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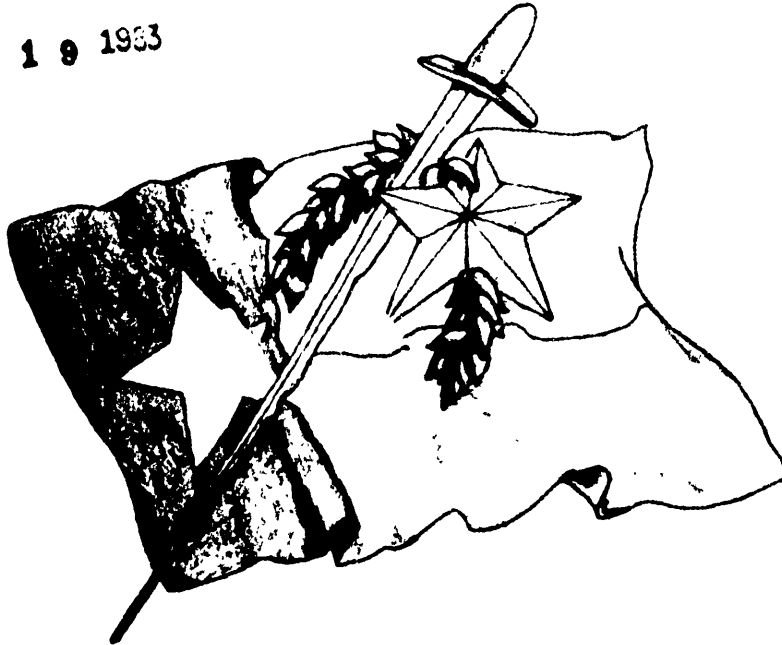
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Texas Register

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Highlights

- ★ The Texas Sesquicentennial Commission proposes amendments to a rule concerning official Sesquicentennial logo use; earliest possible date of adoption - February 14 page 137
- ★ The Texas Department of Health adopts new rules and amendments to existing rules concerning solid waste management; effective date - January 26 page 141
- ★ The State Board of Insurance adopts amendments to rules concerning indeterminate premium reduction policies; effective date - January 27 page 185

How To Use the Texas Register

Texas Register

The *Texas Register* (ISSN 0362-4781) is published twice a week at least 100 times a year. Issues will be published on every Tuesday and Friday in 1982 with the exception of January 5, April 27, November 16, November 30, and December 28, by the Office of the Secretary of State, 201 East 14th Street, P.O. Box 13824, Austin, Texas 78711-3824, (512) 475-7886

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

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- Withdrawn Rules—rules withdrawn by state agencies from consideration for adoption, or automatically withdrawn by the Texas Register six months after proposal publication date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

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

How To Cite: Material published in the *Texas Register* is referenced by citing the volume in which a document appears, the words "TexReg," and the beginning page number on which that document was published. For example, a document

published on page 2402 of Volume 6 (1981) is cited as follows: 6 TexReg 2402

In order that readers may cite material more easily, page numbers are now written as citations. Example: page 2 in the lower left-hand corner of this page is written: "7 TexReg 2 issue date," while on the opposite page, in the lower right-hand corner, page 3 is written "issue date 7 TexReg 3"

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

Texas Administrative Code

The *Texas Administrative Code* (TAC) is the approved, collected volumes of Texas administrative rules currently being published by Shepard's/McGraw-Hill, in cooperation with this office

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

1 indicates the title under which the agency appears in the *Texas Administrative Code* (a listing of all the titles appears below)

TAC stands for the *Texas Administrative Code*; **§27.15** is the section number of the rule (27 indicates that the rule is under Chapter 27 of Title 1; 15 represents the individual rule within the chapter).

Latest Texas Code Reporter
(Master Transmittal Sheet). No. 8, February 1982

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The Governor

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.

Appointments Made January 4

Red River Authority

To the Board of Directors, for a term to expire August 11, 1987:

Wales Madden III
2607 South Ong
Amarillo, Texas 79109

Mr. Madden is replacing Morris T. Higley of Childress, whose term expired

Issued in Austin, Texas, on January 4, 1983

TRD 830169 William P. Clements, Jr.
Governor of Texas

333rd Judicial District

Pursuant to House Bill 968, 67th Legislature, to be judge of the 333rd Judicial District, Harris County, effective immediately, until the next general election and until his successor shall be duly elected and qualified:

Davie I. Wilson
15710 Falling Creek
Houston, Texas 77068

334th Judicial District

Pursuant to House Bill 958, 67th Legislature, to be judge of the 334th Judicial District, Harris County, effective immediately, until the next general election and until his successor shall be duly elected and qualified:

Jack I. Pickren
11115 Sagecrest
Houston, Texas 77089

Issued in Austin, Texas, on January 4, 1983.

TRD-830170 William P. Clements, Jr.
Governor of Texas

215th Judicial District

To be judge of the 215th Judicial District, Harris County, to be effective immediately, until the next general election and until his successor shall be duly elected and qualified:

Charles L. Price
14235 Cindywood
Houston, Texas 77079

Justice Price is replacing Judge William Kilgarlin, who vacated this position.

Issued in Austin, Texas, on January 4, 1983.

TRD-830171 William P. Clements, Jr.
Governor of Texas

Texas Aeronautics Commission

For a six-year term to expire December 31, 1988:

Larry F. Ferguson
6210 North Central
Dallas, Texas 75206

Mr. Ferguson is replacing James D. Abrams of El Paso, whose term expired

Issued in Austin, Texas, on January 4, 1983

TRD 830172 William P. Clements, Jr.
Governor of Texas

District Review Committee for District IV

For a term to expire January 15, 1984:

C. Kenneth Landrum, M.D.
810 South 12th Street
McAllen, Texas 78501

Dr. Landrum is filling the unexpired term of Dr. Joaquin B. Gonzalez of San Antonio, who resigned.

Issued in Austin, Texas, on January 4, 1983.

TRD 830173 William P. Clements, Jr.
Governor of Texas

Texas Planning Council for Developmental Disabilities

For a six-year term to expire July 29, 1987:

Mrs. James B. (Debbie) Francis
3944 Marquette
Dallas, Texas 75225

Ms. Francis is replacing L. H. Prodoehl of Edinburg, whose term expired.

Issued in Austin, Texas, on January 4, 1983.

TRD-830174 William P. Clements, Jr.
Governor of Texas

Texas Advisory Council of the Legal Services Corporation

For a term to expire April 13, 1983:

David Diaz
807 South Port Avenue
Corpus Christi, Texas 78405

Mr. Diaz is replacing William Robert Anderson III of Corpus Christi, whose term expired.

Issued in Austin, Texas, on January 4, 1983.

TRD-830175 William P. Clements, Jr.
Governor of Texas

Texas Commission on the Arts

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

Beatrice Carr Pickens
Woodstone One
Amarillo, Texas 79106

Ms. Pickens is replacing Mary Lou Brayer of Abilene, whose term expired.

Issued in Austin, Texas, on January 4, 1983

TRD-830176 William P. Clements, Jr.
Governor of Texas

State Drug Abuse Advisory Council

For a term to expire April 12, 1983:

Sherrill Burba
106 North Avenue O
Olney, Texas 76324

Mr. Burba is replacing Gustavo R. Martinez, who resigned

Issued in Austin, Texas, on January 5, 1983

TRD-830178 William P. Clements, Jr.
Governor of Texas

Appointments Made January 5

Office of State-Federal Relations

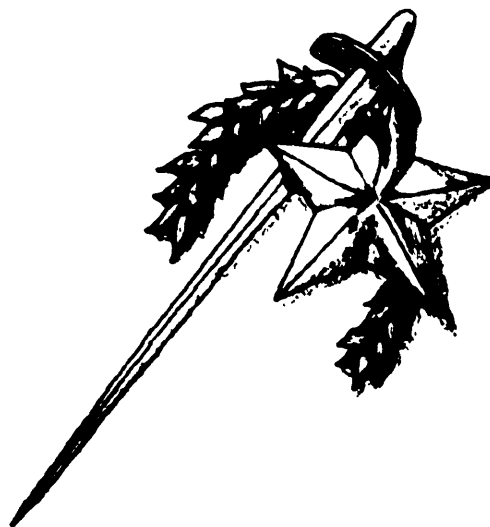
To the position of director, for a term the same as the governor's tenure or until a successor has been appointed, effective December 28, 1982.

H. Lee Solsberry
Deputy Director
Office of State-Federal Relations
600 Maryland Avenue, Southwest, Suite 255
Washington, D.C. 20024

Mr. Solsberry is replacing Daniel N. Matheson of Dallas, who resigned.

Issued in Austin, Texas, on January 5, 1983.

TRD-830177 William P. Clements, Jr.
Governor of Texas

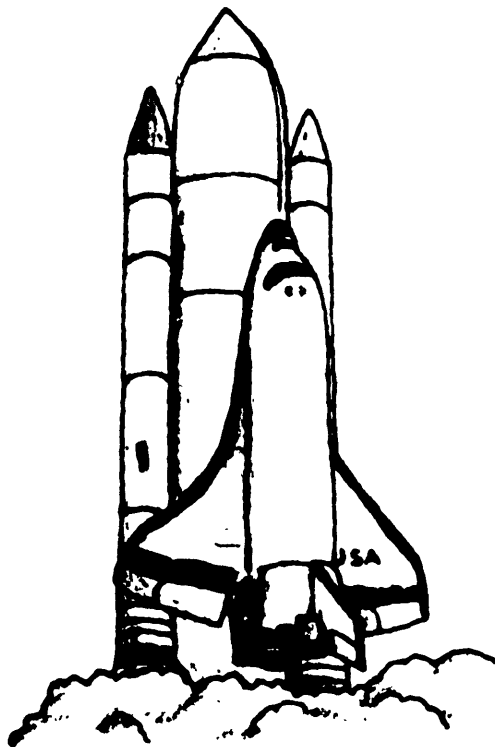


Emergency Rules

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*, 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 31. NATURAL RESOURCES AND CONSERVATION

Part II. Texas Parks and Wildlife Department

Chapter 65. Wildlife

Subchapter A. Statewide Hunting and Fishing

31 TAC §65.45

The Texas Parks and Wildlife Department is renewing the effectiveness of the emergency adoption of amendments to §65.45, for a 26-day period, effective January 19, 1983. The text of the amended rule was originally published in the September 21, 1982, and November 2, 1982, issues of the *Texas Register* (7 TexReg 3391 and 3863).

Issued in Austin, Texas, on January 7, 1983

TRD-830202

Maurine Ray
Administrative Assistant
Texas Parks and Wildlife
Department

Effective date: January 19, 1983

Expiration date: February 14, 1983

For further information, please call (512) 479-4806.

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 number 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 13. CULTURAL RESOURCES

Part V. Texas Sesquicentennial Commission

Chapter 53. Program Guidelines

13 TAC §53.3

The Texas Sesquicentennial Commission proposes amendments to §53.3, concerning official Sesquicentennial logo use. These revisions to subsections (d)-(f) further clarify official Sesquicentennial logo use.

Randy M. Lee, executive director, 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.

Mr. Lee has also determined that for each year of the first five years the rule as proposed is in effect the public benefit anticipated as a result of enforcing the rule as proposed will be a more consistent and uniform utilization of the logo and a better understanding of its intended purpose. There is no anticipated economic cost to individuals who are required to comply with the rule as proposed.

Comments on the proposal may be submitted to Joanne W. Brown, Texas Sesquicentennial Commission, P.O. Box 1986, Austin, Texas 78767.

The amendments are proposed under Texas Civil Statutes, Article 6252-17, which provides the Texas Sesquicentennial Commission with the authority to enact procedural rules.

§53.3. Commission Policy Determining Use of the Logo.

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

(d) **Application** [Criteria for approval]. Application for logo use shall be on a form prescribed by the commission. All intended uses of the logo shall be listed in the application. **The application shall include all relevant information, including project description, appropriate collateral material, an exact description and narrative of the logo's intended use, and a layout or prototype if possible. All requested uses of the logo must be submitted to the commission at least 90 days prior to its public use.**

(e) Logo use

(1) **Upon official sanction and written approval by the commission, the logo may be used by all state and local units of government, all Texas Independence communities, all Texas Independence associations, and other officially sanctioned nonprofit organizations as authorized by the commission according to established criteria.** [(Logo use may be approved for projects that further the aims and goals of the commission, such as public education and the dissemination of information, and that represent either:

[(A) new projects created especially to commemorate the Texas Sesquicentennial; or

[(B) existing projects substantially revised to commemorate the Texas Sesquicentennial.])

(2) Officially sanctioned nonprofit organizations.

(A) Each officially sanctioned community organization, nonprofit association, state and local government unit, or other officially sanctioned organization may use the logo with:

(i) projects as approved in the organization's original and/or amended application; and

(ii) publicity related to such projects, such as printed materials for Sesquicentennial-related activities and letterheads.

(B) No officially sanctioned organization may grant permission to use the logo on a project or product that has previously been rejected by the commission. [(Upon official sanction and written approval by the commission, the logo may be used by: all state or local units of government, all Texas Independence communities, all Texas Independence associations, private sector organizations, and other organizations as authorized by the commission according to the established criteria.)]

(3) For profit organizations.

(A) "For profit" entities may make application to the commission to use the logo for Sesquicentennial-related projects or products. Permission to use the logo in this instance shall be determined by the following two criteria:

(i) projects or products should further the aims and goals of the commission such as public education and the dissemination of information; and

(ii) projects or products be newly created especially to commemorate the Texas Sesquicentennial or should be substantially revised to commemorate the Texas Sesquicentennial.

(B) Use of the logo by all "for profit" entities shall be accompanied by the additional wording "we support the Texas Sesquicentennial." The commission may exempt the additional wording requirement upon written request and by justification of the application. [Each approved community, nonprofit association, state and local government, private sector organization, or individual may use the logo in connection with any of the following: projects as approved on the organization's or individual's application and publicity related to such projects; printed materials for Sesquicentennial related announcements and publicity; and letterheads. Use of the logo on letterheads by all approved organizations except Texas Independence communities, Texas Independence associations, and state and local governments shall incorporate the words "we support the Texas Sesquicentennial."]

(4)-(5) (No change.)

(f) No member or the commission may receive any direct financial benefit from any project or product which has been approved to use the logo.

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

Issued in Austin, Texas, on January 5, 1983.

TRD-830112

Randy M. Lee
Executive Director
Texas Sesquicentennial
Commission

Earliest possible date of adoption:
February 14, 1983

For further information, please call (512) 475-1986.

An agency may withdraw proposed action or the remaining effectiveness of emergency action on a rule by filing a notice of withdrawal with the *Texas Register*. The notice is generally effective immediately upon filing with the *Register*.

If a proposal is not adopted or withdrawn within six months after the date of publication in the *Register*, it will automatically be withdrawn by the *Texas Register*. Notice of the withdrawal will appear in the next regularly scheduled issue of the *Register*. The effective date of the automatic withdrawal will appear immediately following the published notice.

No further action may be taken on a proposal which has been automatically withdrawn. However, this does not preclude a new proposal of an identical or similar rule following normal rulemaking procedures.

Withdrawn Rules

TITLE 1. ADMINISTRATION
Part IV. Office of the Secretary of State
Chapter 81. Elections
Campaign Reporting and Disclosure

1 TAC §81.166

The Office of the Secretary of State has withdrawn emergency adoption of an amendment to §81.166, concerning elections. The text of the amended section as adopted on an emergency basis appeared in the October 8, 1982, issue of the *Texas Register* (7 TexReg 3611).

Issued in Austin, Texas, on January 5, 1983.

TRD-830085 Willis Whatley
 Counsel to the Secretary of
 State
 Office of the Secretary of State

Filed: January 5, 1983
For further information, please call (512) 475-2015.

**TITLE 16. ECONOMIC
REGULATION**
Part I. Railroad Commission of Texas
Chapter 5. Transportation Division
Subchapter H. Tariffs and Schedules
16 TAC §5.136

The Railroad Commission of Texas has withdrawn from consideration for permanent adoption amendments to §5.136, concerning the Transportation Division. The text of the amended section as proposed appeared in the February 26, 1980, and July 10, 1981, issues of the *Texas Register* (5 TexReg 656) and (6 TexReg 2372), respectively.

Issued in Austin, Texas, on January 7, 1983.

TRD-830195 Walter Earl Lile
830196 Special Counsel
 Railroad Commission of Texas

Filed: January 7, 1983
For further information, please call (512) 445-1186.

Adopted Rules

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

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 under which the rule was adopted.

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 22. EXAMINING BOARDS Part XIII. Texas Board of Licensure for Nursing Home Administrators Chapter 243. Application

22 TAC §243.3

The Texas Board of Licensure for Nursing Home Administrators adopts amendments to §243.3, without changes to the proposed text published in the November 19, 1982, issue of the *Texas Register* (7 TexReg 4027).

The amendments are designed to ensure professionalism of nursing home administration through higher professional standards and better monitoring of nursing home administrators through more thorough documentation. The rule will enable the agency to carry out its objectives.

No comments were received regarding adoption of the amendments.

The amendments are adopted under the authority of Texas Civil Statutes, Article 4442d, §8, which provides the Texas Board of Licensure for Nursing Home Administrators the authority to make rules not inconsistent with law as may be necessary or proper for the performance of its duties and to take such other actions as may be necessary to enable the state to meet the requirements set forth in the Social Security Act, §1908, United States Code Annotated, §1306(g), the federal rules promulgated thereunder,

and other pertinent federal authority; provided, however, that no rules shall be promulgated, altered, or abolished without the approval of a 2/3 majority of the board.

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

Issued in Austin, Texas, on January 5, 1983.

TRD-830152

Karl E. Bishop
Executive Director
Texas Board of Licensure for
Nursing Home Administrators

Effective date: January 27, 1983

Proposal publication date: November 19, 1982

For further information, please call (512) 479-0922.

Chapter 247. Education

22 TAC §247.3

The Texas Board of Licensure for Nursing Home Administrators adopts amendments to §247.3, without changes to the proposed text published in the November 19, 1982, issue of the *Texas Register* (7 TexReg 4028).

The amendments are designed to ensure professionalism of nursing home administration through higher professional standards and better monitoring of nursing home administrators through more

thorough documentation. The rule will enable the agency to carry out its objectives.

No comments were received regarding adoption of the amendments.

The amendments are adopted under the authority of Texas Civil Statutes, Article 4442d, §8, which provides the Texas Board of Licensure for Nursing Home Administrators the authority to make rules not inconsistent with law as may be necessary or proper for the performance of its duties and to take such other actions as may be necessary to enable the state to meet the requirements set forth in the Social Security Act, §1908, United States Code Annotated, §1306 (g), the federal rules promulgated thereunder, and other pertinent federal authority; provided, however, that no rules shall be promulgated, altered, or abolished without the approval of a 2/3 majority of the board.

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

Issued in Austin, Texas, on January 5, 1983.

TRD-830153 Karl E. Bishop
Executive Director
Texas Board of Licensure for
Nursing Home Administrators

Effective date: January 27, 1983
Proposal publication date: November 19, 1982
For further information, please call (512) 479-0922.

TITLE 25. HEALTH SERVICES
Part I. Texas Department of Health
Chapter 325. Solid Waste
Management
Subchapter L. Hazardous Waste
Management

The Texas Department of Health adopts amendments to §§325.271-325.273, 325.291, 325.294-325.297, 325.311-325.315, 325.331-325.338, 325.340, 325.341, 325.343, 325.344, 325.346-325.348, and 325.350. At the same time, it adopts the repeal of §§325.274, 325.292, 325.293, 325.339, 325.342, 325.345, and 325.349 and new §§325.274, 325.292, 325.293, 325.298-325.300, 325.339, 325.342, 325.345, and 325.349.

These sections deal with almost all aspects of the department's hazardous waste management rules and are being amended, repealed, or added to conform to federal regulations which have been recently promulgated by the U.S. Environmental Protection Agency (EPA). In general these regulations cover generators, transporters, and treatment, storage, and disposal facilities.

These adopted amendments, repeals, and new rules become effective on January 26, 1983, in order to comply with the standards for new land disposal facilities promulgated by EPA which become effective on January 26, 1983. In addition, the department is correcting omissions and discrepancies between its regulations and federal regulations which have been promulgated since the department last amended its hazardous waste management rules. The Texas Department of Health has already received interim authorization for conducting a state program under Phase I and Phase II (Components A and B) in lieu of EPA conducting a federal program. Now, in order to make application for interim authorization for Phase II, Component C, these proposed amendments, repeals, and new rules need to become effective on the same date as EPA's standards, i.e., January 26, 1983.

General

25 TAC §§325.271-325.273

These amendments, repeals, and new rules are adopted under the Solid Waste Disposal Act, Texas Civil Statutes, Article 4477-7, §4(c), which provides the Texas Department of Health with the authority to adopt and promulgate rules consistent with the general intent and purposes of the Act and establish minimum standards of operation for all aspects of the management and control of solid waste under its jurisdiction. In addition, these amendments, repeals, and new rules are being adopted pursuant to the federal requirements as explained in this preamble.

§325.271. Purpose, Applicability, and Release of Information.

(a) (No change.)

(b) Applicability. These regulations are substantially equivalent to federal requirements under the Resource Conservation and Recovery Act (RCRA) as promulgated in 40 Code of Federal Regulations Parts 260-265 and 40 Code of Federal Regulations Parts 122-124; and they are applicable to all persons who generate or transport municipal hazardous waste, and to owners and operators of municipal solid waste management facilities receiving hazardous waste for treatment, storage, or disposal.

(c) Release of information. Any information obtained or used in the administration of this hazardous waste management program may be made available to the administrator of the U.S. Environmental Protection Agency (EPA) without restriction. Information obtained and provided to EPA by the Texas Department of Health under this provision which contains, but is not limited to, trade secrets, processes, operations, style of work, or apparatus or identifies statistical data and financial information shall be protected under 18 United States Code §1905 and information provided under a valid claim of confidentiality shall be protected under the provisions of 40 Code of Federal Regulations Part 260. Claims of confidentiality will be denied for the name and address of any permit applicant or permittee.

(d) Signatories.

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

(4) Any persons signing permit applications, reports, or written information shall make the following certification:

I certify under penalty of law that I have personally examined and am familiar with the information submitted in this document and all attachments and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment.

(e) Inspections. Authorized representatives of the department, upon the presentation of credentials and other documents as may be required by law, shall be allowed to:

(1) enter at reasonable times upon the premises where a regulated facility or activity is located or conducted, where records must be kept under the conditions of the permit;

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

§325.272. Definitions of Terms and Abbreviations. The following words and terms, when used in this subchapter, shall have the following meanings, unless the context clearly indicates otherwise:

Acute hazardous waste—A hazardous waste identified and listed by the administrator of the U.S. Environmental Protection Agency (EPA) in 40 Code of Federal Regulations §261.33.

Certification—A statement of professional opinion based upon knowledge and belief.

Clean Water Act (CWA)—The Federal Water Pollution Control Act as amended by the Clean Water Act of 1977, 33 United States Code §1251, *et seq.*, commonly referred to as the Clean Water Act.

Closure plan—The plan for closure prepared in accordance with the requirements of §325.338 of this title (relating to Closure and Post-Closure Requirements).

Corrosivity—A characteristic of a hazardous waste as defined in 40 Code of Federal Regulations Part 261, Subpart C.

Current closure cost estimate—The most recent of the estimates prepared in accordance with §325.339 of this title (relating to Financial Requirements).

Current post-closure cost estimate—The most recent of the estimates prepared in accordance with §325.339 of this title (relating to Financial Requirements).

Elementary neutralization unit—A device which is used for neutralizing wastes which are hazardous wastes only because they exhibit the corrosivity characteristic defined in 40 Code of Federal Regulations §261.22 or are listed in Subpart D of 40 Code of Federal Regulations Part 261 only for this reason.

EPA—The U.S. Environmental Protection Agency.

EP toxicity—A characteristic of a hazardous waste as defined in 40 Code of Federal Regulations Part 261, Subpart C.

Existing portion—That land surface area of an existing waste management unit included in the original Part A permit application on which wastes have been placed prior to the issuance of a permit.

Facility—A site including all contiguous land and structures, other appurtenances, and improvements on the land, used for treating, storing, or disposing of hazardous wastes. A facility may consist of several treatment, storage, or disposal operational units.

General standards facilities—Those proposed hazardous waste treatment, storage, and disposal facilities required to have a permit under §3005(a) of RCRA and those interim status standard facilities advancing to final permit status.

Hazardous waste—Any solid waste identified or listed as a hazardous waste by the administrator of the U.S. Environmental Protection Agency (EPA) pursuant to the federal Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act, 42 United States Code §6901 *et seq.*, as amended. (Interim listings and criteria for identifying hazardous waste are published in 40 Code of Federal Regulations Part 261, Subparts C and D. The EPA may publish changes to the listing of hazardous wastes in the future. Changes may be obtained from the Bureau of Solid Waste Management, Texas Department of Health.)

Hazardous waste constituent—A constituent that caused the administrator to list the hazardous waste in 40 Code of Federal Regulations Part 261, Subpart D, or a constituent listed in Table I of 40 Code of Federal Regulations §261.24.

Ignitability—A characteristic of a hazardous waste as defined in 40 Code of Federal Regulations Part 261, Subpart C.

Industrial solid waste—Solid waste resulting from or incidental to any process of industry or manufacturing, or mining or agricultural operations.

Interim status standards facilities—Those existing hazardous waste treatment, storage, and disposal facilities who qualified for interim status under §3005(e) of RCRA.

Landfill cell—A discrete volume of a hazardous waste landfill which uses a liner to provide isolation of wastes from adjacent cells or wastes.

Liner—A continuous layer of natural or man-made materials, beneath or on the sides of a surface impoundment, landfill, or landfill cell which restricts the downward or lateral escape of hazardous waste, its constituents, or leachate.

Manifest—The shipping document originated and signed by the generator which contains the information required by the Texas Department of Health.

Municipal hazardous waste—A municipal solid waste or mixture of municipal solid wastes which has been identified or listed as a hazardous waste by the administrator of the U.S. Environmental Protection Agency.

Municipal solid waste—Solid waste resulting from or incidental to municipal, community, commercial, institutional, and recreational activities, including garbage, rubbish, ashes, street cleanings, dead animals, abandoned automobiles, and all other solid waste other than industrial solid waste.

Parent corporation—A corporation which directly owns at least 50% of the voting stock of the corporation which is the facility owner or operator; the latter corporation is deemed a subsidiary of the parent corporation.

POTW—An abbreviation for publicly-owned treatment works and means any device or system used in the storage or treatment (including recycling and reclamation) of municipal sewage which is owned by a city, town, county, district, authority, association, or other public body created by or under state law and having jurisdiction over disposal of sewage, or which is owned by an Indian tribe or authorized Indian tribal organization and federal agencies treating and disposing of sewage. (Sewers, pipes, or other conveyances are included in this definition only if they convey wastewater to a POTW providing treatment.)

RCRA—The federal Solid Waste Disposal Act as amended by the Resource Conservation and Recovery Act, 42 United States Code §6901 *et seq.*, as amended.

Reactivity—A characteristic of a hazardous waste as defined by EPA in 40 Code of Federal Regulations Part 261, Subpart C.

Solid waste—Any garbage; refuse; sludge from a waste treatment plant, water supply treatment plant, or air pollution control facility; and other discarded material, including solid, liquid, semisolid, or contained gaseous material resulting from industrial, municipal, commercial, mining, and agricultural operations and from community and institutional activities, but does not include:

(A) solid or dissolved material in domestic sewage, or solid or dissolved material in irrigation return flows, or industrial discharges subject to regulation by permit issued pursuant to Chapter 26, Water Code;

(B) soil, dirt, rock, sand, and other natural or man-made inert solid materials used to fill land if the object of the fill is to make the land suitable for the construction of surface improvements; or

(C) waste materials which result from activities associated with the exploration, development, or production of oil or gas and are subject to control by the Railroad Commission of Texas.

Thermal treatment—The treatment of hazardous waste in a device which uses elevated temperatures as the primary means to change the chemical, physical, or biological character or composition of the waste. (Examples of thermal treatment processes include incineration, molten salt, pyrolysis, calcination, wet air oxidation, and microwave discharge.)

Transfer facility—Any transportation-related facility including loading docks, parking areas, storage areas, and other similar areas where shipments of hazardous waste are held during the normal course of transportation.

Transport vehicle—A motor vehicle or rail car used for the transportation of cargo by any mode. Each cargo-carrying body (trailer, railroad freight car, etc.) is a separate transport vehicle. Vessel includes every description of watercraft used or capable of being used as a means of transportation on the water.

Treatment zone—A soil area of the unsaturated zone of a land treatment unit within which hazardous constituents are degraded, transformed, or immobilized.

Uppermost aquifer—The geologic formation nearest the natural ground surface that is an aquifer, as well as lower aquifers that are hydraulically interconnected with this aquifer within the facility's property boundary.

Wastewater treatment unit—A device which:

(A) is part of a wastewater treatment facility which is subject to regulation under either §402 or §307(b) of the Clean Water Act; and

(B) receives and treats or stores an influent wastewater which is a hazardous waste or generates and accumulates a wastewater treatment sludge which is a hazardous waste or treats or stores a wastewater treatment sludge which is a hazardous waste; and

(C) meets the definition of tank in this section.

§325.273. Hazardous Waste Determination.

(a) Procedures. A person whose act or process produces any municipal solid waste must determine if the waste is a hazardous waste and subject to these regulations by using the following steps:

(1) (No change.)

(2) determine if any nonexcluded waste or any constituent thereof is specifically listed as a hazardous waste in 40 Code of Federal Regulations Part 261, Subpart D.

(3) determine if any nonexcluded waste or any constituent thereof, though not specifically listed as a hazardous waste, exhibits any characteristics of hazardous waste identified in 40 Code of Federal Regulations Part 261, Subpart C.

(b) Exclusions. Waste materials which are not solid wastes are not subject to regulations and are identified in §325.274 of this title (relating to Hazardous Waste Regulated, Exclusions and Exceptions).

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

(3) industrial wastewater discharges that are point source discharges subject to regulation under §402 of the Clean Water Act, as amended. (This exclusion applies only to the actual point source discharge. It does not exclude industrial wastewaters while they are being collected, stored, or treated before discharge nor does it exclude sludges that are generated by industrial wastewater treatment.)

(c) (No change.)

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

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

TRD-830088 Robert A. MacLean, M.D.
Deputy Commissioner
Professional Services
Texas Department of Health

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For further information, please call (512) 458-7536.

25 TAC §325.274

This repeal is adopted under the Solid Waste Disposal Act, Texas Civil Statutes, Article 4477-7, §4(c), which provides the Texas Department of Health with the authority to adopt and promulgate rules consistent with the general intent and purposes of the Act

and establish minimum standards of operation for all aspects of the management and control of solid waste under its jurisdiction. In addition, this repeal is being adopted pursuant to the federal requirements as explained in the preamble to this chapter.

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

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Deputy Commissioner
Professional Services
Texas Department of Health

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

This new rule is adopted under the Solid Waste Disposal Act, Texas Civil Statutes, Article 4477-7, §4(c), which provides the Texas Department of Health with the authority to adopt and promulgate rules consistent with the general intent and purposes of the Act and establish minimum standards of operation for all aspects of the management and control of solid waste under its jurisdiction. In addition, this new rule is being adopted pursuant to federal requirements as explained in the preamble to this chapter.

§325.274. Hazardous Waste Regulated, Exclusions, and Exceptions.

(a) Definition of hazardous waste. This section identifies hazardous waste as identified and listed by EPA in 40 Code of Federal Regulations Part 261. The Solid Waste Disposal Act, Texas Civil Statutes, Article 4477-7, defines hazardous waste as solid waste identified or listed as a hazardous waste by the administrator of the U.S. Environmental Protection Agency pursuant to RCRA. Therefore, this section must be consistent with the meaning and use of the terms of solid waste and hazardous waste as used by EPA in regulations promulgated under RCRA and regulate the same universe of hazardous waste as regulated by EPA.

(b) Hazardous waste regulated. The materials, substances, or items identified in paragraphs (1)-(6) of this subsection are hazardous wastes and are subject to this subchapter unless the provisions of subsections (c) and (d) of this section apply.

(1) Any commercial chemical product or manufacturing intermediate listed by waste number and generic name in 40 Code of Federal Regulations §261.33, if and when it is discarded, or intended to be discarded, or is being stored or treated prior to being discarded.

(2) Any off-specification commercial or manufacturing chemical product or manufacturing chemical intermediate which, if it met specifications, would have the generic name of a substance listed in 40 Code of Federal Regulations §261.33, if and when it is discarded, or intended to be discarded, or is being stored or treated prior to being discarded.

(3) Any material which is intended to be discarded, is discarded, is being stored or treated prior to being discarded, or has served its original intended purpose and is sometimes discarded and which is not excluded or excepted from regulation (see subsections (c) and (d) of this section) and which exhibits one or more of the characteristics identified in 40 Code of Federal Regulations Part 261, Subpart C.

(4) Any solid waste which is listed as a hazardous waste in 40 Code of Federal Regulations §261.31 and §261.32 dealing with nonspecific and specific hazardous waste.

(5) Any mixture of a solid waste and one or more hazardous wastes listed in 40 Code of Federal Regulations Part 261, Subpart D, which has not been excluded from this paragraph because:

(A) the hazardous waste(s) is listed solely because it exhibits one or more characteristics identified in 40 Code of Federal Regulations Part 261, Subpart C, and the mixture no longer exhibits a characteristic; or

(B) it has been delisted by petition in accordance with 40 Code of Federal Regulations §260.22 or §325.300 of this title (relating to Procedure for Petition for Exclusion of Listed Wastes); or

(C) the mixture can be demonstrated by the generator to be a nonhazardous mixture of wastewater the discharge of which is subject to regulation under either §402 or §307(b) of the Clean Water Act (including wastewater at facilities which have eliminated the discharge of wastewater), and wastes listed in clauses (i)-(v) of this subparagraph, unless local ordinances or regulations prohibit the discharge of such a mixture.

(i) one or more of the following spent solvents listed in 40 Code of Federal Regulations §261.31—carbon tetrachloride, tetrachloroethylene, trichloroethylene—provided that the maximum total weekly usage of these solvents (other than the amounts that can be demonstrated not to be discharged to wastewater) divided by the average weekly flow of wastewater into the headworks of the facility's wastewater treatment or pretreatment system does not exceed one part per million; or

(ii) one or more of the following spent solvents listed in 40 Code of Federal Regulations §261.31—methylene chloride, 1,1,1-trichloroethane, chlorobenzene, o-dichlorobenzene, cresols, cresylic acid, nitrobenzene, toluene, methyl ethyl ketone, carbon disulfide, isobutanol, pyridine, spent chlorofluorocarbon solvents—provided that the maximum total weekly usage of these solvents (other than the amounts that can be demonstrated not to be discharged to wastewater) divided by the average weekly flow of wastewater into the headworks of the facility's wastewater treatment or pretreatment system does not exceed 25 parts per million; or

(iii) one of the following wastes listed in 40 Code of Federal Regulations §261.32—heat exchanger bundle cleaning sludge from the petroleum refining industry (EPA Hazardous Waste No. K050); or

(iv) a discarded commercial chemical product, or chemical intermediate listed in 40 Code of Federal Regulations §261.33, arising from *de minimis* losses of these materials from manufacturing operations in which these materials are used as raw materials or are produced

in the manufacturing process. For purposes of this subparagraph, *de minimis* losses include those from normal material handling operations (e.g., spills from the unloading or transfer of materials from bins or other containers and leaks from pipes, valves, or other devices used to transfer materials); minor leaks of process equipment, storage tanks, or containers; leaks from well-maintained pump packings and seals; sample purgings; relief device discharges; discharges from safety showers and rinsing and cleaning of personal safety equipment; and rinsate from empty containers or from containers that are rendered empty by that rinsing; or

(v) wastewater resulting from laboratory operations containing toxic (T) wastes listed in 40 Code of Federal Regulations Part 261, Subpart D, provided that the annualized average flow of laboratory wastewater does not exceed 1.0% of total wastewater flow into the headworks of the facility's wastewater treatment or pretreatment system, or provided the wastes' combined annualized average concentration does not exceed one part per million in the headworks of the facility's wastewater treatment or pretreatment facility. Toxic (T) wastes used in laboratories that are demonstrated not to be discharged to wastewater are not to be included in this calculation.

