchapter B. Registration and Definitions**

#### **22 TAC §3.28**

The Texas Board of Architectural Examiners adopts amendments to §3.28 (376.02.02.208) without

changes to the proposed text published in the November 13, 1981, issue of the *Texas Register* (6 TexReg 4211).

The rule clarifies language used for issuing registration numbers or permitting the board to lapse an application after a required period of time.

The rule clarifies requirements for all reciprocal registration for fees and time period for registration.

No comments were received regarding adoption of the amendments.

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.

Philip D. Creer  
January 22, 1982

The amendments are adopted under Texas Civil Statutes, Article 249c, which authorizes the board to promulgate rules and regulations to administer this Act.

Issued in Austin, Texas, on January 22, 1982.

TRD-820927 Philip D. Creer, FAIA  
Executive Director  
Texas Board of Architectural  
Examiners

Effective date: February 17, 1982  
Proposal publication date: November 13, 1981  
For further information, please call (512) 458-4126

## Subchapter F. The Landscape Architect Seal

### 22 TAC §3.107

The Texas Board of Architectural Examiners adopts new §3.107 (376.02.06.607) without changes to the proposed text published in the November 13, 1981, issue of the *Texas Register* (6 TexReg 4211).

The rule directs those concerned to an additional pertinent section of the board rules as to firm titles and practice.

No comments were received regarding adoption of the new section.

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.

Philip D. Creer  
January 22, 1982

The new section is adopted under Texas Civil Statutes, Article 249c, which authorizes the board to promulgate rules and regulations for administering this Act.

Issued in Austin, Texas, on January 22, 1982.

TRD-820928 Philip D. Creer, FAIA  
Executive Director  
Texas Board of Architectural  
Examiners

Effective date: February 17, 1982  
Proposal publication date: November 13, 1981  
For further information, please call (512) 458-4126

## Part XI. Board of Nurse Examiners Chapter 217. Licensure and Practice

### 22 TAC §217.2

The Board of Nurse Examiners adopts amendments to §217.2 without changes to the proposed text published in the December 25, 1981, issue of the *Texas Register* (6 TexReg 4803).

This rule is being adopted to apply to first time and repeat candidates. In addition, the rule states requirements to be met by the candidate who does not pass the licensing examination. Meeting these requirements should aid the candidate in passing the licensure examination.

The additional requirements for unsuccessful candidates should result in more candidates passing the licensure examination and additional registered nurses being added to the work force.

All of the comments received were in favor of the rule change.

Names of those making comments for the rule include: Kay Willis, St. Joseph Hospital; Helene Botsonis, Panhandle Nursing Council; Gayle Ketchum, San Antonio Chest Hospital; and Shirley Pinterich, Huguley Memorial Center.

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.

Margaret L. Rowland  
January 27, 1982

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

Issued in Austin, Texas, on January 27, 1982.

TRD-820955 Margaret L. Rowland, R.N.  
Executive Secretary  
Board of Nurse Examiners

Effective date: February 18, 1982  
Proposal publication date: December 25, 1981  
For further information, please call (512) 478-9802

### 22 TAC §217.15

The Board of Nurse Examiners adopts new §217.15 without changes to the proposed text published in the December 25, 1981, issue of the *Texas Register* (6 TexReg 4803).

This rule is written to comply with House Bill 247. The

rule states the procedure used to process applications for licensure of candidates or registered nurses with previous criminal convictions. This rule does not change the procedure for handling these applicants used by the board for over five years.

If the conviction will not effect the health and safety of patients or the public, applications for licensure are approved and the nurse is licensed without delay. The public will benefit by having a registered nurse in the work force without delay.

All comments received were in favor of the adoption of the rule.

The names of those making comments for the rule are as follows: Helene Botsonis, Panhandle Nursing Council; Gayle Ketchum, San Antonio State Chest Hospital; Shirley Pinterich, Huguley Memorial Medical Center.

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.

Margaret L. Rowland  
January 27, 1982

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

Issued in Austin, Texas, on January 27, 1982.

TRD-820956 Margaret L. Rowland, R.N.  
Executive Secretary  
Board of Nurse Examiners

Effective date: February 18, 1982  
Proposal publication date: December 25, 1981  
For further information, please call (512) 478-9802.

## **Part XII. Board of Vocational Nurse Examiners Chapter 231. Administration General Provisions**

### **22 TAC 5231.1**

The Board of Vocational Nurse Examiners adopts amendments to §231.1, relating to definitions, without changes to the proposed text published in the November 27, 1981, issue of the *Texas Register* (6 TexReg 4364).

The rule is adopted for clarification of a specific term.

The rule as adopted more clearly defines the meaning of the term "contested case."

No comments were received regarding adoption of the amendment.

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.

Waldeen D. Wilson, R.N.  
January 22, 1982

The amendment is adopted under the authority of Texas Civil Statutes, Article 4528c, §5(g), which provides authority for the board to make such rules and regulations as may be necessary to govern its procedures and to carry in effect the purposes of the law.

Issued in Austin, Texas, on January 22, 1982.

TRD-820773 Waldeen D. Wilson, R.N.  
Executive Director  
Board of Vocational Nurse  
Examiners

Effective date: February 12, 1982  
Proposal publication date: November 27, 1981  
For further information, please call (512) 458-1203.

## **General Practice and Procedure 22 TAC 5231.15**

The Board of Vocational Nurse Examiners adopts the amendments to §231.13 relating to general practice and procedure, without changes to the proposed text as published in the November 27, 1981, issue of the *Texas Register* (6 TexReg 4364).

This rule clarifies which functions the board is authorized to perform. This rule established the procedure for waiving a rule.

No comments were received regarding adoption of this amendment.

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.

Waldeen D. Wilson, R.N.  
January 22, 1982

The amendment is adopted under the authority of Texas Civil Statutes, Article 4528c, §5(g), which provides authority for the board to make such rules and regulations as may be necessary to govern its procedures and to carry in effect the purposes of the law.

Issued in Austin, Texas, on January 22, 1982.

TRD-820774 Waldeen D. Wilson, R.N.  
Executive Director  
Board of Vocational Nurse  
Examiners

Effective date: February 12, 1982  
Proposal publication date: November 27, 1981  
For further information, please call (512) 458-1203.

## Disciplinary Action

### 22 TAC §231.102

The Board of Vocational Nurse Examiners adopts new §231.102 relating to disciplinary action, without changes to the proposed text published in the November 27, 1981, issue of the *Texas Register* (6 TexReg 4365).

This rule, adopted to comply with §10 of the Vocational Nurse Act, informs the public that a person in violation of the Act may be restrained by a district court.

No comments were received regarding the adoption of this rule.

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

Waldeen D. Wilson, R.N.  
January 22, 1982

This section is adopted under the authority of Texas Civil Statutes, Article 4528c, §5(g), which provides authority for the board to make such rules and regulations as may be necessary to govern its procedures and to carry in effect the purposes of the law.

Issued in Austin, Texas, on January 22, 1982.

TRD-820775

Waldeen D. Wilson, R.N.  
Executive Director  
Board of Vocational  
Nurse Examiners

Effective date: February 12, 1982

Proposal publication date: November 27, 1981

For further information, please call (512) 458-1203.

## Chapter 235. Licensing Application for Licensure

### 22 TAC §5235.9, 235.10

The Board of Vocational Nurse Examiners adopts amendments to §235.9 and §235.10, relating to application for licensure, with changes to the proposed text published in the November 27, 1981, issue of the *Texas Register* (6 TexReg 4365).

These amendments are adopted to clarify the types of payment the board will accept with applications, and the deadline date for submission of examination applications.

The rules will provide information regarding submission of application fees and the deadline date for application of the licensing examination.

No comments were received regarding adoption of the rules.

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

Waldeen D. Wilson, R.N.  
January 22, 1982

The new sections are adopted under the authority of Texas Civil Statutes, Article 4528c, §5(g), which provides authorization for the board to make such rules and regulations as may be necessary to govern its procedures and to carry in effect the purposes of the law.

§235.9. *Application Fee.* Application fee shall be payable to the Board of Vocational Nurse Examiners, 5555 North Lamar, Commerce Park, Building H, Suite 131, Austin, Texas 78751. The board assumes no responsibility for loss in transit of cash remittances. Applications not accompanied by the proper fee will be returned. The fee must be in the form of cash, cashier's check, money order, individual institutional check, or state warrant. Personal checks are not acceptable. Each application for license as a vocational nurse under §6 and §7 of the Act shall be accompanied by the fee as stated in §9 of the Act. Fee is not refundable.

§235.10. *Deadline for Submission of Applications for Examination.* All applications for examination shall be properly completed and received in the board office no later than 30 days prior to the date set for the examination. Should the deadline date fall on Saturday, Sunday, or a holiday, the application must be received in the board office on the first working day following.

Issued in Austin, Texas, on January 22, 1982.

TRD-820776

Waldeen D. Wilson, R.N.  
Executive Director  
Board of Vocational  
Nurse Examiners

Effective date: February 12, 1982

Proposal publication date: November 27, 1981

For further information, please call (512) 458-1203.

### 22 TAC §235.18

The Board of Vocational Nurse Examiners adopts new §235.18 relating to application for licensure, with changes to the proposed text published in the December 22, 1981, issue of the *Texas Register* (6 TexReg 4750).

The rule is adopted to provide a procedure for handicapped candidates to take the licensing examination. The rule clarifies the procedure for handicapped individuals who need modification of the examination or changes in procedures for administration of the examination.

No comments were received regarding the adoption of this rule.

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

Waldeen D. Wilson, R.N.  
January 22, 1982

This rule is adopted under the authority of Texas Civil Statutes, Article 4528c, §5(g), which provides authority for the board to make such rules and regulations as may be necessary to govern its procedures and to carry in effect the purposes of the law.

**§235.18. Handicapped Candidate.**

(a) A handicapped candidate for the examination for licensure who otherwise is qualified shall not be deprived of the opportunity to take the licensing examination solely by reason of that handicap. Such handicaps may include, but not be limited to, visual and hearing impairments, neuro-muscular disorders, and/or other physical disabilities.

(b) Written requests for modification of the examination and/or the procedures for administration must be submitted to the board at least 130 days prior to the examination date. Should the deadline date fall on Saturday, Sunday, or a holiday, the written request must be received in the board office on the first working day following. The request shall include an evaluation of the disability by the candidate's physician or psychologist. In the event an impairment necessitating elaborate adaptation of the usual test procedure occurs within the 130 days prior to the examination date, the candidate would not be eligible for that examination. Elaborate adaptation is utilization of personnel other than assigned proctors and/or placement of candidate elsewhere other than designated table.

(c) Handicapped candidates requiring a separate examination room will write the examination for licensure in Austin.

Issued in Austin, Texas, on January 22, 1982.

TRD-820777

Waldeen D. Wilson, R.N.  
Executive Director  
Board of Vocational Nurse  
Examiners

Effective date: February 12, 1982

Proposal publication date: December 22, 1981

For further information, please call (512) 458-1203.

**TITLE 28. INSURANCE  
Part I. State Board of Insurance  
Rating and Policy Forms  
Workers' Compensation Rates  
059.05.55**

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

The State Board of Insurance adopts amendments to Rule 059.05.55.001 without changes to the proposed text published in the December 22, 1981, issue of the *Texas Register* (6 TexReg 4763).

The board is of the opinion that due to increased cost on serious indemnity cases and medical claims, that a minimum retrospective loss limitation of \$25,000 would be more in line with the current economic climate. The rule provides for a minimum retrospective loss limitation of \$25,000 for an estimated standard premium of \$100,000, and provides for a loss limitation over \$25,000 for a standard premium in ex-

cess of \$100,000, provided the selected value is not greater than 50% of the standard premium.

No comments were received regarding adoption of the amendments.

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.

James W. Norman  
January 28, 1982

The amendments are adopted under Texas Insurance Code, Articles 1.04, 5.55, 5.60, 5.62, and 5.77, which provides the board with the authority to prescribe rates, premiums, rules, policy forms, and endorsements applicable to workers' compensation insurance.

Issued in Austin, Texas, on January 28, 1982.

TRD-820989

James W. Norman  
Chief Clerk  
State Board of Insurance

Effective date: March 1, 1982

Proposal publication date: December 22, 1981

For further information, please call (512) 475-2950.

**TITLE 31. NATURAL RESOURCES  
AND CONSERVATION  
Part VII. Texas Water Well Drillers  
Board  
Chapter 231. Substantive Rules  
Introductory Provisions  
31 TAC §231.2**

The Texas Water Well Drillers Board adopts an amendment to §231.2 without changes to the proposed text published in the December 11, 1981, issue of the *Texas Register* (6 TexReg 4806).

The amendment to the definition of "well logs" conforms the terminology used in this rule to the terminology used throughout the board's rules and the Water Well Drillers Act. The additional language clarifies that all well logs must be kept on forms prescribed by the board, thus ensuring that the necessary information regarding groundwater formations is provided to the state.

The amended definition clarifies that all well logs must be kept on forms prescribed by the board. Thus, the definition ensures that the information submitted to the state on groundwater formations and quality will be pertinent and complete.

No comments were received regarding adoption of this amendment.

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.

M. Reginald Arnold II  
January 22, 1982



This amendment is adopted under Texas Civil Statutes, Article 7621e, §7, which provides that the Texas Water Well Drillers Board shall adopt, prescribe, promulgate, and enforce all rules and regulations reasonably necessary to effectuate the provisions of the Water Well Drillers Act. Section 5 of the Water Well Drillers Act requires that accurate well logs be kept and submitted whenever a well is drilled, deepened, or otherwise altered; the forms prescribed by the board will ensure that the information supplied is accurate and pertinent.

Issued in Austin, Texas, on January 22, 1982.

TRD-820821 M. Reginald Arnold II  
General Counsel  
Texas Department of Water  
Resources

Effective date: February 15, 1982  
Proposal publication date: December 11, 1981  
For further information, please call (512) 475-6943.

### 31 TAC §231.5

The Texas Water Well Drillers Board adopts the repeal of §231.5 without changes to the proposed notice of repeal published in the December 11, 1981, issue of the *Texas Register* (6 TexReg 4606).

Repeal of this rule was necessary in order that the rule could be re-enacted in accordance with the board's newly adopted rules and numbering system. The content of this particular rule (Procedures Not Otherwise Provided For) remains a part of the board's rules under a new number.

The repeal of this rule will allow the board to enact another rule (Promulgation of Board Rules) under this number. It will also allow the board to re-enact this rule under a different number in accordance with the board's newly adopted rules and numbering system.

No comments were received with regard to the repeal of this rule.

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

M. Reginald Arnold II  
January 22, 1982

The repeal is adopted under Texas Civil Statutes, Article 7621e, §7, which provides that the Texas Water Well Drillers Board shall adopt, prescribe, promulgate, and enforce all rules and regulations reasonably necessary to effectuate the provisions of the Water Well Drillers Act.

Issued in Austin, Texas, on January 22, 1982.

TRD-820822 M. Reginald Arnold II  
General Counsel  
Texas Department of Water  
Resources

Effective date: February 15, 1982  
Proposal publication date: December 11, 1981  
For further information, please call (512) 475-6943.

### 31 TAC §231.5

The Texas Water Well Drillers Board adopts new §231.5 without changes to the proposed text published in the December 11, 1981, issue of the *Texas Register* (6 TexReg 4606).

The rule delineates the requirements of §7 of the Water Well Drillers Act which apply when the board proposes to adopt any substantive rule or amendment. The rule also cross-references the board's procedures when promulgating rules with the requirements of the Texas Administrative Procedure and Texas Register Act.

The rule prescribes the procedure the board must follow when it proposes to adopt any substantive rules pursuant to the Water Well Drillers Act.

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

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.