(6) Any quantity of waste residue remaining in a container or an inner liner removed from a container which exceeds the allowable level or quantity for an empty container or liner. (See exceptions under subsection (d) of this section for an explanation of allowable residue level or quantity which qualifies a container or liner to be considered empty.) Unless the residue in a container or inner liner is being beneficially used or reused, or legitimately recycled or reclaimed; or is being accumulated, stored, transported, or treated prior to such use, reuse, recycling, or reclamation, the residue shall be considered for discard and thus a hazardous waste. An example of a legitimate reuse of the residue would be where the residue remains in the container and the container is used to hold the same commercial chemical product or manufacturing chemical intermediate it previously held. An example of the discard of the residue would be where a drum (container) is sent to a reconditioner who reconditions the drum but discards the residue.

(c) Exclusions. The following materials are not subject to regulation under this subchapter.

(1) Materials which are not solid wastes. For purposes of these regulations, the following listed materials are not solid wastes and, therefore, do not fall within §325.272 of this title (relating to Definitions of Terms and Abbreviations); e.g., a waste must first be a solid waste before it can be a hazardous waste:

(A) domestic sewage; i.e., untreated sanitary wastes that pass through a sewer system;

(B) any mixture of domestic sewage and other wastes that passes through a sewer system to a wastewater treatment plant for treatment;

(C) industrial wastewater discharges that are point source discharges subject to regulation under §402 of the Clean Water Act, as amended (This exclusion applies only to the actual point source discharge. It does not include industrial wastewaters while they are being collected, stored, or treated before discharge nor does it

exclude sludges that are generated by industrial wastewater treatment.);

(D) irrigation return flows;

(E) source, special nuclear, or by-product material as defined by the Atomic Energy Act of 1954, as amended, 42 United States Code 2011, *et. seq.* Certain low-level radioactive materials (e.g., small vials of toluene) have been exempted from regulation as a radioactive material by the Bureau of Radiation Control of the Texas Department of Health in accordance with the Texas Radiation Control Act, Texas Civil Statutes, Article 4590f. In such cases the material may be subject to this subchapter;

(F) materials subjected to *in situ* mining techniques which are not removed from the ground as part of the extraction process.

(2) Solid wastes which are not hazardous wastes. (Although solid wastes which are not hazardous wastes are excluded from regulations under this subchapter, they are subject to regulations under other provisions of this chapter.)

(A) household waste (i.e., any waste material such as garbage, trash, and sanitary wastes in septic tanks derived from households, including single and multiple residences, hotels, and motels) including waste that has been collected, transported, stored, treated, disposed, recovered (e.g., refuse-derived fuel), or reused.

(B) fly ash waste, bottom ash waste, slag waste, and flue gas emission control waste generated primarily from the combustion of coal or other fossil fuels.

(C) wastes which fail the test for the characteristic of EP toxicity because chromium is present or are listed in 40 Code of Federal Regulations Part 261, Subpart D, due to the presence of chromium but do not fail the test for the characteristic of EP toxicity for any other constituent or are not listed due to the presence of any other constituent and which do not fail the test for any other characteristic, if it is shown by a waste generator or by waste generators that:

(i) the chromium in the waste is exclusively (or nearly exclusively) trivalent chromium; and

(ii) the waste is generated from an industrial process which uses trivalent chromium exclusively (or nearly exclusively) and the process does not generate hexavalent chromium; and

(iii) the waste is typically and frequently managed in nonoxidizing environments;

(iv) specific wastes in this category are listed in 40 Code of Federal Regulations §261.4(b)(6)(ii).

(D) waste which consists of discarded wood or wood products which fails the test for the characteristic of EP toxicity, and which is not a hazardous waste for any other reason, if the waste is generated by persons who utilize the arsenical-treated wood and wood products for these materials' intended end use.

(3) Hazardous wastes which are exempted from certain requirements. A hazardous waste which is generated in a product or raw material storage tank, a product or raw material transport vehicle or vessel, or a product or raw material pipeline is subject only to regulation under §325.273 of this title (relating to Hazardous Waste Determination) until it exits the unit in which it was

generated, unless the unit is a surface impoundment, or unless the hazardous waste remains in the unit more than 90 days after the unit ceases to be operated for storage or transportation of product or raw materials.

(4) Samples. A sample of a solid waste which is being transported and/or stored by a sample collector or a laboratory is not subject to the regulations of this subchapter if it meets the following criteria.

(A) The sample must be used for for one of the following purposes:

- (i) hazardous waste identification, composition determination, or analytical testing process; or
- (ii) use in current or potential enforcement action.

(B) The storage and/or transportation of the sample must comply with the following provisions:

(i) packaging and shipping shall be in accordance with the Department of Transportation and U.S. Postal Service requirements; or

(ii) alternate shipping requirements below must be followed if clause (i) of this subparagraph is not applicable:

(I) assure that the sample package does not spill or leak; and

(II) mark the sample package with the name, mailing address, and telephone number of the sample collector or the laboratory; the quantity and description of the sample; and the date of shipment.

(d) Exceptions. (Although not regulated under this subchapter, the wastes identified in paragraphs (1) and (2) of this subsection are subject to regulations under other provisions of this chapter.)

(1) Residues in empty containers. Any hazardous waste residue remaining in a container or an inner liner for a container is not subject to regulation, if the container or liner qualifies as being empty.

(2) Empty containers (including bags). A basic determination must be made, before considering if a container (or liner) is empty or not; i.e., whether the container has held nonacute hazardous waste, whether the container has held compressed hazardous waste gas, or whether the container has held acute hazardous waste.

(A) Nonacute hazardous waste. A container or an inner liner removed from a container that has held nonacute hazardous waste is empty if:

(i) all wastes have been removed using the practices commonly employed to remove materials from that type of container (e.g., pouring, pumping, and aspirating); and

(ii) no more than 2.5 centimeters (one inch) of waste residue remain on the bottom of the container or inner liner; or

(iii) the container is judged empty on a percentage basis as follows:

(I) no more than 3.0% by weight of the total capacity of the container remains in the container or inner liner if the container is less than or equal to 110 gallons in size; or

(II) no more than 0.3% by weight of the total capacity of the container remains in the container or inner liner if the container is greater than 110 gallons in size.

(B) Compressed hazardous waste gas. A con-

tainer that has held a hazardous waste that is a compressed gas is empty when the pressure in the container approaches atmospheric.

(C) Acute hazardous waste. A container or an inner liner removed from a container that has held acute hazardous waste is empty if:

(i) the container or inner liner has been triple-rinsed using a solvent capable of removing the acute hazardous waste. (Triple rinsing means rinsing the container three times with a solvent capable of removing the commercial chemical product or manufacturing intermediate from the container or liner, or using a volume of solvent equal to 10% of the volume of the container or liner for each rinse. The resulting rinsate must be managed as a hazardous waste, except in the case of pesticide rinsate which is generated by a farmer and disposed of on his own property);

(ii) the container or inner liner has been cleaned by another method (other than triple rinsing) that has been shown in scientific literature or by tests conducted by the generator to achieve equivalent removal of the acute hazardous waste;

(iii) in the case of a container, the inner liner that prevented contact of the acute hazardous waste with the container has been removed;

(iv) containers or liners which held acute hazardous waste and which have not been decontaminated in accordance with clauses (i), (ii), or (iii) of this subparagraph may be empty in a dictionary sense and have no measurable residue (e.g., have only a dry or moist contaminated film coating the inside of the vessel). In lieu of a measurable residue, such vessels, if discarded or intended to be discarded, become a special hazardous debris subject to the small quantity (100 kilogram) requirements for debris as explained in §325.298 of this title (relating to Special Requirements for Small Quantity Generator);

(v) a measurable quantity of acute hazardous waste residue in a container (or an inner liner removed from a container) which exceeds one kilogram is fully subject to the small quantity (one kilogram) requirements explained in §325.298 of this title (relating to Special Requirements for Small Quantity Generators).

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

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

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Generators

25 TAC §§325.291, 325.294-325.297

These amendments are adopted under the Solid Waste Disposal Act, Texas Civil Statutes, Article 4477-7,

54(c), which provides the Texas Department of Health with the authority to adopt and promulgate rules consistent with the general intent and purposes of the Act and establish minimum standards of operation for all aspects of the management and control of solid waste under its jurisdiction. In addition, these amendments are being adopted pursuant to the federal requirements as explained in the preamble to this chapter.

§325.291. *Generators.* The regulations contained in §§325.291-325.300 of this title (relating to Generators) establish standards for persons who generate municipal hazardous waste.

§325.294. *Pretransport Requirements.*

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

(c) **Marking.** Before transporting or offering municipal hazardous waste for transportation off-site, a generator must:

(1) (No change.)

(2) mark each container of 110 gallons or less used in transportation of such waste with the following words and information displayed in accordance with the requirements of 49 Code of Federal Regulations §172.304:

Hazardous Waste—Federal Law Prohibits Improper Disposal. If found, contact the nearest police or public safety authority, the Texas Department of Health, or the U.S. Environmental Protection Agency.

Generator's Name and Address:

Manifest Document Number:

(d) (No change.)

§325.295. *Manifest Requirements.*

(a) Before transporting municipal hazardous waste or offering such waste for transportation off-site, a generator of a hazardous waste shipment which either originates or terminates in Texas must furnish to the transporter a properly executed manifest (waste shipping-control ticket), or a uniform national manifest when it is implemented using Texas Waste Code numbers (available from the Bureau of Solid Waste Management, Texas Department of Health). (Generators must not offer hazardous waste to transporters or to treatment, storage, or disposal facilities that do not have an EPA identification number.)

(b) The generator must designate on the manifest one facility which has a permit to receive and handle the hazardous waste described on the manifest. One alternate permitted facility may be designated in the event an emergency prevents delivery to the primary facility. (The generator must instruct the transporter to return hazardous waste if the transporter notifies him that delivery cannot be made to the designated primary or alternate facilities.)

(c) The generator must prepare the manifest in at least the number of copies which will provide the generator, each transporter, and the owner or operator of designated receiving facilities with one copy each for their records and one additional copy to be returned to the generator by the facility receiving the hazardous waste.

(d) The generator must obtain the handwritten signature of the initial transporter and the date of hazardous waste acceptance on the manifest. He shall retain one

copy for his records and provide the initial transporter with the remaining copies to accompany waste shipment to the receiving facility. However, copies of the manifest are not required for each transporter when shipment of hazardous waste within the United States is solely by railroad or solely by water (bulk shipments only). In such instances, the generator must send three copies of the signed and dated manifest directly to the owner or operator of the designated receiving facility. Such shipments require compliance with the manifest system and record keeping requirements established under subsections (b) and (d) of §325.311 of this title (relating to Scope).

(e) Any person who exports municipal hazardous waste to a foreign country or imports municipal hazardous waste from a foreign country must comply with the requirements of paragraphs (1) and (2) of this subsection.

(1) **Exporting.** When shipping hazardous waste outside the United States, the generator must:

(A) notify the Texas Department of Health and the administrator (EPA) in writing four weeks before the initial shipment of hazardous waste to each country in each calendar year.

(i) The waste must be identified by its Texas Waste Code number (available from the Bureau of Solid Waste Management, Texas Department of Health), its EPA hazardous waste identification number, and its DOT shipping description.

(ii)-(iii) (No change.)

(iv) A copy of the notification must be sent to Bureau of Solid Waste Management, Texas Department of Health, 1100 West 49th Street, Austin, Texas 78756.

(B)-(D) (No change.)

(2) (No change.)

§325.296. *Reporting Requirements.*

(a) **Annual reports.**

(1) A generator of municipal hazardous waste who treats, stores, or disposes of hazardous waste on-site is subject to annual reporting requirements as an owner or operator of a treatment, storage, or disposal facility as set forth in subsection (e) of §325.336 of this title (relating to Manifest System, Record Keeping, and Reporting). Reports will be submitted to the Texas Department of Health no later than March 1 for the preceding calendar year using the annual waste disposal summary as approved by the department. (Forms may be obtained from the Bureau of Solid Waste Management, Texas Department of Health.)

(2) A generator of municipal hazardous waste who ships all such waste off-site for disposal is not subject to annual reporting requirements, but is subject to monthly reporting requirements established in subsection (b) of this section. A generator of municipal hazardous waste who ships part of such waste off-site for disposal and who treats, stores, or disposes of part of such waste on-site is subject to both reporting requirements established by paragraphs (1) and (2) of this subsection.

(b) **Monthly waste shipment summary.** A generator who ships municipal hazardous waste off-site must prepare this report from manifest forms summarizing the quantity and classification of each waste shipment for the

calendar month itemized by manifest number and shall submit this report as follows. (A monthly waste shipment summary is not required for the month when no waste is shipped).

(1) The summary shall be submitted on a monthly waste shipment summary form approved by the department.

(2) The summary shall be submitted to the Texas Department of Health, Bureau of Solid Waste Management, 1100 West 49th Street, Austin, Texas 78756.

(3) The summary shall be submitted no later than the 10th day of each calendar month for shipments originating during the previous month (Forms and instructions for completion may be obtained from the Bureau of Solid Waste Management, Texas Department of Health.)

(c) Exception reporting. A generator must take the following actions, in the event that acknowledgement of receipt of a manifested municipal hazardous waste shipment is not received within specified times.

(1) (No change.)

(2) Exception report. A generator who has not received a return copy of the manifest with the handwritten signature of the owner or operator of the designated facility within 45 days of date that the hazardous waste was accepted by the initial transporter must submit an exception report to the Texas Department of Health, Bureau of Solid Waste Management, 1100 West 49th Street, Austin, Texas 78756. The exception report must include:

(A) a cover letter signed by the generator or his authorized representative explaining the efforts used to locate the shipment of municipal hazardous waste and the results of those efforts; and

(B) a legible copy of the manifest (waste shipping-control ticket), for which the generator does not have confirmation of delivery.

(3) Interstate shipments. In the case of interstate shipments of hazardous waste for which the generator has not received a return copy of the manifest within 45 days of acceptance of the waste by the initial transporter, the generator shall take the following actions:

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

(4) (No change.)

(d) Additional reporting. The department, as it deems necessary, may require generators to furnish additional reports concerning the quantities and disposition of wastes identified or listed in §325.274 of this title (relating to Hazardous Waste Regulated, Exclusions, and Exceptions).

§325.297. Record Keeping Requirements.

(a) Manifest. A generator must retain a copy of the manifest (waste shipping-control ticket), provided to an initial transporter for three years or until a signed copy is received from the designated facility acknowledging receipt of the hazardous waste shipment. The copy of the manifest signed by the owner or operator of the receiving facility must then be retained for three years from the date the waste was accepted by the initial transporter.

(b) (No change.)

(c) Monthly waste shipment summary. A generator must retain a copy of each report for at least three years from the due date of the summary

(d) Exception report. A generator must retain a copy of any exception report submitted for three years from date of the report.

(e) Retention period extensions. The retention periods for records addressed in this section are extended automatically during the course of any unresolved enforcement action regarding a generator's activity or as requested by the Texas Department of Health.

(f) Waste determination data. A generator must keep records of any test results, waste analyses, or other determinations made in accordance with §325.273 of this title (relating to Hazardous Waste Determination) for at least three years from the date that the waste was last sent to on-site or off-site treatment, storage, or disposal.

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

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Deputy Commissioner
Professional Services
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25 TAC §325.292, §325.293

This repeal is adopted under the Solid Waste Disposal Act, Texas Civil Statutes, Article 4477-7, §4(c), which provides the Texas Department of Health with the authority to adopt and promulgate rules consistent with the general intent and purposes of the Act and establish minimum standards of operation for all aspects of the management and control of solid waste under its jurisdiction. In addition, this repeal is being adopted pursuant to the federal requirements as explained in the preamble to this chapter.

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

Issued in Austin, Texas, on January 4, 1983.

TRD-830155 Robert A. MacLean, M.D.
Deputy Commissioner
Professional Services
Texas Department of Health

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

**25 TAC §§325.292, 325.293,
325.298-325.300**

These new rules are adopted under the Solid Waste Disposal Act, Texas Civil Statutes, Article 4477-7, §4(c), which provides the Texas Department of Health

with the authority to adopt and promulgate rules consistent with the general intent and purposes of the Act and establish minimum standards of operation for all aspects of the management and control of solid waste under its jurisdiction. In addition, these new rules are being adopted pursuant to the federal requirements as explained in the preamble to this chapter.

§325.292. Scope and Applicability.

(a) A generator who treats, stores, or disposes of municipal hazardous waste on-site must comply with requirements for facility operators and owners, §§325.331-325.350 of this title (relating to Facility Owners and Operators) in addition to the requirements of §§325.271-325.276 of this title (relating to General) and §§325.291-325.300 of this title (relating to Generators).

(b) A person who generates municipal hazardous waste in amounts which are in excess of the small quantity exclusion limits of §325.298 of this title (relating to Special Requirements for Small Quantity Generators) and who does not treat, store, or dispose of the waste on-site is subject to provisions of §§325.271-325.276 of this title (relating to General) and §§325.291-325.300 of this title (relating to Generators) and is responsible for shipping the waste to an approved facility which may be:

(1) a facility permitted or otherwise approved in accordance with §§325.331-325.350 of this title (relating to Facility Owners and Operators)

(2) in the case of municipal hazardous waste which exhibits characteristics similar to industrial hazardous waste, at a facility permitted by the Texas Department of Water Resources, if:

(A) such disposal is approved by the Texas Department of Water Resources; and

(B) the transportation, storage, treatment, or disposal is in accordance with applicable regulations of the Texas Department of Health and the Texas Department of Water Resources.

(c) Any person who imports municipal hazardous waste into or exports municipal hazardous waste out of the United States is subject to generator requirements.

(d) An owner or operator of a POTW which generates a municipal hazardous waste is subject to generator requirements.

(e) A farmer who disposes of waste pesticides and their containers from his own use is subject to the industrial solid waste rules of the Texas Department of Water Resources.

§325.293. Hazardous Waste Accumulation.

(a) A generator may accumulate municipal hazardous waste on-site in containers or tanks (not in waste piles or surface impoundments because there is no accurate or reasonable way to indicate accumulation dates), if such accumulation does not present a danger to human health and the environment, for 90 days or less (short-term) without a storage facility permit or interim status provided that the following requirements are met.

(1) Packaging and containers. The waste shall be placed in containers which meet the standards of §325.340 of this title (relating to Use and Management of Containers), or in tanks which meet standards for facilities established in §325.341 of this title (relating to Tanks). Applicable alternate Department of Transportation reg-

ulations on packaging and labeling may be used inasmuch as off-site shipments must be in accordance with §325.294 of this title (relating to Pretransport Requirements).

(2) Marking and labeling. The date each period of accumulation begins shall be clearly marked and visible for inspection on each storage container and while being accumulated on-site each container and tank shall be labelled or marked clearly with the words "Hazardous Waste." Applicable alternate Department of Transportation regulations or marking and labeling may be used in accordance with §325.294 of this title (relating to Pretransport Requirements)

(3) Time limits. All accumulated waste shall be disposed of to an authorized treatment, storage, or disposal facility which is either on-site or off-site within 90 days or less unless a 30-day or less extension has been granted at the discretion of the department in a case-by-case basis because of unforeseen, temporary, and uncontrollable circumstances

(4) Training. The generator shall comply with the personnel training requirements of subsection (e) of §325.333 of this title (relating to General)

(5) Preparedness and prevention. The generator shall comply with §325.334 of this title (relating to Preparedness and Prevention)

(6) Contingency plan and emergency procedures. The generator shall comply with §325.335 of this title (relating to Contingency Plan and Emergency Procedures).

(b) A generator who accumulates municipal hazardous waste on-site for more than 90 days (long-term) is subject to regulations for storage facility owners/operators contained in §§325.331-325.350 of this title (relating to Facility Owners and Operators) and is required to have interim status or a storage facility permit from the Texas Department of Health in accordance with these regulations. (The 90-day time period for accumulation of wastes on-site begins for a small quantity generator when the accumulated wastes exceed the allowable small quantity levels.)

§325.298. Special Requirements for Small Quantity Generators.

(a) Definition. A generator is a small quantity generator if he generates less than 1,000 kilograms per month of hazardous waste, including the reduced quantities of acute hazardous waste as set forth in subsection (b) of this section, in any calendar month. A small quantity generator's hazardous waste, except for those wastes identified in subsection (c) of this section, is not subject to the requirements of this subchapter provided the following conditions are met. Hazardous waste generated in quantities greater than this amount is fully regulated. Small waste quantities may be subject to control under other provisions of this chapter.

(1) The generator has made a hazardous waste determination as required by §325.273 of this title (relating to Hazardous Waste Determination).

(2) The small quantity generator who accumulates hazardous waste on-site does so in accordance with the requirements of subsection (c) of this section.

(3) The generator treats or disposes his hazardous waste in an on-site facility or ensures delivery to an

off-site storage, treatment, or disposal facility either of which is:

- (A) an interim status standard facility;
- (B) a facility permitted by the EPA, an authorized state, the Texas Department of Health, or the Texas Department of Water Resources to manage hazardous waste;

(C) a Type I, V, or VII municipal solid waste site specifically approved by the department to receive quantities of hazardous waste exempt from full controls under this subchapter as provided for under §325.126 of this title (relating to Processing or Disposal of Special Wastes);

(D) a facility which uses, or reuses, or legitimately recycles or reclaims the generator's hazardous waste; or

(E) a facility which treats the generator's waste prior to beneficial use, reuse, or legitimate recycling or reclamation.

(4) The generator, when shipping off-site, places the waste in containers and marks the container in compliance with applicable Department of Transportation regulations on hazardous waste materials under 49 Code of Federal Regulations Part 172, including marking of containers of 110 gallons or less in accordance with 49 Code of Federal Regulations §172.304

(5) The generator may exclude from small quantity determination.

(A) hazardous wastes not specifically listed in 40 Code of Federal Regulations Part 261, Subpart D, being used, reused, recycled, or reclaimed in accordance with §325.299 of this title (relating to Hazardous Waste Which is Used, Reused, Recycled, or Reclaimed) and as such are not subject to requirements of this section;

(B) his hazardous waste when it is removed from on-site storage; or

(C) hazardous waste produced by on-site treatment of his hazardous waste.

(6) The generator may not exclude from small quantity determination a hazardous waste which is a sludge or which is specifically listed in 40 Code of Federal Regulations Part 261, Subpart D, and which is transported or stored prior to being used, reused, recycled, or reclaimed. Such waste is subject to the small quantity rules.

(b) Acute waste quantities. Acute hazardous waste generated by a small quantity generator in quantities which are equal to or less than the following limits in that calendar month are subject only to the rules of this section and are to be included in the determination of the 1,000 kilograms per month set forth in subsection (a) of this section. Acute hazardous waste in quantities greater than these amounts is fully regulated. Acute hazardous waste generated in quantities excluded from full regulation under this subchapter may be subject to control under other provisions of this chapter.

(1) a total of one kilogram of commercial chemical products and manufacturing chemical intermediates having the generic names listed in 40 Code of Federal Regulations §261.33(e), and off-specification commercial chemical products and manufacturing chemical intermediates which, if they met specifications, would have the

generic names listed in 40 Code of Federal Regulations §261.33(e);

(2) a total of 100 kilograms of any residue or contaminated soil, water, or other debris resulting from the cleanup of a spill into or on any land or water of any commercial products or manufacturing chemical intermediates having the generic names listed in 40 Code of Federal Regulations §261.33, or

(3) a total of 100 kilograms of containers or inner liners from containers which have held acute hazardous waste, which are abandoned or discarded, which have not been decontaminated to render them empty and which do not have a measurable residue as explained in subsection (d) of §325.274 of this title (relating to Hazardous Waste Regulated, Exclusions, and Exceptions) (Quantities less than 100 kilograms of contaminated container or liner debris are subject to proper control under other provisions of this chapter, whether the source of generation is known or not. This is a common-sense precaution to reduce potential hazards to human health or the environment through improper reuse of contaminated containers.)

(c) Accumulation of small quantity wastes on-site.

(1) Small quantity hazardous waste may be accumulated on-site without authorized or permitted storage and with the wastes subject to the reduced requirements of this section if the generator complies with the requirements for containers, packaging, marking, and labeling in §325.293 of this title (relating to Hazardous Waste Accumulation) and the following provisions until the small quantity limits set forth in subsection (a) and (b) of this section are reached

(A) The small quantity generator's waste shall be stored safely in containers and or tanks which are compatible with the waste being stored;

(B) The waste in the containers or tanks shall be identified; and

(C) The amount of waste in the container or tank shall be marked on the container or tank

(2) At the time the small quantity waste accumulation limitation of subsection (a) of this section or the acute hazardous waste limitations of subsection (b) of this section is exceeded, the generator's waste is subject to the full 90-day accumulation requirements of §325.293 of this title (relating to Hazardous Waste Accumulation) as well as the other requirements in §§325.291-325.300 of this title (relating to Generators).

(3) A person who accumulates unmanifested hazardous wastes collected from one or more small quantity generators during any calendar month where the total accumulated hazardous waste exceeds the small quantity generator limits of subsections (a) and (b) of this section is subject to §§325.291-325.300 of this title (relating to Generators).

(d) Hazardous and nonhazardous waste mixtures.

(1) Hazardous waste subject to the reduced requirements explained in this section may be mixed with nonhazardous waste and remain subject to the reduced requirements, even though the resulting mixture exceeds established quantity limitations. This does not apply if the resulting mixture creates a waste which meets one or more characteristics of a hazardous waste as explained in 40 Code of Federal Regulations Part 261, Subpart C.

(2) If a small quantity generator mixes a solid waste with a hazardous waste which exceeds a quantity exclusion level explained in this section, the complete mixture is subject to full regulations of this subchapter.

§325.299 Hazardous Waste which is Used, Reused, Recycled, or Reclaimed

(a) A hazardous waste which exhibits characteristics of hazardous waste established in 40 Code of Federal Regulations Part 261, Subpart C, (see §325.274 of this title (relating to Hazardous Waste Regulated, Exclusions, and Exceptions)) but which is not specifically identified and listed in 40 Code of Federal Regulations Part 261, Subpart D, (see subsection (b) of §325.274 of this title (relating to Hazardous Waste Regulated, Exclusions, and Exceptions)) is not subject to full regulations under this subchapter if

- (1) it is being beneficially used, or reused, or legitimately recycled or reclaimed;
- (2) it is being accumulated, stored, or physically, chemically, or biologically treated prior to beneficial use, or reuse, or legitimate recycling or reclamation;
- (3) it is a spent pickle liquor, EPA Waste Code Number K-062, which is reused or being stored or treated prior to reuse in a wastewater treatment facility holding a National Pollution Discharge Elimination System (NPDES) permit

(b) A hazardous waste which is a sludge, which is specifically identified and listed in 40 Code of Federal Regulations Part 261, Subpart D, or which contains one or more hazardous wastes listed in Subpart D and which is transported, stored, or processed prior to being used, reused, recycled, or reclaimed is subject to these regulations

§325.300 Procedure for Petition for Exclusion of Listed Wastes (Delisting)

(a) General Any person may petition the department to exclude a waste at a particular facility from the requirements of §§325.291-325.300 of this title (relating to Generators) for those wastes which have been identified by EPA as hazardous in accordance with the regulations of 40 Code of Federal Regulations Part 261, Subpart D.

(b) Petition form Each petition must be submitted to the department by certified mail and must include:

- (1) the petitioner's name and address;
- (2) a statement of the petitioner's interest in the proposed action;
- (3) a description of the proposed action, including appropriate regulatory language;
- (4) a statement of the name, need, and justification for the proposed action, including any supporting tests, studies, or other information;
- (5) the name and address of the laboratory facility performing the sampling or tests of the waste;
- (6) the names and qualifications of the persons sampling and testing the waste;
- (7) the dates of sampling and testing;
- (8) the location of the generating facility;
- (9) a description of the operations and materials producing the waste and an assessment of whether such operations, or materials can or might produce a waste that is not covered by the demonstration;

(10) a description of the waste and an estimate of the average and maximum monthly and annual quantities of waste covered by the demonstration,

(11) pertinent data on and discussion of the factors delineated in the respective criterion for listing a hazardous waste, where the demonstration is based on the toxic constituent factors in 40 Code of Federal Regulations §261.11(a)(3),

(12) a description of the methodologies and equipment used to obtain the representative samples;

(13) a description of the sample handling and preparation techniques, including techniques used for extraction, containerization, and preservation of samples;

(14) a description of the tests performed, including results,

(15) the names and model numbers of the instruments used in performing the tests, and

(16) the following statement signed by the generator of the waste or his authorized representative.

I certify under penalty of law that I have personally examined and am familiar with the information submitted in this demonstration and all attached documents and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe the submitted information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment.

(c) Tentative decision notice The department will make a tentative decision to grant or deny a petition and will publish notice of such tentative decision either in the form of an advance notice of proposed rulemaking, a proposed rule, or a tentative determination to deny the petition. Such notice will be published in the *Texas Register* for written public comment.

(d) Public hearing Upon the written request of any interested person, the department may at its discretion hold an informal public hearing to consider oral comments on the tentative decision. A person requesting a hearing must state the issues to be raised and explain why written comments would not suffice to communicate the person's views. The department may in any case decide on his own motion to hold an informal public hearing.

(e) Site-specific exclusion petition Any person seeking to exclude a waste at a particular generating facility from the lists in 40 Code of Federal Regulations Part 261, Subpart D, may petition for a regulatory amendment under this subsection. To be successful, the petitioner must demonstrate to the satisfaction of the department that the waste produced by a particular generating facility does not meet any of the criteria under which the waste was listed as a hazardous waste and, in the case of an acutely hazardous waste listed under 40 Code of Federal Regulations §261.11(a)(2), that it also does not meet the criterion of 40 Code of Federal Regulations §261.11(a)(3). A waste which is so excluded may still, however, be a hazardous waste by operation of 40 Code of Federal Regulations Part 261, Subpart C.

(f) Waste-specific exclusion petition. The procedures in this subsection may also be used to petition the department for a regulatory amendment to exclude

a waste listed in 40 Code of Federal Regulations Part 261, Subpart D, or a waste from a treatment, storage, or disposal facility. This exclusion may only be issued for a particular generating, storage, treatment, or disposal facility. The petitioner shall make the same demonstration as required by subsection (e) of this section, except that where the waste is a mixture of solid waste and one or more listed hazardous wastes, his demonstration may be made with respect to each constituent listed waste or the waste mixture as a whole. A waste which is so excluded may still be a hazardous waste by operation of 40 Code of Federal Regulations Part 261, Subpart C.

(g) Demonstration required for codes I, C, R, or E. If the waste is listed with codes I, C, R, or E in 40 Code of Federal Regulations Part 261, Subpart D, the petitioner shall show that demonstration samples of the waste do not exhibit the relevant characteristic of ignitability as defined in 40 Code of Federal Regulations §261.21, corrosivity as defined in 40 Code of Federal Regulations §261.22, reactivity as defined in 40 Code of Federal Regulations §261.23, or EP toxicity as defined in 40 Code of Federal Regulations §261.24, using any applicable test methods prescribed therein.

(h) Demonstration required for code T. If the waste is listed with code T in 40 Code of Federal Regulations Part 261, Subpart D, the petitioner shall demonstrate that:

(1) demonstration samples of the waste do not contain the constituent (as defined in 40 Code of Federal Regulations Part 261, Appendix VII) that caused the waste to be listed, using the appropriate test methods prescribed in 40 Code of Federal Regulations Part 261, Appendix III, or

(2) the waste does not meet the criterion of toxic constituents contained in 40 Code of Federal Regulations §261.11(a)(3) when considering the factors in 40 Code of Federal Regulations §261.11(a)(3)(i)-(xi).

(i) Demonstration required for code H. If the waste is listed with the code H in 40 Code of Federal Regulations Part 261, Subpart D, the petitioner shall demonstrate that the waste does not meet both of the following criteria:

(1) the criterion of human toxicity contained in 40 Code of Federal Regulations §261.11(a)(2); and

(2) the criterion of toxic constituents contained in 40 Code of Federal Regulations §261.11(a)(3)(i)-(xi).

(j) Demonstration samples. Demonstration samples must consist of enough representative samples, but at the minimum four, taken over a period of time sufficient to represent the variability or the uniformity of the waste.

(k) Additional information. After receiving a petition for an exclusion, the department may request any additional information which may reasonably be required to evaluate the petition.

(l) Exclusion restriction. An exclusion will only apply to the waste generated at the individual facility covered by the demonstration and will not apply to waste from any other facility.

(m) Partial exclusion. The department may exclude only part of the waste for which the demonstration is submitted where it has reason to believe that variability of the waste justifies a partial exclusion.

(n) Final decision. After evaluating all public comments and obtaining concurrence from EPA the commis-

sioner will issue a final decision by publishing an amendment, approval, or a denial of the petition in the *Texas Register*.

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

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TRD-830126 Robert A. MacLean, M.D.
Deputy Commissioner
Professional Services
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For further information, please call (512) 458-7236.

Transporters

25 TAC §§325.311-325.315

These amendments are adopted under the Solid Waste Disposal Act, Texas Civil Statutes, Article 4477-7, §4(c), which provides the Texas Department of Health with the authority to adopt and promulgate rules consistent with the general intent and purposes of the Act and establish minimum standards of operation for all aspects of the management and control of solid waste under its jurisdiction. In addition, these amendments are being adopted pursuant to the federal requirements as explained previously in the preamble to this chapter.

§325.311. Scope

(a) (No change.)

(b) These regulations do not apply to on-site transportation of hazardous waste by generators and owners/operators of a permitted municipal hazardous waste management facility.

(c) Transporters who accumulate unmanifested municipal hazardous waste in amounts which are in excess of the small quantity generator exclusion limits identified in §325.298 of this title (relating to Special Requirements for Small Quantity Generators) are generators and, as such, are also subject to requirements under §§325.291-325.300 of this title (relating to Generators).

(d) Transporters who accumulate and store manifested or unmanifested hazardous waste regulated under §325.274 of this title (relating to Hazardous Waste Regulated, Exclusions, and Exceptions) for more than 10 days at a transfer facility are facility operators and, as such, are also subject to permit and other requirements under this subchapter.

(e) A transporter of municipal hazardous waste must comply with requirements under §§325.291-325.300 of this title (relating to Generators) if he:

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

§325.312. Compliance with Manifest Requirements.