M. Reginald Arnold II  
January 22, 1982

The new section is adopted under Texas Civil Statutes, Article 7621e, §7, which provides that the Texas Water Well Drillers Board shall adopt, prescribe, promulgate, and enforce all rules and regulations reasonably necessary to effectuate the provisions of the Water Well Drillers Act. Section 7 also prescribes the procedure which the board must observe when seeking to adopt any new substantive rule or amendment to an existing substantive rule.

Issued in Austin, Texas, on January 22, 1982.

TRD-820823 M. Reginald Arnold II  
General Counsel  
Texas Department of Water  
Resources

Effective date: February 15, 1982  
Proposal publication date: December 11, 1981  
For further information, please call (512) 475-6943.

### 31 TAC §231.8

The Texas Water Well Drillers Board adopts the repeal of §231.8 without changes to the proposed notice of repeal published in the December 11, 1981, issue of the *Texas Register* (6 TexReg 4607).

This provision regarding amendment of rules is not necessary. It is tacitly understood that an agency may amend its rules in accordance with the law. The repeal of this rule allows the board to eliminate an unnecessary rule.

No comments were received regarding adoption of the repeal.

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.

M. Reginald Arnold II  
January 22, 1982

The repeal is adopted under Texas Civil Statutes, Ar-

Article 7621e, §7, which provides that the Texas Water Well Drillers Board shall adopt, prescribe, promulgate, and enforce all rules and regulations reasonably necessary to effectuate the provisions of the Water Well Drillers Act.

Issued in Austin, Texas, on January 22, 1982.

TRD-820824

M. Reginald Arnold II  
General Counsel  
Texas Department of Water  
Resources

Effective date: February 15, 1982

Proposal publication date: December 11, 1981

For further information, please call (512) 475-6943.

### 31 TAC §231.10

The Texas Water Well Drillers Board adopts new §231.10 without changes to the proposed text published in the December 11, 1981, issue of the *Texas Register* (6 TexReg 4607).

The rule clarifies the policy which the board will follow when its rules do not specifically address a problem presented to it.

The rule gives notice to interested parties of the policy which the board will follow in cases which its rules do not specifically address. Thus, an interested party may prepare and properly anticipate the position the board will adopt even when there are no rules which specifically address the particular problem presented.

No comments were received regarding adoption of the new section.

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.

M. Reginald Arnold II  
January 22, 1982

The new section is adopted under Texas Civil Statutes, Article 7621e, §7, which provides that the Texas Water Well Drillers Board shall adopt, prescribe, promulgate, and enforce all rules and regulations reasonably necessary to effectuate the provisions of the Water Well Drillers Act.

Issued in Austin, Texas, on January 22, 1982.

TRD-820825

M. Reginald Arnold II  
General Counsel  
Texas Department of Water  
Resources

Effective date: February 15, 1982

Proposal publication date: December 11, 1981

For further information, please call (512) 475-6943.

### 31 TAC §231.15

The Texas Water Well Drillers Board adopts new §231.15 without changes to the proposed text published in the December 11, 1981, issue of the *Texas Register* (6 TexReg 4608).

This rule spells out the mechanics of the board's administration. It gives general information which those

interested in the meetings of the board and the composition of the board may need to know.

The rule provides for the number of meetings which the board will convene in the course of a year, the manner and time for the election of officers, the procedures for calling additional meetings, and the procedures for filling vacancies on the board.

No comments were received regarding adoption of the new section.

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.

M. Reginald Arnold II  
January 22, 1982

The new section is adopted under Texas Civil Statutes, Article 7621e, §7, which provides that the Texas Water Well Drillers Board shall adopt, prescribe, promulgate, and enforce all rules and regulations reasonably necessary to effectuate the provisions of the Water Well Drillers Act.

Issued in Austin, Texas, on January 22, 1982.

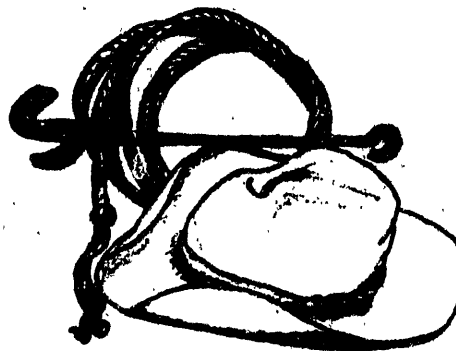
TRD-820826

M. Reginald Arnold II  
General Counsel  
Texas Department of Water  
Resources

Effective date: February 15, 1982

Proposal publication date: December 11, 1981

For further information, please call (512) 475-6943.



## Agency Meetings

### 31 TAC §231.21

The Texas Water Well Drillers Board adopts the repeal of §231.21 without changes to the proposed notice of repeal published in the December 11, 1981, issue of the *Texas Register* (6 TexReg 4609).

This rule is being repealed in order to re-enact it under a different number.

The repeal of this rule allows the board to re-enact this rule under a different number in accordance with the numbering of the board's newly adopted rules.

No comments were received regarding adoption of the repeal.

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.

M. Reginald Arnold II  
January 22, 1982

The repeal is adopted under Texas Civil Statutes, Article 7621e, §7, which provides that the Texas Water Well Drillers Board shall adopt, prescribe, promulgate, and enforce all rules and regulations reasonably necessary to effectuate the provisions of the Water Well Drillers Act.

Issued in Austin, Texas, on January 22, 1982.

TRD-820827      M. Reginald Arnold II  
General Counsel  
Texas Department of Water  
Resources

Effective date: February 15, 1982  
Proposal publication date: December 11, 1981  
For further information, please call (512) 475-6943.

## Licensing Procedures

### 31 TAC §231.31

The Water Well Drillers Board adopts an amendment to §231.31 without changes to the proposed text published in the December 11, 1981, issue of the *Texas Register* (6 TexReg 4609).

The amendment requires compliance with the Water Well Drillers Act as a condition precedent to a driller performing or offering to perform water well drilling services. Thus, it makes unlawful the activities of unlicensed drillers who do not have the necessary knowledge regarding groundwater formations and water well drilling procedures.

The rule references anyone seeking to act as a water well driller to the requirements of the Water Well Drillers Act and the board's substantive rules, thus ensuring that a driller will not inadvertently violate any legal requirement which could subject him to civil penalties of \$1,000 per day for each day that the violation occurs.

No comments were received regarding adoption of this amendment.

The 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.

M. Reginald Arnold II  
January 22, 1982

The amendment is adopted under Texas Civil Statutes, Article 7621e, §7, which provides that the Water Well Drillers Board shall adopt, prescribe, promulgate, and enforce all rules and regulations reasonably necessary to effectuate the provisions of the Water Well Drillers Act. Section 3 of the Act makes it unlawful for any person to render or offer to perform water well drilling services without complying with the Act and the rules of the board.

Issued in Austin, Texas, on January 22, 1982.

TRD-820828      M. Reginald Arnold II  
General Counsel  
Texas Department of Water  
Resources

Effective date: February 15, 1982  
Proposal publication date: December 11, 1981  
For further information, please call (512) 475-6943.

## Licenses

### 31 TAC §§231.32-231.38

The Texas Water Well Drillers Board adopts the repeal of §§231.32-231.38 without changes to the proposed notice of repeal published in the December 11, 1981, issue of the *Texas Register* (6 TexReg 4609).

The repeal of these rules concerning licenses is required since, simultaneously with this repeal, the board is adopting rules which more clearly delineate licensing requirements.

The repeal of these rules will allow the board to enact new rules dealing more effectively with the requirements for becoming a licensed water well driller. With the adoption of the new rules, these rules are no longer necessary.

No comments were received regarding adoption of the repeal.

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

M. Reginald Arnold II  
January 22, 1982

The repeal is adopted under Texas Civil Statutes, Article 7621e, §7, which provides that the Water Well Drillers Board shall adopt, prescribe, promulgate, and enforce all rules and regulations reasonably necessary to effectuate the provisions of the Water Well Drillers Act.

Issued in Austin, Texas, on January 22, 1982.

TRD-820829      M. Reginald Arnold II  
General Counsel  
Texas Department of Water  
Resources

Effective date: February 15, 1982  
Proposal publication date: December 11, 1981  
For further information, please call (512) 475-6943.

### 31 TAC §§231.33, 231.35, 231.37, 231.39, 231.41, 231.43, 231.45, 231.49, 231.51, 231.53

The Water Well Drillers Board adopts new §§231.33, 231.35, 231.37, 231.39, 231.41, 231.43, 231.45, 231.49, 231.51, and 231.53 without changes to the proposed text published in the December 11, 1981, issue of the *Texas Register* (6 TexReg 4609).

The new rules delineate in great detail the board's requirements for the issuance of a water well driller's license and renewal of existing licenses. By providing this information, persons interested in obtaining a water well driller's license will save time in preparing their applications, and will more correctly anticipate the time frame within which a license will be issued.

The licensing requirements of these rules will apply in all cases except those delineated in §231.33, entitled "Exceptions." Section 231.35 summarizes the licensing procedure and, thus, will apprise all persons interested in obtaining a water well driller's license of all of the applicable requirements. Sections 231.37

through 231.51 prescribe in detail the manner in which the licensing requirements can be satisfied. For example, the number of letters of reference required is stated; as is the people from whom the letters must be obtained; the manner in which Texas residency may be established is delineated, as are the requirements and procedure for board certification, the amount of the examination and license fees, and the availability of examinations. Section 231.53 will apply when a licensed driller seeks to renew his license.

No comments were received regarding adoption of the new sections.

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.

M. Reginald Arnold II  
January 22, 1982

The new sections are adopted under Texas Civil Statutes, Article 7621e, §7, which provides that the Water Well Drillers Board shall adopt, prescribe, promulgate, and enforce all rules and regulations reasonably necessary to effectuate the provisions of the Water Well Drillers Act. Section 3 states various prerequisites for obtaining a water well drillers license which these rules interpret and/or explain in greater detail.

Issued in Austin, Texas, on January 22, 1982.

TRD-820830 M. Reginald Arnold II  
General Counsel  
Texas Department of Water  
Resources

Effective date: February 15, 1982  
Proposal publication date: December 11, 1981  
For further information, please call (512) 475-6943.

## **Revocation of Licenses**

### **31 TAC §§231.51, 231.52**

The Texas Water Well Drillers Board adopts the repeal of §231.51 and §231.52 without changes to the proposed notice of repeal published in the December 11, 1981, issue of the *Texas Register* (6 TexReg 4611).

The repeal of these rules is required since simultaneously with this repeal, rules which more clearly delineate the board's procedures governing formal complaints against licensed drillers are being adopted.

The repeal of these rules will allow the board to enact new rules more clearly, defining the board's procedures governing formal complaints against licensed water well drillers. With the adoption of the new rules, these rules are no longer necessary.

No comments were received with regard to the repeal of these rules.

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

M. Reginald Arnold II  
January 22, 1982

The repeal is adopted under Texas Civil Statutes, Article 7621e, §7, which provides that the Water Well

Drillers Board shall adopt, prescribe, promulgate, and enforce all rules and regulations reasonably necessary to effectuate the provisions of the Water Well Drillers Act.

Issued in Austin, Texas, on January 22, 1982.

TRD-820831 M. Reginald Arnold II  
General Counsel  
Texas Department of Water  
Resources

Effective date: February 15, 1982  
Proposal publication date: December 11, 1981  
For further information, please call (512) 475-6943.

## **Duties of Licensed Water Well Drillers**

### **31 TAC §§231.61-231.64.**

The Texas Water Well Drillers Board adopts the repeal of §231.61-231.64 without changes to the proposed notice of repeal published in the December 11, 1981, issue of the *Texas Register* (6 TexReg 4611).

The repeal of these rules concerning the duties of licensed water well drillers is required since, simultaneously with this repeal, the board is adopting rules which more clearly delineate the duties of licensed drillers.

The repeal of these rules will allow the board to enact new rules dealing more effectively with the duties of licensed water well drillers. With the adoption of the new rules, these rules are no longer necessary.

One comment concerning the repeal of §231.64 was received. The individual stated that he preferred the existing definition of direct supervision.

The agency agrees with the comment because §231.77 incorporates the definition of direct supervision in accordance with the comment received.

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

M. Reginald Arnold II  
January 22, 1982

The repeal is adopted under Texas Civil Statutes, Article 7621e, §7, which provides that the Water Well Drillers Board shall adopt, prescribe, promulgate, and enforce all rules and regulations reasonably necessary to effectuate the provisions of the Water Well Drillers Act.

Issued in Austin, Texas, on January 22, 1982.

TRD-820832 M. Reginald Arnold II  
General Counsel  
Texas Department of Water  
Resources

Effective date: February 15, 1982  
Proposal publication date: December 11, 1981  
For further information, please call (512) 475-6943.

## **Standards of Conduct**

### **31 TAC §§231.71-231.76**

The Water Well Drillers Board adopts the repeal of §§231.71-231.76 without changes to the proposed

text published in the December 11, 1981, issue of the *Texas Register* (6 TexReg 4612).

The repeal of these rules concerning standards of conduct is necessary so that these rules can be re-enacted in accordance with the board's newly adopted rules and numbering system. The content of these rules remains a part of the board's rules under new numbers.

The repeal of these rules will allow the board to enact these rules under different numbers in accordance with the board's newly adopted rules and numbering system.

No comments were received regarding the repeal of these rules.

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

M. Reginald Arnold II  
January 22, 1982

The repeal is adopted under Texas Civil Statutes, Article 7621e, §7, which provides that the Water Well Drillers Board shall adopt, prescribe, promulgate, and enforce all rules and regulations reasonable necessary to effectuate the provisions of the Water Well Drillers Act.

Issued in Austin, Texas, on January 22, 1982.

TRD-820833 M. Reginald Arnold II  
General Counsel  
Texas Department of Water  
Resources

Effective date: February 15, 1982  
Proposal publication date: December 11, 1981  
For further information, please call (512) 475-6943.

## Duties of Licensed Water Well Drillers

### 31 TAC §§231.71, 231.73, 231.75

The Water Well Drillers Board adopts new §§231.71, 231.73, and 231.75 without changes to the proposed text published in the December 11, 1981, issue of the *Texas Register* (6 TexReg 4612).

These rules summarize the duties of a licensed driller. These duties are prescribed in various sections of the Water Well Drillers Act; these rules compile them in one readily accessible section.

Section 231.71 parallels §13 which requires that all water well rigs used by a licensed water well driller or his employees must be marked with the licensed driller's license number. This rule applies within 30 days of commencement of operations by a licensed driller. Section 231.73 parallels §5 of the Act which requires the keeping and submission of well logs within a certain time period after work has been done on a water well. Section 231.75 cross-references the Texas Department of Water Resources' requirements on plugging water wells.

No comments were received regarding these rules.

This agency hereby certifies that the rule as adopted has been reviewed by legal counsel and found to be

a valid exercise of the agency's legal authority.

M. Reginald Arnold II  
January 22, 1982

The new section is adopted under Texas Civil Statutes, Article 7621e, §7, which provides that the Water Well Drillers Board shall adopt, prescribe, promulgate, and enforce all rules and regulations reasonable necessary to effectuate the provisions of the Water Well Drillers Act.

Issued in Austin, Texas, on January 22, 1982.

TRD-820834 M. Reginald Arnold II  
General Counsel  
Texas Department of Water  
Resources

Effective date: February 15, 1982  
Proposal publication date: December 11, 1981  
For further information, please call (512) 475-6943.

## Duties of Licensed Water Well Drillers

### 31 TAC §231.77

The Water Well Drillers Board adopts new §231.77 with changes to the proposed text published in the December 11, 1981, of the *Texas Register* (6 TexReg 4612).