(a) (No change.)

(b) A transporter of manifested hazardous waste

must ensure that the manifest accompanies the waste shipment, unless:

(1) the hazardous waste is delivered by rail or water (bulk shipment only) to the designated facility;

(2) a shipping paper containing all the information required on the manifest (excluding the EPA Identification Numbers, generator certification, and signatures) accompanies the hazardous waste shipment;

(3) the delivering transporter obtains the date of delivery and handwritten signature of the owner or operator of the designated facility on either the manifest or the shipping paper;

(4)-(5) (No change.)

(c) Transporters who transport hazardous waste out of the United States must:

(1) indicate on the manifest the date the hazardous waste left the United States;

(2)-(3) (No change.)

(d) (No change.)

§325.313. Delivery Requirements.

(a) The transporter must deliver the entire quantity of municipal hazardous waste which he has accepted from a generator or a preceding transporter to:

(1) the designated facility listed on the manifest;

(2) the alternate designated facility if an emergency prevents delivery to the designated facility;

(3)-(4) (No change.)

(b) (No change.)

§325.314. Record Keeping Requirements.

(a) No change.)

(b) For shipments delivered to the designated facility by rail or water (bulk shipments only), each rail or water transporter must retain a copy of a shipping paper containing all the information required in subsection (b) of §325.312 of this title (relating to Compliance with Manifest Requirements) for a period of three years from the date the waste was accepted by the initial transporter.

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

§325.315. Hazardous Waste Discharges.

(a) A transporter must take the following actions in the event of an accidental, unintended, or unauthorized intentional discharge of municipal hazardous waste.

(1) Immediate action. Take appropriate action to protect human health and the environment, notify local authorities, and dike or contain the discharge area

(2) Follow-up action. In accord with the State of Texas Oil and Hazardous Substances Spill Contingency Plan, provide telephone notification as soon as possible, but no later than 24 hours after discharge occurrence, to the Texas Department of Water Resources' district office responsible for the county in which the spill occurred or to the Texas Department of Water Resources' central office. Telephone contacts-- Normal: (512) 475-5695; Nights/Weekends: (512) 475-2631.

(b) (No change.)

(c) An air, rail, highway, or water transporter who has discharged hazardous waste must

(1) (No change.)

(2) report in writing as required by 49 Code of Federal Regulations, §171.16 to the Chief, Information Systems Division, Transportation Programs Bureau,

Department of Transportation, Washington, D.C. 20590.

(d) (No change.)

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

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TRD-830091 Robert A. MacLean, M.D.
Deputy Commissioner
Professional Services
Texas Department of Health

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

Facility Owners and Operators

25 TAC §§325.331-325.338,
325.340, 325.341, 325.343, 325.344,
325.346-325.348, 325.350

These amendments are adopted under the Solid Waste Disposal Act, Texas Civil Statutes, Article 4477-7, §4(c), which provides the Texas Department Health with the authority to adopt and promulgate rules consistent with the general intent and purposes of the Act and establish minimum standards of operation for all aspects of the management and control of solid waste under its jurisdiction. In addition, these amendments are being adopted pursuant to the federal requirements as explained in in the preamble to this chapter.

§325.331. Purpose and Scope. The purpose of §§325.331-325.350 of this title (relating to Facility Owners and Operators) is to establish standards for facilities and for the management by owners and operators of facilities used for the treatment, storage, or disposal of:

(1) municipal hazardous waste regulated under §325.274 of this title (relating to Hazardous Waste Regulated, Exclusions and Exceptions); and

(2) industrial hazardous waste which has been authorized by the Texas Department of Health for treatment, storage, or disposal at a municipal hazardous waste facility provided that the transportation, storage, treatment, or disposal is in accordance with applicable regulations of the Texas Department of Health and the Texas Department of Water Resources.

§325.332. Applicability.

(a) The standards of §§325.331-325.350 of this title (relating to Facility Owners and Operators) apply to owners and operators of municipal solid waste facilities which treat, store, or dispose of hazardous waste, except as specifically provided otherwise in this subchapter. A municipal solid waste facility shall not be used for the storage, treatment, or disposal of hazardous waste without the owner or operator having obtained interim status authorized in accordance with RCRA, §3005(e), and having notified the Texas Department of Health of these activities or having obtained a permit from the Texas

Department of Health approving such activities. A permit holder of a municipal solid waste disposal site may be authorized to operate a hazardous waste activity on his permitted site by obtaining a permit amendment from the department in accordance with §325.350 of this title (relating to Permits) to authorize the establishment of a hazardous waste activity within a designated portion of the site. The hazardous waste design and operating criteria will be applicable only to the designated portion of the site. The procedures for obtaining a permit for a new or separate hazardous waste facility are as prescribed in §325.350 of this title (relating to Permits). A prospective permit applicant, in all cases, should consult with the department to determine specific application requirements for the proposed facility.

(b) The standards in §§325.331-325.350 of this title (relating to Facility Owners and Operators) do not apply to:

(1) a person disposing of municipal hazardous waste by means of ocean disposal subject to a permit issued under the Marine Protection, Research, and Sanctuaries Act. (These regulations do apply to the treatment or storage of municipal hazardous waste before it is loaded onto an ocean vessel for incineration or disposal at sea.)

(2) a person disposing of municipal hazardous waste by means of underground injection subject to a permit issued under an underground injection control (UIC) program approved or promulgated under the Safe Drinking Water Act. (Except where the facility is regulated by the Texas Department of Water Resources, these regulations do apply to the above ground treatment or storage of municipal hazardous waste before it is injected underground.)

(3) the owner or operator of a POTW which treats, stores, or disposes of municipal hazardous waste received as a part of domestic sewage in accordance with the exclusion of subsection (c) of §325.274 of this title (relating to Hazardous Waste Regulated, Exclusions, and Exceptions).

(4) (No change.)

(5) the owner or operator of a totally enclosed treatment facility, as defined in §325.272 of this title (relating to Definitions of Terms and Abbreviations).

(6) the owner or operator of an elementary neutralization unit or a wastewater treatment unit which neutralizes wastes which are hazardous only because the wastes exhibit the hazardous waste characteristic of corrosivity as defined in 40 Code of Federal Regulations, Part 261, Subpart C, or are listed as a hazardous waste in 40 Code of Federal Regulations Part 261, Subpart D, only because of the characteristic of corrosivity.

(7) persons, including owners and operators of processing, storage, or disposal facilities, who make an immediate emergency response to contain or treat a spill of a hazardous waste or a hazardous material which would become a hazardous waste when spilled, except that owners and operators of processing, storage, or disposal facilities remain subject to §325.334 of this title (relating to Preparedness and Prevention) and §325.335 of this title (relating to Contingency Plan and Emergency Procedures) if they are otherwise subject to §§325.331-325.350 of this title (relating to Facility Owners and Operators). After

the immediate response activities are completed, the applicable regulations of this subchapter apply to the management of the hazardous waste.

(8) a transporter storing manifested shipments of hazardous waste at a transfer facility for a period of 10 days or less.

(9) the addition of absorbent material to waste in a container or the addition of waste to absorbent material in a container, provided that these actions occur at the time waste is first placed in the container and subsection (f) of §325.333 of this title (relating to General) and subsections (b) and (c) of §325.340 of this title (relating to Use and Management of Containers) are complied with.

(c) Notwithstanding any provision of these regulations, enforcement action may be brought pursuant to the Solid Waste Disposal Act, Texas Civil Statutes, Article 4477-7, §4(e)(10), if the department determines an imminent hazard exists.

§325.333. General.

(a) Required notices.

(1) The owner or operator of a facility that has arranged to receive hazardous waste from a foreign source must notify the Texas Department of Health and the EPA regional administrator in writing at least four weeks in advance of the date that the waste is expected to arrive at the facility.

(2) (No change.)

(3) The owner or operator of a facility that receives hazardous waste from an off-site source (except where the owner or operator is also the generator) must inform the generator in writing that he has the appropriate permit(s) or authorization for, and will accept, the waste the generator is shipping. The owner or operator must keep a copy of this written notice as part of the operating record.

(b) Waste analysis requirements.

(1) Before an owner or operator treats, stores, or disposes of any hazardous waste, he must obtain a detailed chemical and physical analysis of a representative sample of the waste. At a minimum, this analysis must contain all the information which must be known to treat, store, or dispose of the waste in accordance with the requirements of §§325.331-325.350 of this title (relating to Facility Owners and Operators).

(2) The analysis may include data developed in accordance with §325.273 of this title (relating to Hazardous Waste Determination) and §325.274 of this title (relating to Hazardous Waste Regulated, Exclusions, and Exceptions) and existing published or documented data on the hazardous waste or on waste generated from similar processes. For example, the facility's record of analyses performed on the waste before the effective date of these regulations or studies conducted on hazardous waste generated from processes similar to that which generated the waste to be managed at the facility may be included in the data base required to comply with this paragraph. The owner or operator of an off-site facility may arrange for the generator of the hazardous waste to supply part or all of the information required by this paragraph. If the generator does not supply the information and the owner or operator chooses to accept a

hazardous waste, the owner or operator is responsible for obtaining the information to comply with analysis requirements.

(3)-(4) (No change.)

(5) The owner or operator must develop and follow a written waste analysis plan which describes the procedures which he will carry out to comply with paragraph (1) of this subsection. He must keep this plan at the facility. At a minimum, the plan must specify:

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

(C) the sampling method which will be used to obtain a representative sample of the waste to be analyzed. A representative sample may be obtained using either:

(i) one of the sampling methods described in 40 Code of Federal Regulations, Part 261, Appendix I; or

(ii) (No change.)

(D)-(E) (No change.)

(F) where applicable, specific management methods which will be used to meet the additional waste analysis requirements of §§325.331-325.350 of this title (relating to Facility Owners and Operators).

(G) for off-site facilities, the procedures which will be used to inspect, and if necessary, analyze each movement of hazardous waste received at the facility to ensure that it matches the identity of the waste designated on the accompanying manifest or shipping paper. At a minimum, the plan must describe:

(i)-(ii) (No change.)

(c) Security.

(1) The owner or operator must prevent the unknowing entry, and minimize the possibility for the unauthorized entry, of persons or livestock onto the active portion of his facility, unless:

(A) physical contact with the waste, structures, or equipment within the active portion of the facility will not injure unknowing or unauthorized persons or livestock which may enter the active portion of the facility; and

(B) (No change.)

(2) (No change.)

(3) Unless the owner or operator has made a successful demonstration under paragraphs (1)(A) and (B) of this subsection, a sign with the legend, "Danger-Unauthorized Personnel Keep Out," must be posted at each entrance to the active portion of a facility and at other locations in sufficient numbers to be seen from any approach to this active portion. The legend must be written in English and in any other language predominant in the area surrounding the facility, and must be legible from a distance of at least 25 feet. Existing signs with a legend other than "Danger-Unauthorized Personnel Keep Out" may be used if the legend on the sign indicates that only authorized personnel are allowed to enter the active portion and that entry onto the active portion can be dangerous.

(d) Inspection requirements.

(1) The owner or operator must inspect his facility for malfunctions and deterioration, operator errors, and discharges which may be causing, or may lead to, release of hazardous waste constituents to the environment or a threat to human health. The owner or operator

must conduct these inspections often enough to identify problems in time to correct them before they harm human health or the environment.

(2) The owner or operator must develop and follow a written schedule for inspecting all monitoring equipment, safety and emergency equipment, security devices, and operating and structural equipment (such as dikes and sump pumps) that are important to preventing, detecting, or responding to environmental or human health hazards.

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

(C) The frequency of inspection and elements to be inspected may vary for the items on the schedule. However, it should be based on the rate of possible deterioration of the equipment and the probability of an environmental or human health incident if the deterioration or malfunction or any operator error goes undetected between inspections. Areas subject to spills, such as loading and unloading areas, must be inspected daily when in use. At a minimum, the inspection schedule must include containers, tanks, surface impoundments, piles, landfills, incinerators, thermal treatment equipment, and chemical, physical, and biological treatment facilities specified for these items in §§325.331-325.350 of this title (relating to Facility Owners and Operators).

(3)-(4) (No change.)

(e) Personnel training.

(1) Facility personnel must successfully complete a program of classroom instruction or on-the-job training that teaches them to perform their duties in a way that ensures the facility's compliance with the requirements of §§325.331-325.350 of this title (relating to Facility Owners and Operators). The owner or operator must ensure that this program includes all the elements described in the documents required under paragraph (6) of this subsection.

(2)-(3) (No change.)

(4) Facility personnel must successfully complete the program required in paragraph (1) of this subsection within six months after the effective date of these regulations or six months after the date of their employment or assignment to a facility, or to a new position at a facility, whichever is later. Employees hired after the effective date of these regulations must not work in unsupervised positions until they have completed the training requirements.

(5) (No change.)

(6) The owner or operator must maintain the following documents and records at the facility:

(A) (No change.)

(B) a written job description for each position. This description may be consistent in its degree of specificity with descriptions for other similar positions in the same company location or bargaining unit but must include the requisite skill, education, or other qualifications and duties of employees assigned to each position.

(C)-(D) (No change.)

(7) Training records on current personnel must be kept until closure of the facility. Training records on former employees must be kept for at least three years from the date the employee last worked at the facility. Personnel training records may accompany personnel transferred within the same company.

(f) General requirements for ignitable, reactive, or incompatible wastes.

(1) The department adopts by reference the EPA regulations contained in 40 Code of Federal Regulations, Part 264, Appendix V, and 40 Code of Federal Regulations, Part 265, Appendix V, titled, "Examples of Potentially Incompatible Waste." These regulations are indexed and filed in the Bureau of Solid Waste Management, Texas Department of Health Office, located at 1100 West 49th Street, Austin, Texas 78756, and are available for public inspection during regular working hours.

(2) The owner or operator must take precautions to prevent accidental ignition or reaction of ignitable or reactive waste. This waste must be separated and protected from sources of ignition or reaction including, but not limited to, open flames, smoking, cutting and welding, hot surfaces, frictional heat, sparks (static, electrical, or mechanical), spontaneous ignition (e.g., from heat-producing chemical reactions), and radiant heat. While ignitable or reactive waste is being handled, the owner or operator must confine smoking and open flame to a specially designated location. "No smoking" signs must be conspicuously placed wherever there is a hazard from ignitable or reactive waste.

(3) Where specifically required by other standards in §§325.331-325.350 of this title (relating to Facility Owners and Operators), the owner or operator of a facility that treats, stores, or disposes ignitable or reactive waste, or mixes incompatible wastes and other materials, must take precautions to prevent reactions which.

(A)-(E) (No change.)

(4) The owner or operator must document compliance with the foregoing requirements in the facility operating records whenever ignitable, reactive, or incompatible wastes are being treated, stored, or disposed. This documentation may be based on references to published scientific or engineering literature, data from trial tests (e.g., bench scale or pilot scale tests) results of waste analysis required under subsection (b) of this section, or the results of the treatment of similar wastes by similar treatment processes and under similar operating conditions.

(g) (No change.)

§325.334. *Preparedness and Prevention.*

(a) Design and operation of facilities. Facilities must be designed, constructed, maintained, and operated to minimize the possibility of a fire, explosion, or any unplanned sudden or nonsudden release of hazardous waste or hazardous waste constituents to air, soil, or surface water which could threaten human health or the environment.

(b) Equipment requirements. All facilities must be equipped with the following emergency items, unless none of the hazards posed by waste handled at the facility could require them.

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

(4) Water at adequate volume and pressure to supply water hose streams, foam-producing equipment, automatic sprinklers, or water spray systems.

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

(f) Arrangements with local authorities.

(1) The owner or operator must attempt to make

the following arrangements as appropriate for the type of waste handled at his facility and the potential need for the services of these organizations.

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

(C) agreements with state emergency response teams, emergency response contractors, and equipment suppliers.

(D) (No change.)

(2) (No change.)

§325.335. *Contingency Plan and Emergency Procedures.*

(a) (No change.)

(b) Content of contingency plan.

(1) The plan must describe the actions facility personnel must take to comply with subsections (a) and (f) of this section in response to fires, explosions, or any unplanned sudden or nonsudden release of hazardous waste or hazardous waste constituents to air, soil, or surface water at the facility.

(2) If the owner or operator has already prepared a spill prevention, control, and countermeasures (SPCC) plan in accordance with 40 Code of Federal Regulations, Parts 112 or 1510 or some other emergency or contingency plan, he need only amend that plan to incorporate hazardous waste management provisions that are sufficient to comply with the requirements of this section.

(3) The plan must describe arrangements agreed to by local police departments, fire departments, hospitals, contractors, and state and local emergency response teams to coordinate emergency services.

(4) The plan must list names, addresses, and phone numbers (office and home) of all persons qualified to act as emergency coordinator, and this list must be kept up-to-date. Where more than one person is listed, one must be named as primary emergency coordinator and others must be listed in the order in which they will assume responsibility as alternates. For new facilities, this information must be supplied to the department at the time of start-up notification rather than at the time of permit application.

(5) The plan must include a list of all emergency equipment at the facility (such as fire extinguishing systems, spill control equipment, internal and external communications and alarm systems, and decontamination equipment), where this equipment is required. This list must be kept up-to-date. In addition, the plan must include the location and a physical description of each item on the list and a brief outline of its capabilities.

(6) The plan must include an evacuation plan for facility personnel where there is a possibility that evacuation could be necessary. This plan must describe signal(s) to be used to begin evacuation, evacuation routes, and alternate evacuation routes (in cases where the primary routes could be blocked by releases of hazardous wastes or fires).

(c) Copies of contingency plan.

(1) A copy of the contingency plan and all revisions must be maintained at the facility; and

(2) A copy of the plan and all revisions must be submitted to all local police departments, fire departments, hospitals, and state and local emergency response teams that may be called upon to provide emergency services.

(d) Amendment of contingency plan. The plan must be reviewed and immediately amended, if necessary, whenever:

(1) the facility permit and/or applicable regulations are revised;

(2)-(5) (No change.)

(e) (No change.)

(f) Emergency procedures.

(1) Whenever there is an imminent or actual emergency situation, the emergency coordinator (or his designee when the emergency coordinator is on call) must immediately:

(A) (No change.)

(B) Notify appropriate local, county, and state authorities with designated response roles. If the emergency involves accidental spill or discharge of a hazardous substance, provide notification to the Texas Department of Water Resources as soon as possible in accordance with the State of Texas Oil and Hazardous Substances Spill Contingency Plan: telephone contact: normal-(512) 475-5695; nights/weekends-(512) 475-2651.

(2) Whenever there is a release, fire, or explosion, the emergency coordinator must immediately identify the character, exact source, amount, and a real extent of any released materials. He may do this by observation or review of facility records or manifests and, if necessary, by chemical analysis

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

(7) Immediately after an emergency, the emergency coordinator must provide for treating, storing, or disposing of recovered waste, contaminated soil or surface water, or any other material that results from a release, fire, or explosion at the facility. Unless the owner or operator can demonstrate that the recovered material is not hazardous because of hazardous waste characteristic, see subsection (b)(3) of §325.274 of this title (relating to Hazardous Waste Regulated, Exclusions, and Exceptions), the owner or operator becomes a generator of hazardous waste for any hazardous waste removed from the facility and must manage it in accordance with §§325.291-325.300 of this title (relating to Generators).

(8)-(10) (No change.)

(g) Variance. The complexity and content of the contingency plan will depend on the type, quantity, and variety of waste handled by the facility and the type and complexity of the facility. Therefore, the Texas Department of Health will consider variance from any of the above requirements where it is demonstrated that such requirements are not applicable or are otherwise unnecessary.

§325.336. Manifest System, Record Keeping, and Reporting.

(a) Use of manifest system. If a facility receives hazardous waste accompanied by a manifest, the owner or operator or his authorized agent must:

(1) (No change.)

(2) Record any significant discrepancies in the manifest on each copy of the manifest. (It is not required that the owner or operator of the facility perform waste analysis required under subsection (b) of §325.333 of this title (relating to General) before signing the manifest and

giving it to the transporter. However, it is required that the owner or operator submit a letter to the Texas Department of Health reporting any unreconciled discrepancy discovered during later analysis.)

(3) (No change.)

(4) No later than 30 days after delivery of the hazardous waste, send a copy of the signed manifest to the generator.

(5) (No change.)

(6) If a facility receives from a rail or water (bulk shipment) transporter hazardous waste which is accompanied by a shipping paper containing all the information required on the manifest (excluding the EPA identification numbers, generator's certification, and signatures), the owner or operator or his agent must:

(A) (No change.)

(B) record any significant discrepancies on the shipping paper (see paragraph (2) of this subsection);

(C) (No change.)

(D) within 30 days after the delivery, send a copy of the shipping paper to the generator; however, if the manifest is received within 30 days after the delivery, the owner or operator or his agent must sign and date the manifest and return it to the generator in lieu of the shipping paper; and

(E) (No change.)

(F) whenever a shipment of hazardous waste is initiated from a facility, the owner or operator of that facility must comply with the requirements of §§325.291-325.300 of this title (relating to Generators). The provisions of §325.293 of this title (relating to Hazardous Waste Accumulation) are applicable to the on-site accumulation of hazardous wastes by generators. Therefore, the provisions of §325.293 of this title (relating to Hazardous Waste Accumulation) only apply to owners or operators who are shipping hazardous waste which they generated at that facility.

(b) Manifest discrepancies.

(1) Manifest discrepancies are differences between the quantity or type of hazardous waste designated on the manifest or shipping paper and the quantity or type of hazardous waste a facility actually receives. Significant discrepancies in quantity are: for bulk waste, variations greater than 10% in weight; and for batch waste, any variation in piece count such as a discrepancy of one drum in a truckload. Significant discrepancies in type are obvious differences which can be discovered by inspection or waste analysis, such as waste solvent substituted for waste acid or toxic constituents not reported on the manifest or shipping paper.

(2) (No change.)

(c) Facility operating records.

(1) (No change.)

(2) The following information must be recorded, as it becomes available, and maintained in the operating record until closure of the facility.

(A) a description and the quantity of each hazardous waste received and the method and date of its treatment, storage, or disposal at the facility.

(B) (No change.)

(C) information on results of waste analyses and trial tests required by subsection (b) of §325.333 of this title (relating to General) and as required in various

sections of §§325.331-325.350 of this title (relating to Facility Owners and Operators).

(D)-(E) (No change.)

(F) cost estimates to close the facility and cost estimates for monitoring and maintenance after closing the facility.

(G) monitoring, testing, or analytical data where required by various sections covered by §§325.331-325.350 of this title (relating to Facility Owners and Operators).

(H) notices to all off-site generators as specified in §325.333 of this title (relating to General).

(d) Availability, retention, and disposition of records.

(1) All records, including plans, required under §§325.331-325.350 of this title (relating to Facility Owners and Operators) must be furnished upon request and made available at all reasonable times for inspection by any authorized representative of the Texas Department of Health or the EPA.

(2) The specific retention period for all records required under §§325.331-325.350 of this title (relating to Facility Owners and Operators) is extended automatically during the course of any unresolved enforcement action regarding the facility or as requested by the Texas Department of Health or administrator of the EPA.

(3) (No change.)

(e) Reporting requirements

(1) Annual reports. The owner or operator must prepare and submit a single copy of an annual report as follows.

(A) The report shall be submitted for the preceding calendar year by March 1 of each year to the Bureau of Solid Waste Management, Texas Department of Health, 1100 West 49th Street, Austin, Texas 78756.

(B) The owner or operator shall use the annual waste disposal summary for the annual report prepared according to instructions on the form.

(C) Owners or operators of interim status facilities managing hazardous waste by surface impoundments, landfills, or land treatment shall include groundwater monitoring data, either as part of the report or appended to the report, required to be reported under subsection (e) of §325.377 of this title (relating to Groundwater Monitoring Requirements for Interim Status Facilities).

(D) Owners or operators of general standard facilities managing hazardous waste by land disposal shall include groundwater monitoring data, either as part of the report or appended to the report as required under 40 Code of Federal Regulations, Part 264, Subpart F, pertaining to Groundwater Protection. (40 Code of Federal Regulations, Part 264, Subpart F, has been incorporated by reference into these regulations under §325.349 of this title (relating to General Standards for Land Disposal Facilities).)

(2) Monthly waste receipt summary. The owner or operator must prepare and submit a single copy of a monthly summary as follows.

(A) A report of hazardous wastes received in which the shipment originated in the reporting month shall be submitted no later than the 25th day of the following month to Bureau of Solid Waste Management, Texas

Department of Health, 1100 West 49th Street, Austin, Texas 78756 (A negative report is not required).

(B) The owner or operator shall use the monthly waste receipt summary form prepared according to attached instructions.

(3) Unmanifested waste report. If a facility accepts for treatment, storage, or disposal any hazardous waste from an off-site source without an accompanying manifest or shipping paper, then the owner or operator must prepare and submit a single copy of a report as follows.

(A) The owner or operator shall submit the report no later than 15 days after receiving the waste to Bureau of Solid Waste Management, Texas Department of Health, 1100 West 49th Street, Austin, Texas 78756.

(B) The report shall be prepared using EPA Forms 8700-13 and 8700-13B for an unmanifested waste report.

(C) An unmanifested waste report shall include the following information:

(i)-(iii) (No change.)

(iv) a description, Texas Waste Code number as available from TDH, and the quantity of each unmanifested hazardous waste the facility received;

(v)-(vi) (No change.)

(vii) a brief explanation of why the waste was unmanifested, if known. Section 325.274 of this title (relating to Hazardous Waste Regulated, Exclusions, and Exceptions) identifies quantities of hazardous waste, by criteria, which are excluded from manifest requirements. Where a facility accepts unmanifested hazardous waste, it is recommended that the owner or operator obtain from the generator a certification that the waste qualifies for exclusion. Otherwise, it is recommended that the owner or operator file an unmanifested waste report for the waste accepted.

(4) Additional reports. The owner or operator must submit to the department additional periodical reports as follows.

(A) a report on releases, fires, and explosions as required by §325.335 of this title (relating to Contingency Plan and Emergency Procedures).

(B) other groundwater contamination and monitoring data as required by §325.337 of this title (relating to Groundwater Monitoring Requirements for Interim Status Facilities) and §325.349 of this title (relating to General Standards for Land Disposal Facilities).

(C) facility closure as specified by §325.338 of this title (relating to Closure and Post-Closure Requirements).

(D) additional reports as required by 40 Code of Federal Regulations, Part 264, Subparts K-N, as referenced to and required by §325.349 of this title (relating to General Standards for Land Disposal Facilities) and as required by §§325.331-325.350 of this title (relating to Facility Owners and Operators).

(5) Report retention periods. The owner or operator must retain a copy of each annual report, each monthly waste receipt summary, and each unmanifested waste report for at least three years from due date for each report. The retention period is automatically ex-

tended during the course of any unresolved enforcement action regarding activities of the facility.

§325.337. Groundwater Monitoring Requirements for Interim Status Facilities.

(a) Applicability.

(1) These regulations apply to owners and operators of interim status facilities. For general standard facilities, see §325.349 of this title (relating to General Standards for Land Disposal Facilities).

(2) The owner or operator of a surface impoundment, landfill, or land treatment facility which is used to manage hazardous waste must implement a groundwater monitoring program capable of determining the facility's impact on the quality of groundwater in the uppermost aquifer underlying the facility except as provided in paragraph (4) of this subsection

(3) Except as provided in paragraphs (4) and (5) of this subsection, the owner or operator must install, operate, and maintain a groundwater monitoring system which meets the requirement provided under subsection (b) of this section and must comply with requirements for sampling and analysis, preparation, evaluation, and response; and record keeping and reporting provided in subsections (c), (d), and (e) of this section. This groundwater monitoring program must be carried out during the active life of the facility and for disposal facilities during the post closure care period as well.

(4) All or part of the groundwater monitoring requirements of this section may be waived if the owner or operator can demonstrate that there is a low potential for migration of hazardous waste or hazardous waste constituents from the facility via the uppermost aquifer to water supply wells (domestic, industrial, or agricultural) or to surface water. This demonstration must be in writing and must be kept at the facility with a copy provided to the Texas Department of Health. This demonstration must be certified by a registered professional engineer and must establish the following:

(A) the potential for migration of hazardous waste constituents from the facility to the uppermost aquifer by an evaluation of:

(i) (No change.)

(ii) unsaturated zone characteristics (i.e., geologic materials, physical properties, and depth to groundwater).

(B) (No change.)

(5) If an owner or operator assumes (or knows) that groundwater monitoring of indicator parameters in accordance with requirements of subsections (b) and (c) of this section would allow statistically significant increases (or decreases in the case of pH) when evaluated in accordance with requirements of subsection (d)(2) of this section, he may install, operate, and maintain an alternate groundwater monitoring system (other than the one described in subsections (b) and (c) of this section). If the owner or operator does decide to use an alternate groundwater monitoring system, he must:

(A) submit to the Bureau of Solid Waste Management, Texas Department of Health, a specific plan certified by a registered professional engineer which satisfies requirements under subsection (d)(4)(C) of this section for an alternate groundwater monitoring system;

(B) initiate the determinations specified in subsection (d)(4)(D) of this section;

(C) prepare and submit a written report in accordance with subsection (d)(4)(E) of this section;

(D)-(E) (No change.)

(6) The groundwater monitoring requirements of this section may be waived with respect to any surface impoundment that:

(A) is used to neutralize wastes which are hazardous solely because they exhibit the corrosivity characteristic under 40 Code of Federal Regulations, Part 261, Subpart C, or are listed as hazardous wastes in 40 Code of Federal Regulations, Part 261, Subpart D, only for this reason; and

(B) contains no other hazardous wastes, if the owner or operator can demonstrate that there is no potential for migration of hazardous wastes from the impoundment. The demonstration must establish, based upon consideration of the characteristics of the wastes and the impoundment, that the corrosive wastes will be neutralized to the extent that they no longer meet the corrosivity characteristic before they can migrate out of the impoundment. The demonstration must be in writing and must be certified by a professional engineer.

(b) (No change.)

(c) Sampling and analysis

(1) (No change.)

(2) The owner or operator must determine the concentration or value of the following parameters in groundwater samples in accordance with paragraphs (3) and (4) of this subsection

(A) (No change.)

(B) parameters establishing groundwater quality:

- (i) chloride;
- (ii) iron;
- (iii) manganese;
- (iv) phenols;
- (v) sodium;
- (vi) sulfate.

(These parameters are to be used as a basis for comparison in the event of a groundwater assessment required under subsection (d)(4) of this section.)

(C) (No change.)

(3) The following procedures for well monitoring must be followed.

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

(4)-(5) (No change.)

(d) Preparation, evaluation, and response.

(1) The owner or operator must prepare an outline of a groundwater quality assessment program. The outline must describe a more comprehensive groundwater monitoring program (than that described in subsections (b) and (c) of this section) capable of determining:

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

(2) (No change.)

(3) Comparisons for upgradient and downgradient wells.

(A) If the comparisons for the upgradient wells made under paragraph (2) of this subsection show a significant increase (or pH decrease), the owner or operator must submit this information in accordance with

record keeping and reporting requirements under subsection (e) of this section.

(B) (No change.)

(4) If the analyses performed under paragraph (3) of this subsection confirm the significant increase (or pH decrease):

(A) (No change.)

(B) Within 15 days after the notification, the owner or operator must develop and submit to the Bureau of Solid Waste Management, Texas Department of Health, a specific plan based on the outline required under paragraph (1) of this subsection and certified by a registered professional engineer for a groundwater quality assessment program at the facility.

(C) The plan to be submitted under subsection (a)(5)(A) of this section or subparagraph (B) of this paragraph must specify:

(i) (ii) (No change.)

(D) The owner or operator must implement the groundwater quality assessment plan which satisfies the requirements of subparagraph (C) of this paragraph, and at a minimum, determine:

(i) (iii) (No change.)

(E) (No change.)

(F) If the owner or operator determines, based on the results of the first determination under subparagraph (D) of this paragraph, that no hazardous waste or hazardous waste constituents from the facility have entered the groundwater, then he may reinstate the indicator evaluation program described in subsection (c) of this section, and paragraph (2) of this subsection. If the owner or operator reinstates the indicator evaluation program, he must so notify the Texas Department of Health in the written (15 day) report submitted under subparagraph (E) of this paragraph.

(G) If the owner or operator determines, based on the first determination under subparagraph (D) of this paragraph, that hazardous waste or hazardous waste constituents from the facility have entered the groundwater, then:

(i) he must continue to make the determinations required under subparagraph (D) of this paragraph on a quarterly basis until final closure of the facility if the groundwater quality assessment plan was implemented prior to final closure of the facility; or

(ii) he may cease to make the determinations required under subparagraph (D) of this paragraph if the groundwater quality assessment plan was implemented during the post-closure care period.

(5) Notwithstanding any other provision under this section, any groundwater assessment to satisfy the requirements of paragraph (4)(D) of this subsection which is initiated prior to final closure of the facility must be completed and reported in accordance with paragraph (4)(E) of this subsection.

(6) Unless the groundwater is monitored to satisfy the requirements of paragraph (4)(D) of this subsection, the owner or operator at least annually must evaluate the data on groundwater surface elevations obtained under subsection (c)(5) of this section to determine whether the requirements under subsection (b)(1) of this section for locating the monitoring wells continue to be satisfied. If the evaluation shows that subsection (b)(1)

of this section is no longer satisfied, the owner or operator must immediately modify the number, location, or depth of the monitoring wells to bring the groundwater monitoring system into compliance with this requirement.

(e) Record keeping and reporting:

(1) Unless the groundwater is monitored to satisfy the requirements of subsection (d)(4)(D) of this section, the owner or operator must:

(A) keep records of the analyses required under subsection (c)(3) and (c)(4) of this section, the associated groundwater surface elevations required under subsection (c)(5) of this section, and the evaluations required under subsection (d)(2) of this section throughout the active life of the facility and, for disposal facilities, throughout the post-closure care period as well.

(B) report the following groundwater monitoring information to the Bureau of Solid Waste Management, Texas Department of Health:

(i) during the first year when initial background concentrations are being established for the facility, concentrations or values of the parameters listed in subsection (c)(2)(A) of this section for each groundwater monitoring well within 15 days after completing each quarterly analysis. The owner or operator must separately identify for each monitoring well any parameters whose concentration or value has been found to exceed the maximum contaminant levels.

(ii) (iii) (No change.)

(2) (No change.)

§325.338 Closure and Post-Closure Requirements.

(a) Applicability:

(1) Closure requirements in this section apply to owners and operators of all municipal solid waste facilities that store, process, or dispose of hazardous waste regulated under §325.274 of this title (relating to Hazardous Waste Regulated, Exclusions, and Exceptions).

(2) Post-closure requirements in this section apply to owners and operators of:

(A) all municipal solid waste facilities that dispose of hazardous waste;

(B) permitted piles and surface impoundments from which the owner or operator intends to remove the wastes at closure, to the extent that these sections are made applicable to such facilities in 40 Code of Federal Regulations, §264.228 and §264.258 dealing with closure of surface impoundments and piles as referenced in §325.349 of this title (relating to General Standards for Land Disposal Facilities).

(b) Closure performance standard. The owner or operator must close his facility in a manner that:

(1) (No change.)