Section 2(f) of the Water Well Drillers Act, construed in conjunction with §3 of the Act, exempts from the licensing requirements of the Act those persons who assist in the construction of a water well under the direct supervision of a licensed driller. The Act does not define "direct supervision." This rule interprets the term and specifies that the licensed driller has the responsibility of complying with the Act.

The rule will require that a licensed driller who is supervising an unlicensed driller be present at the well site at all times during all operations unless he is represented by a trusted employee who is capable of immediate communication with the licensed driller at all times between his visits and provided that the licensed driller visits the well site at least once each day of operation to direct the manner in which the drilling or completion work shall be conducted. The rule makes the supervising driller responsible for compliance with the Water Well Drillers Act, the board's rules, and the Texas Department of Water Resources' rules in all respects.

Comments were received from various individuals, companies, and groups regarding this rule. All the comments objected to the proposed rule which provided for the phasing out of the presently accepted form of supervision by July 1, 1982, and which would instead require a supervising driller to be present at the well site at all times during the operations on and after July 1, 1982.

Those making comments against the rule include Layne Texas Company, Alsay Texas Corporation, and Texas Water Well Association, Inc.

The Water Well Drillers Board wishes to make its requirement of supervision more enforceable and thus to protect the public from drillers allowing their licenses to be used by unlicensed persons without pro-

per direction and supervision. However, the Water Well Drillers Board does not wish to impose great hardship by adopting a rule which is unduly stringent and feels that some modification of the present definition of direct supervision may provide an enforceable and desirable standard. For this reason, the board adopted its proposed rule with modifications. The adopted rule reinstates the definition of direct supervision which was previously embodied in §231.64 "supervising drillers." (Section 231.64 was repealed simultaneously with the adoption of this rule.) The board still intends to modify the definition of "direct supervision," but needs time to consider proposed modifications. By its adoption of §231.77, with changes, it has, however, precluded having a void in its rules pending its proposal and adoption of a modified definition.

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.

M. Reginald Arnold II  
January 22, 1982

The new section is adopted under Texas Civil Statutes, Article 7621e, §7, which provides that the Water Well Drillers Board shall adopt, prescribe, promulgate, and enforce all rules and regulations reasonably necessary to effectuate the provisions of the Water Well Drillers Act.

#### §231.77. Supervising Drillers.

(a) Drillers who are not licensed under the Texas Water Well Drillers Act may drill under the direct supervision of a driller who is licensed under the Texas Water Well Drillers Act.

(b) The licensed driller shall be present at the well site at all times during all operations or, he may be represented by a trusted employee who is capable of immediate communication with the licensed driller at all times between his visits; provided that, the licensed driller visits the well site at least once each day of operation to direct the manner in which the drilling or completion work shall be conducted.

(c) The supervising licensed driller shall bear the responsibility for compliance in all respects with the Texas Water Well Drillers Act, the board's rules, and the department's rules.

Issued in Austin, Texas, on January 22, 1982.

TRD-820836 M. Reginald Arnold II  
General Counsel  
Texas Department of Water  
Resources

Effective date: February 15, 1982  
Proposal publication date: December 11, 1981  
For further information, please call (512) 475-6943.

### Standards of Conduct

31 TAC §231.91, 231.93, 231.95, 231.97, 231.99, 231.111

The Water Well Drillers Board adopts new §§231.91, 231.93, 231.95, 231.97, 231.99 and 231.111 without changes to the proposed text published in the December 11, 1981, issue of the *Texas Register* (6 TexReg 4613).

These rules are in the board's present rules under different numbers. The adoption of these provisions relating to standards of conduct under new numbers allows the board to maintain its present standards for licensed water well drillers and only changes the numbers under which these rules appear in accordance with a new numbering system.

These rules give licensed water well drillers guidance for the conduct of their water well drilling business. These rules also give recipients of water well drilling services a means of evaluating the services they receive. Finally, these rules provide the board with standards against which a water well driller's performance may be evaluated.

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

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

M. Reginald Arnold II  
January 22, 1982

These new rules are adopted under Texas Civil Statutes, Article 7621e, §7, which provides that the Water Well Drillers Board shall adopt, prescribe, promulgate, and enforce all rules and regulations reasonable necessary to effectuate the provisions of the Water Well Drillers Act.

Issued in Austin, Texas, on January 22, 1982.

TRD-820836 M. Reginald Arnold II  
General Counsel  
Texas Department of Water  
Resources

Effective date: February 15, 1982  
Proposal publication date: December 11, 1981  
For further information, please call (512) 475-6943.

### Disposition of Violations

31 TAC §§231.131, 231.133, 231.135, 231.137

The Water Well Drillers Board adopts new §§231.131, 231.133, 231.135, and 231.137 without change to the proposed text published in the December 11, 1981, issue of the *Texas Register* (6 TexReg 4615).

Section 8 and §12 of the Water Well Drillers Act, respectively, give the board the authority to take action against licensed drillers who do not comply with the Act and the board's rules, and the authority to take action against unlicensed persons who do not comply with the Act and the board's rules. These rules serve to inform licensed drillers and others of the remedies available to the board and the procedure which can be expected when an alleged violation is presented to the board.

The rules restate the remedies available to the board under the Water Well Drillers Act. Section 231.131 delineates, for the public's and the driller's information, some of the grounds for disciplinary action. Section 231.131 also delineates the procedure, for the public's and the driller's information, which the board

will follow when an alleged violation is presented to it. Section 231.133 prescribes the procedure available for reinstating a license which has been the subject of disciplinary action by the board. Section 231.135 restates the procedure for appealing board action as it was prescribed by the Legislature in §9 of the Water Well Drillers Act. Section 231.137 restates the board's authority to apply to any court of competent jurisdiction for civil penalties when a person has violated the Act or the board's rules.

No comments were received regarding adoption of §§231.133-231.137. One comment was received regarding §231.133 (b)(5) which states that a ground for disciplinary action may be "failing to see that a well which has encountered undesirable water is plugged or properly completed in accordance with the department's rules". The comment requested that some provision be made so that a driller would not be punished for not plugging a well under certain circumstances.

The Texas Water Well Association, Inc., submitted comments against the rule.

The Water Well Drillers Act, §14, clearly gives the Texas Department of Water Resources, not the Water Well Drillers Board, the authority to promulgate rules and standards governing the plugging of wells encountering undesirable water. Thus, the Water Well Drillers Board concludes that the Texas Department of Water Resources, not the Water Well Drillers Board, is the entity which can delineate exemptions from the requirements of the section or prescribe procedures clarifying the driller's responsibility under the section. Moreover, the Water Well Drillers Board concludes that if a driller is not complying with the Water Well Drillers Act as it has been interpreted by the agency having the authority to interpret it, the driller should be subject to disciplinary action by the board, at the board's discretion.

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

M. Reginald Arnold II  
January 22, 1982

These new rules are adopted under Texas Civil Statutes, Article 7621e, §7, which provides that the Water Well Drillers Board shall adopt, prescribe, promulgate, and enforce all rules and regulations reasonably necessary to effectuate the provisions of the Water Well Drillers Act. Section 8 and §12,

respectively, authorize the board to take disciplinary action on its own and/or to refer the matter to the attorney general for enforcement.

Issued in Austin, Texas, on January 22, 1982.

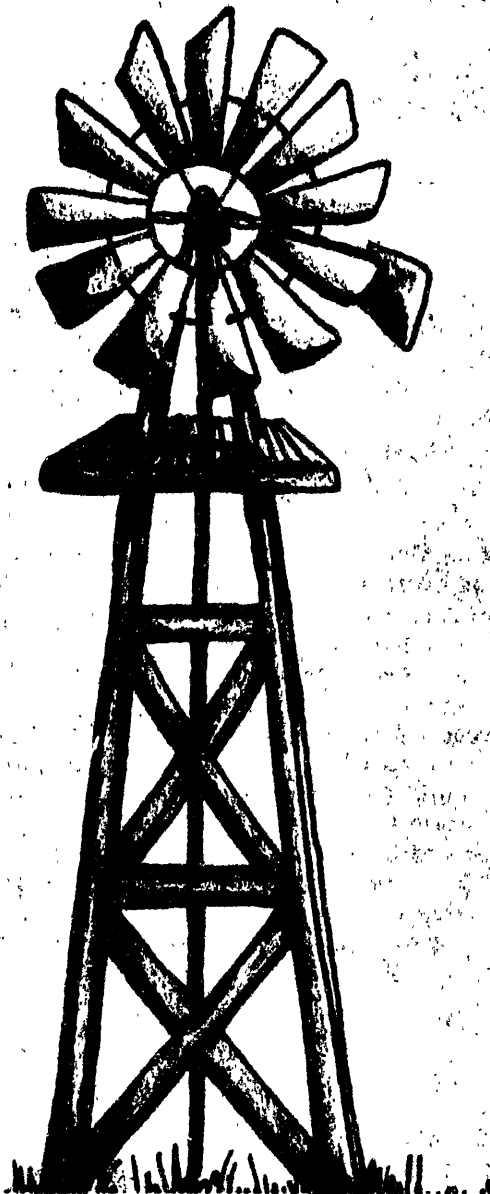
TRD-820837

M. Reginald Arnold II  
General Counsel  
Texas Department of Water  
Resources

Effective date: February 15, 1982

Proposal publication date: December 11, 1981

For further information, please call (512) 475-6943.



# Open Meetings

Agencies with statewide jurisdiction must give a 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. Although some notices may be received too late for publication before the meeting is held, all those filed are published in the Register. Notices concerning state agencies, colleges, and universities must contain the date, time, and location of the meeting, and an agenda or agenda summary. Published notices concerning county agencies include only the date, time, and location of the meeting. These notices are published alphabetically under the heading "Regional Agencies" according to the date on which they are filed.

Any of the governmental entities named above must have notice of an emergency meeting, or 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. However, notices of emergency additions or revisions to a regional agency's agenda will not be published since the original agenda for the agency was not published.

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. These notices may contain more detailed agendas than space allows to be published in the Register.

## Texas Aeronautics Commission

**Thursday, February 18, 1982, 10 a.m.** The Air Carrier Administration of the Texas Aeronautics Commission will meet in Room 221, 410 East Fifth Street, Austin. According to the agenda, the Air Carrier Administration will conduct a public hearing on the application of Executive Airlines, Inc., for a Texas air carrier certificate of operating authority pursuant to Texas Civil Statutes, Article 46c-6, Subd. 3(b-1), and 43 TAC §63.3 and §63.16, Texas Air Carrier Regulations.

**Contact:** Tom Butler, 410 East 5th Street, Austin, Texas, (512) 476-9262.

**Filed:** February 1, 1982, 9:38 a.m.  
TRD-821029

## Texas Department of Agriculture

**Monday, February 8, 1982.** The Seed Division of the Texas Department of Agriculture will meet in the district office, 5015 College Drive, Vernon, at the following times to consider alleged violations of §61.017, Texas Agriculture Code (1981), relating to the labeling of seed and tolerances set by the department as respects germination and purity of seed sold within the boundaries of the state by:

2 p.m. McClendon Feed, Seed, and Fertilizer, Iowa Park;

3 p.m. Farmers Coop and Elevator of Vernon, Vernon.

**Contact:** Steve Haley, P.O. Box 12847, Austin, Texas 78711, (512) 475-1572.

**Filed:** January 29, 1982, 3:52 p.m.  
TRD-821011 and 821010

**Thursday and Friday, February 11 and 12, 1982.** The Seed Division will meet at the district office, 4502 Englewood Avenue, Lubbock, at the following times to consider alleged violations of §61.017, Texas Agriculture Code (1981), relating to the labeling of seed and tolerances set by the department as respects germination and purity of seeds sold within the boundaries of this state by:

**February 11, 1982**

9 a.m. Agronomics, Inc., Lubbock.

9:30 a.m. Acco Paymaster Seeds, Plainview

10 a.m. Browning Seed, Inc., Plainview

11 a.m. Bob Campbell, Lubbock.

1:30 p.m. Crop Seed, Inc., Lubbock

2 p.m. Funk Seeds International, Lubbock

2:30 p.m. Growers Seed Assoc., Lubbock

3 p.m. Hale Center Wheat Growers, Hale Center

3:30 p.m. Hunt Seed Co., Inc., Lubbock

**February 12, 1982**

9 a.m. Northup King Company, New Deal

9:30 a.m. Levelland Delinting, Inc., Levelland

10 a.m. Littlefield Delinting, Inc., Littlefield

10:30 a.m. Pied Piper Mills, Inc., Hamlin

11 a.m. Ralls Delinting Company, Ralls,

11:30 a.m. Ring Around Products, Plainview

1:30 p.m. R. C. Young Seed & Grain Co., Lubbock

**Contact:** Steve Haley, P.O. Box 1287, Austin, Texas 78711, (512) 475-1572.

**Filed:** February 1, 1982, 9:36 a.m.  
TRD-821031 and 820132

## Texas Air Control Board

**Friday, February 12, 1982.** The following committees of the Texas Air Control Board will meet in the room designated below,



6330 Highway 290 East, Austin, at the following times:

**8:30 a.m.** The Budget and Finance Committee will meet in Room 332 to consider the following summarized agenda: consideration and approval of proposed software development contract for control and prevention system; report on process for regional office lease renewal; and report on meeting with Legislative Budget Board representatives.

**9:30 a.m.** The Monitoring and Research Committee will meet in Room 332 to consider the following summarized agenda: consideration of TACB policy for the investigation and control of air pollutants not regulated under the Federal Clean Air Act; and discussion and consideration of a program for the development of state research needs.

**10:30 a.m.** The Texas Air Control Board will meet to consider the following summarized agenda: approve minutes of January 8, 1982, meeting; reports; consideration of proposed agency contract; consideration and adoption of resolution regarding House Resolution 5252, 67th Legislature; consideration and adoption of resolution regarding noncriteria pollutants; hearing examiners's reports; and new business.

**Contact:** Ramon Dasch, 6330 Highway 290 East, Austin, Texas 78723, (512) 431-5711, ext. 354

**Filed:** January 29, 1982, 3:46 p.m.  
TRD-821003, 821008, and 821004

### **Coordinating Board, Texas College and University System**

**Wednesday, February 10, 1982, 10 a.m.** The Administrative Council of the Texas College and University System Coordinating Board will meet in Conference Room 209, Bevington A. Reed Building, 200 East Riverside Drive, Austin. According to the agenda, the council will meet to consider the following: proposed amendments to §25.78—Auditing Procedures and §25.77—Solicitation Practices; advisory committee recommendation on institutional guidelines for the administration of the Optional Retirement Program; an institutional request; Institutional Program review; summary of Institutional Employee Group Insurance Programs for 1981-82; discussion of claims payments and procedures; and executive secretary's report.

**Contact:** James McWhorter, P.O. Box 12788, Capitol Station, Austin, Texas 78711.

**Filed:** February 1, 1982, 9:38 a.m.  
TRD-821027

### **Interagency Council on Early Childhood Intervention**

**Friday, February 12, 1982, 2:30 p.m.** The Interagency Council on Early Childhood Intervention will meet in Room T-604, Texas Department of Health, 1100 West 49th Street, Austin. According to the agenda, the council will meet to hear a report from the Interagency Grant Review Committee.

**Contact:** James P. Rambin, 1100 West 49th Street, Austin, Texas (512) 458-7241.

**Filed:** January 29, 1982, 4:14 p.m.  
TRD-821006

### **Texas Education Agency**

**Monday, February 8, 1982, 9 a.m.** The Teachers' Professional Practices Commission of the Texas Education Agency will meet in the State Board Conference Room, 150 East Riverside Drive, Austin. Items on the agenda include: adoption of minutes of November 18, 1981, meeting; report from Legislative Committee; report on travel budget; photographs taken of commission; report from Public Information; and other business.