(2) controls, minimizes, or eliminates, to the extent necessary to protect human health and the environment, post-closure escape of hazardous waste, hazardous waste constituents, leachate, contaminated rainfall, or waste decomposition products to the groundwater, surface waters, or the atmosphere.

(c) Closure plan and amendment of plan.

(1) Closure plan. The owner or operator of a hazardous waste management facility must have a written closure plan.

(A) The owner or operator of an interim status facility must have a plan by May 19, 1981.

(B) A copy of the closure plan and any revisions must be kept at the facility readily available for review by regulatory agency personnel until certification of closure for the facility is established.

(C) The owner or operator of a general standards facility must submit the plan to the Texas Department of Health when the owner or operator of a hazardous waste management facility applies for a permit using Part B of the RCRA application forms.

(D) The closure plan must identify steps necessary to completely or partially close the facility at any point during its intended operating life and to completely close the facility at the end of its intended operating life. The closure plan must include:

(i) a description of how and when the facility will be partially closed, if applicable, and finally closed. The description must also explain how the closure performance standard in this section will be met and how specific closure requirements for facilities regulated under §§325.331-325.350 of this title (relating to Facility Owners and Operators) will be met.

(ii) (No change.)

(iii) a description of the steps needed to decontaminate facility equipment during closure.

(iv) (No change.)

(2) Amendment of closure plan. The owner or operator may amend his closure plan at any time during the active life of the facility. (The active life of the facility is that period during which wastes are periodically received.)

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

(C) Interim status facility owners and operators must amend the plan within 60 days of the changes set forth in subparagraphs (A) and (B) of this paragraph.

(D) When the owner or operator requests a permit modification to authorize a change in operating plans or facility design, he must request a modification of the closure plan at the same time.

(E) If a permit modification is not needed to authorize the change in operating plans or facility design, the request for modification of the closure plan must be made within 60 days after the change in plans or design occurs. (Changes in estimates of maximum inventory and of the estimated year of closure may be made as minor permit modifications.)

(3) Notification of closure. The owner or operator must notify the Texas Department of Health at least 180 days prior to the date he expects to begin closure of his facility. The date when he expects to begin closure should be within 30 days after the date on which he expects to receive the final volume of wastes. If the facility's permit or interim status is terminated (except when a permit is issued to the facility simultaneously with termination of interim status) or if the facility is otherwise ordered by judicial decree, compliance order under §3008 of RCRA, provisions of the Solid Waste Disposal Act, Texas Civil Statutes, Article 4477-7, or by other state laws or regulations to cease receiving wastes or to close, then the requirement of this paragraph does not apply. However, the owner or operator must close the facility in accordance with deadline requirements established in subsection (d) of this section.

(4) Opportunity for comments. For an interim status facility, the department will provide the owner or operator and the public, through a newspaper notice to be published at the expense of the owner or operator, the opportunity to submit written comments on the plan and request modifications to the plan within 30 days of the date of the notice. The department will also, in response to a request or at its own discretion, hold a public hearing whenever such a hearing might clarify one or more issues concerning a closure plan. The department will give public notice as provided in §325.350 of this title (relating to Permits) of the hearing at least 30 days before it occurs. Public notice of the hearing may be given at the same time as notice of the opportunity for the public to submit written comments, and the two notices may be combined. The department will approve, modify, or disapprove the plan within 90 days of its receipt. If the department does not approve the plan, the owner or operator must modify the plan or submit a new plan for approval within 30 days. The department will approve or modify this plan in writing within 60 days. If the department modifies the plan, this modified plan becomes the approved closure plan. The department's decision must assure that the approved closure plan is consistent with this section and the applicable closure requirements of facilities regulated under §§325.331-325.350 of this title (relating to Facility Owners and Operators). A copy of the modified plan must be mailed to the owner or operator.

(d) Time deadlines for closure.

(1) Within 90 days after receiving the final volume of hazardous wastes, or within 90 days after approval of an interim status facility plan if that is later, the owner or operator must treat, remove from the site, or dispose of on-site all hazardous wastes in accordance with the approved closure plan. The Texas Department of Health may approve a longer period if the owner or operator demonstrates that

(A) the foregoing requirements will of necessity take longer than 90 days to complete; or

(B) the facility has the capacity to receive additional wastes.

(i) there is a reasonable likelihood that a person other than the current owner or operator will recommence operation of the facility; and

(ii) closure of the facility would be incompatible with continued operation.

(C) he has taken and will continue to take all steps to prevent threats to human health and the environment from the unclosed but inactive facility.

(2) Within 180 days after receiving the final volume of waste, or for an interim status facility, within 180 days after approval of the closure plan if that is later, the owner or operator must complete facility closure activities in accordance with the approved closure plan. The Texas Department of Health may approve a longer closure period if the owner or operator can demonstrate that completing closure requirements will of necessity take longer than 180 days or that the conditions explained in subparagraphs (B) and (C) of paragraph (1) of this subsection will apply, in addition to subsection (c)(4) of this section in the case of an interim status facility. Any extension of the 90 or 180, day time periods may be made as a minor modification of the facility permit. If operation

of a facility is recommenced, the Texas Department of Health may defer completion of closure activities until the new operation is terminated.

(e) Disposal or decontamination of equipment. When closure is completed, all facility equipment and structures must have been properly disposed of or decontaminated by removing all hazardous waste and residues. At closure, as throughout the operating period, unless the owner or operator can demonstrate that solid waste removed from a facility area is not a hazardous waste by §325.300 of this title (relating to Procedure for Petition for Exclusion of Listed Wastes) or that the waste does not exhibit a characteristic of a hazardous waste as identified by §325.274 of this title (relating to Hazardous Waste Regulated, Exclusions, and Exceptions), the owner or operator becomes a generator of hazardous waste for any waste removed from the facility and must manage it in accordance with §§325.291-325.300 of this title (relating to Generators) and other applicable requirements of this subchapter.

(f) (No change.)

(g) Post-closure care and use of property.

(1) Post-closure care must continue for 30 years after the date of completing facility closure and must consist of at least the following:

(A) Groundwater monitoring and reporting as applicable, see §325.337 of this title (relating to Groundwater Monitoring Requirements for Interim Status Facilities) or 40 Code of Federal Regulations, Part 264, as referred to in §325.349 of this title (relating to General Standards for Land Disposal Facilities); and

(B) (No change.)

(2) In the case of a permitted facility, the Texas Department of Health may reduce the 30-year period of post-closure care during the 180-day period preceding facility closure or at any time thereafter, if it determines that the reduced period is sufficient to protect human health and the environment.

(3) In the case of a permitted facility, the Texas Department of Health may extend that period before the 30-year post-closure care period is due to expire, if the department determines that a 30-year period does not protect human health and the environment.

(4) The Texas Department of Health may require, at closure of a facility, continuation of any of the security requirements, (see subsection (c) of §325.333 of this title (relating to General)), during part or all of the post-closure care period when:

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

(5)-(6) (No change.)

(h) Post-closure plan and amendment of plan.

(1) Post-closure plan. The owner or operator of a hazardous waste management facility that disposes of hazardous waste in the land must have a post-closure plan.

(A) (No change.)

(B) A copy of the post-closure plan must be submitted for general standards facilities which dispose of hazardous waste, including certain piles and certain surface impoundments from which the owner or operator intends to remove the wastes at closure, to the Texas Department of Health when the owner or operator of a hazardous waste disposal facility applies for a permit

using Part B of the RCRA application forms. Owners or operators of interim status facilities must have a post-closure plan by May 19, 1981.

(C) The post-closure plan must identify the activities which will be carried on after closure of the facility and include at least:

(i) (No change.)

(ii) a description of the planned maintenance activities and frequencies at which they will be performed to ensure:

(I) (No change.)

(II) proper functioning of the facility monitoring equipment.

(iii) The name, address, and phone number of the person or office to contact about the disposal facility during the post-closure period. This person or office must keep an updated post-closure plan during the post-closure period.

(2) Amendment of post closure plan. The owner or operator may amend his post-closure plan at any time during the active life of the disposal facility or during the post-closure care period.

(A) The owner or operator must amend the post-closure plan whenever there are changes in operating plans or facility design or events occur during the active life of the facility or during the post-closure period which affect the post closure plan.

(B) The owner or operator must amend the post-closure plan whenever there is a change in the expected year of closure of a permitted disposal facility.

(C) For interim status facilities, the plan must be amended within 60 days after the changes or events in subparagraphs (A) and (B) of this paragraph occur.

(D) When a permit modification is requested for a permitted facility during the active life of the facility to authorize a change in operating plans or facility design, modification of the post-closure plan must be requested at the same time.

(E) In all other cases (i.e., when a permit modification is not involved) a request for modification of a post-closure plan must be made within 60 days after a change in operating plans or facility design or the events which affect the post-closure plan.

(3) Post-closure plan submission schedule. The owner or operator of an interim status disposal facility must submit his post-closure plan to the department at least 180 days before the date he expects to begin closure. The date when he expects to begin closure should be immediately after the date on which he expects to receive the final volume of wastes. The owner or operator must submit his closure plan to the department no later than 15 days after:

(A) termination of interim status (except when a permit is issued to the facility simultaneously with termination of interim status); or

(B) issuance of a judicial decree or compliance order under §3008 of RCRA, provisions of the Solid Waste Disposal Act, Texas Civil Statutes, Article 4477-7, or by other state laws or regulations to cease receiving wastes or close. The date when closure commences should be within 30 days after the date on which the owner or operator expects to receive the final volume of wastes.

(4) Opportunity for comments. Through a newspaper notice to be published at the expense of the owner or operator, the department will provide the owner or operator of an interim status facility and the public the opportunity to submit written comments on the plan and request modifications of the plan, including modification of the 30 year post-closure period required in subsection (g) of this section, within 30 days of the date of the notice. The department may also, in response to a request or at its own discretion, hold a public hearing whenever a hearing might clarify one or more issues concerning the post-closure plan. The department will give the public notice of the hearing at least 30 days before it occurs. Public notice of the hearing may be given at the same time as notice of the opportunity for written public comments, and the two notices may be combined. The department will approve, modify, or disapprove the plan within 90 days of its receipt. If the department does not approve the plan, the owner or operator must modify the plan or submit a new plan for approval within 30 days. The department will approve or modify this plan in writing within 60 days. If the department modifies the plan, this modified plan becomes the approved post-closure plan. The department must base its decision upon the criteria required of petitions under paragraph (b)(A)(ii) of this subsection. A copy of this modified plan must be mailed to the owner or operator.

(5) Post-closure plan amendment during post-closure period. The owner or operator of an interim status facility may amend his post-closure plan during the post-closure care period. The owner or operator must amend his plan any time changes in monitoring or maintenance plans or events which occur during the post-closure care period affect the post-closure plan. The owner or operator must petition the department to allow the plan to be modified within 60 days of the changes or events under the procedures of paragraph (6) of this subsection.

(6) Interim status facility post-closure plan modification. The post-closure plan (or period) may be modified during the post-closure care period or at the end of the post-closure care period in either of the following ways.

(A) The owner or operator or any member of the public may petition the department to extend or reduce the post-closure care period based on cause or to alter the requirements of the post-closure care period based on cause.

(i) The petition must include evidence demonstrating that:

(I) the secure nature of the facility makes the post-closure care requirement(s) unnecessary or supports reduction of the post-closure care period specified in the current post-closure plan (e.g., leachate or groundwater monitoring results; characteristics of the waste; application of advanced technology; or alternative disposal, treatment, or reuse techniques indicate that the facility is secure); or

(II) the requested extension in the post-closure care period or alteration of post-closure care requirements is necessary to prevent threats to human health and the environment.

(ii) These petitions will be considered by the department only when they present new and relevant in-

formation not previously considered by the department. Whenever the department is considering a petition, the department will provide the owner or operator and the public, through a newspaper notice published at the expense of the owner or operator, the opportunity to submit written comments within 30 days of the date of the notice. The department will also, in response to a request or at its own discretion, hold a public hearing whenever a hearing might clarify one or more issues concerning the post-closure plan. The department will give the public notice, published at the expense of the owner or operator, of the hearing at least 30 days before it occurs. Public notice of the hearing may be given at the same time as notice of the opportunity for written public comments, and the two notices may be combined. After considering the comments, the department will issue a final determination based upon the criteria set forth in clause (i) of this subparagraph.

(iii) If the department denies the petition, the department will send the petitioner a brief written response giving a reason for the denial.

(B) The department may tentatively decide to modify the post-closure plan if it deems it necessary to prevent threats to human health and the environment. The department may propose to extend or reduce the post-closure care period based on cause or alter the requirements of the post-closure care period based on cause.

(i) The department will provide the owner or operator and the affected public, through a newspaper notice, the opportunity to submit written comments within 30 days of the date of the notice and the opportunity for a public hearing as in subparagraph (A)(ii) of this paragraph. After considering the comments, the department will issue a final determination.

(ii) The department will base its final determination upon the same criteria as required for petitions under subparagraph (A)(i) of this paragraph. A modification of the post-closure plan may include, where appropriate, the temporary suspension rather than permanent deletion of one or more post-closure care requirements. At the end of the specified period of suspension, the department would then determine whether the requirement(s) should be permanently discontinued or reinstated to prevent threats to human health and the environment.

(i) (No change.)

(j) Notice in deed to property.

(1) (No change.)

(2) If at any time the owner or operator or any subsequent owner of the land upon which a hazardous waste facility was located removes the waste and waste residues, the liner, if any, and all contaminated underlying and surrounding soil, he may remove the notation on the deed to the facility property or other instrument normally examined during title search or he may add a notation to the deed or instrument indicating the removal of the waste. In either case, the Texas Department of Health shall be advised of the action. On removing the waste and waste residues, the liner, if any, and the contaminated soil, the owner or operator, unless he can demonstrate that any solid waste removed is not a hazardous waste by petition in accordance with §325.300 of this title (relating to Procedures for Petition for Exclusion of

accordance with §§325.291-325.300 of this title (relating to Generators) and other applicable requirements of this subchapter.

§325.341 Tanks

(a) Applicability

(1) These requirements apply to owners and operators of municipal solid waste facilities that use tanks for storage, treatment, or processing of hazardous waste regulated under §325.274 of this title (relating to Hazardous Waste Regulated, Exclusions, and Exceptions) until such time as a facility is determined by the department to be deficient and does not qualify for permitted status and is subject to enforcement action.

(2) These requirements apply to tanks which are above ground, and to partially or fully below ground tanks which can be entered for inspection from the surface. Tanks which are partially or fully below ground and cannot be entered for inspection will not be permitted for use for storage, treatment, or processing of hazardous waste, but may continue to operate under interim status.

(b) Design requirements for tanks

(1) (3) (No change.)

(4) As part of the permit application, owners and operators must submit information as to the design standards used, or to be used, in constructing a tank.

(A) This requirement may be satisfied by reference to design standards published by the American Petroleum Institute, the Underwriters Laboratories, the American Society of Mechanical Engineers, the American Concrete Institute, or the American Water Works Association.

(B) (No change.)

(c) (No change.)

(d) Waste analysis and trial tests. In addition to the waste analysis required by subsection (b) of §325.333 of this title (relating to General), whenever a tank is to be used to chemically treat or store a hazardous waste which is substantially different from waste previously treated or stored in that tank or to chemically treat hazardous waste with a substantially different process than any previously used in that tank, the owner or operator must, before treating or storing the different waste or using the different process:

(1) conduct waste analyses and trial treatment or storage tests (e.g., bench scale or pilot plant scale tests); or

(2) obtain written, documented information on similar storage or treatment of similar waste under similar operating conditions to show that this proposed treatment or storage will meet requirements of subsection (f) of §325.333 of this title (relating to General) and will not cause the tank or its inner liner to rupture or leak before the end of its intended life. As required by subsection (b) of §325.333 of this title (relating to General), the waste analysis plan must include analyses needed to comply with subsections (h) and (i) of this section. As required by subsection (c) of §325.336 of this title (relating to Manifest System, Record Keeping, and Reporting), the owner or operator must place the results from each waste analysis, and trial test, or the documented information, in the operating record of the facility.

(e) Inspection requirements for tanks.

(1) Daily—The owner or operator must inspect:

(A) (No change.)

(B) data gathered from monitoring equipment (e.g., pressure and temperature gauges), where present, at least once each operating day to ensure that the tank is being operated according to its design, and

(C) (No change.)

(2) Weekly. The owner or operator must inspect:

(A) the construction materials of the above-ground portions of the tank to detect corrosion or erosion and leaking fixtures and seams, and

(B) the area immediately surrounding the tank to detect obvious signs of leakage (e.g., wet spots or dead vegetation).

(3) In addition, the owner or operator must develop a comprehensive schedule and procedures for periodically assessing the condition of tanks.

(A) (No change.)

(B) Procedures must be established for emptying a tank to allow for entry and inspection of the interior to detect corrosion or erosion of tank sides and bottom. Frequency of interior inspections are to be based on the type of tank construction materials, type of corrosion or erosion protection used (e.g., special protective coating, cathodic protection, or corrosion inhibitors), rate of corrosion or erosion observed during previous inspections, and characteristics of the contained waste. Entry of tanks for inspection must be in accordance with Occupational Safety and Health Administration (OSHA) requirements.

(f) Emergencies and repair

(1) (No change.)

(2) The owner or operator must promptly repair or remedy any leak, crack, unacceptable wall thinning, and equipment or process malfunction discovered during scheduled inspections of tanks or at any other time. Emergency and repair procedures for tanks are to be included as part of the contingency plan required under §325.335 of this title (relating to Contingency Plan and Emergency Procedures).

(g) Closure requirements. At closure, all hazardous waste and hazardous waste residues must be removed from tanks, discharge control equipment, and discharge confinement structures. At closure, as throughout the operating period, unless the owner or operator can demonstrate that any solid waste removed from his tank is not a hazardous waste by §325.300 of this title (relating to Procedure for Petition for Exclusion of Listed Wastes) and that the waste does not exhibit a characteristic of a hazardous waste as set forth in §325.274 of this title (relating to Hazardous Waste Regulated, Exclusions, and Exceptions), the owner or operator becomes a generator of hazardous waste for any waste removed from the facility and must manage it in accordance with all applicable requirements of §§325.291-325.300 of this title (relating to Generators.)

(h) Special requirements for ignitable or reactive wastes.

(1) Ignitable or reactive waste must not be placed in a tank unless one of the following applies.

(A) the waste is treated, rendered, or mixed before or immediately after placement in the tank so that:

(i) the resulting waste, mixture, or dissolution of material no longer meets the definition of ignitable or reactive waste (see 40 Code of Federal Regulations Part 261, Subpart C)

(iii) precautionary requirements under subsection (f) of §325.333 of this title (relating to General) are complied with

(B) the waste is stored or treated in such a way that it is protected from any material or conditions which may cause the waste to ignite or react

(C) the tank is used solely for emergencies.

(2) The owner or operator of a facility which treats or stores ignitable or reactive waste in covered tanks must comply with the National Fire Protection Association's (NFPA's) buffer zone requirements for tanks contained in Tables 2-1 through 2-6 of the Flammable and Combustible Code 1977 or 1981. (See subsection (f) of §325.333 of this title (relating to General) for additional requirements.)

(i) Special requirements for incompatible wastes

(1) Incompatible wastes, or incompatible wastes and materials (see 40 Code of Federal Regulations Part 264 or Part 265, Appendix V, as adopted by reference in subsection (f) of §325.333 of this title (relating to General)) must not be placed in the same tank unless precautionary requirements under subsection (f) of §325.333 of this title (relating to General) are complied with.

(2) (No change.)

§325.343. Interim Status Waste Piles.

(a) Applicability

(1) These design and operating requirements apply to owners and operators of municipal solid waste interim status facilities that store or treat hazardous waste in waste piles and are applicable until such time as a facility is determined to be deficient and does not qualify for permitted status and is subject to enforcement action. As an alternative, a pile of hazardous waste may be managed as a landfill under §325.345 of this title (relating to Interim Status Landfill Facilities)

(2) Owners and operators of waste piles used to store or treat only hazardous wastes that do not contain free liquids are not subject to regulation under subsections (b), (c), (e), (f), and (g) of this section with respect to those piles, provided that:

(A) liquids or materials containing free liquids are not placed in the pile;

(B) the pile is inside or under a structure that provides protection from precipitation so that neither run-off nor leachate is generated;

(C) the pile is protected from surface water run-on by the structure or in some other manner;

(D) the pile is designed and operated to control dispersal of the waste by wind, where necessary, by means other than wetting; and

(E) the pile will not generate leachate through decomposition or other reactions.

(b) General design requirements for waste piles.

(1) (No change.)

(2) A waste pile must be designed to prevent discharge into the land, surface water, or groundwater during the life of the pile by use of a containment system which complies with subsection (e) of this section.

(c) General operating requirements for waste piles.

(1) The owner or operator shall provide control practices satisfactory to the Texas Department of Health (e.g., cover or controlled misting), which will ensure that wind dispersal of hazardous waste from waste piles is controlled

(2) (No change.)

(3) Leachate and run off from a waste pile must be collected and controlled. If collected leachate or run-off from a waste pile can be determined to be hazardous waste, it must be managed in accordance with all applicable requirements in this subchapter. If collected leachate or run off is discharged through a point source to waters of the United States, it is subject to requirements of the Clean Water Act, §402, as amended

(d) Waste analyses

(1) In addition to the waste analyses required by subsection (b) of §325.333 of this title (relating to General), the owner or operator must analyze a representative sample of waste from each incoming movement before adding the waste to any existing pile, unless:

(A) the only wastes the facility receives which are amenable to piling are compatible with each other; or

(B) the waste received is compatible with the waste in the pile to which it is to be added.

(2) The analysis conducted must be capable of differentiating between the types of hazardous waste the owner or operator places in piles so that mixing of incompatible waste does not inadvertently occur.

(3) The analysis must include a visual comparison of color and texture.

(4) As required by subsection (b) of §325.333 of this title (relating to General), the waste analysis plan must include analyses needed to comply with subsections (h) and (i) of this section.

(5) The owner or operator must place the results of this analysis in the operating record of the facility.

(e) Containment systems for waste piles.

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

(3) A containment system for a waste pile must be protected from plant growth which could puncture any component of the system and must have a containment life equal to or greater than the life of the waste pile. (References: See 'Landfill and Surface Impoundment Performance Evaluation,' EPA, SW/869, September 1980, for methods to evaluate the containment life and effectiveness of a liner system. See 'Lining of Waste Impoundment and Disposal Facilities,' EPA/870, September 1980, for data and discussions of liner system materials, design, construction, operation, and maintenance.)

(f) Inspection and testing. During construction or installation of the base for a waste pile containment system:

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

(g) Waste pile containment system repairs and contingency actions.

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

(3) Removal from service. If a waste pile must be removed from service because of positive indications of failure in the containment system, the owner or operator must:

(A)-(E) (No change.)

(F) Within 15 days after the incident, submit

a written report to the Technical Assessment Branch, Bureau of Solid Waste Management, Texas Department of Health, 1100 West 49th Street, Austin, Texas 78756. The report must include:

(ii)-(vi) (No change.)

(4) Contingency plan. As part of the contingency plan and emergency procedures required under subsection (a) of §325.335 of this title (relating to Contingency Plan and Emergency Procedures), the owner or operator must specify:

(A)-(B) No change.)

(5) Reinstatement after positive failure. No waste pile that has been removed from service because of positive failure of the containment system may be restored to service unless:

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

(6) Closure after positive failure. A waste pile that has been removed from service because of positive failure of the containment system and is not being repaired must be closed in accordance with requirements of subsection (j) of this section. All wastes removed from the waste pile must be managed as a hazardous waste in compliance with all applicable requirements of this subchapter in accordance with subsection (j) of this section. Any point source discharge to waters of the United States is subject to the requirements of the Clean Water Act, §402, as amended.

(h) Special requirements for ignitable or reactive waste—waste piles.

(1) Ignitable or reactive waste must not be placed in a waste pile, unless:

(A) addition of the waste results in the waste or mixture no longer meeting the definition for ignitable or reactive; and

(B) (No change.)

(C) the waste is managed in such a way that it is protected from any material or conditions which may cause it to ignite or react. To assure compliance with special requirements for ignitable or reactive waste, the owner or operator of waste piles must comply with waste analysis requirements under subsection (b) of §325.333 of this title (relating to General) and must document results in the facility operating record.

(i) Special requirements for incompatible wastes—waste piles.

(1) (No change.)

(2) A pile of hazardous waste that is incompatible with any waste or other material stored nearby in other containers, piles, open tanks, or surface impoundments must be separated from the other materials or protected from them by means of a dike, berm, wall, or other device. The purpose of this requirement is to prevent fires, explosions, gaseous emissions, leaching, or other discharge of hazardous waste or hazardous waste constituents which could result from the contact or mixing of incompatible wastes or materials.

(3) (No change.)

(j) Closure of waste piles.

(1) (No change.)

(2) At closure, any component of waste pile containment system, subsoils, structures, or equipment which is contaminated with hazardous waste, leachate, or residues must be decontaminated or removed. At closure,

as throughout the operating period, unless the owner or operator can demonstrate that any solid waste from a waste pile or containment system is not hazardous by §325.300 of this title (relating to Procedure for Petition for Exclusion of Listed Wastes) and that the waste does not exhibit a characteristic of a hazardous waste as set forth in §325.274 of this title (relating to Hazardous Waste Regulated, Exclusions, and Exceptions), the owner or operator becomes a generator of hazardous waste for any waste removed from the facility and must manage it in accordance with all applicable requirements of §§325.291-325.300 of this title (relating to Generators).

(3) If, after removing or decontaminating all residues and making all reasonable efforts to effect removal or decontamination of contaminated components, subsoils, structures, and equipment as required in paragraph (2) of this subsection, the owner or operator finds that all contaminated subsoils cannot be practicably removed or decontaminated, he must close the facility and perform post-closure care in accordance with the closure and post-closure requirements of §325.345 of this title (relating to Interim Status Landfill Facilities).

§325.344. *Interim Status Land Treatment Facilities.*

(a) Applicability. These requirements apply to owners and operators of municipal solid waste interim status facilities using land treatment of hazardous waste. These requirements are applicable until such time as a facility is determined by the department to be deficient and does not qualify for permitted status and is subject to enforcement action.

(b) General operating requirements.

(1) (No change.)

(2) The owner or operator must design, construct, operate, and maintain a run-on control system capable of preventing flow onto the active portions of the facility during peak discharge from at least a 24-hour, 25-year storm.

(3) The owner or operator must design, construct, operate, and maintain a run-off management system capable of collecting and controlling a water volume at least equivalent to a 24-hour, 25-year storm.

(4) Collection and holding facilities (e.g., tanks or basins) associated with run-on and run-off control systems must be emptied or otherwise managed expeditiously after storms to maintain design capacity of the system.

(5) If the treatment zone contains particulate matter which may be subject to wind dispersal, the owner or operator must manage the unit to control wind dispersal.

(c) Waste analysis. In addition to the waste analyses required under subsection (b) of §325.333 of this title (relating to General), before placing a hazardous waste in or on a land treatment facility the owner or operator must:

(1) determine the concentrations in the waste of any substances which exceed the maximum concentrations contained in 40 Code of Federal Regulations §261.24 that cause a waste to exhibit the EP toxicity characteristic;

(2) determine the concentrations of any substances which caused the waste to be listed as a hazard-

ous waste for any waste listed in 40 Code of Federal Regulations Part 261, Subpart D; and

(3) If food chain crops are grown, determine the concentrations in the waste of each of the following constituents; arsenic, cadmium, lead, and mercury, unless the owner or operator has written, documented data that show that the constituent is not present. As required by subsection (b) of §325.333 of this title (relating to General), the waste analysis plan must include analyses needed to comply with subsections (h) and (i) of this section. As required under subsection (c) of §325.336 of this title (relating to Manifest System, Record Keeping, and Reporting), the owner or operator must place the results from each waste analysis, or the documented information, in the operating record of the facility.

(d) Food chain crops.

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

(3) Food chain crops must not be grown on a land treatment facility receiving waste that contains cadmium unless all requirements of subparagraphs (A)-(C) of this paragraph are met, or all requirements of subparagraphs (D)-(F) of this paragraph are met

(A) the pH of the waste and soil mixture is 6.5 or greater at the time of each waste application, except for waste containing cadmium at concentrations of two milligrams/kilogram (dry weight) or less.

(B) the annual application of cadmium from waste does not exceed 0.5 kilograms per hectare (kg/ha) on land used for production of tobacco, leafy vegetables, or root crops grown for human consumption. For other food chain crops, the annual cadmium application rate does not exceed:

| Time Period | Annual CD Application Rate (kg/ha) |
|----------------------------------|------------------------------------|
| Present to June 30, 1984 | 2.0 |
| July 1, 1984 - December 31, 1986 | 1.25 |
| Beginning Jan. 1, 1987 | 0.5 |

(C) The cumulative application of cadmium from waste does not exceed the level in either clauses (i) or (ii) of this subparagraph:

(i)

| Soil Cation Exchange Capacity (meq/100g) | Maximum Cumulative Application (kg/ha) | |
|--|--|-------------------------------------|
| | Background Soil pH Less Than 6.5 | Background Soil pH Greater Than 6.5 |
| Less than 5 | 5 | 5 |
| 5-15 | 5 | 10 |
| Greater than 15 | 5 | 20 |

(ii) For soils with a background pH of less than 6.5 the cumulative cadmium application rate does not exceed the levels in this clause, provided, that pH of the waste and soil mixture is adjusted to and maintained at 6.5 or greater whenever food-chain crops are grown.

| Soil Cation Exchange Capacity (meq/100g) | Maximum Cumulative Application (kg/ha) |
|--|--|
| Less than 5 | 5 |
| 5-15 | 10 |
| Greater than 15 | 20 |

(D)-(F) (No change.)

(G) Future property owners are notified by a stipulation in the land record or property deed which states that the property has received waste at high cadmium application rates and that food chain crops must not be grown except in compliance with subparagraphs (D)-(G) of this paragraph. As required by subsection (c) of §325.336 of this title (relating to Manifest System, Record Keeping, and Reporting), if an owner or operator grows food chain crops on his land treatment facility he must place the information developed in this regulation in the operating record of the facility.

(e) Unsaturated zone (zone of aeration) monitoring.

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

(3) To comply with paragraph (1)(A) of this subsection, the owner or operator must demonstrate in his unsaturated zone monitoring plan the following:

(A) (No change.)

(B) The number of soil and soil-pore water samples to be taken is based on the variability of:

(i) (No change.)

(ii) The soil type(s).

(C) (No change.)

(4) (No change.)

(5) The owner or operator must analyze the soil and soil-pore water samples for the hazardous waste constituents that were found in the waste during the waste analysis required in subsection (c)(1) and (c)(2) of this section. As required under subsection (c) of §325.337 of this title (relating to Groundwater Monitoring Requirements for Interim Status Facilities), all data and information developed by the owner or operator to comply with the above requirement must be placed in the operating record of the facility.

(f) Record keeping. The owner or operator of a land treatment facility must keep records of the application dates and rates in the operating record required under subsection (c) of §325.336 of this title (relating to Manifest System, Record Keeping, and Reporting).

(g) Closure and post-closure.

(1) In the closure plan and the post-closure plan required under subsections (c) and (h) of §325.338 of this title (relating to Closure and Post-Closure Requirements), the owner or operator must address the following objectives and indicate how they will be achieved:

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

(2) The owner or operator must consider at least the following factors in addressing the closure and post-closure care objectives of paragraph (1) of this subsection.

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

(E) geological and soil profiles; surface and subsurface hydrology of the site; and soil characteristics, including cation exchange capacity, total organic carbon, and pH.

(F) unsaturated zone monitoring information obtained under subsection (e) of this section.

(G) (No change.)

(3) The owner or operator must consider at least the following methods in addressing the closure and post-closure care objectives of paragraph (1) of this subsection.

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

(C) Monitoring of groundwater.

(4) In addition to the requirements of §325.338 of this title (relating to Closure and Post-Closure Requirements), during the closure and post-closure care period the owner or operator of a land treatment facility must:

(A) continue unsaturated zone monitoring in a manner and frequency specified in the closure plan except that soil pore liquid monitoring may be terminated 90 days after the last application of waste to the treatment zone;

(B) maintain the run-on control system required under subsection (b) of this section;

(C) maintain the run-off management system required under subsection (b) of this section; and

(D) control wind dispersal of particulate matter which may be subject to wind dispersal.

(5) For the purpose of complying with subsection (f) of §325.338 of this title (relating to Closure and Post-Closure Requirements), when closure is completed the owner or operator may submit to the department certification both by the owner or operator and by an independent qualified soil scientist, in lieu of an independent registered professional engineer, that the facility has been closed in accordance with the specifications in the approved closure plan.

(6) In addition to the requirements of subsection (g) of §325.338 of this title (relating to Closure and Post-Closure Requirements), during the post-closure care period the owner or operator of a land treatment unit must:

(A) continue soil-core monitoring by collecting and analyzing samples in a manner and frequency specified in the post-closure plan;

(B) restrict access to the unit as appropriate for its post-closure use;

(C) assure that growth of food chain crops complies with subsection (d) of this section; and

(D) control wind dispersal of hazardous waste.

(h) Special requirements for ignitable or reactive wastes. Ignitable or reactive wastes must not be land treated unless the following conditions are met.

(1) The waste is immediately incorporated into the soil so that:

(A) the resulting waste, mixture, or dissolution of material no longer meets the definition of ignitable or reactive waste under 40 Code of Federal Regulations Part 261, Subpart C; and

(B) subsection (f) of §325.333 of this title (relating to General) is complied with.

(2) The waste is managed in such a way that it is protected from any material or conditions which may cause it to ignite or react.

(i) Special requirements for incompatible wastes. Incompatible wastes, or incompatible wastes and materials (see 40 Code of Federal Regulations Part 265, Appendix V, as adopted by reference in subsection (f) of §325.333 of this title (relating to General)) must not be placed in the same land treatment area unless subsection (f) of §325.333 of this title (relating to General) is complied with.

(j) Removal of hazardous wastes. Throughout the operating period, at closure, or during the post-closure period, unless the owner or operator can demonstrate that

any solid waste removed from a land treatment site is not hazardous by §325.300 of this title (relating to Procedure for Petition for Exclusion of Listed Wastes) and that the waste does not exhibit a characteristic of a hazardous waste as set forth in §325.274 of this title (relating to Hazardous Waste Regulated, Exclusions, and Exceptions), the owner or operator becomes a generator of hazardous waste for any waste removed from the facility and must manage it in accordance with all applicable requirements of §§325.291 - 325.300 of this title (relating to Generators).

§325.346. Incinerators.

(a) Applicability.

(1) The requirements in this section:

(A) apply to owners and operators of municipal solid waste facilities that process hazardous waste in incinerators; and

(B) (No change.)

(2) The department may exempt owners and operators of incinerators burning hazardous waste from all requirements of this section except subsections (a)(1), (b), (g), and (h) of this section if the waste to be burned is described as follows.

(A) it is listed as a hazardous waste solely because it is ignitable (Hazard Code I), corrosive (Hazard Code C), or both.

(B) it is listed as a hazardous waste solely because it is reactive (Hazard Code R) for characteristics other than generating toxic gases, vapor, or fumes in a quantity sufficient to present a danger to human health or the environment whenever mixed with water or upon exposure to pH conditions between 2.0 and 12.5 and will not be burned when other hazardous wastes are present in the combustion zone;

(C) it is a hazardous waste solely because it possesses the characteristic of ignitibility, corrosivity, or both as determined by the test for characteristics of hazardous wastes under 40 Code of Federal Regulations Part 261, Subpart C;

(D) it is a hazardous waste solely because it possesses any of the reactivity characteristics except for the generation of toxic gases, vapors, or fumes as described in subparagraph (B) of this paragraph;

(E) it is a hazardous waste solely because it possesses the reactivity characteristics described by 40 Code of Federal Regulations §261.23(a)(1), (2), (3), (6), (7), or (8) and will not be burned when other hazardous wastes are present in the combustion zone (such documentation must be kept at the facility); or

(F) the waste contains none of the hazardous constituents listed in 40 Code of Federal Regulations Part 261, Appendix VIII, which would reasonably be expected to be in the waste or contains insignificant concentrations of the hazardous constituents listed in 40 Code of Federal Regulations Part 261, Appendix VIII, unless the department finds that the waste will pose a threat to human health and the environment when burned in an incinerator. (Documentation must be retained at the facility.)

(G) The owner or operator of an incinerator may conduct trial burns subject only to the requirements of subsection (d) of this section.

(b) Waste analysis requirements for incinerators. The owner/operator processing hazardous waste in an incinerator must:

(1) (No change.)

(2) Sufficiently analyze any waste which he has not previously burned in his incinerator to enable him to establish steady state (normal) operating conditions (including waste and auxiliary fuel feed and air flow), and to determine the type of pollutants which might be emitted. At a minimum, such supplementary analysis must determine:

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

(C) concentrations in the waste of lead and mercury, unless the owner or operator has written documentation showing that these elements are not present.

(3) Conduct sufficient waste analysis throughout normal or trial burn operations, to verify that waste feed to the incinerator is within the physical and chemical composition limits specified in the facility permit or in a trial burn permit issued by the Texas Department of Health. As required by subsection (c) of §325.336 of this title (relating to Manifest System, Record Keeping, and Reporting), the owner or operator must enter results of each waste analysis in the facility operating record.

(4) As a portion of the trial burn plan required by subsection (d) of this section or with Part B of the permit application, the owner or operator must have included an analysis of the waste feed sufficient to provide all information required by §325.350 of this title (relating to Permits). Owners or operators of new hazardous waste incinerators must provide the information required by §325.350 of this title (relating to Permits) to the greatest extent possible.

(c) Performance standards for incinerators and principal organic hazardous constituents (POHC's). An incinerator burning hazardous waste must be designed, constructed, and maintained so that the incinerator, when operated in accordance with operating requirements specified in a permit, will meet the following standards.

(1) (No change.)

(2) An incinerator burning hazardous waste and producing stack emissions of more than 1.8 kilograms per hour (four pounds per hour) of hydrogen chloride (HCl) must control HCl emissions such that the rate of emission is no greater than the larger of either 1.8 kilograms per hour or 1.0% of the HCl in the stack gas prior to entering any pollution control equipment.

(3) An incinerator burning hazardous waste must not emit particulate matter in excess of 180 milligrams per dry standard cubic meter (0.08 grains per dry standard cubic foot) when corrected for the amount of oxygen in the stack gas according to the formula:

$$P_c = P_m \times \frac{14}{21 - Y}$$

Where P_c is the corrected concentration of particulate matter, P_m is the measured concentration of particulate matter, and Y is the measured concentration of oxygen analysis of dry flue gas presented in 40 Code of Federal Regulations, Part 60, Appendix A, Method 3. This correction procedure is to be used by all hazardous waste incinerators except those operating under conditions of oxygen enrichment. For these facilities, the department

facilities, the department will select an appropriate correction procedure to be specified in the facility permit.

(4) For purposes of permit enforcement, compliance with the operating requirements specified in the permit in §325.350 of this title (relating to Permits) will be regarded as compliance with this section. However, evidence that compliance with those permit conditions is insufficient to ensure compliance with the performance requirements of this section may be information justifying modification, revocation, or reissuance of a permit under §325.350 of this title (relating to Permits).

(d) New wastes; trial burns or permit modifications.

(1) The owner or operator of a hazardous waste incinerator may burn only wastes specified in his permit and only under operating conditions specified in the permit, except:

(A) (No change.)

(B) under exceptions for waste which solely meets characteristics for ignitability as explained in subsections (a)(3) and (a)(4) of this section.

(2) (No change.)

(3) The permit for a new hazardous waste incinerator must establish appropriate conditions for each of the applicable requirements of this section including, but not limited to, allowable waste feeds and operating conditions necessary to meet the requirements of subsection (e) of this section sufficient to comply with the following standards.

(A) The operating requirements must be those most likely to ensure compliance with the performance standards of subparagraph (C) of this paragraph, in the department's engineering judgement, for the period beginning with initial introduction of hazardous waste to the incinerator and ending with initiation of the trial burn and only for the minimum time required to establish operating conditions required in subparagraph (B) of this paragraph, not to exceed a duration of 720 hours operating time for treatment of hazardous waste. The department may extend the duration of this period once for up to 720 additional hours when good cause for the extension is demonstrated by the applicant.

(B) For the duration of the trial burn, the operating requirements must be sufficient to demonstrate compliance with the performance standards of subparagraph (C) of this paragraph and must be in accordance with the approved trial burn plan.

(C) For the period immediately following completion of the trial burn and only for the minimum period sufficient to allow sample analysis, data computation, and submission of the trial burn results by the applicant and review of the trial burn results and modification of the facility permit by the department, the operating requirements must be those most likely to ensure compliance with the performance standards of this subparagraph based on the department's engineering judgment.

(D) For the remaining duration of the permit, the operating requirements must be those demonstrated, in a trial burn or by alternative data specified in the permit, as sufficient to ensure compliance with the performance standards of subparagraph (C) of this paragraph.

(e) Operating requirements for incinerators.

(1) For a general standards incinerator, the in-

cinerator must be operated in accordance with operating requirements specified in the facility permit. These will be specified on a case-by-case basis as those demonstrated to be sufficient to comply with performance standards.

(2) Each set of operating requirements for a general standards incinerator will specify the composition of the waste feed (including acceptable variations in the physical or chemical properties of the waste feed which will not affect compliance with the performance requirement) to which the operating requirements apply. For each such waste feed, the permit will specify acceptable operating limits including the following conditions:

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

(D) an appropriate indicator of combustion gas velocity;

(E) allowable variations in incinerator system design or operating procedures; and

(F) such other operating requirements as are necessary to ensure that the performance standards are met.

(3) During start-up and shut-down of an incinerator, hazardous waste (except ignitable waste exempted in accordance with subsection (a)(3)(B) of this section) must not be fed into the incinerator unless the incinerator is operating within the conditions of operation (temperature, air feed rate, etc.) specified in the facility permit.

(4) Fugitive emissions from the combustion zone must be controlled by:

(A) keeping the combustion zone totally sealed against fugitive emissions;

(B)-(C) (No change.)

(5)-(6) (No change.)

(f) Monitoring and inspection of incinerators.

(1) The owner or operator must conduct, as a minimum, the following monitoring while incinerating hazardous waste:

(A) combustion temperature, waste feed rate, and the indicator of combustion gas velocity specified in the facility permit must be monitored on a continuous basis.

(B) carbon monoxide must be monitored on a continuous basis at a point in the incinerator downstream of the combustion zone and prior to release to the atmosphere

(C) (No change.)

(2) The incinerator and associated equipment (pumps, valves, conveyors, pipes, etc.) must be subjected to thorough visual inspection, at least daily, for leaks, spills, fugitive emissions, and signs of tampering.

(3) The emergency waste feed cutoff system and associated alarms must be tested at least weekly to verify operability unless the applicant demonstrates to the department that weekly inspections will unduly restrict or upset operations and that less frequent inspection will be adequate. At a minimum, operational testing must be conducted at least monthly.

(4) This monitoring and inspection data must be recorded and the records must be placed in the operating log required by subsection (c) of §325.336 of this title (relating to Manifest System, Record Keeping, and Reporting).

(g) Closure of incinerator site. At closure, the owner or operator must remove all hazardous waste and

hazardous waste residues (including, but not limited to, ash, scrubber waters, and scrubber sludges) from the incinerator site. At closure, as throughout the operating period, unless the owner or operator can demonstrate that the residue from the incinerator is not a hazardous waste by §325.300 of this title (relating to Procedure for Petition for Exclusion of Listed Wastes) and that the waste does not exhibit a characteristic of a hazardous waste as set forth in §325.274 of this title (relating to Hazardous Waste Regulated, Exclusions, and Exceptions), the owner or operator of the incinerator becomes a generator of hazardous waste for any hazardous waste removed from the facility and must manage it in accordance with §325.291-325.300 of this title (relating to Generators) and other applicable requirements of these regulations.

(h) Texas Air Control Board license. The construction and operation of incinerators may require a Texas Air Control Board license. Applicants should consult with that agency at the time of, or prior to, submitting an application to the department.

§325.347. *Interim Status Thermal Processing Facilities.*

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

(c) Waste analyses. In addition to the waste analyses required by subsection (b) of §325.333 of this title (relating to General), the owner or operator must sufficiently analyze any waste which he has not previously processed in his thermal system to enable him to establish steady-state (normal) or other appropriate (for a noncontinuous process) operating conditions (including waste and auxiliary fuel feed) and to determine the type of pollutants which might be emitted. At a minimum, the analysis must determine:

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

(3) Concentrations in the waste of lead and mercury unless the owner or operator has written documented data that show that the element is not present. As required by subsection (c) of §325.336 of this title (relating to Manifest System, Record Keeping, and Reporting), the owner or operator must place the results from each waste analysis, or the documented information, in the operating record of the facility.

(d) Monitoring and inspection. The owner or operator must conduct, as a minimum, the following monitoring and inspections when thermally processing hazardous waste.

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

(3) The complete thermal processing system and associated equipment (pumps, valves, conveyors, pipes, etc.) must be inspected at least daily for leaks, spills, and fugitive emissions. All emergency shutdown controls and system alarms must be checked to assure proper operation.

(e) Closure. At closure, the owner or operator must remove all hazardous waste and hazardous waste residues (including, but not limited to ash) from the thermal processing system or equipment. At closure, as throughout the operating period, unless the owner or operator can demonstrate that any solid waste removed from his thermal processing system or equipment is not a hazardous waste by §325.300 of this title (relating to Procedure for Petition for Exclusion of Listed Wastes) and that the waste does not exhibit a characteristic of a hazardous

waste as set forth in §325.274 of this title (relating to Hazardous Waste Regulated, Exclusions, and Exceptions), the owner or operator becomes a generator of hazardous waste for any hazardous waste removed from the facility and must manage it in accordance with all applicable requirements of §325.291-325.300 of this title (relating to Generators).

(f) Open burning; waste explosives. Open burning of hazardous waste is prohibited except for the open burning and detonation of waste explosives. Waste explosives include waste which has the potential to detonate and bulk military propellants which cannot safely be disposed of through other modes of processing. Detonation is an explosion in which chemical transformation passes through the material faster than the speed of sound (0.33 kilometers/second at sea level). Owners or operators choosing to open burn or detonate waste explosives must do so in accordance with the following table and in a manner that does not threaten human health or the environment:

| Pounds of Waste Explosives or Propellants | Minimum Distances from Open Burning or Detonation to the Property of Others |
|---|---|
| 0 to 100 | 204 meters (670 feet) |
| 101 to 1,000 | 380 meters (1,250 feet) |
| 1,001 to 10,000 | 530 meters (1,730 feet) |
| 10,001 to 30,000 | 690 meters (2,260 feet) |

§325.348. Interim Status Chemical, Physical, and Biological Processing Facilities.

(a) (No change.)

(b) General operating requirements.

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

(3) Where hazardous waste is continuously fed into a processing system or equipment, the system or equipment must be equipped with a means to stop this inflow (e.g., a waste feed cut-off system or by-pass system to a standby containment device.) These systems are intended to be used in the event of a malfunction in the treatment process or equipment.

(c) Waste analysis and trial tests. In addition to the waste analysis required by subsection (b) of §325.333 of this title (relating to General), whenever a hazardous waste which is substantially different from waste previously processed in a processing system or equipment at the facility is to be processed in that system or equipment or a substantially different system than any previously used at the facility is to be used to chemically process hazardous waste the owner or operator must, before processing the different waste or using the different system or equipment:

(1) conduct waste analyses and trial processing tests (e.g., bench scale or pilot plant scale tests); or

(2) obtain written documented information on similar processing of similar waste under similar operating conditions to show that this proposed processing will meet all applicable requirements of this subsection. As required by subsection (b) of §325.333 of this title (relating to General), the waste analysis plan must include analyses needed to comply with subsections (f) and (g) of this section. As required by subsection (c) of §325.336 of this title (relating to Manifest System, Record Keeping, and

Reporting), the owner or operator must place the results from each waste analysis and trial test, or the documented information, in the operating record of the facility.

(d) Inspections. The owner or operator of a processing facility must inspect, where present:

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

(4) the construction materials of, and the area immediately surrounding, discharge confinement structures (e.g., dikes), at least weekly, to detect erosion or obvious signs of leakage (e.g., wet spots or dead vegetation). As required by subsection (d)(3) of §325.333 of this title (relating to General) the owner or operator must remedy any deterioration or malfunction he finds.

(e) Closure. At closure, all hazardous waste and hazardous waste residues must be removed from processing systems or equipment, discharge control equipment, and discharge confinement structures. At closure, as throughout the operating period, unless the owner or operator can demonstrate that any solid waste removed from his processing system or equipment is not a hazardous waste by §325.300 of this title (relating to Procedure for Petition for Exclusion of Listed Wastes) and that the waste does not exhibit a characteristic of a hazardous waste as set forth in §325.274 of this title (relating to Hazardous Waste Regulated, Exclusions, and Exceptions), the owner or operator becomes a generator of hazardous waste for any hazardous waste removed from the facility and must manage it in accordance with all applicable requirements of §325.291-325.300 of this title (relating to Generators).

(f) Special requirements for ignitable or reactive waste. Ignitable or reactive waste must not be placed in a processing system or equipment unless:

(1) the waste is processed, rendered, or mixed before or immediately after placement in the processing system or equipment so that:

(A) the resulting waste, mixture, or dissolution of material no longer meets the definition of ignitable or reactive waste under 40 Code of Federal Regulations, §261.21 or 261.23; and

(B) (No change.)

(2) (No change.)

(g) Special requirements for incompatible wastes.

(1) Incompatible wastes or incompatible wastes and materials (see 40 Code of Federal Regulations, Part 264 or Part 265, Appendix V, as adopted by reference in subsection (f) of §325.333 of this title (relating to General)) must not be placed in the same processing system or equipment unless subsection (f) of §325.333 of this title (relating to General) is complied with.

(2) (No change.)

§325.350. Permits.

(a) Scope.

(1) Permits. No person may commence the operation of a new hazardous waste management facility without first having submitted Part A and Part B of the permit application and having received a permit. For purposes of this subchapter, the term "operation" includes the storage, processing (treatment), or disposal of hazardous waste and any construction-related elements which may affect the safe and proper management of hazardous waste at the facility or the implementation of the

standards prescribed by this subchapter. Part A and Part B of a permit application must be submitted at least 180 days before a permit is required. An application may be filed anytime after the effective date of these regulations.

(2) Interim status facility Part B submission. Existing hazardous waste management facilities operating under interim status may be required to submit Part B of a permit application anytime after the effective date of these regulations. Any owner or operator of existing hazardous waste management facilities operating under interim status shall have six months from the date of the request to submit Part B of the permit application. Part B may be submitted voluntarily anytime. Failure to furnish full information or a timely Part B is grounds for termination of interim status.

(3) Interim status facility Part A update. If the owner or operator of an existing hazardous waste management facility has filed Part A of a permit application and has not yet filed Part B, the owner or operator shall file an amended Part A application:

(A) within six months after §325.274 of this title (relating to Hazardous Waste Regulated, Exclusions, and Exceptions) or 40 Code of Federal Regulations, Part 261, Subparts C and D, have been revised to reflect additional hazardous wastes listed or identified by EPA if the facility is treating, storing, or disposing of any of those newly listed or identified wastes;

(B)-(C) (No change.)

(b) (No change.)

(c) Transfer of permits. Any person seeking to obtain the transfer of a permit which has been issued to another person by the department for a hazardous waste management facility shall make written application to the department for transfer approval. The applicant should consult with the department prior to making application for permit transfer to determine specific requirements for information which must accompany the application. Transfer of any permit shall be for the remaining life of the permit. Upon submission of required information to the satisfaction of the department, the decision will be made concerning the permit transfer. The department will process the application as a modification to the permit. Pending a decision on the permit transfer, the department will hold the permittee of record responsible for the proper operation of the site. Failure to give complete information or the submission of false information in the application shall constitute grounds for rejection of the application. The application shall be submitted in the form of a letter and shall normally provide the following information, except when determined otherwise in consultation with the department.

(1)-(7) (No change.)

(8) An up-to-date site development plan showing any changes to the drainage throughout the site area, ground and surface water protective measures, depths of trenches, special-use areas, final topographies, etc., which differ from the original engineering site development plan.

(9) (No change.)

(d) Modification, revocation, and reissuance, termination, and minor modifications.

(1) Permit modifications. When the department receives any information; receives a request of an interested person (including the permittee) for modifica-

tion, revocation, reissuance or termination; or conducts a review of the permit file, the department may determine whether or not cause exists for modification or revocation, reissuance and termination. If and only if cause exists, the department may modify or revoke and reissue the permit. An updated application may be required. When a permit is modified, only the conditions subject to modification are reopened. If a permit is revoked and reissued, the entire permit is reopened and subject to revision and the permit is reissued for a new term. Except for minor modifications, applicable procedures must be followed.

(2) Causes for modification. The following are causes for modifications, but not for revocation and reissuance of permits. The following may also be causes for revocation and reissuance if the permittee requests or agrees.

(A) material and substantial alterations or additions to the permitted facility or activity which occurred after permit issuance which justify permit conditions that are different or absent in the existing permit.

(B) information provided to the department which it feels necessitates a modification of the permit.

(C) the permit is based upon standards or rules which have been changed by promulgation of amended standards or rules or by judicial decision after the permit was issued. Permits may be modified during their terms for this cause only as follows:

(i) following promulgation of amended standards and rules when the permit condition to be modified is based upon a promulgated part of the municipal solid waste management regulations and the department has revised, withdrawn, or modified that portion of the rule on which the permit condition was based if a permittee requests modification within 90 days after the final rule on which the request is based is published in the *Texas Register*.

(ii) Following judicial decisions where a court of competent jurisdiction has remanded and stayed department enforcement of adopted rules if the remand and stay concerns that portion of the rules on which the permit condition is based and a request is filed in accordance with paragraph (4) of this subsection within 90 days of judicial remand.

(D) the department determines good cause exists for modification of a compliance schedule, such as an act of God, strike, flood, or materials shortage or other events over which the permittee has little or no control and for which there is no other reasonably available remedy.

(E) (No change.)

(F) when modification of a closure plan is required under subsections (c)(2) or (h)(2) of §325.338 of this title (relating to Closure and Post-Closure Requirements).

(G) after the department receives the notification of expected closure required under subsection (d) of §325.338 of this title (relating to Closure and Post-Closure Requirements), when the department determines that extension of the 90 or 180 day periods under subsection (d) of §325.338 of this title (relating to Closure and Post-Closure Requirements), modification of the 30 year post-closure period under subsection (g)(1) of §325.338 of this

title (relating to Closure and Post-Closure Requirements), continuation of security requirements under subsection (g)(4) of §325.338 of this title (relating to Closure and Post-Closure Requirements), or permission to disturb the integrity of the containment system under subsection (g)(5) of §325.338 of this title (relating to Closure and Post-Closure Requirements) are unwarranted.

(H) when the permittee has filed a request under subsection (a)(1)(H) of §325.339 of this title (relating to Financial Requirements) for a variance to the level of financial responsibility or when the department demonstrates under subsection (a)(1)(H) of §325.339 of this title (relating to Financial Requirements) that an upward adjustment of the level of financial responsibility is required.

(I) When the corrective action program specified in the permit under subsection (c)(1)(A) of §325.349 of this title (relating to General Standards for Land Disposal Facilities) has not brought the regulated unit into compliance with the groundwater protection standard within a reasonable period of time.

(J) when the owner or operator has been conducting a compliance monitoring program under subsection (c)(1)(A) of §325.349 of this title (relating to General Standards for Land Disposal Facilities) or a corrective action program under subsection (c)(1)(A) of §325.349 of this title (relating to General Standards for Land Disposal Facilities) and the compliance period ends before the end of the post-closure care period for the unit, modification may include a detection monitoring program which meets the requirements of subsection (c)(1)(A) of §325.349 of this title (relating to General Standards for Land Disposal Facilities).

(K) When a permit requires a compliance monitoring program under subsection (c)(1)(A) of §325.349 of this title (relating to General Standards for Land Disposal Facilities), but monitoring data collected prior to permit issuance indicate that the facility is exceeding the groundwater protection standard.

(L) where conditions applicable to units at a facility are not previously included in the facility's permit.

(M) when a land treatment unit is not achieving complete treatment of hazardous constituents under its current permit conditions.

(3) (No change.)

(4) Procedure for modification and revocation and reissuance.

(A) (No change.)

(B) The department shall follow the same procedures to modify or revoke and reissue a permit, with the exception of minor modifications, as it does for issuance of a permit.

(C) (No change.)

(5) Minor modifications. Minor modifications may only:

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

(D) allow for a change of ownership or operational control of a facility where the department determines that no other change in the permit is necessary provided that a written agreement containing specific dates for transfer of permit responsibility, coverage, and liability between the current and new permittees have been submitted to the department.

(E) (No change.)

(F) make changes related to closure such as:

(i) change estimates of maximum inventory as found under subsection (c) of §325.338 of this title (relating to Closure and Post-Closure Requirements);

(ii) change estimates of expected year of closure or schedules for final closure under subsection (c) of §325.338 of this title (relating to Closure and Post-Closure Requirements); or

(iii) approve periods longer than 90 days or 180 days under subsection (d) of §325.338 of this title (relating to Closure and Post-Closure Requirements).

(G) change the ranges of the operating requirements set in the permit to reflect the results of the trial burn, provided that the change is minor.

(H) change the operating requirements set in the permit for conducting a trial burn, provided that the change is minor.

(I) grant one extension of the time period for determining operational readiness following completion of construction for up to 720 hours operating time for treatment of hazardous waste.

(J) change the treatment program requirements for land treatment units under §325.349 of this title (relating to General Standards for Land Disposal Facilities) to improve treatment of hazardous constituents, provided that the change is minor.

(K) change any conditions specified in the permit for land treatment units under subsection (c) of §325.349 of this title (relating to General Standards for Land Disposal Facilities), provided that the change is minor.

(L) allow a second treatment demonstration for land treatment to be conducted when the results of the first demonstration have not shown the conditions under which the waste or wastes can be treated completely as required by subsection (c) of §325.349 of this title (relating to General Standards for Land Disposal Facilities), provided the conditions for the second demonstration are substantially the same as the conditions for the first demonstration.

(6) Termination of permits. The following are causes for terminating a permit during its term or for denying a permit renewal application.

(A) (No change.)

(B) permittee's failure in the application or during the permit issuance process to disclose fully all facts or the permittee's misrepresentation of any facts at any time;

(C)-(D) (No change.)

(e) Property rights and land use considerations.

(1) Property rights. It is the responsibility of a permittee to possess or acquire a sufficient interest in or right to the use of the property for which a permit is issued, including the access route thereto. The granting of a permit does not convey any property rights or interest in either real or personal property nor does it authorize any injury to private property, invasion of personal rights, impairment of previous contract rights, or any infringement of federal, state, or local regulations outside the scope of the authority under which this permit is issued.

(2) Land use considerations. In addition to the

requirements of §§325.331-325.350 of this title (relating to Facility Owners and Operators), the location of a proposed facility or substantial alterations or additions to an existing facility, requiring a permit modification under subsection (d) of this section, shall consider the land use criteria contained in §325.74 of this title (relating to Technical Information Required for Landfill Sites Serving 5,000 Persons or More—Site Development Plan). The more stringent requirement or criteria shall apply.

(f) Emergency permits. Notwithstanding any other provision of these rules, in the event the commissioner finds an imminent and substantial endangerment to human health or the environment, the commissioner may issue an emergency permit to a facility to allow treatment, storage, or disposal of hazardous waste for a nonpermitted facility with an effective permit. The emergency permit:

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

(5) shall be accompanied by a published public notice including the name and address of the department, the name and location of the facility, a brief description of the wastes involved, a brief description of the action authorized and reasons for authorizing it, and the duration of the emergency permit.

(6) (No change.)

(g) Permit conditions. The following conditions shall be incorporated into each and every permit issued under this subchapter. (The conditions may be incorporated by specific reference to this subsection of the department's municipal solid waste management regulations.)

(1)-(6) (No change.)

(7) The permittee shall furnish to the department, within a reasonable time, any relevant information the department requests to determine whether cause exists for amending, revoking and reissuing, or terminating the permit or to determine compliance with the permit. The permittee shall also furnish to the department, upon request, copies of records required to be kept by the department.

(8) All permits shall specify:

(A) (No change.)

(B) required monitoring including type, intervals, and frequency sufficient to yield data which are representative of the monitored activity including, when appropriate, continuous monitoring; and

(C) (No change.)

(9)-(20) (No change.)

(21) Monitoring results shall be reported at the intervals specified in the permit, and as may be required by subsection (c)(1)(A) of §325.349 of this title (relating to General Standards for Land Disposal Facilities).

(22) (No change.)

(23) The permittee shall maintain records from all groundwater monitoring wells and associated groundwater surface elevations for the active life of the facility and, for disposal facilities, for the post-closure care period as well. This period may be extended by the department at any time.

(24)-(25) (No change.)

(26) Each of the applicable requirements specified in §§325.331-325.350 of this title (relating to Facility Owners and Operators).

(h) Application Information.

(1) All permit applicants must provide the department with the following information, as a minimum, using the application form provided by the department:

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

(C) up to four Standard Industrial Codes (SIC) which best reflect the principal products or services provided by the facility;

(D)-(F) (No change.)

(G) a topographic map (or other map if a topographic map is unavailable) extending one mile beyond the property boundaries of the source depicting the facility and each of its intake and discharge structures; each of its hazardous waste treatment, storage, or disposal facilities; each well where fluids from the facility are injected underground; and those wells, springs, other surface water bodies, and drinking water wells listed in public records or otherwise known to the applicant within ¼ mile of the facility property boundary.

(H) (No change.)

(2) In addition to the application information required in paragraph (1) of this subsection, Part A of a permit application shall include the following information:

(A)-(E) (No change.)

(F) a list of any hazardous wastes which are treated, stored, or disposed at the facility; an estimate of the quantity of such wastes to be treated, stored, or disposed annually; and a general description of the processes to be used for such wastes.

(3) Part B of the application shall include the following.

(A) For all facilities:

(i)-(viii) (No change.)

(ix) information on traffic pattern, volume, and control; access road surfacing and load bearing capacity; traffic control signals; and estimates of volume.

(x) (No change.)

(xi) Facility location information.

(I) (No change.)

(II) Owners and operators of facilities located in the 100-year floodplain must provide the following information:

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

(-c-) If applicable, and in lieu of items (-a-) and (-b-) of this subclause, a detailed description of procedures to be followed to remove hazardous waste to safety before the facility is flooded, including:

(-1-) timing of such movement relative to flood levels, including estimated time to move the waste, to show that such movement can be completed before floodwaters reach the facility;

(-2-) a description of the location(s) to which the waste will be moved and demonstration that those facilities will be eligible to receive hazardous waste in accordance with this subchapter;

(-3-) the planned procedures, equipment, and personnel to be used and the means to ensure that such resources will be available in time for use; and

(-4-) the potential for accidental discharges of the waste during movement.

(III) (No change.)

(xii) An outline of both the introductory and continuing training programs by owners or operators to prepare persons to operate or maintain the facility in a safe manner as required to demonstrate compliance with subsection (e) of §325.333 of this title (relating to General).

(xiii) (No change.)

(xiv) For interim status standard facilities, documentation that a notice has been placed in the deed or appropriate alternate instrument as required by subsections (i) and (j) of §325.338 of this title (relating to Closure and Post-Closure Requirements).

(xv)-(xix) (No change.)

(B) Specific information requirements. The following additional information is required from owners or operators of specific types of facilities that are used or to be used for storage or treatment.

(i) For facilities that store containers of hazardous waste:

(I) (No change.)

(II) sketches, drawings, or data demonstrating compliance with subsections (g) and (h) of §325.333 of this title (relating to General) concerning location and isolation for containers holding ignitable, reactive, or incompatible wastes, as applicable.

(III) for storage areas that store containers holding wastes that do not contain free liquids, a demonstration of compliance with subsection (f)(4) of §325.340 of this title (relating to Use and Management of Containers), including:

(-a-) test procedures and results or other documentation or information to show that the wastes do not contain free liquids; and

(-b-) a description of how the storage area is designed or operated to drain and remove liquids or how containers are kept from contact with standing liquids.

(IV) where incompatible wastes are stored or otherwise managed in containers, a description of the procedures used to ensure compliance with subsection (h)(1) and (2) of §325.340 of this title (relating to Use and Management of Containers) and subsection (f)(3) and (4) of §325.333 of this title (relating to General).

(ii) (No change.)

(iii) For facilities that store or treat hazardous waste in surface impoundments, the department adopts by reference the requirements of 40 Code of Federal Regulations, §122.25(b)(3) which was adopted by EPA on July 26, 1982. These regulations are indexed and filed in the Bureau of Solid Waste Management, Texas Department of Health office, located at 1100 West 49th Street, Austin, Texas 78756, and are available for public inspection during regular working hours.

(I) Where adopted federal regulations refer to 40 Code of Federal Regulations, §264.1, the reference is more properly made to §325.331 of this title (relating to Purpose and Scope) and to §325.332 of this title (relating to Applicability).

(II) Other references to 40 Code of Federal Regulations, Part 264 are adopted under §325.349 of this title (relating to General Standards for Land Disposal Facilities).

(III) Where adopted federal regulations

refer to 40 Code of Federal Regulations, §122.25(a)(5), (7), and (13), the reference is more properly made to subsection (h)(3)(A)(v), (vii), and (xiii) of this section.

(iv) For facilities that store or treat hazardous waste in waste piles, the department adopts by reference the requirements of 40 Code of Federal Regulations, §122.25(b)(4) which was adopted by EPA on July 26, 1982. These regulations are indexed and filed in the Bureau of Solid Waste Management, Texas Department of Health office, located at 1100 West 49th Street, Austin, Texas 78756, and are available for public inspection during regular working hours.

(I) Where adopted federal regulations refer to 40 Code of Federal Regulations, §264.1, the reference is more properly made to §325.331 of this title (relating to Purpose and Scope) and to §325.332 of this title (relating to Applicability).

(II) Other references to 40 Code of Federal Regulations, Part 264 are adopted under §325.349 of this title (relating to General Standards for Land Disposal Facilities).

(III) Where adopted federal regulations refer to 40 Code of Federal Regulations, §122.25(a)(5) and (13), reference is more properly made to subsection (h)(3)(B)(v) and (xiii) of this section.

(v) For facilities that incinerate hazardous waste, the department adopts by reference the requirements of 40 Code of Federal Regulations, §122.25(b)(5) which was adopted by EPA on January 23, 1981, and 40 Code of Federal Regulations §122.27(b) which was adopted by EPA on June 24, 1982. These regulations and any referenced federal regulations are indexed and filed in the Bureau of Solid Waste Management, Texas Department of Health office, located at 1100 West 49th Street, Austin, Texas 78756, and are available for public inspection during regular working hours. The following subclauses of this clause identify references made by EPA in the rules adopted in this clause and note the equivalent rule in this subchapter to which reference can be more properly made.

(I) Reference to 40 Code of Federal Regulations, §§264.340-264.351, is equivalent to reference to §325.346 of this title (relating to Incinerators).

(II) Reference to 40 Code of Federal Regulations, §261.23 is equivalent to reference to reactivity in §325.272 of this title (relating to Definitions of Terms and Abbreviations).

(III) Where adopted federal regulations refer to 40 Code of Federal Regulations, Part 261, Appendix III, reference must be made to the federal regulations because there are no comparable department regulations.

(IV) Reference to 40 Code of Federal Regulations, §122.17 is equivalent to reference to subsection (d) of this section.

(V) Reference to 40 Code of Federal Regulations, Part 261, Subpart C or Subpart D is equivalent to subsection (b) of §325.274 of this title (relating to Hazardous Waste Regulated, Exclusions, and Exceptions).

(VI) Reference to 40 Code of Federal Regulations, §122.25(b)(2) is equivalent to reference to subsection (h)(3)(B)(iii) of this section.

(VII) Reference to 40 Code of Federal

Regulations, §122.6 is equivalent to reference to subsection (d) of §325.271 of this title (relating to Purpose, Applicability, and Release of Information).

(VIII) Where adopted federal regulations refer to the director, reference is made to the commissioner of health.

(IX) Where adopted federal regulations refer to 40 Code of Federal Regulations, §122.20, reference must be made to the federal regulations because there are no comparable department regulations.

(vi) For facilities that use land treatment to dispose of hazardous waste, the department adopts by reference the requirements of 40 Code of Federal Regulations, §122.25(b)(6) and 40 Code of Federal Regulations, §122.27(c) which were adopted by EPA on July 26, 1982. These regulations and any referenced federal regulations are indexed and filed in the Bureau of Solid Waste Management, Texas Department of Health office, located at 1100 West 49th Street, Austin, Texas 78756, and are available for public inspection during regular working hours. The following subclauses of this clause identify the references made by EPA in the rules adopted by this clause with the equivalent rule in this subchapter to which references can be more properly made.

(I) Where adopted federal regulations refer to the director, reference is made to the commissioner of health.

(II) Reference to 40 Code of Federal Regulations, §§264.271-264.282 is equivalent to reference to subsection (c)(1)(D) of §325.349 of this title (relating to General Standards for Land Disposal Facilities).

(III) Reference to 40 Code of Federal Regulations, §122.6 is equivalent to reference to subsection (d) of §325.271 of this title (relating to Purpose, Applicability, and Release of Information).

(IV) Reference to 40 Code of Federal Regulations, Part 264, Subpart M, is equivalent to reference to subsection (c)(1)(D) of §325.349 of this title (relating to General Standards for Land Disposal Facilities).

(V) Reference to 40 Code of Federal Regulations, §124.15 is equivalent to reference to subsection (o) of this section.

(VI) Reference to 40 Code of Federal Regulations, §122.17 is equivalent to reference to subsection (d)(5) of this section.

(vii) For facilities that dispose of hazardous waste in landfills, the department adopts by reference the requirements of 40 Code of Federal Regulations, §122.25(b)(7) which was adopted by EPA on July 26, 1982. Regulations and any referenced federal regulations are indexed and filed in the Bureau of Solid Waste Management, Texas Department of Health office, located at 1100 West 49th Street, Austin, Texas 78756, and are available for public inspection during regular working hours.

(I) Where adopted federal regulations refer to 40 Code of Federal Regulations, §264.1, reference is more properly made to §325.332 of this title (relating to Applicability).