**Tuesday, February 9, 1982, 10 a.m.** The Teachers' Professional Practices Commission of the Texas Education Agency will meet in the hearing room, 150 East Riverside Drive, Austin. According to the agenda, the commission will hear a complaint alleged by one practicing professional against another pursuant to §§13.201-13.218 of the Texas Education Code. The hearing will be closed and be heard by a three-member panel of the commission.

**Contact:** Harry Griffith, 201 East 11th Street, Austin, Texas 78701, (512) 475-6836.

**Filed:** January 28, 1982, 2:28 p.m.  
TRD-820959 and 820960

**Tuesday, February 16, 1982, 9 a.m.** The Proprietary School Advisory Commission of the Texas Education Agency has rescheduled a meeting to be held in the Investment Library, fourth floor, Teacher Retirement System Building, 10th and Trinity, Austin. Items on the agenda include: status report—Texas proprietary

### **Meetings**

schools—presented to Committee for Teacher Preparation, School Support Services, and Special Projects, State Board of Education on November 13, 1981; proposed amendments to guidelines and minimum standards for operation of Texas proprietary schools relating to proprietary degree granting schools and other editorial changes; proposed application for approval to grant associate of applied arts and associate of applied science degrees. This meeting was originally scheduled for January 12, 1982.

**Contact:** Janice Boyd, 201 East 11th Street, Austin, Texas 78701, (512) 475-2246.

**Filed:** January 28, 1982, 2:28 p.m.  
TRD-820961

**Tuesday, February 16, 1982, 10 a.m.** The Teachers' Professional Practices Commission of the Texas Education Agency will meet in the hearing room, 150 East Riverside Drive, Austin. According to the agenda, the commission will hear a complaint alleged by one practicing professional against another pursuant to §§13.201-13.218 of the Texas Education Code. The hearing will be closed and will be heard by a three-member panel of the commission.

**Contact:** Harry Griffith, 201 East Eleventh Street, Austin, Texas 78701, (512) 475-6836.

**Filed:** January 28, 1982, 2:29 p.m.  
TRD-820962

### **Texas Employment Commission**

**Tuesday, February 9, 1982, 9 a.m.** The Texas Employment Commission will meet in Room 644, Texas Employment Commission Building, 15th and Congress, Austin. According to the agenda summary the commission will consider the following: prior meeting notes; report by general counsel; report of administrator regarding latest information on congressional action to restore funding to State Employment Security Agencies; and a report from the Department of Labor on this issue and program operations information from ICESA; report of assistant administrator on recent changes to FY 82 funding; U.I. and E.S. program activities; public information and media update regarding director of training, information and media services; Advisory Council guidelines to voted on; procedures for conducting commission meetings; and agenda items for February 23, 1982 meeting. The commission will meet

in executive session to consider the following: status reports on premises matters and litigation, lease cancellations, local office closings and possible re-openings; personnel matters relating to either reduction and compression of staff or re-instatement of staff through fundings restoration; and status of litigation relating to outstanding suits and attorney general opinion requests.

**Contact:** Pat Joiner, T.E.C. Building, Room 656, Austin, Texas, (512) 397-4514.

**Filed:** February 1, 1982, 4:45 p.m.  
TRD-821056

### **Office of the Governor**

**Monday, February 8, 1982, 10 a.m.** The Governor's Task Force on State Aviation Policy will meet in emergency session in the Senate Finance Room 301, State Capitol. Items on the agenda include subcommittee reports concerning general aviation, small airport facilities, large airport facilities, intrastate carriers, interstate carriers, Washington liaison, federal aviation administration, state agencies, airport sites, helicopters, and discussion of public hearing procedures. A public hearing by the task force will be held in the Senate Chambers. This meeting is being held on an emergency basis because the chairman was not able to formulate the agenda prior to February 8, 1982.

**Contact:** A. S. "Buck" Black, 4669 Southwest Freeway, Suite 800, Houston, Texas 77027.

**Filed:** February 1, 1982, 10:12 a.m.  
TRD-821034

### **Texas Department of Health**

**Sunday, February 7, 1982, 9:30 a.m.** The Texas Board of Health of the Texas Department of Health will meet in Room T-607, Texas Department of Health, 1100 West 49th Street, Austin. According to the agenda summary, the board will consider the minutes of the January 16, 1982, meeting; commissioner's report; update of the activities of the Emergency Medical Services Advisory Council; proposed amendments to the Texas regulations for the control of radiation on (1) radiation safety requirements for wireline service operations and subsurface tracer studies, and (2) fees for registration certificates, radioactive material(s) licenses, and other regulatory services; proposed amendments to the minimum licensing standards for adult day care and adult day care health facilities; final adoption of rules and regulations for

the provision of antirabies biologicals, and changes in rabies control rules. The board will also meet in executive session to consider the following: election of secretary to the Texas Board of Health; personnel committee reports on appointments to the Resource Recovery Advisory Council, appointment to the Maternal and Child Health Technical Advisory Committee, and appointment to the Maternal and Child Health Genetics Advisory Committee; and meeting date for March, 1982.

**Contact:** Lillie Gilligan, 1100 West 49th Street, Austin, Texas, (512) 458-7375.

**Filed:** January 29, 1982, 4:15 p.m.  
TRD-821007

### **Texas Health Facilities Commission**

**Friday, February 12, 1982, 10 a.m.** The Texas Health Facilities Commission will meet in Suite 305 of the Jefferson Building, 1600 West 38th Street, Austin, to consider the following applications:

#### **Certification of Need**

Huguley Memorial Medical Center,  
Fort Worth

AH81-0706-024

Mesquite Memorial Hospital, Mesquite  
AH81-0601-012

Mesquite Community Hospital, Mesquite  
AH81-0902-013

**Amendment of Certificate of Need Order**  
New Boston Nursing Center, Inc.,  
New Boston  
AN81-0121-013A(112581)

**Amendment of Exemption Certificate**  
W. C. Tenery Community Hospital,  
Waxahachie  
AH80-0908-008A (010482)

#### **Notices of Intent to Acquire an Existing Health Care Facility**

Wentworth Carter and Norma Carter,  
Seagoville  
AH81-1223-019

William E. Campbell and John E.  
Campbell, Dallas  
AN81-1230-015

A routine business meeting will follow the open meeting.

**Contact:** Linda Zatopek, P.O. Box 15023, Austin, Texas 78761.

**Filed:** February 1, 1982, 10:01 a.m.  
TRD-821033

### **State Board of Insurance**

**Tuesday, February 9, 1982.** The Commissioner's Hearing Section of the State Board of Insurance will conduct public hearings in Room 342, 1110 San Jacinto Street, Austin. Times and dockets are as follows:

**9 a.m. Docket 6702**—Application for admission by MML Life Insurance Company, Wilmington, Delaware

**9:15 a.m. Docket 6703**—Application for admission by Bay Colony Life Insurance Company, Wilmington, Delaware

**9:30 a.m. Docket 6706**—Application for admission by State Bond and Mortgage Life Insurance Company, New Ulm, Minnesota

**1 p.m. Docket 6645**—Application of Harry T. Dozor to acquire control of the Great Life Insurance Company, Dallas

**1:30 p.m. Docket 6707**—Application for admission by Gamma Reinsurance Company, Wilmington, Delaware

**Contact:** J. C. Thomas for Dockets 6702, 6703, and 6706, John Brady for Dockets 6645 and 6707, 1110 San Jacinto Street, Austin, Texas 78786, (512) 475-4353 and 475-2287, respectively.

**Filed:** February 1, 1982, 3:17 p.m.  
TRD-821044-821048

**Wednesday, February 10, 1982, 10:30 a.m.** The Commissioner's Hearing Section of the State Board of Insurance will conduct a public hearing in Room 342, 1110 San Jacinto Street, Austin, to consider Docket 6700. Application for original charter by Insurance Company of Texas, Richardson

**Contact:** J. C. Thomas, 1110 San Jacinto Street, Austin, Texas 78786, (512) 475-4353.

**Filed:** February 1, 1982, 3:18 p.m.  
TRD-821049

**Thursday, February 11, 1982, 9 a.m.** The State Board of Insurance will conduct a public hearing in Room 414, 1110 San Jacinto Street, Austin, to consider the appeal of Security Benefit Life Insurance Company from Commissioner's Orders 81-4071 and 81-4453.

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

**Filed:** February 1, 1982, 1:57 p.m.  
TRD-821038

**Thursday, February 11, 1982.** The Commissioner's Hearing Section of the State Board

of insurance will conduct public hearings in Room 342, 1110 San Jacinto, Austin. Times and dockets follow.

**9 a.m. Docket 6681**—Stock purchase of Citizens Insurance Company, Austin

**10:30 a.m. Docket 6698**—Application for temporary certificate of authority by Sentinel Life Insurance Company, Houston

**Contact:** J. C. Thomas, 1110 San Jacinto Street, Austin, Texas 78786, (512) 475-4353.

**Filed:** February 1, 1982, 3:18 a.m.  
TRD-821050, 821051

**Friday, February 12, 1982, 9 a.m.** The Commissioner's Hearing Section of the State Board of Insurance will hold a public hearing in Room 342, 1110 San Jacinto Street, Austin, to consider Docket 6704—Application for admission by BLC Life and Annuity Company, Des Moines, Iowa.

**Contact:** J. C. Thomas, 1110 San Jacinto, Austin, Texas, (512) 475-4353.

**Filed:** February 1, 1982, 3:18 p.m.  
TRD-821052

### **Texas Advisory Commission on Intergovernmental Relations**

**Friday, February 10, 1982, noon.** The Committee on Long-Term Local Government Debt of the Texas Advisory Commission on Intergovernmental Relations will meet in the Fourth Floor Boardroom, San Antonio Club of Texas, Alamo National Bank Building, 154 East Commerce, San Antonio. Items on the agenda include the following: overview of the project activities; summary of data analysis; policy considerations by committee; and future committee activities.

**Contact:** Jorge Anchondo, Room 407, Sam Houston State Office Building, 201 East 14th Street, Austin, Texas 78701, (512) 475-3728.

**Filed:** January 29, 1982, 3:56 p.m.  
TRD-821012

### **Lamar University**

**Monday, February 8, 1982, 6:30 p.m.** The Lamar University Board of Regents will meet in emergency session in the Neches Room, Beaumont Civic Center, 701 Main, Beaumont. According to the agenda, the board will consider the revision of the by-

laws of the Lamar University Foundation and the appointment of trustees. This meeting is being held on an emergency basis because it is the only available date to have a quorum in order to meet projected deadline.

**Contact:** Andrew J. Johnson, P.O. Box 10014, L.U. Station, Beaumont, Texas 77710, (713) 838-8403.

**Filed:** January 29, 1982, 1:34 p.m.  
TRD-820993

### **Texas Board of Land Surveying**

**Monday and Tuesday, February 22 and 23, 1982.** The Texas Board of Land Surveying will meet at the times and locations given below:

**February 22, 1982, 9 a.m.** In the San Antonio Room, Sheraton Crest Inn, Austin, the board will hold a public hearing on proposed §663.11 (408.02.00.011)—certification and monumentation of surveys; and grade and evaluate examinations given on February 15 and 16, 1982.

**February 23, 1982, 8 a.m.** At 1106 Clayton Lane, 210 West, Austin, the board will consider minutes of previous meeting; grading and evaluation of examinations given on February 15 and 16, 1982; interviews; correspondence; new business; and discussion of Surveyor in Training Program.

**Contact:** Betty J. Pope, 1106 Clayton Lane, 210 West, Austin, Texas 78723, (512) 452-9427.

**Filed:** February 2, 1982, 9:15 a.m.  
TRD-821061

### **Legislative Budget Board**

The Legislative Budget Board will meet in Room 301, State Capitol, on the dates and times given below:

**Friday, August 6, 1982, 9 a.m.** To consider appropriation requirements for the 1984-85 biennium; approval of the operating budget for fiscal 1983; appointment of director; and any other subjects that come before the board.

**Friday, September 17, 1982, 9 a.m.** To continue consideration of appropriation requirements for the 1984-85 biennium.

**Friday, October 8, 1982, 9 a.m.** To continue consideration of appropria-

tion requirements for the 1984-85 biennium.

**Friday, November 5, 1982, 9 a.m.** To continue consideration of appropriation requirements for the 1984-85 biennium.

**Friday, November 19, 1982, 9 a.m.** To continue consideration of appropriation requirements for the 1984-85 biennium.

**Friday, December 3, 1982, 9 a.m.** To continue consideration of appropriation requirements for the 1984-85 biennium.

**Contact:** Thomas M. Keel, Room 207-A, State Capitol, Austin, Texas, (512) 475-3426.

**Filed:** January 21, 1982, 4:18 p.m.  
TRD-821062-821067.

### **Texas Legislative Council**

**Friday, February 5, 1982, 9:30 a.m.** The Mental Health Code Task Force of the Texas Legislative Council will meet in Room 104, Texas Law Center, 1414 Colorado, Austin. Items on the agenda include: introductory remarks by Helen Farabee; definition of issues to be studied by task force members; refine and prioritize issues; and establish tentative goals.

**Contact:** Jane Fontana, P.O. Box 12128, Austin, Texas 78711, (512) 475-8454.

**Filed:** January 28, 1982, 3:23 p.m.  
TRD-820963

### **Texas Merit System Council**

**Thursday, February 4, 1982, 9 a.m.** The Texas Merit System Council made an emergency revision to the agenda of a meeting held at 507 Brown Building, Eighth and Colorado Streets, Austin. The revision concerned an appeal hearing; review of a record; an announcement of executive director appointment; and other personnel matters. These revisions were made on an emergency basis due to the final vote and decision required following deliberations in executive session on January 28, 1982, concerning appointment.

**Contact:** F. Kemp Dixon, P.O. Box 1389, Austin, Texas 78767, (512) 477-9665.

**Filed:** February 1, 1982, 9:37 a.m.  
TRD-821026

### **State Board of Morticians**

**Monday and Tuesday, February 8 and 9, 1982, 9 a.m.** The State Board of Morticians will meet at 1513 IH 35 South, Austin.

Items on the agenda summary for February 8 include: formal hearing regarding action of licensee; revisions of consumer brochure; and executive session to interview persons for Investigator II position. Items on the agenda summary for February 9 include: applicants for reciprocal licenses; reinstatement of licenses and reinstatement of apprentice registration; examination dates; minimum standards for embalming; space at T.F.D.A. convention in Houston and the annual; request for extension of six months to register as an apprentice; report of Forms Committee; and complaints to be reviewed.

**Contact:** John W. Shocklee, 1513 IH 35 South, Austin, Texas 78741 (512) 442-6721.

**Filed:** January 29, 1982, 9:15 a.m.  
TRD-820971

### **Texas Motor Vehicle Commission**

**Friday, February 12, 1982, 9 a.m.** The Texas Motor Vehicle Commission will meet in Suite 200, 815 Brazos, Austin. According to the agenda summary, the commission will consider proposals for decision in Proceeding 244—application of Golden Triangle Kawasaki, Orange, and Proceeding 246—Star Morot Cars v. Mercedes-Benz of North America, Inc.; Orders of Dismissal in Docket 252—application of R&D Harley-Davidson, New Braunfels, and Docket 253—application of Ancira-Winton Chevrolet, Inc., San Antonio; and financial report and budget.

**Contact:** Russell Harding, Suite 200, 815 Brazos Street, Austin, Texas 78701, (512) 476-3587.

**Filed:** January 29, 1982, 3:37 p.m.  
TRD-821009

### **State Occupational Information Coordinating Committee**

**Wednesday, February 10, 1982, 9:30 a.m.** The State Occupational Information Coordinating Committee will meet in Room 644, TEC Building, 15th and Congress Avenue, Austin. According to the agenda summary, the committee will elect a chairperson for FY 1982 and discuss the ongoing activities of the committee.

**Contact:** Edmund F. Ney, TEC Building, 12th and Trinity, Austin, (512) 397-4970.

**Filed:** February 1, 1982, 3:09 p.m.  
TRD-821043

### **Board of Pardons and Paroles**

**Tuesday-Friday, February 16-19, 1982, 9 a.m.** The Board of Pardons and Paroles will meet at 711 Stephen F. Austin Building, Austin. According to the agenda, the board will review cases of inmates for parole consideration, act on emergency reprieve request and other acts of executive clemency, review reports regarding person on parole; review procedures affecting the day-to-day operation of support staff; review and initiate needed rule changes relating to general operation, executive clemency, parole, and all hearings conducted by this agency; and take action upon gubernatorial directives.

**Contact:** Ken Casner, 711 Stephen F. Austin Building, Austin, Texas, (512) 475-3363.

**Filed:** February 1, 1982, 4:01 p.m.  
TRD-821055

### **Texas State Board of Pharmacy**

**Wednesday, February 10, 1982, 9 a.m.** The Texas State Board of Pharmacy will meet in Suite 1221, 211 East Seventh Street, Austin. According to the agenda, the board will discuss comments received on proposed rules on class B, C, and D pharmacies, generic substitution, practice and procedure, and code of conduct. The board will consider the following old and new business: report on January, 1982 NABPLEX Examinations; foreign pharmacy graduate survey; consideration of proposed amendment to 22 TAC §283.14 (393.15.00.014) relating to examination fee requirements; and Attorney General Opinion MW-410. The board will meet in executive session to discuss personnel matters.

**Contact:** Priscilla Jarvis, 211 East 7th Street, Suite 1121, Austin, Texas, (512) 478-9827.

**Filed:** February 1, 1982, 4:41 p.m.  
TRD-821057



### **Public Utility Commission of Texas**

**Thursday, February 11, 1982, 9 a.m.** The Hearings Division of the Public Utility Commission of Texas will conduct a prehearing conference in Suite 450N, 7800 Shoal Creek Boulevard, Austin, for Docket 4291—application of Lone Wolf Electric Cooperative, Inc. for authority to increase rates.

**Contact:** Carolyn E. Shellman, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

**Filed:** February 1, 1982, 9:38 a.m.  
TRD-821028

**Thursday, February 11, 1982, 9 a.m.** The Public Utility Commission of Texas will meet in Suite 450N, 7800 Shoal Creek Boulevard, Austin. According to the agenda the commission will conduct the hearing on the merits of Docket No. 4202—Application of West Texas Utilities Company for a rate increase, and elect a chairman for the remainder of the biennium pursuant to §5 of the Public Utility Regulatory Act, Texas Civil Statutes, Article 1446c.

**Contact:** Carolyn E. Shellman, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

**Filed:** February 2, 1982, 9:14 a.m.  
TRD-821057

**Thursday, February 11, 1982, 2 p.m.** The Hearings Division of the Public Utility Commission of Texas will conduct a rescheduled prehearing conference in Suite 450N, 7800 Shoal Creek Boulevard, Austin, in Docket 3773—application of Community Public Service Company for determination of the effect of a final order of the Public Utility Commission. This prehearing was originally scheduled for January 28, 1982 (7 TexReg 302).

**Contact:** Carolyn E. Shellman, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

**Filed:** January 29, 1982, 3:36 p.m.  
TRD-821005

**Tuesday, February 16, 1982, 1:30 p.m.** The Hearings Division of the Public Utility Commission of Texas will conduct a prehearing conference in Suite 450N, 7800 Shoal Creek Boulevard, Austin, in Docket 4300—petition of General Telephone Company of the Southwest for authority to change telephone rates.

**Contact:** Carolyn E. Shellman, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

**Filed:** February 1, 1982, 1:58 p.m.  
TRD-821036

**Friday, February 19, 1982, 9 a.m.** The Hearings Division of the Public Utility Commission of Texas will conduct a prehearing conference in Suite 450N, 7800 Shoal Creek Boulevard, Austin, in Docket 4293—complaint of Robert S. Baird against Sam Houston Electric Cooperative, Inc. regarding certification of certain transmission lines in Walker County (electric).

**Contact:** Carolyn E. Shellman, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

**Filed:** February 1, 1982, 1:58 p.m.  
TRD-821037

### **Railroad Commission of Texas**

**Monday, February 1, 1982, 9 a.m.** The Oil and Gas Division of the Railroad Commission of Texas made an emergency addition to the agenda of a meeting held in the first floor auditorium, 1124 IH 35 South, Austin. The addition concerned consideration of Docket 89, 156—Westchester Oil Company's application for an exception to Statewide Rule 37, and discussion of whether or not the commission should call a hearing to amend the field rules in the Talco Field, Titus County. This item was properly noticed for the meeting of January 25, 1982, and was passed. Consideration on less than seven days notice was required as a matter of urgent public necessity.

**Contact:** Sandra Kay Joseph, P.O. Drawer 12967, Austin, Texas 78711, (512) 445-1286.

**Filed:** January 29, 1982, 10:50 a.m.  
TRD-820974

**Monday, February 8, 1982, 9 a.m.** The following divisions of the Railroad Commission of Texas will meet at 1124 IH 35 South, Austin. The agendas and meeting rooms follow.

The Administrative Services Division will meet in the first floor auditorium to consider and act on the division director's report on division administration, budget, procedures, and personnel matters.

**Contact:** Roger Dillon, P.O. Drawer 12967, Austin, Texas 78711, (512) 445-1211.

**Filed:** January 29, 1982, 10:52 a.m.  
TRD-820975

The Automatic Data Processing Division will meet in the first floor auditorium to consider and act on the division director's report on division administration, budget, procedures, and personnel matters.

**Contact:** Bob Kmetz, P.O. Drawer 12967, Austin, Texas 78711, (512) 445-1204.

**Filed:** January 29, 1982, 10:51 a.m.  
TRD-820976

The Flight Division will meet in Room 107 to consider and act on the division director's report on division administration, budget, procedures, and personnel matters.

**Contact:** Ken Fossler, 1124 IH 35 South, Austin, Texas 78704, (512) 445-1103.

**Filed:** January 29, 1982, 10:53 a.m.  
TRD-820977

The Gas Utilities Division will meet in Room 107 to consider Gas Utilities Dockets 3313, 3345, 3356, 3357, 3358, 3359, 3360, 3363, 3364, 3365, 3366, 3367, 3368, 3369, 3370, 3371, 3372 and the director's report.

**Contact:** Lucia Sturdevant, P.O. Drawer 12967, Austin, Texas, (512) 475-0461.

**Filed:** January 29, 1982, 10:49 a.m.  
TRD-820978

The Office of Information Services will meet in the first floor auditorium to consider and act on the division director's report on division administration, budget, procedures, and personnel matters.

**Contact:** Brian W. Schaible, P.O. Drawer 12967, Austin, Texas 78711.

**Filed:** January 29, 1982, 10:48 a.m.  
TRD-820979

The Liquefied Petroleum-Gas Division will meet in the first floor auditorium to consider and act on the division director's report on division administration, budget, procedures, and personnel matters.

**Contact:** Hugh F. Keepers, P.O. Drawer 12967, Austin, Texas 78711, (512) 475-1301.

**Filed:** January 29, 1982, 10:52 a.m.  
TRD-820980

The Oil and Gas Division will meet in the first floor auditorium to consider various matters falling within the Railroad Commission's oil and gas regulatory jurisdiction.

**Contact:** Jan Burris, P.O. Drawer 12967, Austin, Texas 78711, (512) 445-1307.

**Filed:** January 29, 1982, 10:51 a.m.  
TRD-820981

Addition to the above agenda: Category determinations under §§102(c)(1)(B), 102(c)(1)(C), 103, 107, and 108 of the Natural Gas Policy Act of 1978.

**Contact:** Madalyn J. Girvin, P.O. Drawer 12967, Austin, Texas, 78711, (512) 445-1273.

**Filed:** January 29, 1982, 10:49 a.m.  
TRD-820982

The Personnel Division will meet in the first floor auditorium to consider and act on the division director's report on division administration, budget, procedures, and personnel matters.

**Contact:** Herman L. Wilkins, P.O. Drawer 12967, Austin, Texas 78711.

**Filed:** January 29, 1982, 10:50 a.m.  
TRD-820983

The Office of Special Counsel will meet in the third floor conference room to consider and act on the director's report relating to pending litigation, Sunset Commission procedure, and other budget, administrative, and personnel matters.

**Contact:** Walter Earl Lilie, 1124 IH 35 South, Austin, Texas 78704, (512) 445-1186.

**Filed:** January 29, 1982, 10:50 a.m.  
TRD-820984

The Surface Mining and Reclamation Division will meet in the first floor auditorium to consider and act on the division director's report on division administration, budget, procedures, and personnel matters.

**Contact:** J. Randel (Jerry) Hill, 105 West Riverside Drive, Austin, Texas, (512) 475-8751.

**Filed:** January 29, 1982, 10:48 a.m.  
TRD-820985

The Transportation Division will meet in the first floor auditorium, Room 107, to consider various matters falling within the Railroad Commission's transportation regulatory jurisdiction.

**Contact:** Owen T. Kinney, 1124 IH 35 South, Austin, Texas 78704, (512) 445-1330.

**Filed:** January 29, 1982, 10:53 a.m.  
TRD-820986

**Thursday, February 18, 1982, 9 a.m.** The Oil and Gas Division of the Railroad Commission of Texas will meet in the first floor auditorium, 1124 IH 35 South, Austin to conduct a statewide oil and gas hearing.

**Contact:** Harriett Trammel, P.O. Drawer 12967, Austin, Texas 78711, (512) 445-1297.

**Filed:** January 29, 1982, 10:52 a.m.  
TRD-820987.

### **Commission on Standards for the Teaching Profession**

**Thursday, February 4, 1982, 1:30 p.m.** The Committee on Standards and Procedures for Institutional Approval of the Commission on Standards for the Teaching Profession made an emergency addition to a meeting held in the second floor conference room, 150 East Riverside Drive, Austin. The addition concerned the discussion of guidelines for funding of local cooperative teacher education centers. This addition was made on an emergency basis because information was not received in time for submission with original notice of meeting.

**Friday, February 5, 1982, 9 a.m.** The Commission on Standards for the Teaching Profession made an emergency addition to a meeting held in the fourth floor conference room, Teacher Retirement System Building, 1001 Trinity, Austin. The addition concerned the discussion of guidelines for funding of local cooperative teacher education centers. This addition was made on emergency basis because information was not received in time for submission with original notice of meeting.

**Contact:** Dr. Ed Vodicka, 201 East 11th Street, Austin, Texas 78701, (512) 475-0164.

**Filed:** January 29, 1982, 1:07 p.m.  
TRD-820994 and 820995

### **Advisory Council for Technical-Vocational Education**

**Thursday, February 11, 1982, 10 a.m.** The Steering Committee of the Advisory Council for Technical-Vocational Education will meet in the council office, Suite 202, 1700 South Lamar, Austin. According to the agenda, the committee will review plans for presentation and discussion of the 12th Annual Report to the Vocational Education Task Force; discuss possible alternatives for the FY 1983 ACTIVE budget in view of proposed cuts in the federal grant; consider proposals for the FY 1984-85 biennial budget request of the council to the 68th State Legislature; review program of work items; hear reports from council chairpersons; and discuss other business.

**Contact:** Valeria Blaschke, P.O. Box 1886, Austin, Texas, 78767, (512) 475-2046.

**Filed:** February 2, 1982, 9:13 a.m.  
TRD-821058

### **University of Texas System**

**Friday, February 5, 1982, 10 a.m.** The Academic Affairs Committee of The University of Texas System Board of Regents will meet in University of Texas at San Antonio, Litcher Center, 636 Ivy Lane, San Antonio. According to the agenda, the board will consider discussion related to academic planning and its application at various general academic institutions within The University of Texas System and discussion of matters related to the acceptance of buildings as gifts.

**Contact:** Arthur H. Dilly, P.O. Box N, U. T. Station, Austin, Texas 78712, (512) 471-1265.

**Filed:** January 29, 1982, 12:36 p.m.  
TRD-820991

### **Texas Water Commission**

**Monday, February 1, 1982, 10 a.m.** The Texas Water Commission made an emergency addition to the agenda of a meeting held in Room 118, Stephen F. Austin Building, 1700 North Congress, Austin. The addition concerned consideration of application by Park Ten Municipal Utility District for the release of \$65,000 from escrow, \$2,620,000 bond issue approved April 17, 1980. The emergency status was necessary so that the funds would be available in time to award the contract to the low bidder.

**Contact:** Mary Ann Hefner, P.O. Box 13087, Austin, Texas 78711, (512) 475-4514.

**Filed:** January 27, 1982, 2:58 p.m.  
TRD-820943

**Monday, February 8, 1982, 10 a.m.** The Texas Water Commission will meet in Room 118 of the Stephen F. Austin Building, 1700 North Congress, Austin. Items on the agenda summary include: applications for district bond issues; use of surplus funds; change in plans and amendment to bond issue; hearing date for district creation; water quality permits; amendments and renewals; adjudication matters; dismissal of levee project; extension of time; filing and setting hearings dates; and motion for rehearing.

**Contact:** Mary Ann Hefner, P.O. Box 13087, Austin, Texas 78711, (512) 475-4514.

**Filed:** January 29, 1982, 11:08 a.m.  
TRD-820988

**Tuesday, February 16, 1982, 9:30 a.m.** The Texas Water Commission will meet in Room 124A, Stephen F. Austin Building, 1700 North Congress, Austin. This notice was originally published in the February 2, 1982, issue of the *Texas Register* (7 Tex-Reg 460), and is being republished with corrections concerning the hearing on TA-4246 of Arthur A. Adams seeking a permit to divert and use 1000 acre-feet of water for a one-year period from Pinoak Creek at the vicinity of FM 2526 in the Lavaca River Basin for irrigation (rice crop) purposes in Wharton County.

**Contact:** Mary Ann Hefner, P.O. Box 13087, Austin, Texas 78711, (512) 475-4514.

**Filed:** February 1, 1982, 3:14 p.m.  
TRD-821053

**Thursday, March 11, 1982, 9 a.m.** The Texas Water Commission will meet in Room 681, Stephen F. Austin Office Building, 1700 North Congress, Austin, to consider the following application:

Wilson Development Corporation, 1613 West Loop 360, Austin, Texas 78746, has applied for a permit to authorize a discharge not to exceed an average flow of 250,000 gallons per day of treated domestic sewage effluent. The applicant proposes to construct a new sewage treatment plant to serve the proposed Shepherd Mountain Subdivision, in Travis County.

**Contact:** Phillip Paine, P.O. Box 13087, Austin, Texas 78711, (512) 475-1468.

**Filed:** February 1, 1982, 3:16 p.m.  
TRD-821054

### **Regional Agencies Meetings Filed January 28**

**The Ark-Tex Council of Governments, Executive Committee,** will meet at the Holiday Inn, Mount Pleasant, on February 4, 1982, at 5:30 p.m. Information may be obtained from Vivienne Arvin, P.O. Box 5307, Texarkana, Texas 75501, (501) 774-3481.

**The Interim Regional Transportation Authority, Executive Committee**, met in the Belo Room South, Belo Mansion (Dallas Bar Association), 2101 Ross Avenue, Dallas, on February 3, 1982, at 7 p.m. Information may be obtained from Cinde Weatherby, P.O. Drawer COG, Arlington, Texas 76011, (817) 640-3300, ext. 173.

TRD-820958

#### Meetings Filed January 29

**The Houston-Galveston Area Council, Project Review Committee**, met in emergency session in the large conference room, 3701 West Alabama, Houston, on February 2, 1982, at 9:30 a.m. Information may be obtained from Gail Gerrard, P.O. Box 22777, Houston, Texas 77027, (713) 627-3200.