(II) Where adopted federal regulations refer to 40 Code of Federal Regulations, Part 264, Subpart F, and §§264.301-264.314, reference is more properly

made to §325.349 of this title (relating to General Standards for Land Disposal Facilities) which adopts this reference.

(III) Where adopted federal regulations refer to the director, reference is more properly made to the commissioner of health.

(IV) Where adopted federal regulations refer to 40 Code of Federal Regulations, §122.25(a)(5) and (13), reference is more properly made to subsection (h)(3)(B)(v) and (viii) of this section.

(C) For the protection of groundwater at land disposal facilities, the department adopts by reference the requirements of 40 Code of Federal Regulations, §122.25(c) which was adopted by EPA on July 26, 1982. These regulations and any referenced federal regulations are indexed and filed in the Bureau of Solid Waste Management, Texas Department of Health office, located at 1100 West 49th Street, Austin, Texas 78756, and are available for public inspection during regular working hours.

(i) Where adopted federal regulations refer to 40 Code of Federal Regulations, §122.25(a)(19), reference is more properly made to subsection (h)(3)(A)(xix) of this section.

(ii) Where adopted federal regulations refer to 40 Code of Federal Regulations, Part 261, Appendix VIII, reference must be made to the federal regulations because there are no comparable department regulations.

(iii) Where adopted federal regulations refer to the regional administrator, reference is more properly made to the commissioner of health.

(iv) Where adopted federal regulations refer to 40 Code of Federal Regulations, §§264.90-264.100, reference is more properly made to subsection (c)(1)(A) of §325.349 of this title (relating to General Standards for Land Disposal Facilities).

(v) Where adopted federal regulations refer to 40 Code of Federal Regulations §§265.90-265.94, reference is more properly made to subsection (a)-(e) of §325.337 of this title (relating to Groundwater Monitoring Requirements for Interim Status Facilities).

(i) Application requirements. No person may operate a facility for the treatment, storage, or disposal of municipal hazardous waste without a permit, license, or interim status from the department. Either the owner or operator shall obtain the permit. The owner of the hazardous waste management facility must co-sign the application when the operator applies for the permit. Representatives from the department's regional or central offices are available to assist in determining type application requirements.

(j) (No change)

(k) Submission of application. The application for a permit shall be submitted to the department with all the supporting data in the number of copies prescribed in the instructions on the application form unless otherwise advised. Upon receipt of the application, the department will forward to the applicant a notice of filing of application which the applicant, at his own expense, will cause to be published at least one time in a newspaper of general circulation in the area where the site is located. The notice shall include information that informs the public of the rights to comment on the application, their

right to request a public hearing, and the name and address of the department employee to contact for information and/or a copy of the application. Such publication shall be accomplished by the applicant within 15 days after receipt of the notice of filing of application and a publisher's affidavit relative to such publication shall be forwarded to the department immediately thereafter. The publication of this notice of filing of application shall be in addition to the publication of the notice of public hearing required by subsection (m) of this section

(l) Application review process. Upon receipt of an application, the department will make a preliminary evaluation to determine if the application is administratively and technically complete. If additional information is required, it will be requested of the applicant before continuing with the processing of the application. No permit shall be issued without a complete application

(1) (No change)

(2) Regional engineers' input. In addition, a copy of the application will be provided to the appropriate regional engineer of the department for his performance of a site evaluation verifying insofar as possible the data submitted and technical feasibility of the proposed operation. In submitting his comments and recommendations, the regional engineer will consider the past operating record and current status of an existing site. The site operator's ability or lack of ability to comply with the department's regulations will also be discussed at the public hearing

(3) Period for application copy recipient comment. Normally, the entities to whom copies of the application are mailed shall have 30 days to present comments and recommendations on the permit application. If any of the review agencies or the department requires additional data in order to conduct a proper evaluation, the additional data will be requested by the department. Following receipt of comments and recommendations from various review agencies, a professional engineer from the department will make a detailed engineering evaluation of the application taking into consideration all comments received from the review agencies. The department will give consideration to any recommendation or action taken by the governing body of a city or county within whose jurisdiction the proposed site is to be located concerning implications of the application with respect to the public health and welfare and protection of the environment and physical property, including proper land use, reasonable projection of growth and development, and any other pertinent considerations

(4) Summary document. The Bureau of Solid Waste Management will prepare a summary document that includes a summary of the informational base the applicant has provided and the informational base of the department's rules

(A) The summary document will be issued at the time notice of public hearing is given. Notice that the summary document is available will also be given to those persons listed in paragraph (1) of this subsection. Notice that the summary document is available will also be given in the notice required in subsection (m)(3) of this section. The department shall give notice of the availability of the summary document by broadcast on a local radio sta-

tion within the county the facility is to be located and any other method reasonably calculated to give actual notice of the issuance of the summary document to the persons potentially affected by it, including press releases or any other forum or medium to elicit public participation.

(B) The summary document shall include:

(i) the name and address of the owner and operator of the site,

(ii) the permit application number;

(iii) the date the application was received;

(iv) a list of the components of the application and supporting material;

(v) the type and quantity of wastes which are proposed to be or are being treated, stored, or disposed of;

(vi) any variances to the rules or compliance schedules the applicant has requested in the application (the applicant is not foreclosed from making additional requests at the public hearing);

(vii) a brief description of the procedures for reaching a final decision;

(viii) a brief description of the type of facility or activity to be operated,

(ix) the name, address, and telephone number of a person to contact for additional information;

(x) locations where the application is available for inspection;

(xi) a listing of all permit conditions applicable to the type of facility proposed as required by subsection (g) of this section;

(xii) a cite to the rules on design standards for the type of facility proposed,

(xiii) a cite to the rules on monitoring standards for the type of facility proposed, and

(xiv) a statement that the summary document is based upon the application and the rules which will be considered the best evidence at the hearing and any errors in the summary document are not fatal. Reliance upon the summary document without an appearance at the hearing is at one's own risk. The summary document is not a substitute for the application or the rules

(m)-(o) (No change)

(p) Bureau of Solid Waste Management briefs.

(1) (No change)

(2) When the Bureau of Solid Waste Management files its brief with the hearing examiner, it shall include:

(A)-(F) (No change)

(F) a list of the components of the application and supporting material,

(G) names and titles of persons representing the Bureau of Solid Waste Management in the matter;

(H)-(I) (No change.)

(J) the Bureau of Solid Waste Management's analysis and conclusions. The analysis and conclusions shall include a summary including references to applicable statutory or regulatory provisions appropriate supporting references to the administrative record, and reasons why any requested variances to required standards do or do not appear justified. The topics addressed in the analysis and conclusions shall include

- (i) the status of the application.
- (ii) technical analysis including:
 - (I) land use,
 - (II) groundwater protection;
 - (III) surface water protection;
 - (IV) access roads and traffic safety;
 - (V) alternate sites,
 - (VI) site development and operation;
 - (VII) site geology; and
 - (VIII) consideration of other concerns expressed by reviewing agencies or individuals
- (iii) conclusions of the Bureau of Solid Waste Management

(K) the Bureau of Solid Waste Management's recommendations, as to issuance or denial of a permit, including any special provisions of the permit, the requirements of subsection (g) of this section and applicable requirements of §§325.331-325.350 of this title (relating to Facility Owners and Operators).

(L)-(O) (No change)

(3) The Bureau of Solid Waste Management shall cause notice to be given that its brief has been filed with the hearing examiner. Comments shall be taken for at least 45 days after the date of publication of the notice. Notice shall be given by

(A) sending a copy of the Bureau of Solid Waste Management's brief as required by subsection (L)(1) of this section and to all parties as provided in paragraph (1) of this subsection

(B)-(D) (No change)

(4) If the comments received present new evidence or other information that the Bureau of Solid Waste Management feels should be considered at the hearing, the Bureau of Solid Waste Management, as a party, will make a motion to the hearing examiner to reopen the hearing

(5) At the time any final permit decision is issued by the commissioner of health, the Bureau of Solid Waste Management shall issue a response to comments received from persons other than parties. This response shall:

(A) specify which provisions, if any, of the Bureau of Solid Waste Management's brief have been changed in the final permit decision, and the reasons for the change,

(B) briefly describe and respond to all significant comments from persons other than parties on the Bureau of Solid Waste Management's brief raised during the public comment period, or during any hearing; and

(C) be available to the public

(q) Start-up notification. After a new hazardous waste management facility obtains a permit, the permittee may not commence treatment, storage, or disposal of hazardous waste; and for a facility being modified, the permittee may not treat, store, or dispose of hazardous waste in the modified portion of the facility until:

(1) (No change)

(2) The department has inspected the modified or newly constructed facility and finds it is in compliance with the conditions of the permit or if within 15 days of the date of submission of the start-up notification letter the permittee has not received notice from the department of its intent to inspect, prior inspection is waived and the

permittee may commence treatment, storage, or disposal of hazardous wastes.

(r) (No change.)

(s) Pre-construction conference. Within 15 days of the date of the permit, the owner or operator shall advise the department, in writing, of a recommended date and alternate date for convening a pre-construction conference. The conference will be chaired by a representative of the department and will include appropriate representatives of the permittee and the design engineer. The conference is to ensure a complete understanding of the requirements of the permit, the site design, and these rules.

(t) Permits by rule. Notwithstanding any other provision of these rules, the following shall be deemed to have a permit if the conditions listed are met:

(1) (No change)

(2) Publicly owned treatment works (POTW). The owner or operator of a POTW which accepts for treatment hazardous waste, if the owner or operator has an NPDES permit; complies with the conditions of that permit, if the waste meets all federal, state, and local pretreatment requirements which would be applicable to the waste if it were being discharged into the POTW through a sewer, pipe, or similar conveyance; and complies with the following hazardous waste rules:

(A)-(I) (No change)

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

Issued in Austin, Texas, on January 4, 1983

TRD-830098

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

Effective date: January 26, 1983

Proposal publication date: N/A

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

Facility Owners and Operators

25 TAC §§325.339, 325.342, 325.345,
325.349

This repeal is adopted under the Solid Waste Disposal Act, Texas Civil Statutes, Article 4477.7, §4(c), which provides the Texas Department of Health with the authority to adopt and promulgate rules consistent with the general intent and purposes of the Act and establish minimum standards of operation for all aspects of the management and control of solid waste under its jurisdiction. In addition, these repealed rules

are being adopted pursuant to the federal requirements as explained in the preamble to this chapter.

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

Issued in Austin, Texas, on January 4, 1983

TRD-830156 Robert A. MacLean, M.D.
Deputy Commissioner
Professional Services
Texas Department of Health

Effective date: January 26, 1983

Proposal publication date: N/A

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

These new rules are adopted under the Solid Waste Disposal Act, Texas Civil Statutes, Article 4477.7, §4(c), which provides the Texas Department of Health with the authority to adopt and promulgate rules consistent with the general intent and purposes of the Act and establish minimum standards of operation for all aspects of the management and control of solid waste under its jurisdiction. In addition, these new rules are being adopted pursuant to the federal requirements as previously explained in this preamble.

§325.339 Financial Requirements

(a) Except as otherwise provided in this section and to the extent consistent with the Solid Waste Disposal Act, Texas Civil Statutes, Article 4477.7, and the rules of this chapter, the department adopts by reference the following EPA regulations:

(1) 40 Code of Federal Regulations Part 264, Subpart H, Standards for Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities—Financial Requirements

(A) §264.140, Applicability, April 7, 1982, as amended July 26, 1982

(B) §264.141, Definitions of Terms Used in this Subpart, April 16, 1982

(C) §264.142, Cost Estimate for Closure, April 7, 1982, as amended July 26, 1982

(D) §264.143, Financial Assurance for Closure, April 7, 1982

(E) §264.144, Cost Estimate for Post-Closure Care, April 7, 1982, as amended July 26, 1982

(F) §264.145, Financial Assurance for Post-Closure Care, April 7, 1982, as amended July 26, 1982

(G) §264.146, Use of a Mechanism for Financial Assurance of Both Closure and Post-Closure Care, April 7, 1982

(H) §264.147, Liability Requirements, April 16, 1982, as amended July 1, 1982, and July 13, 1982

(I) §264.148, Incapacity of Owners or Operators, Guarantors, or Financial Institutions, April 7, 1982

(2) 40 Code of Federal Regulations Part 264, Subpart H, Interim Status Standards for Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities—Financial Requirements

(A) §265.140, Applicability, April 7, 1982

(B) §265.141, Definition of Terms as Used in this Subpart, April 16, 1982

(C) §265.142, Cost Estimate for Closure, April 7, 1982.

(D) §265.143, Financial Assurance for Closure, April 7, 1982.

(E) §265.144, Cost Estimate for Post-Closure Care, April 7, 1982

(F) §265.145, Financial Assurance for Post-Closure Care, April 7, 1982

(G) §265.146, Use of a Mechanism for Financial Assurance of both Closure and Post-Closure Care, April 7, 1982

(H) §265.147, Liability Requirements, April 16, 1982, as amended, July 1, 1982, and July 13, 1982.

(I) §265.148, Incapacity of Owners or Operators, Guarantors, or Financial Institutions, April 7, 1982.

(3) 40 Code of Federal Regulations Part 264, Subpart H, Standards for Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities—Financial Requirements, §264.151, Wording of Instruments, April 7 and 16, 1982, as amended and corrected on April 27, 1982, May 10, 1982, and July 1, 1982; except that the following terms will be used where appropriate in lieu of the terms contained in this paragraph unless the context of the regulation indicates otherwise.

(A) Texas Department of Health (TDH) will be used in lieu of U.S. Environmental Protection Agency (EPA)

(B) State of Texas will be used in lieu of United States Government

(C) Solid Waste Disposal Act, Texas Civil Statutes, Article 4477.7, will be used in lieu of Resource Conservation and Recovery Act of 1976, as amended.

(b) Where the term 'regional administrator' is used in the federal rules and regulations adopted under paragraphs (1), (2), and (3) of subsection (a) of this section, the reference is more properly made, for purposes of state law, to the commissioner of health, Texas Department of Health or to the department, consistent with the duties and responsibilities of the commissioner of health and delegated authorities within the department

(c) The adopted federal regulations are applicable as follows:

(1) Regulations adopted pursuant to subsection (a)(1) of this section are applicable to owners and operators of general standard facilities

(2) Regulations adopted pursuant to subsection (a)(2) of this section are applicable to owners and operators of interim status facilities

(3) Regulations adopted pursuant to subsection (a)(3) of this section are applicable to owners and operators of both general standard and interim status facilities

(d) Where federal rules and regulations adopted by reference under subsection (a) of this section refer to or cite other federal rules and regulations not so adopted, the equivalent department regulations apply. The following examples are provided and if this list does not correlate all referenced federal rules and regulations with applicable department regulations, then the owner or operator shall comply with the federal rule or regulation or obtain the applicable regulation from the department.

(1) 40 Code of Federal Regulations §264.1—§325.331 of this title (relating to Purpose and Scope),

§325.332 of this title (relating to Applicability)

(2) 40 Code of Federal Regulations §§264.111-264.115—§325.338 of this title (relating to Closure and Post-Closure Requirements)

(3) 40 Code of Federal Regulations §264.112—§325.338 of this title (relating to Closure and Post-Closure Requirements)

(4) 40 Code of Federal Regulations §§264.117-264.120—§325.338 of this title (relating to Closure and Post-Closure Requirements)

(5) 40 Code of Federal Regulations §264.178—§325.340 of this title (relating to Use and Management of Containers)

(6) 40 Code of Federal Regulations §264.197—§325.341 of this title (relating to Tanks)

(7) 40 Code of Federal Regulations §264.228—§325.349 of this title (relating to General Standards for Land Disposal Facilities)

(8) 40 Code of Federal Regulations §264.258—§325.349 of this title (relating to General Standards for Land Disposal Facilities)

(9) 40 Code of Federal Regulations §264.280—§325.349 of this title (relating to General Standards for Land Disposal Facilities)

(10) 40 Code of Federal Regulations §264.310—§325.349 of this title (relating to General Standards for Land Disposal Facilities)

(11) 40 Code of Federal Regulations §264.351—§325.346 of this title (relating to Incinerators)

(12) 40 Code of Federal Regulations Part 264, Subpart G—§325.338 of this title (relating to Closure and Post-Closure Requirements)

(13) 40 Code of Federal Regulations §122.15(a)(7)(iii)—§325.350 of this title (relating to Permits)

(14) 40 Code of Federal Regulations §122.25—§325.350 of this title (relating to Permits)

(15) 40 Code of Federal Regulations §124.5—§325.350 of this title (relating to Permits)

(16) 40 Code of Federal Regulations §265.1—§325.331 of this title (relating to Purpose and Scope), §325.332 of this title (relating to Applicability)

(17) 40 Code of Federal Regulations §§265.117-265.120—§325.338 of this title (relating to Closure and Post-Closure Requirements)

(18) 40 Code of Federal Regulations §265.112—§325.338 of this title (relating to Closure and Post-Closure Requirements)

(19) 40 Code of Federal Regulations §265.115—§325.338 of this title (relating to Closure and Post-Closure Requirements)

(20) §3008 RCRA—The Solid Waste Disposal Act, Texas Civil Statutes, Article 4477-7, as amended

(21) Closure requirements of 40 Code of Federal Regulations, Part 264—§325.338 of this title (relating to Closure and Post-Closure Requirements)

(e) The federal regulations adopted by reference in this section are indexed and filed in the Bureau of Solid Waste Management, Texas Department of Health office, located at 1100 West 49th Street, Austin, Texas 78756, and are available for public inspection during regular working hours.

§325.342. *Interim Status Surface Impoundment Facilities.*

(a) Applicability.

(1) These requirements apply to owners and operators of municipal solid waste interim status facilities that have existing surface impoundments which are used not only to store and process hazardous waste, but are also used to dispose of hazardous waste. These requirements apply until such time as the facility is determined by the department to be deficient and does not qualify for permitted status and is subject to enforcement action (see also §325.349 of this title (relating to General Standards for Land Disposal Facilities))

(2) These requirements apply to surface impoundments which have not been designed to prevent discharge onto the land and into groundwater and surface waters (except as authorized by an NPDES permit) and do not meet all other standards established in §325.349 of this title (relating to General Standards for Land Disposal Facilities))

(b) General operating requirements. A surface impoundment must maintain enough freeboard to prevent any overtopping of the dike by overfilling, wave action, or a storm. There must be at least 60 centimeters (two feet) of freeboard.

(c) Containment system. All earthen dikes must have a protective cover such as grass, shale, or rock to minimize wind and water erosion and to preserve their structural integrity.

(d) Waste analysis and trial tests. In addition to the waste analyses required by subsection (b) of §325.333 of this title (relating to General) whenever a surface impoundment is to be used to chemically process a hazardous waste which is substantially different from waste previously processed in that impoundment or chemically process hazardous waste with a substantially different method than any previously used in that impoundment, the owner or operator must, before processing the different waste or using the different method.

(1) conduct waste analyses and trial treatment tests (e.g., bench scale or pilot plant scale tests); or

(2) obtain written, documented information on similar processing of similar waste under similar operating conditions to show that this processing will comply with subsection (f) of §325.333 of this title (relating to General). As required by subsection (b) of §325.333 of this title (relating to General), the waste analysis plan must include analyses needed to comply with subsections (g) and (h) of this section concerning special requirements for ignitable, reactive, and incompatible waste. As required by subsection (c) of §325.336 of this title (relating to Manifest System, Record Keeping, and Reporting), the owner or operator must place the results from each waste analysis and trial test, or the documented information, in the facility operating record.

(e) Inspections. The owner or operator must inspect:

(1) the freeboard level at least once each operating day to ensure compliance with subsection (b) of this section; and

(2) the surface impoundment, including dikes and vegetation surrounding the dike, at least once a week

to detect any leaks, deterioration, or failures in the impoundment.

(3) As required by subsection (d) of §325.333 of this title (relating to General), the owner or operator must remedy any deterioration or malfunction he finds.

(f) Closure and post-closure.

(1) At closure, the owner or operator may elect to remove from the impoundments:

- (A) standing liquids;
- (B) waste and waste residues;
- (C) the liner, if any; and
- (D) underlying and surrounding contaminated soil.

(2) If the owner or operator removes all the impoundment materials listed in paragraph (1) of this subsection or can demonstrate that none of the materials listed in paragraph (1) of this subsection remaining at any stage of removal are hazardous, the impoundment is not further subject to the requirements of surface impoundments. At closure, as throughout the operating period, unless the owner or operator can demonstrate that any solid waste removed from the surface impoundment is not a hazardous waste by §325.300 of this title (relating to Procedure for Petition for Exclusion of Listed Wastes) and that the waste does not exhibit a characteristic of a hazardous waste as set forth in §325.274 of this title (relating to Hazardous Waste Regulated, Exclusions and Exceptions), he becomes a generator of hazardous waste for any waste removed from the facility and must manage it in accordance with all applicable requirements of §§325.291-325.300 of this title (relating to Generators).

(3) If the owner or operator does not remove all the impoundment materials as provided for in paragraph (1) of this subsection, or does not make the demonstration specified in paragraph (2) of this subsection, he must close the impoundment and provide post-closure care as for a landfill under §325.338 of this title (relating to Closure and Post-Closure Requirements) and §325.345 of this title (relating to Interim Status Landfill Facilities). If necessary to support the final cover specified in the approved plan, the owner or operator must treat remaining liquids, residues, and soils by removal of liquids, drying, or other means. The closure requirements under §325.345 of this title (relating to Interim Status Landfill Facilities) will vary with the amount and nature of the residue remaining, if any, and the degree of contamination of the underlying and surrounding soil. Subsection (g) of §325.338 of this title (relating to Closure and Post-Closure Requirements) allows the department to vary post-closure care requirements.

(g) Special requirements for ignitable or reactive wastes. Ignitable or reactive waste must not be placed in a surface impoundment, unless:

(1) the waste is treated, rendered, or mixed before or immediately after placement in the impoundment so that:

(A) the resulting waste, mixture, or dissolution of material no longer meets the definition of ignitable or reactive waste (see 40 Code of Federal Regulations Part 261, Subpart C); and

(B) precautionary requirements under subsection (f) of §325.333 of this title (relating to General) are complied with.

(2) the surface impoundment is used solely for emergencies.

(h) Special requirements for incompatible wastes. Incompatible wastes, or incompatible wastes and materials (see 40 Code of Federal Regulations Part 265, Appendix V, as adopted by reference in subsection (f) of §325.333 of this title (relating to General)) must not be placed in the same surface impoundment unless precautionary requirements under subsection (f) of §325.333 of this title (relating to General) are complied with.

§325.345. *Interim Status Landfill Facilities*

(a) Applicability. These requirements apply to owners and operators of municipal solid waste interim status facilities that dispose of hazardous waste in landfills. These regulations are applicable until such time as a facility is determined by the department to be deficient and does not qualify for permitted status and is subject to enforcement action. A waste pile used as a disposal facility is a landfill and is also governed by these requirements.

(b) General operating requirements.

(1) The owner or operator must design, construct, operate, and maintain a run-on control system capable of preventing flow onto the active portion of the landfill during peak discharge from at least a 24-hour, 25-year storm.

(2) The owner or operator must design, construct, operate and maintain a run-off management system to collect and control at least the water volume resulting from a 24-hour, 25-year storm.

(3) Collection and holding facilities (e.g., tanks or basins) associated with run-on and run-off control systems must be emptied or otherwise managed expeditiously after storms to maintain design capacity of the system.

(4) The owner or operator of a landfill containing hazardous waste which is subject to dispersal by wind must cover or otherwise manage the landfill so that wind dispersal of the hazardous waste is controlled. As required by subsection (b) of §325.333 of this title (relating to General), the waste analysis plan must include analyses needed to comply with subsections (e) and (f) of this section. As required by subsection (c) of §325.336 of this title (relating to Manifest System, Record Keeping, and Reporting), the owner or operator must place the results of these analyses in the operating record of the facility.

(c) Surveying and record keeping. The owner or operator of a landfill must maintain the following items in the operating record required by subsection (c) of §325.336 of this title (relating to Manifest System, Record Keeping, and Reporting)

(1) on a map, the exact location and dimensions, including depth, of each cell with respect to permanently surveyed benchmarks, and

(2) the contents of each cell and the approximate location of each hazardous waste type within each cell.

(d) Closure and post-closure.

(1) The owner or operator must place a final cover over the landfill, and the closure plan under subsection (c) of §325.338 of this title (relating to Closure and Post-Closure Requirements) must specify the function and design of the cover. In the post-closure plan under subsection (h) of §325.338 of this title (relating to Closure

and Post-Closure Requirements), the owner or operator must include the post-closure care requirements of paragraph (4) of this subsection.

(2) In the closure and post-closure plans, the owner or operator must address the following objectives and indicate how they will be achieved:

(A) control of pollutant migration from the facility via groundwater, surface water, and air;

(B) control of surface water infiltration, including prevention of pooling; and

(C) prevention of erosion.

(3) The owner or operator must consider at least the following factors in addressing the closure and post-closure care objectives of paragraph (2) of this subsection:

(A) type and amount of hazardous waste and hazardous waste constituents in the landfill;

(B) the mobility and the expected rate of migration of the hazardous waste and hazardous waste constituents;

(C) site location, topography, and surrounding land use, with respect to the potential effects of pollutant migration (e.g., proximity to groundwater, surface water, and drinking water sources);

(D) climate, including amount, frequency, and pH of precipitation;

(E) characteristics of the cover including material, final surface contours, thickness, porosity and permeability, slope, length of run of slope, and type of vegetation on the cover; and

(F) geological and soil profiles and surface and subsurface hydrology of the site.

(4) In addition to the requirements of subsection (g) of §325.338 of this title (relating to Closure and Post-Closure Requirements) during the post-closure care period, the owner or operator of a hazardous waste landfill must do the following.

(A) maintain the function and integrity of the final cover as specified in the approved closure plan.

(B) maintain and monitor the leachate collection, removal, and treatment system (if there is one present in the landfill) to prevent excess accumulation of leachate in the system. If collected leachate is a hazardous waste as identified by §325.274 of this title (relating to Hazardous Waste Regulated, Exclusions, and Exceptions), it must be managed as a hazardous waste in accordance with all applicable requirements of this subchapter. If the collected leachate is discharged through a point source to waters of the United States, it is subject to the requirements of §402 of the Clean Water Act, as amended.

(C) maintain and monitor the gas collection and control system (if there is one present in the landfill) to control the vertical and horizontal escape of gases.

(D) protect and maintain surveyed benchmarks.

(E) restrict access to the landfill as appropriate for its post-closure use.

(e) Special requirements for ignitable or reactive waste.

(1) Except as provided in paragraph (2) of this subsection and in subsection (h) of this section, ignitable or reactive waste must not be placed in a landfill unless the waste is treated, rendered, or mixed before or im-

mediately after placement in the landfill so that:

(A) the resulting waste, mixture, or dissolution of material no longer meets the definition of ignitable or reactive waste under 40 Code of Federal Regulations §261.21 or §261.23; and

(B) subsection (f) of §325.333 of this title (relating to General) is complied with.

(2) Ignitable wastes in containers may be landfilled without meeting the requirements of paragraph (1) of this subsection provided that the wastes are disposed in such a way that they are protected from any material or conditions which may cause them to ignite. At a minimum, ignitable wastes:

(A) must be disposed in nonleaking containers (also, see subsection (g) of this section regarding requirements for liquid wastes), which are carefully handled and placed so as to avoid heat, sparks, rupture, or any other condition that might cause ignition of the wastes;

(B) must be covered daily with soil or other noncombustible material to minimize the potential for ignition of the wastes; and

(C) must not be disposed in cells that contain or will contain other wastes which may generate heat sufficient to cause ignition of the waste.

(f) Special requirements for incompatible wastes. Incompatible wastes, or incompatible wastes and materials (see 40 Code of Federal Regulations Part 265, Appendix V, as adopted by reference in subsection (f) of §325.333 of this title (relating to General)) must not be placed in the same landfill cell unless subsection (f) of §325.333 of this title (relating to General) is complied with.

(g) Special requirements for liquid waste.

(1) Bulk or noncontainerized liquid waste or waste containing free liquids must not be placed in a landfill unless, before disposal, the liquid waste or waste containing free liquids is treated or stabilized chemically or physically (e.g., by mixing with an absorbent solid) so that free liquids are no longer present.

(2) Containers holding free liquids must not be placed in a landfill unless any of the following apply.

(A) All free-standing liquid:

(i) has been removed by decanting or other methods;

(ii) has been mixed with absorbent or solidified material so that free-standing liquid is no longer observed; or

(iii) had been otherwise eliminated.

(B) The container is very small, such as an ampule.

(C) The container is designed to hold liquids or free liquids for a use other than storage, such as a battery or capacitor.

(D) The container is a lab pack as defined in subsection (h) of this section.

(3) Owners or operators must be in compliance with paragraph (1) of this subsection by November 19, 1981. The date for compliance with paragraph (2) of this subsection is the effective date of these regulations.

(h) Special requirements for containers.

(1) An empty container must be crushed flat, shredded, or similarly reduced in volume before it is buried beneath the surface of a landfill.

(2) Owners or operators must be in compliance with the requirement in paragraph (1) of this subsection by November 19, 1981.

(3) Small containers of hazardous waste in over-packed drums (lab packs) may be placed in a landfill if the following requirements are met:

(A) Hazardous waste must be packaged in nonleaking inside containers. The inside containers must be of a design and constructed of a material that will not react dangerously with, be decomposed by, or be ignited by the waste held therein. Inside containers must be tightly and securely sealed. The inside containers must be of the size and type specified in the Department of Transportation (DOT) hazardous materials regulations (see 49 Code of Federal Regulations Parts 173, 178, and 179) if those regulations specify a particular inside container for the waste.

(B) The inside containers must be overpacked in an open head DOT-specification metal shipping container (see 49 Code of Federal Regulations Parts 178 and 179) of no more than 416-liter (110 gallon) capacity and surrounded by, at a minimum, a sufficient quantity of absorbent material to completely absorb all of the liquid contents of the inside containers. The metal outer container must be full after packing with inside containers and absorbent material.

(C) The absorbent material used must not be capable of reacting dangerously with, being decomposed by, or being ignited by the contents of the inside containers in accordance with subsection (f) of §325.333 of this title (relating to General).

(D) Incompatible wastes, as defined in 40 Code of Federal Regulations §260.10(a), must not be placed in the same outside container.

(E) Reactive waste, other than cyanide or sulfide-bearing waste as defined in 40 Code of Federal Regulations §261.23, must be treated or rendered nonreactive prior to packaging in accordance with subparagraphs (A)-(D) of this paragraph. Cyanide and sulfide-bearing reactive waste may be packaged in accordance with subparagraphs (A)-(D) of this paragraph without first being treated or rendered nonreactive.

(i) Removal of hazardous wastes. Throughout the operating period, at closure, or during the post-closure period unless the owner or operator can demonstrate that any solid waste removed from a land treatment site is not hazardous by §325.300 of this title (relating to Procedure for Petition for Exclusion of Listed Wastes) and that the waste does not exhibit a characteristic of a hazardous waste as set forth in §325.274 of this title (relating to Hazardous Waste Regulated, Exclusions, and Exceptions), the owner or operator becomes a generator of hazardous waste for waste removed from the facility and must manage it in accordance with all applicable requirements of §§325.291-325.300 this title (relating to Generators).

§325.349. General Standards for Land Disposal Facilities.

(a) Purpose, scope, and applicability.

(1) This section establishes minimum standards for the management of new or permitted municipal solid waste land disposal facilities for disposal of hazardous

waste and for groundwater protection for those facilities.

(2) This section applies to owners and operators of new or permitted municipal solid waste landfills, surface impoundments, waste piles, and land treatment facilities to be used for disposal of hazardous waste.

(b) Application of other regulations. The regulations contained in §325.331 of this title (relating to Purpose and Scope), §325.332 of this title (relating to Applicability), §325.333 of this title (relating to General), §325.334 of this title (relating to Preparedness and Prevention), §325.335 of this title (relating to Contingency Plan and Emergency Procedures), §325.336 of this title (relating to Manifest System, Record Keeping, and Reporting), §325.337 of this title (relating to Groundwater Monitoring Requirements for Interim Status Facilities), §325.338 of this title (relating to Closure and Post-Closure Requirements), §325.339 of this title (relating to Financial Requirements), and §325.350 of this title (relating to Permits) are applicable to owners and operators of facilities subject to this section.

(c) Standards for owners and operators of land disposal facilities

(1) Except as otherwise provided in this section and to the extent consistent with the Solid Waste Disposal Act, Texas Civil Statutes, Article 4477-7, and other rules of this chapter, the department adopts by reference the following EPA regulations:

(A) 40 Code of Federal Regulations Part 264, Subpart F, Groundwater Protection, July 26, 1982;

(B) 40 Code of Federal Regulations Part 264, Subpart K, Surface Impoundments, July 26, 1982;

(C) 40 Code of Federal Regulations Part 264, Subpart L, Waste Piles, July 26, 1982;

(D) 40 Code of Federal Regulations Part 264, Subpart M, I and Treatment, July 26, 1982;

(E) 40 Code of Federal Regulations Part 264, Subpart N, Landfills, July 26, 1982, except for 40 Code of Federal Regulations §264.314(a)(1);

(F) 40 Code of Federal Regulations Part 264, Appendix IV, July 26, 1982;

(G) 40 Code of Federal Regulations Part 264, Appendix V, January 12, 1981.

(2) Unless the context of the rules and regulations adopted under paragraph (1) of this subsection indicate otherwise, the following substitution of terms will be made.

(A) Texas Department of Health (TDH) will be used in lieu of U.S. Environmental Protection Agency (EPA).

(B) For regional administrator substitute commissioner of health, Texas Department of Health, or department (consistent with the duties and responsibilities of the commissioner of health and delegated authorities within the department) will be used in lieu of regional administrator.

(3) Where reference is made within the body of the rules and regulations adopted under paragraph (1) of this subsection to other federal rules and regulations not so adopted, the equivalent department regulations apply. The following examples are provided. If this list does not correlate all referenced federal rules and regulations with applicable department regulations, then the owner or operator shall comply with the referenced federal rules

or regulations or obtain the applicable regulations from the department.

(A) 40 Code of Federal Regulations §264.1—§325.331 of this title (relating to Purpose and Scope), §325.332 of this title (relating to Applicability)

(B) 40 Code of Federal Regulations, Part 261, Appendix VIII—None, use 40 Code of Federal Regulations, Part 261, Appendix VIII

(C) 40 Code of Federal Regulations §§264.117-264.120—§325.338 of this title (relating to Closure and Post-Closure Requirements)

(D) 40 Code of Federal Regulations §264.112-§325.338 of this title (relating to Closure and Post-Closure Requirements)

(E) 40 Code of Federal Regulations §261.21—§325.272 of this title (relating to Definitions of Terms and Abbreviations, i.e., Ignitability)

(F) 40 Code of Federal Regulations §261.3(d)—§325.272 of this title (relating to Definitions of Terms and Abbreviations, i.e., Hazardous Waste)

(G) 40 Code of Federal Regulations §261.23—§325.272 of this title (relating to Definitions of Terms and Abbreviations, i.e., Reactivity)

(H) 40 Code of Federal Regulations §261.23(a)(5)—§325.272 of this title (relating to Definitions of Terms and Abbreviations, i.e., Hazardous Waste)

(I) 40 Code of Federal Regulations §264.142—§325.339 of this title (relating to Financial Requirements)

(J) 40 Code of Federal Regulations §264.144—§325.339 of this title (relating to Financial Requirements)

(K) 40 Code of Federal Regulations §264.17(b)—§325.333(f) of this title (relating to General)

(L) 40 Code of Federal Regulations §122.27(c)—§325.350 of this title (relating to Permits)

(M) 40 Code of Federal Regulations §122.35—None, use 40 Code of Federal Regulations §122.35

(N) 40 Code of Federal Regulations §264.15—§325.333(d) of this title (relating to General)

(O) 40 Code of Federal Regulations §264.73—§325.336(c) of this title (relating to Manifest System, Record Keeping, and Reporting)

(P) 40 Code of Federal Regulations §260.10—§325.272 of this title (relating to Definitions of Terms and Abbreviations)

(4) The federal regulations adopted by reference in this subsection are indexed and filed in the Bureau of Solid Waste Management, Texas Department of Health office, located at 1100 West 49th Street, Austin, Texas 78756, and are available for public inspection during regular working hours.