**The Panhandle Ground Water Conservation District No. 3, Board of Directors**, will meet in the water district office, 300 South Omohundro, White Deer, on February 8, 1982, at 8 p.m. Information may be obtained from Richard S. Bowers, Box 637, White Deer, Texas 79097, (806) 883-2501.

**The Red River Authority of Texas, Board of Directors**, will meet in Room 214, Activity Center, 1001 Indiana, Wichita Falls, on February 11, 1982, at 10 a.m. Information may be obtained from Fred Parkey, 302 Hamilton Building, Wichita Falls, Texas.

**The San Patricio County Appraisal District, Board of Directors**, will meet in Room 226, courthouse annex, Sinton, on February 10, 1982, at 9:30 a.m. Information may be obtained from Bennie L. Stewart, 313 North Rachal, Sinton, Texas 78387, (512) 364-5402.

**The Upshur County Appraisal District, Board of Directors**, will meet in the appraisal district office, Gilmer, on February 8, 1982, at 7 p.m. Information may be obtained from Louise Stracener, P.O. Box 31, Gilmer, Texas 75644.

TRD-820970

#### Meetings Filed February 1

**The Capital Area Rural Transportation System, Board of Directors**, will meet in the Capital Area Planning Council (CAPCO), 2520 IH 35 South, Austin, on February 10, 1982, at 2 p.m. Information may be obtained from Jace Graff, 2520 IH 35 South, Austin, Texas 78704, (512) 443-7653.

**The Carson County Appraisal District, Board of Directors**, will meet at 220 Main

Street, Panhandle, on February 10, 1982, at 7 p.m. Information may be obtained from Dianne Brock, P.O. Box 970, Panhandle, Texas 79068-0970.

**The Coryell County Tax Appraisal Board** met in the Coryell County Courthouse, Gatesville, on February 4, 1982, at 7 p.m. Information may be obtained from Nub Donaldson, 500 Littlefield Building, Austin, Texas 78701, (512) 479-0300.

**The Dewitt County Appraisal District, Board of Directors**, will meet in the appraisal district office, 103 Bailey Street, Cuero, on February 11, 1982, at 7:30 p.m. Information may be obtained from Wayne K. Woolsey, P.O. Box 4, Cuero, Texas 77954, (512) 275-5753.

**The East Texas Council of Governments, Executive Committee**, met at 3800 Stone Road, Kilgore, on February 4, 1982, at 2 p.m. Information may be obtained from Glynn J. Knight, 3800 Stone Road, Kilgore, Texas 75662, (214) 984-8641.

**The Garza County Tax Appraisal District, Board of Directors**, met in emergency session in the tax appraisal office, courthouse, Post, on February 2, 1982, at 7 p.m. Information may be obtained from Jean M. Westfall, P.O. Drawer F, Post, Texas 79356, (806) 495-3939.

**The Heart of Texas Region MH/MR Center, Board of Directors**, held an emergency rescheduled meeting in the second floor conference room, Cam. Building, 110 South 12th, Waco, on February 2, 1982, at 11:30 a.m. This meeting was originally scheduled for January 26, 1982. Information may be obtained from Sue W. Richardson, P.O. Box 1277, Waco, Texas 76703, (817) 752-3451.

**The Kendall County Appraisal District, Board of Directors**, met in the appraisal district office, Professional Building, 207 East San Antonio Street, Boerne, on February 4, 1982, at 8 p.m. Information may be obtained from Sue R. Wiedenfeld, P.O. Box 788, Boerne, Texas 78006, (512) 249-8012.

**The Lamar County Appraisal District, Board of Directors**, will meet at 1523 Lamar Avenue, Paris, on February 8, 1982, at 3 p.m. Information may be obtained from L. F. Ricketson, 1523 Lamar Avenue, Paris, Texas, (214) 785-7822.

**The Panhandle Health Systems Agency, Plan Development Committee**, will meet in PRPC Conference Room, first floor, Gibraltar Savings Building, 801 South

Jackson, Amarillo, on February 11, 1982, at 6 p.m. Information may be obtained from Harold Daniel, P.O. Box 9257, Amarillo, Texas 79105, (806) 372-3381. The Review Committee will meet in the second floor conference room, Gibraltar Savings Building, on the same date and time. Information may be obtained from Gordon Darrow at the address and telephone number above. The Governing Body will meet in the PRPC Conference Room, first floor, Gibraltar Savings Building, on the same date, at 7:30 p.m. Information may be obtained from Linda Maxey at the address and telephone number above.

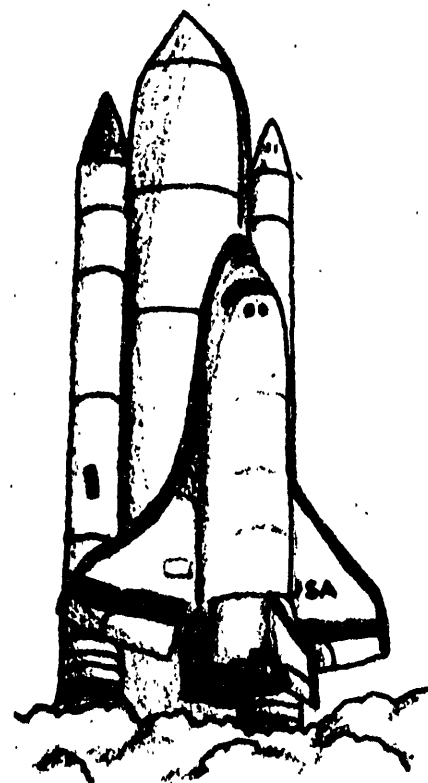
TRD-821035

#### Meetings Filed February 2

**The Brazos Valley Development Council, Executive Committee**, will meet in the Brazos Valley Development Council offices, 3005 East 29th Street, Bryan, on February 11, 1982, at 1:30 p.m. Information may be obtained from Glenn J. Cpok, P.O. Drawer 4128, Bryan, Texas 77805-4128, (713) 822-7421.

**The West Central Texas Municipal Water District, Board of Directors**, will meet in Conference Room 314, Cypress Building, 174 Cypress Street, Abilene, on February 9, 1982, at 9:30 a.m. Information may be obtained from Virginia Duncan, P.O. Box 2362, Abilene, Texas, (915) 673-8254.

TRD-821061





# In Addition

The Register is required by statute to publish applications to purchase control of state banks (filed by the banking commissioner); notices of rate ceilings (filed by the consumer credit commissioner); changes in interest rate and applications to install remote service units (filed by Texas Savings and Loan commissioner); and consultant proposal requests and awards (filed by state agencies, regional councils of government, and the Texas State Library and Archives Commission).

In order to aid agencies in communicating information quickly and effectively, other information of general interest to the public is published as space allows. This often includes applications for construction permits (filed by the Texas Air Control Board); applications for amendment, declaratory ruling, and notices of intent (filed by the Texas Health Facilities Commission); applications for waste disposal permits (filed by the Texas Water Commission); and notices of public hearing.

## Texas Air Control Board Applications for Construction Permits

Notice is hereby given by the Texas Air Control Board of applications for construction permits received during the periods specified below.

Information relative to these applications including projected emissions and the opportunity to comment or to request a hearing, may be obtained by contacting the office of the executive director at the central office of the Texas Air Control Board, 6330 Highway 290 East, Austin, Texas 78723.

A copy of all material submitted by the applicant is available for public inspection at the central office of the Texas Air Control Board at the address stated above and at the regional office of the air quality control region within which the proposed facility will be located.

Listed are the name of the applicant and the city in which the facility is located; type of facility; location of the facility (if available); permit number; and type of application—new source or modification.

### Week Ending December 31, 1981

Gold Bond Building Products, Harper; rock crushing plant; Route 290; 4466c; new source

Watson-Copeland Construction Company, Santa Anna; rock crusher; W-C mines; 8990; new source

Texas Canadian Forest Products, Inc., Sherman; finger joint plant; 620 East Pecan; 6979A; new source

S & C Construction Company, Sugarland; air curtain destructor trench burner; Eldridge and Belknap; 8991; new source

Ko Steel Castings, Inc., San Antonio; pouring and cooling line; 3700 Pitluk; 8991; new source

Ko Steel Castings, Inc., San Antonio; AOD vessels, pouring-tapping; 3700 Pitluk; 8992; new source

Ko Steel Castings, Inc., San Antonio; casting cleaning; 3700 Pitluk; 8993; new source

Ko Steel Castings, Inc., San Antonio; sand system with cooling line; 3700 Pitluk; 8994; new source

Brenham Ready Mix, Inc., Brenham; ready mix concrete; 8995; new source

Dal-Tax Cement, Dallas; portland cement; 8996; new source

Phillips Petroleum Company, Winchester; petroleum; Giddings plant; 8997; new source

### Week Ending January 15, 1982

Eubank Ready Mix Concrete Co., Inc., Ennis; ready mix concrete; North Highway 75; 4945A; new source

Phillips Petroleum Company, Somerville; petroleum; Brenham plant; 8999; new source

Davis Oil Company, Houston; oil and gas exploration; 9000; new source

Witco Chemical Corporation, Houston; sulfonation unit; 9001; new source

### Week Ending January 22, 1982

Diamond Shamrock Corporation, Sunray; deasphalting unit; McKee plant; 9002; new source

Wunsche Grain, Inc., Corpus Christi; two storage grain tank-load out tank; 9003; new source

Val Tex Asphalt Company, Harlingen; drum mix asphalt concrete plant; U.S. Highway 83; 9004; new source

U.S. Army, Texarkana; boiler plant; Red River army depot; 8315A; new source

Red River Pipeline, a general partnership, Wheeler; natural gas compressor station; 9005; new source

Issued in Austin, Texas on January 5, 1982.

TRD-820607,  
820653,  
820830

Ramon Dasch  
Director of Hearings  
Texas Air Control Board

Filed: January 18, 1982, 9:11 a.m.

January 19, 1982, 9:49 a.m.

January 27, 1982, 9:17 a.m.

For further information, please call (512) 451-8711, ext. 354.



## Banking Department of Texas Application To Purchase Control of a State Bank

Texas Civil Statutes, Article 342-401a, requires any person who intends to buy control of a state bank to file an application with the banking commissioner for the commissioner's approval to purchase control of a particular bank. A hearing may be held if the application is denied by the commissioner.

On January 29, 1982, the banking commissioner received an application to acquire control of Kerens Bancshares, Inc., Kerens, by Oliver L. Albritton, Jr., Corsicana; Marvin H. McMurrey, Houston; Mackey Haral, Plano; and Don Mitcham, Dawson.

Information may be obtained from Robert E. Stewart, 2601 North Lamar, Austin, Texas 78705, (512) 475-4451.

Issued in Austin, Texas, on January 29, 1982.

TRD-821025 O. A. Cassity  
Assistant General Counsel  
Banking Department of Texas

Filed: February 1, 1982, 9:32 a.m.  
For further information, please call (512) 475-4451.

## Texas Department of Community Affairs Request for Proposals

The Texas Department of Community Affairs (TDCA), under the authority of its enabling Act, Texas Civil Statutes, Article 4413 (201), and the Texas Controlled Substances Act, Texas Civil Statutes, Article 4476-15, §5.11, announces a request for proposals (RFP) from its Drug Abuse Prevention Division for the delivery of drug abuse treatment services located within the counties served by the Northeast Texas Health Systems Agency or the Greater East Texas Health Systems Agency.

**Eligibility.** To be eligible, applicants must be able to document the current ongoing provision of treatment services to clients with a primary problem of drug abuse and the capability to accomplish the services being requested through this RFP.

**Operational Requirements.** Proposals must include a narrative description of the applicant's program encompassing at least the following information.

- (1) Professional services currently provided including:
  - (a) characteristics of the drug abuse client population;
  - (b) program hours of operation;
  - (c) methods used to complete an initial client assessment;
  - (d) admission or intake procedures;
  - (e) any client assessment or evaluation procedures provided outside the program;
  - (f) therapeutic interventions offered by the program, e.g. individual or group counseling, family therapy, vocational, or educational counseling and/or placement;

- (g) treatment planning and case review procedures;
  - (h) methods used to intervene in physical or medical problems of the client;
  - (i) discharge and follow-up procedures;
  - (j) provision of supportive services not already described above, including vocational and educational counseling and placement provided by referral, and legal counseling;
  - (k) the procedure for the supervision of all clinical activities by qualified personnel.
- (2) Proposed supplemental services such as:
    - (a) programming changes designed to attract or serve a client population not now reached;
    - (b) extended hours of operation;
    - (c) additional client assessment operations, such as medical information or diagnostic psychological testing;
    - (d) increased staff supervision or training designed to enable the program to expand the therapeutic interventions offered by the program;
    - (e) initiating increased supportive services to clients;
    - (f) any other additional services designed to enhance program operation.

**Budget Requirements.** Proposals must include a detailed budget of proposed expenditures. Budget forms and instructions are available on request.

**Eligibility Requirements.** Prior to being awarded a contract, successful applicants will be required to establish legal authority to contract with TDCA. This shall be accomplished by completing and submitting the following certification of eligibility documents:

- (1) contractor certification of eligibility form;
- (2) state comptroller vendor identification number;
- (3) articles of incorporation or charter;
- (4) organizational by-laws or rules;
- (5) name(s) and title(s) of person(s) authorized to sign a contract with TDCA, and full documentation of such authority;
- (6) previous financial audit;
- (7) current approved fidelity bond;
- (8) documentation of compliance with equal employment regulations, as evidenced by either/or: TDCA HRA 1, 2, and 3; Federal EEO-4 or 6; and AAP;
- (9) soundness of accounting system and internal control procedures. The necessary forms can be obtained by contacting TDCA at the address or phone number provided at the conclusion of this notice.

**Duration of Program and Amount of Funding.** Programs should be proposed for the period of April 1, 1982 through June 30, 1982. TDCA/DAPD uses the concept of "treatment slots" to determine the amount of the award for its treatment contractors. A treatment slot is the capacity to provide treatment to one client for the contract period. The maximum slot costs that can be awarded per client for the contract period are: Outpatient \$497/slot; Day Care \$695/slot; and residential \$1,690/slot. Contractor support funding (match) will be required at a minimum of 40% of the total budget.

**Deadline for Submission of Proposals.** Proposals submitted in response to this request will be accepted until

5 p.m. on March 1, 1982. Proposals received after March 1, 1982, will be accepted only if postmarked on or before February 26, 1982, and received before March 5, 1982.

Three copies of the proposal should be sent by certified mail to: contract officer, Drug Abuse Prevention Division, Texas Department of Community Affairs, P.O. Box 13166, Austin, Texas 78711. Proposals may also be hand delivered until 5 p.m. March 1, 1982, to the Drug Abuse Prevention Division, second floor, TDCA Building, 210 Barton Springs Road, Austin, on any state workday between 8 a.m. and 5 p.m.

**General Information.** TDCA reserves the right to accept or reject any or all proposals submitted under this RFP and to negotiate modifications to improve the quality or cost effectiveness of any proposals.

TDCA is under no legal requirement to execute a resulting contract, if any, on the basis of this advertisement, and intends the material provided herein only as a means of identifying the services desired by TDCA and the amount of funding available. TDCA will base its selection on factors such as geographic need for proposed services, capacity of the offeror to manage and deliver the services, availability of contractor matching funds, and availability of federal funds.

Any funds awarded may be used to supplement or enhance services but must not supplant current program support.

The request for proposals does not commit TDCA to pay for any costs incurred prior to the execution of a contract and is subject to the availability of appropriate funds. Issuance of this material in no way obligates TDCA to award a contract.

Applications are subject to review by the appropriate health systems agency as required by the National Health Planning and Resources Development Act, Public Law 93-641, as amended by Public Law 97-35. Applications should be submitted to the appropriate HSA simultaneously with submission to TDCA.

For the purposes of obtaining forms necessary to the preparation of a proposal, contact: contracts officer, Drug Abuse Prevention Division, Texas Department of Community Affairs, P.O. Box 13166, Austin, Texas 78711.

Issued in Austin, Texas, on January 25, 1982.

TRD-820923 Douglas C. Brown  
General Counsel  
Texas Department of Community Affairs

Filed: January 27, 1982, 9:30 a.m.  
For further information, please call (512) 475-6903.

## Comptroller of Public Accounts Administrative Decisions

For copies of the following opinions selected and summarized by the administrative law judges, contact the Administrative Law Judges, P.O. Box 13528, Austin, Texas 78711. Copies will be furnished without charge and edited to comply with confidentiality statutes.

**Administrative Decision 11,907 (Sales Tax).** The exemption from taxation of machinery and equipment not used on farms and ranches as provided by Texas Tax Code, Article 20.04(N)(6) (Vernon Supplement 1980) only applies to machinery and equipment exclusively used in the processing, packing, or marketing of agricultural products and which is used by the original producer of the products at a location he operates solely for handling his own products. Thus, machinery used to process purchased grain and other ingredients into feed is not exempt since such ingredients are not processed by the original producer.

Issued in Austin, Texas, on January 22, 1982.

TRD-820838 Bob Bullock  
Comptroller of Public Accounts

Filed: January 25, 1982, 9:27 a.m.  
For further information, please call (512) 475-1938.

**Administrative Decision 11,984 (Franchise Tax).** To be an "actual liability" for franchise tax purposes, and hence excluded from surplus, the liability must be certain in time and amount. Hence, reserves for anticipated losses on the disposal of subsidiaries, divisions, or major assets do not represent actual liabilities, but constitute part of surplus for the purpose of determining the Texas franchise tax.

Issued in Austin, Texas, on January 29, 1982.

TRD-820973 Bob Bullock  
Comptroller of Public Accounts

Filed: January 29, 1982, 10:20 a.m.  
For further information, please call (512) 475-1938.

## Office of Consumer Credit Commissioner Notice of Rate Ceilings

Pursuant to the provisions of House Bill 1228, 67th Legislature of Texas, 1981, the consumer credit commissioner of Texas has ascertained the following rate ceilings by use of the formulas and methods described in Texas Civil Statutes, Article 1.04, Title 79, as amended Texas Civil Statutes, Article 5069-1.04.

Effective Period(1)	Type of Transaction	
	Commercial(3) Consumer(2)/thru \$250,000	Commercial(4) over \$250,000
Indicated Rate		
Weekly Rate Ceiling 2/8/82-21/14/82	24%	27.75%
Monthly Rate Ceiling (Variable Commercial Only)		
2/1/82-2/28/82	24%	25.81%
Quarterly Rate Ceiling		
1/1/82-3/31/82	24%	26.37%
Annual(5) Rate Ceiling		
1/1/82-3/31/82	24%	28%

- (1) Dates set out above are inclusive.
- (2) Credit for personal, family, or household use.
- (3) Credit for business, commercial, investment, or other similar purpose.
- (4) Same as (3) above, except excluding credit for agricultural use.
- (5) Only for open end as defined in Article 5069-1.01(f).

Issued in Austin, Texas, on February 1, 1982.

TRD-821021 Sam Kelly  
Consumer Credit Commissioner

Filed: February 1, 1982, 9:15 a.m.  
For further information, please call (512) 475-2111.

## Employees Retirement System of Texas Consultant Proposal Request

Pursuant to the terms of Texas Civil Statutes, Article 6252-11c, the Employees Retirement System of Texas is inviting offers for consulting services to perform an audit of the insurance carrier for the Employees Uniform Group Insurance Program. All offers must be received by the system by 5 p.m. on March 10, 1982.

The contract will be awarded based on demonstrated expertise and experience. It will be necessary for the consultant to check all claims of \$6,000 or more and a random sample of the remainder based on a 95% confidence level, 5.0% expected error and a desired precision of 2.0%. Compliance with the terms of the contract, accuracy of payment, and cost of liability are to be determined.

The Employees Retirement System of Texas will renew its contract with Alexander Grant and Company, certified public accountants, unless a better offer is submitted by a more experienced and qualified applicant.

Submit offers to, or obtain needed information from, Andrew Cortez, Director of Accounting, P.O. Box 13207, Capitol Station, Austin, Texas 78711, (Room 400 at the system offices at 18th and Brazos in Austin), (512) 476-6431.

Issued in Austin, Texas, on January 27, 1982

TRD-820946 Clayton T. Garrison  
Executive Director  
Employees Retirement System  
of Texas

Filed: January 27, 1982, 2:38 p.m.  
For further information, please call (512) 476-6431.

## Texas Energy and Natural Resources Advisory Council Consultant Contract Award

The Texas Energy and Natural Resources Advisory Council hereby furnished this notice of consultant contract award. The consultant proposal request appeared in the December 16, 1977, issue of the *Texas Register* (2 Tex-Reg 4839). This notice of contract award does not come under Texas Civil Statutes, Article 6252-11c, but is fur-

nished as public information. A description of the project is as follows.

Project 79-B-1-5c-2 is a study to complete development of fluidized bed combustion unit for biomass for transfer to a commercial application.

The contractor is Texas A&M University, Department of Agricultural Engineering, College Station. The total value of the contract is \$105,544. The beginning date of the contract is November 4, 1981, and the ending date of the contract is August 31, 1983.

Progress reports are due January 1, April 1, July 1, and October 1, 1982, and January 1 and April 1, 1983; a draft final report is due July 1, 1983; and a final report is due August 31, 1983.

Issued in Austin, Texas, on January 13, 1982.

TRD-820806 Roy R. Ray, Jr.  
Director  
Technology Development  
Division  
Texas Energy and Natural  
Resources Advisory Council

Filed: January 18, 1982, 9:16 a.m.  
For further information, please call (512) 475-0414.

The Texas Energy and Natural Resources Advisory Council hereby furnished this notice of consultant contract award. The consultant proposal request appeared in the February 29, 1980, issue of the *Texas Register* (5 Tex-Reg 768). This notice of contract award does not come under Texas Civil Statutes, Article 6252-11c, but is furnished as public information. A description of the project is as follows.

Project 80-L-6-3c is a study to continue research work conducted under TAC (80-81)1249 on the chemical composition and acidity of acid precipitation in selected areas of Texas in accordance with the "Work Plan for Chemical Characterization of Acid Precipitation in Texas." The contractor will provide the following services:

- (1) evaluate the effect of sampler location on rainfall composition in given rainfall events, especially in areas where coal and lignite combustion is significant;
- (2) evaluate rainfall sample composition on acidity measurements as a function of time and the monitoring protocol used;
- (3) analyze the effect of sampler type on rainfall composition measurement and its possible variation with time, and carry out direct comparison with corresponding data from NADP samplers;
- (4) develop longer time span data on rainfall composition and the trends in terms of seasonal and weather front variations as well as fuel consumption pattern changes;
- (5) characterize the sulfate-to-nitrate concentration variations by location; and
- (6) determine the presence and concentrations of trace metals, inorganic, and organic constituents in the rainfall.

The contractor is the University of Texas at Austin, Center for Energy Studies, Austin. The total value of the contract is \$18,335. The beginning date of the contract is September 29, 1981, and the ending date of the contract is August 31, 1982.

Progress reports are due the 10th of each month; a draft interim report is due August 1, 1982; and a final interim report is due August 31, 1982.

Issued in Austin, Texas, on January 18, 1982

TRD-820726

Roy R. Ray, Jr.  
Director  
Technology Development  
Division  
Texas Energy and Natural  
Resources Advisory Council

Filed: January 21, 1982, 9:30 a.m.  
For further information, please call (512) 475-0414.



## **Texas Department of Health Notice of License Amendment**

Notice is hereby given that License 8-2923 issued to Conoco, Inc., for the Trevino Project located 4.2 miles north of Hebbbronville, Duval County, has been amended to add Condition 35 to License 8-2923 to authorize the use of passive radon monitors in place of air bag sampling.

This notice affords the opportunity for a public hearing upon the written request, within 30 days, by an affected person, as required by Texas Civil Statutes, Article 4590(f), §11, as amended.

Additional information may be obtained from David K. Lacker, Bureau of Radiation Control chief, 1100 West 49th Street, Austin, Texas 78756.

Issued in Austin, Texas, on January 20, 1982

TRD-820931

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

Filed: January 26, 1982, 4:19 p.m.  
For further information, please call (512) 458-7236.

Notice is hereby given that License 9-1634 issued to Conoco, Inc. for their Conquista Project located in Falls City, Karnes County, has been amended to add Condition 26 to License 9-1634 to authorize the use of passive radon monitors in place of air bag sampling.

This notice affords the opportunity for a public hearing upon the written request, within 30 days, by an affected person, as required by Texas Civil Statutes, Article 4590(f), §11, as amended.

Additional information may be obtained from David K.

Lacker, Bureau of Radiation Control chief, 1100 West 49th Street, Austin, Texas 76756.

issued in Austin, Texas, on January 20, 1982

TRD-820932

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

Filed: January 26, 1982, 4:19 p.m.  
For further information, please call (512) 458-7236.

## **Texas Health Facilities Commission**

### **Applications Accepted for Amendment, Declaratory Ruling, and Notice of Intent**

Notice is hereby given by the Texas Health Facilities Commission of applications accepted as of the date of this publication. In the following list, the applicant is listed first, file number second, the relief sought third, and a description of the project fourth. DR indicates declaratory ruling; AMD indicates amendment of previously issued commission order; CN indicates certificate of need; PFR indicates petition for reissuance; NIE indicates notice of intent to acquire major medical equipment; NIEH indicates notice of intent to acquire existing health care facilities; NIR indicates notice of intent regarding a research project; and NIE/HMO indicates notice of intent for exemption of HMO-related project; and EC indicates exemption certificate.

Should any person wish to become a party to any of the above-stated applications, that person must file a proper request to become a party to the application within 15 days after publication. If the 15th day is a Saturday, Sunday, state or federal holiday, the last day shall be extended to 5 p.m. of the next day that is not a Saturday, Sunday, state or federal holiday. A request to become a party should be mailed to the chair of the commission at P.O. Box 15023, Austin, Texas 78761, and must be received at the commission no later than 5 p.m. on the last day allowed for filing of a request.

The contents and form of a request to become a party to any of these applications must meet the criteria set out in commission §515.9. Failure of a party to supply the necessary information in the correct form may result in a defective request to become a party.

University of Texas Medical Branch, Galveston  
AH80-0617-007A (011882)

CN/AMD—Request to increase the project cost from \$520,000 to \$765,000 and to extend the completion deadline in Certificate of Need AH80-0617-007 which authorized the acquisition of a replacement treatment simulator, mini-computer system, and peripherals for the Department of Radiology, Division of Radiation Oncology.

Beverly Enterprises—Central Division, Fort Smith, Arkansas.

AN82-0120-029

**NIEH**—Request for a declaratory ruling that a certificate of need is not required prior to the acquisition of Leisure Lodge, an existing 120-bed ICF-III nursing facility located in Lewisville, Texas, from the legal owner, K. Parker Enterprises, Inc.

Hopkins County Memorial Hospital, Sulphur Springs.

AH82-0120-030

**DR**—Request for a declaratory ruling that development has commenced on the project approved in Certificate of Need AH80-1230-016 which authorized the relocation and expansion of the surgery department, the business office and administration, the medical records department, and the respiratory therapy departments; and the expansion and relocation in new construction the emergency room—outpatient area, laboratory department, radiology department, and a recovery room.

Issued in Austin, Texas, on January 27, 1982

TRD-820938 Linda E. Zatopek  
Assistant General Counsel  
Texas Health Facilities  
Commission

Filed: January 27, 1982, 10:26 a.m.  
For further information, please call (512) 475-6940.

## Applications Before the Texas Health Facilities Commission for Petition for Reissuance of Certificate of Need

Notice is hereby given by the Texas Health Facilities Commission of application (including a general project description) for petition of reissuance of certificate of need which have been filed with the commission.

The commission may require a hearing on a petition for reissuance of certificate of need when it is determined that good cause exists for such a hearing. A request for a hearing on a petition for reissuance of certificate of need must be submitted to the commission within 15 days after publication of notice and show reason why a hearing should be held. Requests for a hearing are to be mailed to the chairman of the commission, P.O. Box 15023, Austin, Texas 78761, and must be postmarked no later than the day prior to the last day allowed for filing requests for hearing.

The petition will be approved only if the commission determines that it qualifies under the criteria of Texas Civil Statutes, Article 4418h, §3.13, and 25 TAC §§509.81-509.85 and §§513.51-513.53.

In the following list, the applicant is listed first, the file number second, and the relief sought and description of the project third.

Hopkins County Memorial Hospital,  
Sulphur Springs.  
AH80-1230-016R

Reissuance of CN—Petition for Reissuance of Certificate of Need AH80-1230-016 which authorized the relocation and expansion of the surgery department, the business office and administration, the medical records department, and the respiratory therapy departments; and the expansion and relocation in new construction the emergency room—outpatient area, laboratory department, radiology department, and a recovery room.

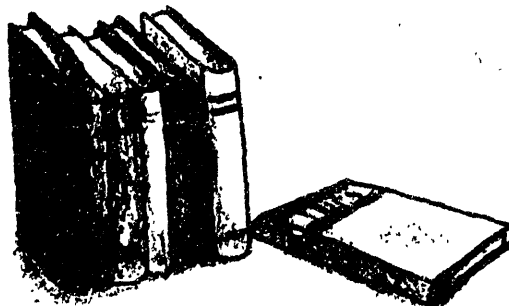
Issued in Austin, Texas, on January 27, 1982.

TRD-820939 Linda E. Zatopek  
Assistant General Counsel  
Texas Health Facilities  
Commission

Filed: January 27, 1982, 10:26 a.m.  
For further information, please call (512) 475-6940.

## Houston-Galveston Area Council Correction of Error

The due date for proposals in a consultant proposal request submitted by the Houston-Galveston Area Council was inadvertently omitted from publication in the January 22, 1982, issue of the *Texas Register* (7 TexReg 310). The due date for proposals is February 24, 1982.



## Texas Department of Human Resources Public Notice

In February 1982, the Texas Department of Human Resources will be releasing a Request for Proposal (RFP) for the administration of a portion of the Texas Medicaid Program. The RFP is for a quota share insurance contract to provide claims processing and payment for certain medical services provided to eligible Texas Medicaid recipients. The contract will be implemented March 1, 1983.

For further information or for a copy of the RFP, interested parties should contact Larry L. Tonn, assistant commissioner, Purchased Health Services, Texas Department of Human Resources, P.O. Box 2960, Austin, Texas 78769, Mail Code 611-E, (512) 458-1335.

Issued in Austin, Texas, on January 20, 1982.

TRD-820685 Marlin W. Johnston  
Commissioner  
Texas Department of Human  
Resources

Filed: January 20, 1982, 9:13 a.m.  
For further information, please call (512) 441-3355,  
ext. 2037.

## Texas Department of Mental Health and Mental Retardation Publication and Availability of the Supplement to Texas Laws Relating to Mental Health and Mental Retardation

The Texas Department of Mental Health and Mental Retardation has published a 60-page supplement to the publication *Texas Laws Relating to Mental Health and Mental Retardation*, third edition.

The supplement contains the new statutes and amendments, adopted by the 67th Texas Legislature, which affect the Texas Department of Mental Health and Mental Retardation.

Copies of the supplement can be obtained from Harley Pershing, director, Public Information and Educational Services, TDMH/MR, P.O. Box 12668, Austin, Texas 78711. The price is \$2.00 plus tax for each. Make checks payable to cashier, TDMH/MR.