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

Issued in Austin, Texas, on January 4, 1983.

TRD-830127

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

Effective date: January 26, 1983

Proposal publication date: N/A

For further information, please call (512) 475-7236.

TITLE 28. INSURANCE

Part I. State Board of Insurance

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

Life, Accident, and Health Insurance Indeterminate Premium Reduction Policies

059.03.50.003, .008, .011

The State Board of Insurance adopts amendments to Rule 059.03.50.003, with changes, and Rules 059.03.50.008 and .011, without changes to the proposed text published in the September 14, 1982, issue of the *Texas Register* (7 TexReg 3315). The text of Rules .008 and .011 will not be republished.

Rule 059.03.50.003(b) is amended to permit a statement as to likely future charges if the statement is made on the basis of current, stated, and official company projections. However, the insurer or agent must explain the basis of any such statement if requested to do so by a prospective applicant. Heretofore, this section permitted only certain statements concerning a possible or likely future charge. Rule 059.03.50.008 is amended so that the requirement for minimum non-forfeiture values for indeterminate premium reduction policies is made applicable to certain group policies as authorized by the Texas Insurance Code, Article 3.50, §2. Rule 059.03.50.011 is amended so that a failure to abide by the representations and disclosure provisions of the rules could lead to a withdrawal of approval of policy forms and denial of approval of subsequently filed forms. Before the amendment, the rule provided that a failure to follow any of the rules could lead to that result. The State Board of Insurance believes the new amendments will more adequately conform the rules to existing laws.

No comments were received regarding the adoption of the amendments to Rules .008 and .011.

Three companies made comments opposing the amendment to Rule 059.03.50.003(b). Southland Life Insurance Company suggested the requirement that an insurer or agent disclose that the basis of any illustration of possible future premiums will be made available upon request is vague, because it is not clear exactly how much disclosure is required. The commentator went on to assert that a very detailed disclosure could be difficult or impossible to understand for most persons. Southwestern Life Insurance Company objects to disclosing specific assumptions used in an illustration of possible future premiums because it does not want to publicly disclose current pricing assumptions which would be used in the illustration; it believes few insureds would understand the significance of the illustrations. State Farm Life

Insurance Company objects to Rule .003(b) on the grounds that the rule change would require reprinting advertising or proposal forms to include a disclosure that an explanation of the basis of any illustration of future premiums will be made available upon the request of a prospective insured.

State Farm Life Insurance Company questioned the deletion of subsection (c) of Rule 059.03.50.003. The deletion of the subsection was an error as submitted to the *Texas Register*. The subsection will remain as part of the rule.

The staff of the State Board of Insurance commented in favor of the amendments.

The State Board of Insurance disagrees with comments by Southland Life Insurance Company and Southwestern Life Insurance Company. In most cases, an explanation could be given without difficulty which would be reasonably complete and understandable and which would permit the prospective purchaser to compare the assertion with what other insurers are saying or with his or her own information. For example, if the insurer says it believes interest rates will remain high, the prospective purchaser may or may not agree. Undoubtedly, a detailed statement of a factor such as the insurer's current mortality assumptions would not be understandable or necessary in most instances, but could be useful to a sophisticated buyer. The rule simply requires that the prospective insured be told if he or she wants to know how the insurer is estimating future charges. The State Board of Insurance believes, in view of the necessarily uncertain nature of possible future premiums for this type of policy, full disclosure of any estimate of those premiums which the insurer uses in marketing its product to a prospective insured is desirable.

The State Board of Insurance did, however, make some changes from the proposal. There will be no necessity to include in advertising or other marketing material a statement that such an explanation is available. The rule will simply require that an explanation be given if requested.

Moreover, the words "interested person" in the rule were changed to "prospective applicant." Any problem along the lines of the comment by State Farm Life Insurance Company will be taken care of by this change in the rule.

These amendments are adopted under authority of several statutes. The Texas Insurance Code, Article 21.21, §13, provides the State Board of Insurance with extensive authority to promulgate rules to require disclosure and otherwise insure that the public receives an accurate impression of insurance coverage. The Texas Insurance Code, Article 3.42, specifies standards pursuant to which the board approves, disapproves, or withdraws approval of the policies of the nature covered by these rules. The Texas Insurance Code, Article 3.44a, §9, authorizes the board to promulgate rules to govern nonforfeiture values of policies of the type covered by these rules. The Texas Insurance Code, Article 3.50, §2, requires that group life insurance on other than the term plan contain equitable nonforfeiture benefits. Texas Civil Statutes, Article 6252-13a, §4, and other authority permits the board to pass procedural rules which are necessary for the board to exercise its substantive authority and duties.

.003 Solicitation and Advertising

(a) (No change.)

(b) No insurer or agent may, in marketing an indeterminate premium reduction policy, mention, illustrate, or refer in any fashion to any possible or likely specific future charge for the coverage unless the illustration, mentioning, or reference is made on the basis of current, stated, and official company projections such as interest, persistency, mortality, or expense factors. Upon request of a prospective applicant, the insurer or agent must provide an explanation of the basis of any illustration.

(c) If nonguaranteed premium rates are displayed in advertising and disclosure material, the maximum premium rate(s) must be displayed with equal prominence.

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

Issued in Austin, Texas, on January 5, 1983.

TRD-830121

James W. Norman
Chief Clerk
State Board of Insurance

Effective date: January 27, 1983

Proposal publication date: September 14, 1982

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

Agencies with statewide jurisdiction must give at least seven days notice before an impending meeting. Institutions of higher education or political subdivisions covering all or part of four or more counties (regional agencies) must post notice at least 72 hours prior to a scheduled meeting time. 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*.

Open Meetings

Texas Board of Architectural Examiners

Friday, January 21, 1983, 9 a.m. The Texas Board of Architectural Examiners will meet at 8213 Shoal Creek Boulevard, #107, Austin. Items on the agenda summary include approval of minutes, revocations, nonpayment of the renewal fee, legislation, rules and regulations, examinations, reinstatements, reciprocal registrations, policy statements, alleged violations, and election of officers.

Contact: Philip D. Creer, 8213 Shoal Creek Boulevard, #107, Austin, Texas 78758, (512) 458-1363.

Filed: January 11, 1983, 10:04 a.m.
TRD-830261

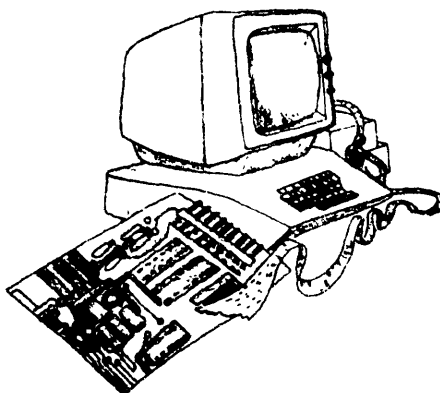
Texas Commission on the Arts

Wednesday, January 19, 1983, 9:30 a.m. The Assistance Review Committee of the Texas Commission on the Arts will meet in the commission offices, fifth floor, E.O. Thompson Building, 920 Colorado, Austin. Items on the agenda include approval of the minutes of the November 3, 1982, meeting, and review of financial assistance applica-

tions deferred from the November 18, 1982, commission meeting.

Contact: Margaret I. Dahl, P.O. Box 13406, Austin, Texas 78711, (512) 475-6593.

Filed: January 10, 1983, 8:11 a.m.
TRD-830207



Automated Information Systems Advisory Council

Thursday, January 20, 1983, 9 a.m. The Board of the Automated Information Systems Advisory Council will meet in Room 100-C, John H. Reagan Building,

Austin. According to the agenda, the board will consider approval of the minutes of previous meetings and procurement proposals and will review Phase II of the Statewide Operating Audit.

Contact: Charlotte Craig, John H. Reagan Building, Room 313, Austin, Texas, (512) 475-2362

Filed: January 6, 1983, 2:20 p.m.
TRD-830144

Texas Board of Chiropractic Examiners

Thursday-Saturday, January 20-22, 1983, 10 a.m. Thursday, 9 a.m. daily Friday and Saturday. The Texas Board of Chiropractic Examiners will meet in Building C-245, 1300 East Anderson Lane, Austin. Items on the agenda include registration of licensees, licensure exam; enforcement hearings, review of applications by endorsement, discussion of applications from foreign countries; election of officers, presentation on behalf of the Texas Council of Chiropractic Orthopedists; budget discussion, general board business, and license renewals. The board will also conduct licensure exams at

the Department of Public Safety (Homer Garrison Building) on Wednesday-Saturday, January 19-21, 1983. Registration is at 8 a.m. Wednesday, with exams beginning at 9 a.m. Wednesday, 9:30 a.m. Friday, and 8:30 a.m. Saturday.

Contact: Edna A. Parsons, 5555 North Lamar Boulevard, Building H-103, Austin, Texas 78751, (512) 835-2006.

Filed: January 10, 1983, 10:36 a.m.
TRD-830217

Texas Department of Community Affairs

Tuesday, January 18, 1983, 9 a.m. The Private Industry Council of the Texas Department of the Employment and Training Division of the Texas Department of Community Affairs will meet in the first floor auditorium, 2015 IH 35 South. Items on the agenda include approval of the November 5 meeting minutes; approval of the December 3 Executive Committee minutes; review and approval of modification #1 and #2 to the balance of state annual plan; LFWF project presentation; update on Avante International Corporation contract; Alliance 1983 presentation; first quarter (fiscal year 1983) contractor performance review, participant contracts, non-participant contracts, recommendations for utilization of the Title VII carry-in funds; legislative update; CETA update on continuing resolution; and JTPA update.

Contact: Aurora Carvajal, 2015 IH 35 South, Austin, Texas, (512) 443-4100, ext. 273.

Filed: January 7, 1983, 4:04 p.m.
TRD-830205

Texas Department of Corrections

Monday, January 10, 1983, 8 a.m. The Board of the Texas Department of Corrections made an emergency addition to the agenda of a meeting held in Room 103, Administration Building, 815 11th Street, Huntsville. The addition concerned the Windham School System Textbook Selection Committee for the 1982-1983 school year. The emergency status was necessary to select textbooks for the 1983-1984 school year.

Contact: W. J. Estelle, Jr., P.O. Box 99,

Huntsville, Texas 77340, (713) 295-6371, ext. 160.

Filed: January 7, 1983, 1:59 p.m.
TRD-830198

Texas State Board of Dental Examiners

Wednesday and Thursday, January 26 and 27, 1983, 8 a.m. daily. The Texas State Board of Dental Examiners will meet at the Hyatt Regency Hotel, Dallas. Items on the agenda summary include disciplinary hearings; discussion of the foreign graduate rule; a request to retake the bench exam; the Greater Houston dental meeting; 1983 examination dates; proposed changes to the Dental Practice Act and bills introduced; needed revisions to the board rules; an anesthesia questionnaire; the proposed budget for 1984-1985; a rule amendment to allow dental hygienists to administer nitrous oxide; a request for approval of a nicotine withdrawal clinic; approval of anesthesia and anesthetic agent applications; approval of honorary retired dentists and dental hygienists; an audience with Dr. Karl W. Knewitz; recognizing and listening to members of the public and the profession; and miscellaneous business items. If all agenda items are not completed by January 27, the board will also meet on January 28, 1983.

Contact: Carol McPherson, P.O. Box 13165, Austin, Texas 78711, (512) 475-2443.

Filed: January 7, 1983, 2:22 p.m.
TRD-830199

Texas Education Agency

Friday, January 7, 1983, 10 a.m. The State Board of Education Special Ad Hoc Committee made an emergency addition to the agenda of a meeting held in Room 101, 1200 East Anderson Lane, Austin. The addition concerned a report to the Legislative Budget Board and to the governor's budget office concerning a standardized reporting format for regional education service centers. The emergency status was necessary to insure adequate preparation time for the reports and their usefulness once they have been prepared.

Contact: Raymon L. Bynum, 201 East 11th Street, Austin, Texas 78701.

Filed: January 6, 1983, 11:53 a.m.
TRD-830128

Saturday, January 8, 1983, 8:30 a.m. The State Board of Education of the Texas Education Agency made an emergency addition to the agenda of a meeting held in the board room, 1200 East Anderson Lane, Austin. The addition concerned a report to the Legislative Budget Board and to the governor's budget office concerning a standardized reporting format for regional education service centers. The emergency status was necessary to insure adequate preparation time for the reports and their usefulness once they have been prepared.

Contact: Raymon L. Bynum, 201 East 11th Street, Austin, Texas 78701.

Filed: January 6, 1983, 11:54 a.m.
TRD-830129

Friday, January 21, 1983, 9 a.m., and Thursday, January 27, 1983, 9 a.m. The Public School Boards of Trustees Advisory Committee and the Public School Professional Personnel Advisory Committee of the State Board of Education of the Texas Education Agency will meet in Committee Room 100, 1200 East Anderson Lane, Austin, on January 21 and January 27, respectively. Items on the agenda for both meetings include preliminary documents concerning House Bill 246, 67th Legislature; and receipt of a vocational study, House Concurrent Resolution 2, as submitted by Research Triangle Institute.

Contact: Cis Myers, 201 East 11th Street, Austin, Texas 78701, (512) 475-4536.

Filed: January 6, 1983, 11:55 a.m.
TRD-830130, 830131

The Ad Hoc Committee to Study Textbook Adoption Procedures of the State Board of Education of the Texas Education Agency will meet in the board room, Texas Education Agency North Building, 1200 East Anderson Lane, Austin. Days, times, and agendas follow.

Friday, February 4, 1983, 9 a.m. The committee will review and discuss current textbook adoption procedures including selection of State Textbook Committee members and reimbursement for committee member expenses. This committee will reconvene to review and discuss testimony, discuss textbook adoption procedures including those concerning the State Textbook Committee, and develop recommendations for change. The committee will reconvene at the conclusion of the public hearing on textbook adoption procedures which begins at 8:30 a.m. on Saturday, February 5, 1983, or if time does not permit on Saturday, the committee will reconvene on Sunday, February

6, 1983, at a time to be announced by the chairman at the conclusion of the public hearing.

Saturday, February 5, 1983, 8:30 a.m. There will be a public hearing on the textbook adoption process including selection of State Textbook Committee members. Persons interested in testifying must notify Cis Myers, Deputy Commissioner for Interagency Coordination, Policy Development, and Communication Services, at 201 East 11th Street, Austin, Texas 78701, in writing by 5 p.m. on Tuesday, February 1, 1983. The chairman of the ad hoc committee will establish time limits for presentations based upon the number of persons who have indicated a desire to testify. Written testimony may be submitted and all persons testifying are encouraged to bring a written copy of their testimony for use by the ad hoc committee members. Testimony must be limited to the textbook adoption process and should not address individual textbooks or subject areas which have been or are being considered by the State Board of Education.

Contact: Cis Myers, 201 East 11th Street, Austin, Texas 78701, (512) 475-4536.

Filed: January 11, 1983, 8:40 a.m.
TRD-830256, 830257

Firemen's Pension Commissioner

Wednesday, January 19, 1983, 10 a.m. The Administrative Division of the Office of the Firemen's Pension Commissioner will meet in Room 503G, Sam Houston Building, Austin. According to the agenda, the board of trustees will discuss the pension plan, Senate Bill 411, Texas Civil Statutes, Article 6243e.3.

Contact: Hal H. Hood, Sam Houston Building, Room 503F, Austin, Texas, (512) 475-5879.

Filed: January 10, 1983, 9:57 a.m.
TRD-830213

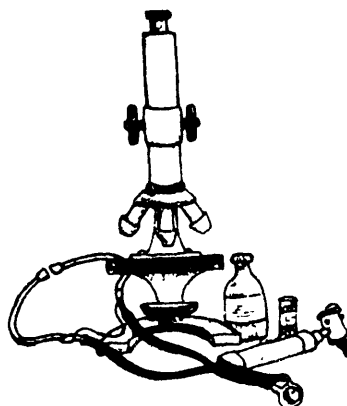
Fireman's Training School Advisory Board

Saturday, January 15, 1983, 11 a.m. The Fireman's Training School Advisory Board will meet in Room 601, Rudder Tower, Texas A&M University, College Station. According to the agenda the board will consider a resolution commending Dr. John

C. Calhoun, Jr., for service to the Texas Firemen's Training School.

Contact: Henry D. Smith, Fire Protection Training Division, Texas Engineering Extension Service, Texas A&M University System, College Station, Texas 77843.

Filed: January 10, 1983, 10:30 a.m.
TRD-830215



Texas Department of Health

Saturday, January 15, 1983, 9:30 a.m. The Texas Board of Health of the Texas Department of Health will meet in Room T-610, 1100 West 49th Street, Austin. Items on the agenda include approval of the minutes of the December 11, 1982 meeting; the commissioner's report, an update on the activities of the Hospital Licensing Advisory Committee; a progress report on management by objectives; final adoption of the rule concerning a memorandum of understanding with the Texas Department of Water Resources on the regulation of *in situ* uranium mining; approval of a resolution in memory of Dr. Fred G. Conrad; a Legislative Committee report on approval of draft legislation for the department's 68th legislative package; Personnel Committee reports on a request for continuation of employment beyond age 70 and appointments to the Kidney Health Care Advisory Committee; election of secretary of the Board of Health; announcements and comments (no Board of Health action required); and the meeting date for February 1983. The board will also meet in executive session.

Contact: Gary A. Fuchs, 1100 West 49th Street, Austin, Texas, (512) 458-7484.

Filed: January 7, 1983, 3:59 p.m.
TRD-830204

Tuesday, January 25, 1983, 9:30 a.m. The Texas Department of Health will meet at

the Community Center, U.S. Highway 83, Zapata. According to the agenda, a public hearing will be held to consider Application 1528 of Zapata County to operate a proposed Type II municipal solid waste disposal site to be located 3.2 miles northwest of U.S. Highway 83, State Highway 16 intersection in Zapata, 900 feet southwest of U.S. Highway 83 and adjacent to the southeast side of a county road, in Zapata County.

Contact: Jack C. Carmichael, 1100 West 49th Street, Austin, Texas, (512) 458-7271.

Filed: January 6, 1983, 2:27 p.m.
TRD-830149

Friday, January 28, 1983, 10 a.m. The Sanitarian Advisory Committee of the Texas Department of Health will meet in Room T-803, 1100 West 49th Street, Austin. Items on the agenda summary include election of new officers; minutes of the August 20, 1982, meeting; discussion of the grandfather clause by Sam Sanchez, R.S., San Antonio, pending applications; budget and activity report; and proposed revisions of job descriptions of the sanitarian series.

Contact: Charles E. McEntire, 1100 West 49th Street, Austin, Texas, (512) 458-7536.

Filed: January 6, 1983, 2:27 p.m.
TRD-830150

Texas Health Facilities Commission

Friday, January 21, 1983, 9:30 a.m. The Texas Health Facilities Commission will meet in Suite 305, Jefferson Building, 1600 West 38th Street, Austin. According to the agenda summary, the commission will consider the following applications.

- Certificate of Need
 - Carrollton General Hospital, Carrollton
AH82-0701-092
 - Gulf Coast Center, Rosenberg
AH81-1002-030
 - Wysong Memorial Hospital, McKinney
AH82-0917-039
 - Zapata Family Clinic, Zapata
AO82-0727-081
 - Texoma Medical Center, Denison
AH82-0915-035

Contact: John R. Neel, P.O. Box 50049, Austin, Texas 78763.

Filed: January 10, 1983, 9:29 a.m.
TRD-830211

Texas Register

State Board of Insurance

The Commissioner's Hearing Section of the State Board of Insurance will conduct public hearings in Room 342, 1110 San Jacinto Street, Austin. The days, times, and dockets are as follows.

Monday, January 17, 1983, 1:30 p.m. Docket 7056—authority to issue variable annuity contracts of Security First Life Insurance Company, Los Angeles, California.

Contact: John Brady, 1110 San Jacinto Street, Austin, Texas 78786, (512) 475-2287

Filed: January 7, 1983, 12:48 p.m.
TRD-830197

Tuesday, January 18, 1983, 9:30 a.m. Docket 7038—application for approval of charter amendment increasing the capital stock of National Motor Club Life and Accident Insurance Company, Dallas.

Contact: J. C. Thomas, 1110 San Jacinto Street, Austin, Texas 78786, (512) 475-4353.

Filed: January 10, 1983, 1:56 p.m.
TRD-830225

Thursday, January 20, 1983, 9:30 a.m. Docket 7064—application for certificate of authority of AG Workers Life Insurance Company, Fort Worth.

Contact: J. C. Thomas, 1110 San Jacinto Street, Austin, Texas 78786, (512) 475-4353.

Filed: January 10, 1983, 1:57 p.m.
TRD-830226

Thursday, January 20, 1983, 10:30 a.m. Docket 7067—reinsurance transaction by Lawyers Title Insurance Corporation and Safeco Title Insurance Company, both of Dallas.

Contact: John Brady, 1110 San Jacinto Street, Austin, Texas 78786, (512) 475-2287.

Filed: January 10, 1983, 1:57 p.m.
TRD-830227

Thursday, January 20, 1983, 2 p.m. Docket 7057—revocation of insurance licenses issued to George F. Rice.

Contact: J. C. Thomas, 1110 San Jacinto Street, Austin, Texas 78786, (512) 475-4343.

Filed: January 10, 1983, 2:01 p.m.
TRD-830228

Friday, January 21, 1983, 9 a.m. Docket 7022—whether the license issued to Abundio Rodriguez should be cancelled or revoked.

Friday, January 21, 1983, 1:30 p.m. Docket 7059—application for original charter of

Diamond Life Insurance Company, Fort Worth.

Contact: J. C. Thomas, 1110 San Jacinto Street, Austin, Texas 78786, (512) 475-4353.

Filed: January 10, 1983, 2:01 p.m.
TRD-830229, 830230

Friday, January 21, 1983, 1:30 p.m. Docket 7070—application of Shannon Life Insurance Company, Fort Worth, to purchase its own stock and application for approval of an extraordinary dividend.

Contact: John Brady, 1110 San Jacinto Street, Austin, Texas 78786, (512) 475-2287.

Filed: January 10, 1983, 2:01 p.m.
TRD-830231

Texas State Board of Physical Therapy Examiners

Friday, February 4, 1983, 9 a.m. The Texas State Board of Physical Therapy Examiners will meet in Suite 260, Building C, 1300 East Anderson Lane, Austin. Items on the agenda include enforcement hearings, reports from Investigation, Education, and Rules Committees, and miscellaneous items.

Contact: Lois M. Smith, 1300 East Anderson Lane, Building C, Suite 260, Austin, Texas 78752, (512) 835-1846.

Filed: January 7, 1983, 10:27 a.m.
TRD-830168

Texas State Board of Podiatry Examiners

Thursday-Saturday, January 20-22, 1983, 11 a.m., 9 a.m., and 8 a.m., respectively. The Texas State Board of Podiatry Examiners will meet in Suite 503, Joe C. Thompson Center, Executive Office Building, The University of Texas at Austin, Austin. The board will meet on January 20, 1983, at 11 a.m. to conduct routine board business which will include a discussion of an appointment made by the governor of a public member, request for license reinstatement, proposed rule amendments on anesthesia, suspension of licenses of renewals not paid in 1982-1983, and the use of assumed names under which a podiatrist may practice. On January 21, 1983, at 9 a.m., the board will conduct examinations for licensure, and on January 22, 1983, at

8 a.m., oral examinations will be completed, followed by compiling of the grades by the board member.

Contact: J. C. Littrell, D.P.M., 411 West 13th Street, #504, Austin, Texas 78701, (512) 475-1770.

Filed: January 10, 1983, 10:35 a.m.
TRD-830216

Texas State Board of Examiners of Psychologists

Thursday-Saturday, January 20-22, 1983, 9 a.m. daily. The Texas State Board of Examiners of Psychologists will meet in Suite C-270, 1300 East Anderson Lane, Austin. Items on the agenda include ethical principles, HSP training settings, substantial equivalency, rehabilitation guidelines, jurisprudence exams, supervision guidelines, House Bill 247, testimony of a psychological associate in court, retention of records, travel approval, rules, complaint files, opinion letters, reference letters, application files, a revocation hearing for Frank Wichern, Ph.D., psychologist, a meeting with the IPA Executive Committee, and minutes.

Contact: Patti Bizzell, 1300 East Anderson Lane, Suite C-270, Austin, Texas 78752, (512) 458-3295.

Filed: January 10, 1983, 2:35 p.m.
TRD-830236

Public Utility Commission of Texas

The Hearings Division of the Public Utility Commission of Texas will meet in Suite 450N, 7800 Shoal Creek Boulevard, Austin. The days, times, and dockets follow.

Friday, January 14, 1983, 9 a.m. A prehearing conference in Docket 4920—application of Wood County Electric Cooperative, Inc., for a rate increase.

Contact: Carolyn E. Shellman, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

Filed: January 6, 1983, 2:53 p.m.
TRD 830145

Friday, January 14, 1983, 10 a.m. A prehearing conference in Docket 3896—application of Texland Electric Company for

a certificate of convenience and necessity for Texland Generating Units 1, 2, and 3.

Contact: Carolyn E. Shellman, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100

Filed: January 6, 1983, 2:21 p.m.
TRD-830146

Friday, January 14, 1983, 1:30 p.m. An emergency prehearing conference in Docket 4910—application of Kayo Services, Inc., for authority to change water rates. The emergency status is necessary so that this docket can be processed in accordance with statutory deadlines.

Contact: Carolyn E. Shellman, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100

Filed: January 7, 1983, 2:22 p.m.
TRD-830200

Tuesday, January 18, 1983, 9 a.m. A prehearing conference in Docket 4912—complaint of Ray Benson Serfert against Apache Shores Utility Company.

Contact: Carolyn E. Shellman, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100

Filed: January 7, 1983, 10:33 a.m.
TRD-830163

Tuesday, January 18, 1983, 10 a.m. A prehearing conference in Docket 4916—application of Water Services, Inc., doing business as Suburban Water Services Company for a rate increase.

Contact: Carolyn E. Shellman, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100

Filed: January 7, 1983, 10:28 a.m.
TRD-830164

Thursday, January 20, 1983, 2:30 p.m. A prehearing conference in Docket 4827—petition for review of action by the City of Brownsville affecting the rates of the public utilities board of the Public Utilities Board of Brownsville.

Contact: Carolyn E. Shellman, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100

Filed: January 6, 1983, 2:21 p.m.
TRD-830147

Monday, January 24, 1983, 9 a.m. A rescheduled prehearing in Docket 4912—complaint of Ray Benson Serfert against Apache Shores Utility Company. The hearing was originally scheduled for January 18, 1983.

Contact: Carolyn E. Shellman, 7800 Shoal

Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

Filed: January 11, 1983, 9:46 a.m.
TRD-830262

Tuesday, January 25, 1983, 9 a.m. A prehearing conference in Docket 4921—inquiry into the rate increase of M & S Water System.

Contact: Carolyn E. Shellman, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100

Filed: January 10, 1983, 2:35 p.m.
TRD-830233

Tuesday, January 25, 1983, 1:30 p.m. A prehearing conference in Docket 4902—inquiry into the legality of services, practices, and rates of Cresson Water Works.

Contact: Carolyn E. Shellman, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100

Filed: January 7, 1983, 10:29 a.m.
TRD-830165

Tuesday, January 25, 1983, 3 p.m. A prehearing conference in Docket 4803—complaint of Robert M. Tasky against Gulf Utility Company, doing business as Iki Island.

Contact: Carolyn E. Shellman, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100

Filed: January 6, 1983, 2:21 p.m.
TRD-830148

Friday, January 28, 1983, 2 p.m. A prehearing in Docket 4892—application of Cedar Bend Subdivision for a certificate of convenience and necessity to provide water utility service within Chambers County.

Contact: Carolyn E. Shellman, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100

Filed: January 10, 1983, 2:37 p.m.
TRD-830234

Wednesday, February 2, 1983, 9 a.m. An open meeting held on January 5, 1983, will reconvene. The commissioners will continue discussion and vote on proposed amendments to 16 TAC §23.3 (052.02.01.013), §23.11 (052.02.02.021), §23.23 (052.02.03.033), and §23.36 (052.02.04.046).

Contact: Carolyn E. Shellman, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100

Filed: January 7, 1983, 3:13 p.m.
TRD-830203

Thursday, February 3, 1983, 9 a.m. A prehearing conference in Docket 4888—application of Wellman Development Water System for a certificate of convenience and necessity to provide water utility service within Marion County.

Contact: Carolyn E. Shellman, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100

Filed: January 10, 1983, 10:36 a.m.
TRD-830218

Thursday, February 24, 1983, 9 a.m. A hearing on the merits in Docket 4821—inquiry into the legality of rates charged and water services rendered by Canyon Oaks Mobile Home Park.

Contact: Carolyn E. Shellman, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100

Filed: January 11, 1983, 9:57 a.m.
TRD-830263

Thursday, February 24, 1983, 10 a.m. A prehearing conference in Docket 4909—application of Houston Lighting and Power Company for approval of payments to affiliates for the estimated cost of affiliate fuel and fuel-related electric services.

Contact: Carolyn E. Shellman, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100

Filed: January 11, 1983, 9:46 a.m.
TRD-830264

Tuesday, March 1, 1983, 10 a.m. A hearing on the merits in Docket 4909—application of Houston Lighting and Power Company for approval of payments to affiliates for the estimated cost of affiliate fuel and fuel-related electric services.

Contact: Carolyn E. Shellman, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

Filed: January 11, 1983, 9:47 a.m.
TRD-830265

Wednesday, March 9, 1983, 10 a.m. A hearing in Docket 4919—application of Dewitt County Electric Cooperative, Inc., for authority to increase electric rates.

Contact: Carolyn E. Shellman, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100

Filed: January 10, 1983, 2:34 p.m.
TRD-830235

Monday, March 17, 1983, 9 a.m. A hearing on the merits in Dockets 4726, 4727, and 4728—applications of Dallas Power and Light Company, Texas Power and Light

Texas Register

Company, and Texas Electric Service Company for approval of passthrough of affiliate charges

Contact: Carolyn E. Shellman, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

Filed: January 11, 1983, 9 56 a.m.
TRD-830266

Railroad Commission of Texas

Monday, January 10, 1983, 9 a.m. The Transportation Division of the Railroad Commission of Texas met in emergency session in Room 107, first floor auditorium, 1124 IH 35 South, Austin. According to the agenda, the commission considered a final order in Docket 02785BA1N—application of Blue Marine Transportation, Inc., 1717 East Loop, Suite 337, Houston, Texas 77024, for a new motor bus certificate to authorize the transportation of ship crews, shipping company personnel, and repair as set forth more fully in Notice 7977. This matter was properly noticed for consideration and passed by the commission in an open meeting on January 3, 1983, and is now being considered on less than seven days notice as a matter of urgent public necessity.

Contact: Sandy Yates, 1124 IH 35 South, Austin, Texas 78704, (512) 445-1330

Filed: January 7, 1983, 11 15 a.m.
TRD 830179

Monday, January 17, 1983, 9 a.m. The following divisions of the Railroad Commission of Texas will meet at 1124 IH 35 South, Austin. The divisions, meeting rooms, and agendas follow.

The Administrative Services Division will meet in the first floor auditorium to consider 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 7, 1983, 11 18 a.m.
TRD-830182

The Automatic Data Processing Division will meet in the first floor auditorium to consider the division director's report on division administration, budget, procedures, equipment acquisitions, and personnel matters.

Contact: Bob Kmetz, P.O. Drawer 12967,

Austin, Texas 78711, (512) 445-1204.

Filed: January 7, 1983, 11 18 a.m.
TRD-830183

The Flight Division will meet in Room 107 to consider 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 7, 1983, 11 18 a.m.
TRD-830184

The Gas Utilities Division will meet in Room 107 to consider gas utilities Dockets 3887, 3894, 3793, and the director's report.

Contact: Lucia Sturdevant, P.O. Drawer 12967, Austin, Texas 78711, (512) 475-0461

Filed: January 7, 1983, 11 14 a.m.
TRD-830185

The Office of Information Services will meet in the first floor auditorium to consider the division director's report on division administration, budget, procedures, and personnel matters.

Contact: Brian W. Scharble, P.O. Drawer 12967, Austin, Texas 78711

Filed: January 7, 1983, 11 16 a.m.
TRD 830187

The I.P.-Gas Division will meet in the first floor auditorium to consider the division director's report on division administration, budget, procedures, and personnel matters.

Contact: Hugh I. Keepers, P.O. Drawer 12967, Austin, Texas 78711

Filed: January 7, 1983, 11 14 a.m.
TRD-830186

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 7, 1983, 11 17 a.m.
TRD 830190

Additions to the above agenda.

Consideration of category determinations under the Natural Gas Policy Act of 1978, §§102(c)(1)(B), 102(c)(1)(C), 103, 107, and 108.

Contact: Madalyn J. Girvin, P.O. Drawer 12967, Austin, Texas 78711, (512) 445-1273

Filed: January 7, 1983, 11 17 a.m.
TRD-830189

Consideration of whether or not to initiate rule making proceedings to amend Interpretative Order 16 TAC §3.91, to provide for incentive nominations for wildcat gas wells.

Contact: Patrick Thompson, P.O. Drawer 12967, Austin, Texas 78711, (512) 445-1286

Filed: January 7, 1983, 11 17 a.m.
TRD-830191

The Personnel Division will meet in the first floor auditorium to consider the division director's report on division administration, budget, procedures, and personnel matters.

Contact: Herman I. Wilkins, P.O. Drawer 12967, Austin, Texas 78711, (512) 445-1120

Filed: January 7, 1983, 11 18 a.m.
TRD 830192

The Office of Special Counsel will meet in the third floor conference room to consider the division director's report relating to pending litigation, Sunset Commission review, and other budget, administrative, and personnel matters.

Contact: Walter Earl Lile, 1124 IH 35 South, Austin, Texas 78704, (512) 445-1186.

Filed: January 7, 1983, 11 19 a.m.
TRD-830188

The Surface Mining and Reclamation Division will meet in Room 107 to consider 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 7, 1983, 11 14 a.m.
TRD-830193

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: Sandy Yates, 1124 IH 35 South, Austin, Texas 78704, (512) 445-1330.

Filed: January 7, 1983, 11 15 a.m.
TRD 830194

Additions to the above agenda.