Issued in Austin, Texas, on January 28, 1982.

TRD-821002

James A. Adkins  
Acting Commissioner  
Texas Department of Mental  
Health and Mental Retardation

Filed: January 29, 1982, 4:58 p.m.  
For further information, please call (512) 465-4591.

## Railroad Commission of Texas Memorandum of Understanding

Section 10 of House Bill 1407, passed by the 67th Legislature, provides as follows:

On or before January 1, 1982, the Texas Department of Water Resources, the Texas Department of Health, and the Railroad Commission of Texas shall execute a memorandum of understanding that specifies in detail these agencies' interpretation of the division of jurisdiction among the agencies over waste materials that result from or are related to activities associated with the exploration for and the development, production, and refining of oil or gas. The agencies shall amend the memorandum of understanding at any time that the agencies find it to be necessary.

Pursuant to §10 of House Bill 1407, the Railroad Commission of Texas, the Texas Department of Water Resources, and the Texas Department of Health (hereinafter "agencies"), began discussion to interpret their respective jurisdictions regarding waste materials that result from or are related to activities associated with the exploration for and the development, production, and refining of oil or gas. Since this clarification of agency jurisdictions will benefit the general public as well as the industries affected by promoting efficient administration and avoiding duplication of effort, the agencies agree to attempt to interpret in this memorandum pollution and public health regulatory activities involving oil, gas, or geothermal resource waste disposal subject to their respective jurisdictions.

Generally, the Railroad Commission of Texas has jurisdiction over waste materials which result from activities associated with the exploration, development, or production of oil or gas. The Railroad Commission agrees that effluent limitations for any discharges of these wastes shall be permitted by the Railroad Commission so as to not cause the violation of water quality standards of the Texas Department of Water Resources.

The Texas Department of Water Resources has jurisdiction over the management of industrial solid waste and the discharge of any waste into or adjacent to waters in the state other than oil, gas, or geothermal resource waste discharges. Currently, wastes, except those subject to the study required by §8002(m) of the Federal Resource Conservation and Recovery Act, which have been classified as hazardous waste, are subject to the jurisdiction of the Texas Department of Water Resources and the Texas Department of Health. The Railroad Commission has jurisdiction, however, over any wastes disposed of pursuant to Chapter 27 of the Texas Water Code.

The Texas Department of Health has general jurisdiction over the management of municipal solid waste disposal. Where both municipal solid waste and industrial solid waste are involved, except Class I industrial solid waste which is not routinely collected with municipal solid waste, the Texas Department of Health has jurisdiction. The Texas Department of Health also has jurisdiction over the licensing of receipt, possession, use, processing, storage, transport, and disposal of radioactive materials.

Since technical processes are constantly changing so as to create new waste disposal problems, the agencies believe it to be necessary to create a procedure for amending this memorandum of understanding. Consequently, the agencies have agreed to have their representatives meet on an annual basis so as to discuss possible changes to the memorandum of understanding and to generally encourage increased communication between the agencies. In addition, the Railroad Commission of Texas has agreed to consult with the Texas Department of Water Resources with respect to the water pollution control and water quality aspects, and with the Texas Department of Health, with regard to any public health aspects, of waste management activities subject to the Railroad Commission's jurisdiction.

Therefore, pursuant to §10 of House Bill 1407 and in an effort to interpret pollution and public health regulatory activities of the agencies relating to oil, gas, or geothermal resources, the Railroad Commission of Texas, the Texas Department of Water Resources, and the Texas Department of Health, hereby agree to the following specific interpretations of the division of jurisdiction among the agencies over waste disposal in Texas resulting from the following activities.

**(1) Exploration, Drilling, and Well Completion for Oil, Gas, or Geothermal Resources.** Several types of waste materials can be generated during the exploration, drilling, and completion of wells for oil, gas, or geothermal resources. These include drilling muds (including saltwater, freshwater, and oil-based muds), cuttings, trash

(including barrels, dope cans, and other trash), waste hydrocarbons, fracturing fluids, spent acid, waste cement, and saltwater. Generally, these wastes, whether disposed of by discharge, landfill, landfarm, evaporation, or injection, are subject to the jurisdiction of the Railroad Commission. The Railroad Commission believes that disposal of these wastes may occur at a solid waste facility permitted by the Texas Department of Water Resources or the Texas Department of Health with the concurrence of the facility owner or operator and the agency having jurisdiction.

The Railroad Commission also has jurisdiction over any oil reclamation plants handling fracturing oil used during well completion (See Paragraph 5, reclamation plants).

**(2) Production of Oil, Gas, or Geothermal Resources.** Saltwater, waste, hydrocarbons, spent acids, waste cements, and trash associated with the production of oil, gas, or geothermal resources are subject to the jurisdiction of the Railroad Commission. The Railroad Commission believes that disposal of these wastes may occur at a waste facility permitted by the Texas Department of Water Resources or the Texas Department of Health with the concurrence of the facility owner or operator and the agency having jurisdiction.

**(3) Storage of Oil or Gas.** The disposal of tank bottoms and stormwater runoff from storage tanks and tank-farms during the production phase, and the storage at any central crude storage area prior to entering the refinery, are under the jurisdiction of the Railroad Commission. Wastes generated from storage tanks which are part of the refinery, however, are subject to the jurisdiction of the Texas Department of Water Resources, while solid wastes resulting from the marketing of refined products are subject to the jurisdiction of the Texas Department of Health.

The disposal of waste saltwater resulting from the construction, operation, or maintenance of an underground hydrocarbon storage facility is subject to the jurisdiction of the Railroad Commission.

**(4) Transportation of Oil or Gas.** Oil and gas is transported by tank-trucks, oil tankers, and pipelines. Waste disposal problems associated with any spills which occur during the transportation of crude oil by tank-truck or pipeline before reaching the refinery, are subject to the Railroad Commission's jurisdiction. Spills which occur during transport within the refinery or from oil tankers are subject to the jurisdiction of the Texas Department of Water Resources or Texas Department of Health. All spills will be handled in accordance with the State of Texas Oil and Hazardous Substance Pollution Contingency Plan.

Disposal of waste from compressor stations and from pipeline-cleanup operations is subject to the jurisdiction of the Railroad Commission. Discharge of wastewaters from pipeline pressure tests are subject to the jurisdiction of the Texas Department of Water Resources.

**(5) Crude Oil Reclamation Plants.** Crude oil reclamation plants are subject to the jurisdiction of the Railroad Commission for the prevention of "waste" as

that term is defined in §85.045 of the Texas Natural Resources Code. These regulations consist primarily of reporting requirements for accounting purposes. Disposal of waste from crude oil reclamation plants is subject to the jurisdiction of the Railroad Commission.

Reclamation plants for materials other than crude oil are subject to the jurisdiction of the Texas Department of Water Resources.

**(6) Refining of Oil or Gas.** Several waste streams result from refining operations, including caustics, catalysts, still bottoms/tars, and API separator sludges. Management of these refined wastes is subject to the jurisdiction of the Texas Department of Water Resources.

The Railroad Commission regulates refining activities to prevent "waste" as that term is defined in §85.045 of the Texas Natural Resources Code. The Railroad Commission requires that all crude oil streams into or out of the refinery be reported for accounting purposes. In addition, the Railroad Commission requires that materials recycled and used as a fuel, such as still bottoms or waste crude oil, be reported.

**(7) Gas Plants and Pressure Maintenance or Repressuring plants.** Wastes resulting from these activities include cooling tower water, sulfur bead, sulfides, spent caustics, and sweetening agents. Disposal of these materials is subject to the jurisdiction of the Railroad Commission.

This memorandum of understanding shall take effect on January 1, 1982.

Issued in Austin, Texas, on January 22, 1982.

TRD-820761

James E. (Jim) Nugent,  
Chairman  
Mack Wallace and Buddy  
Temple, Commissioners  
Railroad Commission of Texas  
Harvey Davis, Executive Director  
Texas Department of Water  
Resources  
Robert Bernstein, M.D., F.A.C.P.,  
Commissioner of Health  
Texas Department of Health

Filed: January 22, 1982, 11:07 a.m.

For further information, please call (512) 445-1186.

## Texas Water Commission Applications for Waste Disposal Permits

Notice is given by the Texas Water Commission of public notices of waste disposal permit applications issued during the periods listed below.

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 person 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 writing Larry R. Soward, assistant chief hearings examiner, Texas Water Commission, P.O. Box 13087, Capitol Station, Austin, Texas 78711, (512) 475-1311.

Listed are the name of the applicant and the city in which the facility is located; type of facility; location of the facility; permit number; and type of application—new permit, amendment, or renewal.

#### **Period of January 11-15, 1982**

Fuel Distributors, Inc., Spring; retail gasoline outlet/car wash; 02541; new permit

The Kickerillo Company, Houston; domestic waste treatment; 12479; new permit

Botrie Realty, Inc., Houston; domestic waste treatment facilities; 12488; new permit

William Carl, dba April Meadows Partnership, Houston; domestic sewage treatment plant; 12474; new permit

Tomsa, Inc., Houston; domestic wastewater treatment plant; 12487; new permit

Allison/Walker Interests, Inc., Houston; domestic wastewater treatment plant; 12497; new permit

Land Locators of Texas, Inc., Houston; domestic wastewater treatment plant; 12504; new permit

Armco, Inc., Houston; landfill; 02549; new permit

Horne Management Company, Houston; domestic sewage treatment plant; 12490; new permit

The Ellis Williams Company, Inc., Houston; treated domestic sewage plant; 12473; new permit

L. C. Bauerkemper, J., dba UtoteM 263, Houston; truckstop facility; 12481; new permit

Kilburn G. Moore Company, Inc., Houston; domestic wastewater treatment plant; 12486; new permit

Hall-Buck Marine Services Company dba Galveston Marine Transfer Terminal Company, Galveston; soda ash/compatible products; 02555; new permit

Ward Exploration, Inc., Tyler; domestic sewage treatment plant; 12471; new permit

U.S. Department of the Army, U.S. Army Field Artillery Center and Fort Sill, Palo Pinto; reverse osmosis water treating plant; 02553; new permit

The Texas Department of Corrections, Huntsville; domestic sewage treatment plant; 12458; new permit

Carriage Estates, Inc., Lufkin; treated domestic sewage plant; 12483; new permit

P. S. Chow, Houston; domestic wastewater treatment plant; 12475; new permit

Resort Vacations International, Tyler; domestic sewage treatment plant; 12496-02; new permit

Resort Vacations International, Tyler; domestic sewage treatment plant; 12496-01; new permit

Brookshire Brothers, Inc., Lufkin; treated domestic sewage plant; 12477; new permit

#### **Period of January 18-22, 1982**

Howment Aluminum Corporation, Terrell; aluminum anodizing plant; 02037; amendment

Old Brazos Forge, Inc., Brenham; wire products fabrication plant; 02542; new permit

Everest Minerals Corporation, City of Hobson; waste disposal well; WDW-168; amendment

Katalco Corporation, City of Freeport; manufacture specialty catalysts; 02530; new permit

Marathon Oil Company, City of Pasadena; bulk storage and transfer terminal; 02557; new permit

Carol Key, dba B and J Pork Factory, Dumas; swine housing unit; 02562; new permit

Lufkin Industries, Inc., Lufkin; truck trailer and oil well pumping unit manufacturing facility; 01268; amendment

City of Weslaco, Weslaco; sewage treatment plant; 10619-02; amendment

City of Aransas Pass, Aransas Pass; sewage treatment plant; 10521-02; amendment

Stauffer Chemical Company, Fort Worth; a plant manufacturing basic inorganic chemicals; 00540; amendment

Diamond Shamrock Corporation, LaPorte; chloroalkali facilities; 01539; amendment

Guadalupe-Blanco River Authority, Seguin; treated domestic sewage; 078-01; amendment

City of Port Lavaca, Port Lavaca; wastewater treatment plant; 10251-01; amendment

Anaconda Copper Corporation, 25 miles Southwest of the City of George West; waste disposal well; WDW-208; new permit

#### **Period of January 25-29, 1982**

The Sabine Mining Company, Hallsville; surface lignite mining operation; 02538; new permit

Labbeo, Inc., Houston; plant manufacturing household cleaners; 02031; renewal

Warren Petroleum, Inc., Galena Park; liquefied petroleum gas terminal; 02048; renewal

Boys Country of Houston, Inc., Galena Park; wastewater treatment plant; 11814-01; renewal

Thomas S. Gillis, Jr., Houston; sewage treatment plant; 11821-01; renewal

Hunter's Glen Municipal Utility District, Houston; sewage treatment plant; 11618-01; renewal

GATX Tank Erection Corporation, Houston; wastewater treatment facility; 11841-01; renewal



City of South Houston, South Houston; wastewater treatment plant; 10287-01; renewal

Houston Lighting and Power Company, Houston; wastewater treatment facility; 01033; renewal

City of Houston (northwest plant), Houston; wastewater treatment facility; 10495-76; renewal

Atlantic Richfield Company, Houston; integrated oil refinery; 00392; renewal

Baker Service Tools, A Division of Baker International Corporation, Houston; sewage treatment plant; 11843-01; renewal

J. W. Jones, Inc.-Jones Chemicals, Inc., Houston; chemical plant; 01801; renewal

PPG Industries, Inc., Houston; coatings and resins manufacturing plant; 01224; renewal

Oncor Corporation, Houston; wastewater treatment plant; 12118-01; amendment

Harris County Municipal Utility District 90, Houston; treated domestic wastewater plant; 11804-01; amendment

Realfin Company, Houston; treated domestic wastewater plant; 12491-01; new permit

Holcomb Properties Company, Houston; treated domestic wastewater plant; 12449-01; new permit

West Harris County Municipal Utility District 6, Houston; treated domestic sewage plant; 12499-01; new permit

H. B. Zachry Company, San Antonio; equipment repair and storage yard; 02042; renewal

City of San Antonio (San Pedro Holls Plant), San Antonio; wastewater treatment plant; 10137-09; renewal

Cibolo Creek Municipal Authority (Odo J. Riedel Facility), Schertz; treated domestic sewage plant; 11269-01; renewal

Leroy Moddy, Texarkana; treated domestic sewage facility; 11795-01; renewal

U.S. Department of Army (Red River Army Depot), Bowie; treated domestic and industrial wastewater facility; 02206; amendment

Issued in Austin, Texas, on January 15, 1982.

TRD-820553	Mary Ann Hefner
820762,	Chief Clerk
8821000	Texas Water Commission

Filed: January 15, 1982, 2:57 p.m.  
For further information, please call (512) 475-4514.

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In the second issue of every month, a guide to agency activity for the previous month is published. The guide currently contains a cumulation of TAC titles affected for the previous month. Quarterly and annual indexes to the *Register* are published separately and bound in light blue for distinction.

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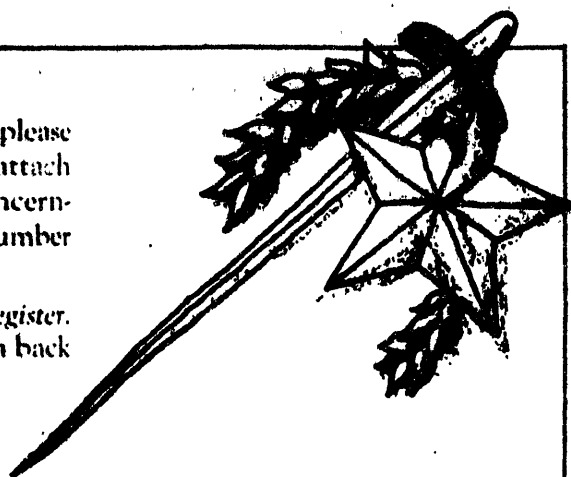
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