Consideration of requests for extension of time for filing motion for rehearing in applications of Kerrville Bus Company, Inc., 429 Sidney Baker Street, Kerrville, Texas 78023 in Docket 02696BA2A—application to amend charter bus Certificate 2696B, Docket 000097D3A—application to amend motor bus Certificate 97, and Docket

003984A4A--application to amend common carrier Certificate 3984

Contact: Sandy Yates, 1124 IH 35 South, Austin, Texas 78704, (512) 445-1330

Filed: January 7, 1983, 11:13 a.m.
TRD-830181

Monday, January 17, 1983, 3:45 p.m. The Gas Utilities Division of the Railroad Commission of Texas made an addition to the agenda of a meeting to be held in Room 107, 1124 IH 35 South, Austin. The addition concerns an oral argument set for consideration in gas utilities Docket 3706--statement of intent filed by Entex, Inc., to change rates to industrial customers.

Contact: Lucia Sturdevant, P.O. Drawer 12967, Austin, Texas 78711, (512) 475-0461.

Filed: January 7, 1983, 11:14 a.m.
TRD-830180

Texas Real Estate Commission

Monday, January 17, 1983, 9:30 a.m. The Texas Real Estate Commission will meet at 1101 Camino La Costa, Austin. Items on the agenda include the minutes of the December 6, 1982, meeting, staff reports for the month of November 1982, consideration of motions for rehearing and/or probation, a rehearing in the matter of Wilma Virginia Higgins, discussion of possible legislation, consideration of the proposed repeal of 22 TAC §537.133(b), concerning nonresident salesman licensees, and amendment of 22 TAC §537.92(g), concerning renewal applications by corporations and partnerships, a Special Advisory Committee report, and consideration of school matters. The commission will also meet in executive session.

Contact: Camilla S. Shannon, P.O. Box 12188, Austin, Texas 78711, (512) 459-1123.

Filed: January 7, 1983, 10:27 a.m.
TRD-830162

School Land Board

Tuesday, January 18, 1983, 10 a.m. The School Land Board will meet in Room 831, General Land Office, Stephen F. Austin Building, 1700 North Congress Avenue, Austin. Items on the agenda include approval of the minutes of the previous board meeting, pooling applications; pooling

agreement amendments, application to lease vacant land for oil and gas, Dickens County; direct sale of small tract under the Natural Resources Code, §51.0521, vacancies applications, excess acreage applications, three cabin permit terminations, and five cabin permit renewals.

Contact: Linda K. Fisher, 1700 North Congress Avenue, Room 835, Austin, Texas 78701, (512) 475-4307.

Filed: January 10, 1983, 3:56 p.m.
TRD-830241

Texas Sesquicentennial Museum Board

Thursday, January 20, 1983, 3 p.m. The Texas Sesquicentennial Museum Board will meet in the third floor auditorium, United Bank Building, 15th and Guadalupe Streets, Austin. Items on the agenda include approval of minutes from the prior meeting, discussion of priorities for six months work plan, the report to the 68th Legislature, and items for general discussion. The board will also meet in executive session to discuss amending the contract with Management Strategies Group.

Contact: Fran Lechnidge Forbes, Room 152, Stephen F. Austin Building, Austin, Texas, (512) 475-1615.

Filed: January 7, 1983, 9:50 a.m.
TRD-830161

Texas Soybean Producers Board

Thursday, January 20, 1983, 2 p.m. The Texas Soybean Producers Board of the Texas Department of Agriculture will meet at the Spindletop Sheraton, Beaumont. According to the agenda, the board will consider financial reports, the assessment report, committees' reports, election of officers, and allocation of funds.

Contact: W. B. Tilson, 812 B West Eighth Street, Plains, Texas 79072, (806) 293-3806.

Filed: January 10, 1983, 11:37 a.m.
TRD-830219

Structural Pest Control Board

The Structural Pest Control Board will meet in Suite 250, Building C, 1500 East Ander-

son Lane, Austin. The days, times, and agenda summaries follow.

Tuesday, January 25, 1983, 1 p.m. Approval of minutes of the December 29, 1982, board meeting; James Peters, doing business as A I Exterminating Company, James W. Wagers, Tom Lee Shaw, Kenneth Smith, doing business as Waco Exterminating and Pest Control, William R. Ryan, doing business as All Tex Exterminating Company, and miscellaneous items.

Wednesday, January 26, 1983, 8:30 a.m. Billy E. Davis, doing business as Allied Pest Control, Ronald Z. Zearloss, Jr., of Terminix International of San Antonio, Harry Newton, doing business as Terminix International of San Antonio, Otis D. Koonsman, doing business as Crowley Pest Control, Roy E. Olin of Crowley Pest Control, and miscellaneous items.

Contact: Charlie Chapman, 1300 East Anderson Lane, Building C, Suite 250, Austin, Texas 78752, (512) 835-4066.

Filed: January 7, 1983, 10:28 a.m.
TRD-830166, 830167

State Commission on Standards for the Teaching Profession

Committees of the State Commission on Standards for the Teaching Profession will meet in the TEA North Building, 1200 East Anderson Lane, Austin. Days, times, committees, rooms, and agendas follow.

Tuesday and Wednesday, January 18 and 19, 1983, 7:30 p.m. and 9 a.m., respectively. The Committee on Certification Programs and Requirements will meet in Room 105 to review levels and requirements of provisional certificates, endorsements, and to consider the interim framework for the provisional certificate.

Thursday, January 20, 1983, 10 a.m. The Interim Reports Committee will meet in Room 105 to discuss interim reports from Angelo State University, Our Lady of the Lake University, and Texas Woman's University.

Thursday, January 20, 1983, 11:30 a.m. The Committee on Standards and Procedures for Institutional Approval will meet in Room 105 to consider a report on block grant funding for teacher centers and to discuss rationale statements for institutional standards.

Thursday, January 20, 1983, 1:30 p.m. The Committee on Certification Programs and Requirements will meet in Room 214 to discuss issues related to program standards study, individual programs, issues related to certification testing, and a proposed amendment to certificate requirements for persons holding a valid elementary certificate who desire certification on the secondary level.

Thursday, January 20, 1983, 3:30 p.m. The Committee on Recruiting and Training Members of Visiting Teams will meet in Room 119 A to discuss a possible training session for team chairpersons.

Thursday, January 20, 1983, 4:30 p.m. The Teacher Education Conference Planning Committee will meet in Room 105 to discuss specific location plans for the 1984 and 1985 Teacher Education Conferences.

Contact: Edward M. Vodicka, 201 East 11th Street, Austin, Texas 78701, (512) 834-4042.

Filed: January 10, 1983, 4:07 p.m.
TRD 830243, 830248

Friday, January 21, 1983, 9 a.m. The commission will meet in Room 101-E to consider State Board of Education actions relative to 19 FAC §137.26, concerning organization of the commission and recommendations for appointment to the Commission on Standards, individual programs for Baylor University and West Texas State University, visiting team reports from the University of St. Thomas, the University of Texas at San Antonio, Southwest Texas State University, Rice University, Austin College, and St. Edward's University, and committee reports from the Interim Reports Committee, the Committee on Certification Programs and Requirements, the Committee on Recruiting and Training Members of Visiting Teams, the Committee on Standards and Procedures for Institutional Approval, and the Teacher Education Conference Planning Committee.

Contact: Edward M. Vodicka, 201 East 11th Street, Austin, Texas 78701, (512) 834-4042.

Filed: January 10, 1983, 4:07 p.m.
TRD 830242



Advisory Council for Technical-Vocational Education in Texas

Thursday, January 20, 1983, 10 a.m. The Planning and Evaluation Committee of the Advisory Council for Technical-Vocational Education in Texas will meet in the auditorium, fourth floor, Teacher Retirement System of Texas, 1001 Trinity Street, Austin. According to the agenda, the committee will review a program of work items and action to be taken to carry out those items.

Contact: Valeria Blaschke, P.O. Box 1886, Austin, Texas 78767, Austin, Texas 78704, (512) 475-2046.

Filed: January 7, 1983, 2:21 p.m.
TRD 830201

Thursday, January 20, 1983. Committees of the Advisory Council for Technical-Vocational Education in Texas will meet at the Ramada Inn Downtowner, 11th and San Jacinto Streets, Austin. Times, committees, and agendas follow.

11:30 a.m. The Industry Education Committee will review and receive a progress report on the program of work of the committee, Vocational Education Week activities, and the Statewide Public Information Project.

Noon. The Ad Hoc Committee on Curriculum Reform will review recommendations of the curriculum reform activities to date and discuss issues relating to vocational education.

Contact: Val Blaschke, P.O. Box 1886, Austin, Texas 78767, (512) 475-2046.

Filed: January 10, 1983, 2:36 p.m.
TRD-830237, 830238

Texas State University System

Saturday, January 8, 1983, 10 a.m. The Texas State University System Board of Regents met in emergency session at 505 Sam Houston Building, Austin. According to the agenda, the board discussed proposed legislation concerning the system, construction funding, and the Sam Houston State University fire damage. The emergency status was necessary due to the inability to meet at any other date before the 68th legislative session convenes.

Contact: Lamar Urbanovsky, 505 Sam Houston Building, Austin, Texas 78701, (512) 475-3876.

Filed: January 7, 1983, 9:34 a.m.
TRD-830160

Texas Tech University

Thursday, January 13, 1983. The following committees of the Texas Tech University Board of Regents and the Texas Tech University Health Sciences Center Board of Regents met jointly in the board suite, Administration Building, Texas Tech University campus, Lubbock. Times, committees, and agendas are as follows:

8 a.m. The Finance Committees will consider a change in procedure for awarding cash investment depository agreements, traffic and parking regulations, ratification of additional employees to authorize wire transfers, depository agreements, and additional employees to authorize and approve expenditures from appropriated funds, and reports. The committees will also meet in executive session.

The Finance Committee of the Texas Tech University Board of Regents also considered budget adjustments, a mandatory student service fee for Junction Center students, taking bids and awarding the sale of surplus potable water from the Sixth Street well, an amendment to waive certain fees for full-time faculty and staff of the campus ROTC unit registered as students, ratification of the Jessie W. Thornton estate oil and gas leases to be signed by Charles W. Nowlin and Excelsior Oil Corp., and the commissioning of peace officers.

The Finance Committee of the Texas Tech University Health Sciences Center Board of Regents also considered budget and salary adjustments, the purchase of El Paso land, a contract with the El Paso County Hospital District for 1982-1983 for family planning services and for physician's emergency room services, a contract for a resident stipend for the Department of Surgery with Methodist Hospital, and a contract for management services in nursing with the Lubbock County Hospital District.

11 a.m. The Campus and Building Committees met jointly in executive session.

The Campus and Building Committee of the Texas Tech University Board of Regents also considered the budget and design for a stairwell in the Business Administration Building tower, received bids and awarded a contract for a fire safety system in Coleman Hall, appointed project architects for renovation of the Industrial Engineering Building, the subbasement in the Art Building, and the Computer Center in the library basement, appointed a project engineer for construction of the Campus South utility tunnel interconnect, awarded a contract for telescopic risers and floor seating in the coliseum, proceeded with construction of and

established a budget for residence halls parking lots, renovation of Murdough Residence Hall, Phase I bathrooms, an addition to the athletic offices at Jones Stadium, and a commuter parking lot; ratified acceptance dates for Doak Hall renovation for housing, heating, ventilation, and air conditioning modification in the Business Administration Building, Library Building, Food Science/Home Economics Building, and Administration Building; and met with representatives of the Ranching Heritage Association Board of Overseers to review progress, problems, and set goals and deadlines.

The Campus and Building Committee of the Texas Tech University Health Sciences Center Board of Regents also considered a project to renovate the fifth floor, Pod B, of the Department of Anatomy; the budget for completing the existing shell space on the fourth floor, Pod B, for the Medicine and Pediatrics Departments; projected a budget to complete core space in Pod C, Phase II-A; projected a budget to finish core space in Pod C, Phase II-B, to house Allied Health and Nursing; projected a budget to construct and equip a wet lab on the fifth floor, Pod C; projected a budget for construction of a support service addition, a shop, and a vivarium at RAHC, Amarillo; and projected a budget for construction of the first phase of RAHC—Perman Basin.

1:30 p.m. The Academic and Student Affairs Committees jointly considered reports and met in executive session.

The Academic and Student Affairs Committee of the Texas Tech University Board of Regents also considered a revision of the tenure policy, ratification of faculty workload, small class reports, leaves of absence, and reports.

The Academic and Student Affairs Committee of the Texas Tech University Health Sciences Center Board of Regents also considered granting tenure with appointment, a prototype affiliation agreement for the School of Allied Health, and reports.

3:30 p.m. The Athletic Affairs Committee of the Texas Tech University Board of Regents met in executive session.

4:30 p.m. The Public Affairs, Development, and University Relations Committees jointly considered an amendment to board policy regarding formulation and development of private sector support and met in executive session.

The Public Affairs, Development, and University Relations Committee of the

Texas Tech University Health Sciences Center Board of Regents also considered the appointment of members of the Board of Directors of the Texas Tech Medical Foundation.

January 14, 1983, 8:30 a.m. The Board of Regents of Texas Tech University and the Board of Regents of the Texas Tech University Health Sciences Center met jointly in the board room, board suite, Administration Building, Texas Tech University campus, Lubbock. According to the agenda summary, the boards considered minutes and reports of the Academic and Student Affairs, Finance, Campus and Building, and Public Affairs, Development, and University Relations Committees, and met in executive session.

Contact: Freda Pierce, P.O. Box 4039, Lubbock, Texas 79409, (806) 742-2161.

Filed: January 6, 1983, 2:22 p.m.
TRD-830133-830143

Texas Turnpike Authority

Thursday, January 20, 1983, 10:30 a.m. The Board of Directors of the Texas Turnpike Authority will meet in the Statesman B & C Rooms, Sheraton Houston Hotel, 777 Polk Street, Houston. Items on the agenda summary include approval of minutes of the December 2, 1982, board meeting; presentation of an award for the Houston Ship Channel Bridge; receipt of special studies and consideration of future action on the proposed Hardy Tollway; a construction progress report and ratification of approval of supplemental Agreement 1 to contract DNT-106 for the Dallas North Tollway extension; and payment of extra work on contract FSF-4. The board will also meet in executive session to discuss pending or contemplated litigation, personnel matters, and purchase or value of real property.

Contact: Harry Kabler, P.O. Box 190369, Dallas, Texas 75219, (214) 522-6200.

Filed: January 11, 1983, 9:45 a.m.
TRD-830259

Texas Water Commission

Monday, January 17, 1983, 10 a.m. The Texas Water Commission will meet in Room 118, Stephen F. Austin Building, 1700 North Congress Avenue, Austin. According to the agenda, the commission will

consider water district bond issues, release from escrow, change orders, appointment of directors, water quality proposed permits, amendments and renewals, final decisions, and the setting of hearing dates.

Contact: Mary Ann Helner, P.O. Box 13087, Austin, Texas 78711, (512) 475-4514.

Filed: January 6, 1983, 11:29 a.m.
TRD-830125

Tuesday and Wednesday, February 15 and 16, 1983, 2:30 p.m. and 9 a.m., respectively. The Texas Water Commission will meet in Action Hall, Hamilton Building, Eighth and Lamar, Wichita Falls. According to the agenda, the commission will conduct adjudication hearings on the Middle Red River Segment.

Contact: Mary Ann Helner, P.O. Box 13087, Austin, Texas 78711, (512) 475-4514.

Filed: January 10, 1983, 11:26 a.m.
TRD-830221

Wednesday, February 23, 1983, 9 a.m. The Texas Water Commission will meet in the council chambers, City Hall, 215 East McKinney Street, Denton. According to the agenda, the commission will consider the application of the City of Melissa, P.O. Box 409, Melissa, Texas 75070, to the Texas Department of Water Resources for a permit (proposed Permit 12649-01) to authorize a discharge of treated wastewater effluent at a volume not to exceed an average flow of 95,000 gallons per day. The applicant proposes to replace malfunctioning septic tank systems with the new treatment units. The commission will also consider the application of the City of Krum, P.O. Box 217, Krum, Texas 76249, to the Texas Department of Water Resources for an amendment to Permit 10729 to authorize an increase in the discharge of treated wastewater effluent from a volume not to exceed an average flow of 80,000 gallons per day to 95,000 gallons per day. The applicant proposes to expand the existing treatment facilities to accommodate the growing population.

Contact: James Larkins, P.O. Box 13087, Austin, Texas 78711, (512) 475-1468.

Filed: January 10, 1983, 11:25 a.m.
TRD-830222, 830223

Tuesday, March 1, 1983, 10 a.m. The Texas Water Commission will meet in Room 118, Stephen F. Austin Building, 1700 North Congress Avenue, Austin. The commission will conduct a hearing for the petition for organization of Harris County Municipal

Texas Register

Utility District 216, containing 68.17 acres of land.

Contact: Mary Ann Hefner, P.O. Box 13087, Austin, Texas 78711, (512) 475-4514.

Filed: January 6, 1983, 3:10 p.m.
TRD-830151

Texas Department of Water Resources

Friday, January 28, 1983, 9 a.m. The general counsel of the Texas Department of Water Resources will meet in Room 118, Stephen F. Austin Building, 1700 North Congress Avenue, Austin. According to the agenda summary, the general counsel will conduct a public meeting to consider proposed industrial solid waste regulations as published in the January 7, 1983, issue of the *Texas Register* (8 TexReg 24).

Contact: Mary Reagan, P.O. Box 13087, Austin, Texas 78711, (512) 475-7845.

Filed: January 11, 1983, 10:01 a.m.
TRD-830260

Regional Agencies Meetings Filed January 6

The Region V Education Service Center, Board of Directors, met in the board room, 2295 Delaware Street, Beaumont, on January 13, 1983, at 1:15 p.m. Information may be obtained from Fred J. Waddell, 2295 Delaware Street, Beaumont, Texas 77703, (713) 835-5212.

The Fannin County Single Appraisal District, Board of Directors, met at 401 North Main Street, Bonham, on January 11, 1983, at 7 p.m. The Board of Review will meet at the same location on January 14, 1983, at 5:30 p.m. Information may be obtained from Bettye Manning, 401 North Main Street, Bonham, Texas 75418, (214) 583-9546.

The Hickory Underground Water Conservation District 1 met in the director's room, Commercial National Bank, 105 East Second Street, Brady, on January 13, 1983, at 7 p.m. Information may be obtained from Mindy G. Quick, P.O. Box 1214, Brady, Texas 76825, (915) 597-2152.

The Jasper County Appraisal District, Board of Directors, met at the law offices of Seale, Stover, and Coffield, Jasper, on

January 13, 1983, at 7 p.m. Information may be obtained from Frances Horn, P.O. Drawer G, Buna, Texas 77612.

The West Texas Health Systems Agency, Governing Body, will meet at the Marriott Hotel, 1600 Airway, El Paso, on January 20, 1983, at 7:30 p.m. Information may be obtained from Cory Vaughan, 6500 Convoir Road, Suite 1E, El Paso, Texas 79925, (915) 779-6641.

TRD-830122

Meetings Filed January 7

The Brown County Appraisal District, Board of Directors, made an emergency addition to the agenda of a meeting held at 403 Fisk, Brownwood, on January 11, 1983, at 7 p.m. Information may be obtained from Alvis Sewalt, 403 Fisk, Brownwood, Texas 76801, (915) 643-5676.

The Capital Area Rural Transportation System (CARTS), Board of Directors, met at the Capital Area Planning Council, 2520 IH 35 South, Austin, on January 13, 1983, at 10 a.m. Information may be obtained from Nancy Kowieski, 2201 Post Road, #103, Austin, Texas 78704, (512) 443-0904.

The Central Texas Manpower Consortium, Board of Directors, met in the administration conference room, Central Texas College, Killeen, on January 12, 1983, at 1 p.m. Information may be obtained from Alvin Ornstein, Highway 190 West, Killeen, Texas 76541, (817) 526-1340.

The Coryell County Appraisal District, Board of Directors, met in the Coryell County Courtroom, Gatesville, on January 13, 1983, at 7 p.m. Information may be obtained from Darrell Lisenbe, Box 142, Gatesville, Texas 76528, (817) 865-6593.

The Dallas County Appraisal District, Appraisal Review Board, met in the board room, 2601 Live Oak, Dallas, on January 11, 1983, at 10:30 a.m. Information may be obtained from Rick Kuehler, 2601 Live Oak, Dallas, Texas 75204, (214) 826-0030.

The Dawson County Central Appraisal District, Board of Directors, met at 1806 Lubbock Highway, on January 11, 1983, at 7:30 p.m. Information may be obtained from Mike Watson, P.O. Box 797, Lamesa, Texas 79331, (806) 872-7060.

The Region VII Education Service Center, Board of Directors, will meet at the Community Inn, Highway 259, Kilgore, on Jan-

uary 18, 1983, at 7 p.m. Information may be obtained from Don J. Peters, 818 East Main, Kilgore, Texas, (214) 984-3071.

The Edwards County Appraisal District, Board, met in the new county office building, Rocksprings, on January 13, 1983, at 10 a.m. Information may be obtained from R. L. Fred, Box 348, Rocksprings, Texas 78880, (512) 683-6590.

The Ellis County Tax Appraisal District met at 406 Sycamore Street, Waxahachie, on January 13, 1983, at 7 p.m. Information may be obtained from Gray Chamberlain, 406 Sycamore Street, Waxahachie, Texas 75165, (214) 937-3552.

The Gray County Appraisal District, Board of Directors, met in Suite 196-A, Hughes Building, Pampa, on January 13, 1983, at 5:30 p.m. Information may be obtained from Charles Buzzard, P.O. Box 836, Pampa, Texas 79065, (806) 665-0791.

The Gregg County Appraisal District, Board of Review, will meet at 2010 Gilmer Road, Longview, on January 14, 1983, at 9 a.m. Information may be obtained from William T. Carroll, P.O. Box 6700, Longview, Texas 75608, (214) 759-0015.

The Texas Municipal Power Agency, Board of Directors, met at the Gibbons Creek steam electric station, Grimes County, on January 13, 1983, at 10 a.m. Information may be obtained from Frank H. Bass, 2225 East Randol Mill Road, Suite 600, Arlington, Texas 76011, (817) 461-4400.

The Nolan County Central Appraisal District, Board of Directors, met in Suite 305-B, Nolan County Courthouse, Sweetwater, on January 12, 1983, at 1:30 p.m. Information may be obtained from Patricia Davis, P.O. Box 1256, Sweetwater, Texas 79556, (915) 235-8421.

The Palo Pinto Appraisal District, Board of Directors, met at 603 South Oak, Mineral Wells, on January 13, 1983, at 7 p.m. Information may be obtained from Harold H. Quillen, 100 South East Fifth Street, Mineral Wells, Texas 76067, (817) 325-6871.

The South Texas Health Systems Agency, Board of Directors, will meet at La Posada Motor Hotel, 1000 Zaragoza, Laredo, on January 15, 1983, at 1 p.m. Information may be obtained from H. Barrett Bock, P.O. Box 2378, Kingsville, Texas 78363, (512) 595-5545.

The Swisher County Appraisal District, Board of Directors, met at Omer's Cafe,

Highway 87, Tulia, on January 13, 1983, at 7:15 a.m. Information may be obtained from Nan Davis, Drawer 8, Tulia, Texas 79088, (806) 995-3015.

The Taylor County Central Appraisal District, Board of Directors, met in the commissioner's courtroom, Taylor County Courthouse, Abilene, on January 12, 1983, at 10 a.m. Information may be obtained from Richard Petree, P.O. Box 3738, Abilene, Texas 79604, (915) 676-9381.
TRD-830157

Meetings Filed January 10

The Brazos River Authority, Administrative Policy Committee, will meet at 4400 Cobbs Drive, Waco, on January 16, 1983, at 5:30 p.m. The Audit Committee will meet at the same location on the same day at 4:30 p.m. Information may be obtained from Mike Bukala, P.O. Box 7555, Waco, Texas 76710, (817) 776-1441

The Region VIII Education Service Center, Board of Directors, will meet in Room 107, 100 North Riddle Street, Mount Pleasant, on January 20, 1983, at 7 p.m. Information may be obtained from Scott Ferguson, 100 North Riddle Street, Mount Pleasant, Texas 75455, (214) 572-6676.

The Region XVII Education Service Center, Board of Directors, will meet at 4000 22nd Place, Lubbock, on February 1, 1983, at 10 a.m. Information may be obtained from Ray Lanier, 4000 22nd Place, Lubbock, Texas 79410, (806) 792-4000.

The Region XVIII Education Service Center, Board of Directors, will meet at the Region XVIII Service Center, LaForce Boulevard, Midland Air Terminal, Midland, on February 3, 1983, at 7:30 p.m. Information may be obtained from J. W. Donaldson, P.O. Box 6020, Midland, Texas 79701, (915) 563-2380.

The Jones County Appraisal District, Board of Directors, will meet at the district office, 1137 East Court Plaza, Anson, on January 20, 1983, at 9 a.m. Information may be obtained from John Steele, 1137 East Court Plaza, Anson, Texas, (915) 823-2422.

The Lower Neches Valley Authority, Board of Directors, will meet at the LNVA Office Building, 7850 Eastex Freeway, Beaumont, on January 18, 1983, at 10:30 a.m. Information may be obtained from J. D. Nixon, P.O. Drawer 3464, Beaumont, Texas.

The Nortex Regional Planning Commission, General Membership Committee, will meet at McBride Seafood and Steak, 5400 Seymour Highway, Wichita Falls, on January 20, 1983, at noon. Information may be obtained from Edwin B. Daniel, 2101 Kemp Boulevard, Wichita Falls, Texas 76309, (817) 322-5281.

The North Texas Municipal Water District, Board of Directors, will meet at the administrative offices, 505 East Brown Street, Wylie, on January 27, 1983, at 4 p.m. Information may be obtained from Carl W. Riehn, 505 East Brown Street, Wylie, Texas, (214) 442-5405.

The South Plains Association of Governments, Board of Directors, met in emergency session at 1709 26th Street, Lubbock, on January 11, 1983, at 10 a.m. The Executive Committee also met at the same location on the same day at 9 a.m. Information may be obtained from Jerry D. Casstevens, 1709 26th Street, Lubbock, Texas 79411, (806) 762-8721.

The Upshur County Appraisal District, Board of Directors, met in emergency session at the appraisal district office, Warren and Trinity Streets, Gilmer, on January 10, 1983, at 7 p.m. Information may be obtained from Louise Stracener, P.O. Box 31, Gilmer, Texas 75644, (214) 843-3736.

The Wise County Appraisal District, Board of Directors, met at 206 South State, Decatur, on January 13, 1983, at 9:30 a.m. Information may be obtained from Angela Caraway, P.O. Box 509, Decatur, Texas, (817) 627-3081.

Meetings Filed January 11

The Bexar-Medina-Atascosa Counties Water Control and Improvement District 1, Board of Directors, will meet in the district office, Highway 81, Natalia, on January 17, 1983, at 8 a.m. Information may be ob-

tained from C. A. Mueller, P.O. Box 170, Natalia, Texas 78059, (512) 663-2132.

The Brazos River Authority, Administrative Policy Committee, rescheduled a meeting to be held at 4400 Cobbs Drive, Waco, on January 16, 1983, at 7 p.m. The meeting was originally scheduled for January 16, 1983, at 5:30 p.m. The Board of Directors will meet at the same location on January 17, 1983, at 9 a.m. The Audit Committee rescheduled a meeting to be held at the same location on January 17, 1983, at 8 a.m. The meeting was originally scheduled for January 16, 1983. Information may be obtained from Mike Bukala, P.O. Box 7555, Waco, Texas 76710, (817) 776-1441.

The Capital Area Planning Council, Executive Committee, will meet in Suite 100, 2520 IH 35 South, Austin, on January 18, 1983, at 2 p.m. Information may be obtained from Richard G. Bean, 2520 IH 35 South, Austin, Texas 78704, (512) 443-7653.

The Region XVIII Education Service Center, Joint Committee, met at the Region XVII Education Service Center, Midland Air Terminal, LaForce Boulevard, Midland, on February 2, 1983, at 10:30 a.m. Information may be obtained from J. W. Donaldson, P.O. Box 6020, Midland, Texas 79701, (915) 563-2380.

The Gonzales County Appraisal District, Board of Review, will meet in Suite 201, Gonzales Bank Building, 508 St. Louis Street, Gonzales, on January 20, 1983, at 6:30 p.m. Information may be obtained from Nancy Seitz, P.O. Box 867, Gonzales, Texas 78629, (512) 672-2879.

The Hale County Appraisal District, Board of Directors, will meet at 302 West Eighth Street, Plainview, on January 18, 1983, at 7 p.m. Information may be obtained from Linda Jaynes, 302 West Eighth Street, Plainview, Texas 79072.

The West Central Texas Municipal Water District will meet in Conference Room 314, Cypress Building, 174 Cypress Street, Abilene, on January 25, 1983, at 9:30 a.m. Information may be obtained from Virginia Duncan, P.O. Box 2362, Abilene, Texas 79604, (915) 673-8254.

TRD-830258

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 Commission on Alcoholism Request for Proposals

The Texas Commission on Alcoholism (TCA), under the authority of Texas Civil Statutes, Article 5561c, §18, has allocated \$1 million to upgrade facilities and programs that treat and rehabilitate alcoholic and alcohol abuse clients to achieve the principle of safe and therapeutic environments. Only nonprofit, publicly funded organizations in Texas which are providing nonhospital residential treatment and rehabilitation services for alcoholics and alcohol abusers may apply. Eligible programs are residential long-term care programs, residential treatment and rehabilitation centers, and nonhospital detoxification centers.

An applicant shall not request less than \$2,500 nor more than \$15,000 per application for upgrading its facility or program. The applicant is required to provide a locally-generated cash match of not less than 10% of the TCA funds requested. All renovation and development work supported by these funds shall be performed between June 1, 1982, and August 31, 1983.

Applicants are required to send applications by certified mail to provide proof of mailing if an application does not arrive at its destination. The submission closing date is January 31, 1983. Applications must be postmarked on or before January 31, 1983, to be accepted for review.

To obtain an application kit or more information, contact the Texas Commission on Alcoholism area office serving your area:

John Velky
Area Coordinator
Texas Commission on
Alcoholism
Area I Office
1422 South Tyler,
#104
Amarillo, Texas 79101
(806) 372-7791
TexAn 847-4279

Roy Bellah
Area Coordinator
Texas Commission on
Alcoholism
Area IV Office
105 West Riverside Drive,
#128
Austin, Texas 78704
(512) 475-6207
TexAn 822-6207

Frank Stone
Area Coordinator
Texas Commission on
Alcoholism
Area II Office
600 Avenue H East, #104
Arlington, Texas 76011
(817) 640-4124
TexAn 831-5550

Cope Routh
Area Coordinator
Texas Commission on
Alcoholism
Area III Office
1330 East Eighth Street,
#316
Odessa, Texas 79761
(915) 332-0186
TexAn 844-9206

Arthur Jones
Area Coordinator
Texas Commission on
Alcoholism
Area V Office
2472 Bolsover, #439
Houston, Texas 77005
(713) 522-0735
TexAn 859-4960

James Wright
Area Coordinator
Texas Commission on
Alcoholism
Area VI Office
4455 South Padre Island
Drive, #11
Corpus Christi, Texas
78411
(512) 855-2281
TexAn 827-2308

Issued in Austin, Texas, on January 7, 1983.

TRD-830206

Ross Newby
Executive Director
Texas Commission on
Alcoholism

Filed: January 7, 1983

For further information, please call (512) 475-2577.

This request for proposals is not filed according to the provisions of Texas Civil Statutes, Article 6252-11c. The Texas Commission on Alcoholism (TCA), under authority of Texas Civil Statutes, Article 5561c, §18, is soliciting proposals for alcohol education in Texas. A total of \$376,000 in state funds is available for alcohol education through the implementation of alcohol curricula in public and/or private schools in Texas. Any public independent school district or private/parochial school district may apply.

The minimum amount for which any school district may apply is \$500. Approved school districts must purchase alcohol curriculum between June 1, 1983, and August 31, 1983.

Applicants are required to send proposals by certified mail to provide proof of mailing if a proposal does not arrive at its destination. The submission closing date is February 28, 1983. Proposals must be postmarked on or before February 28, 1983, to be accepted for review.

To obtain a proposal packet or more information, contact the regional alcoholism services director serving your region:

H. Wayne Hughes, RASD
Region 1
P.O. Box 9257
Amarillo, Texas 79105
(806) 372-3381

Karen King, RASD
Region 2
1739 26th Street
Lubbock, Texas 79411
(806) 762-8721

Marie Tinlin, RASD
Region 3
P.O. Box 5144
Wichita Falls, Texas 76301
(817) 322-5281

Kathy Morgan, RASD
Region 4
P.O. Drawer COG
Arlington, Texas 76011
(817) 640-3300

John Davidson, RASD
Region 5
P.O. Box 5307
Texarkana, Arkansas 75501
(501) 774-3481

*Peggy Benda, RASD
Region 6
1101 East Birdsong
Longview, Texas 75602
(214) 753-7633

Sue Smith, RASD
Region 7
P.O. Box 3195
Abilene, Texas 79604
(915) 672-8544

Tayomi Adeogba, RASD
Region 8
2 Civic Center Plaza
El Paso, Texas 79999
(915) 541-4681

Cathy Clayton, RASD
Region 9
P.O. Box 6391
Midland, Texas 79701
(915) 563-1061

Anne Thomas, RASD
Region 13
P.O. Drawer 4128
Bryan, Texas 77801
(713) 822-7421

Michael Mohr, RASD
Region 14
P.O. Box 661
Nacogdoches, Texas 75961
(713) 569-0492

James Rowley, RASD
Region 15
P.O. Drawer 1387
Nederland, Texas 77627
(713) 727-2384

Carolyn Wade, RASD
Region 16
P.O. Box 22777
Houston, Texas 77027
(713) 627-3200

Joe Atkinson, RASD
Region 17
P.O. Box 2028
Victoria, Texas 77901
(512) 578-1587

Martha Reyes, RASD
Region 18
400 Three Americas Building
San Antonio, Texas 78205
(512) 225-5201

Julie Saldana, RASD
Region 19
Box 2187
Laredo, Texas 78041
(512) 722-3995

Cora Graham, RASD
Region 20
P.O. Box 9909
Corpus Christi, Texas 78408
(512) 883-5743

Susan McElroy, RASD
Region 21
Texas Commerce Bank
Building, # 207
McAllen, Texas 78501
(512) 682-3481

Gayle Arnn, RASD
Region 10
P.O. Box 60050
San Angelo, Texas 76900
(915) 944-9666

K. Paul Holt, RASD
Region 11
320 Franklin Avenue
Waco, Texas 76701
(817) 756-6631

Manuel Fernandez, RASD
Region 12
2520 IH 35 South, Suite 100
Austin, Texas 78704
(512) 443-7653

***Effective February 1, 1983, contact:**

Glynn Knight
Executive Director
Region 6
3800 Stone Road
Kilgore, Texas 75662
(214) 984-8641

Bobbie Newsom, RASD
Region 22
10000 Grayson Drive
Denison, Texas 75020
(214) 786-2955

*Gene Howell
Executive Director
Region 23
P.O. Box 203
Temple, Texas 76501
(817) 773-3772

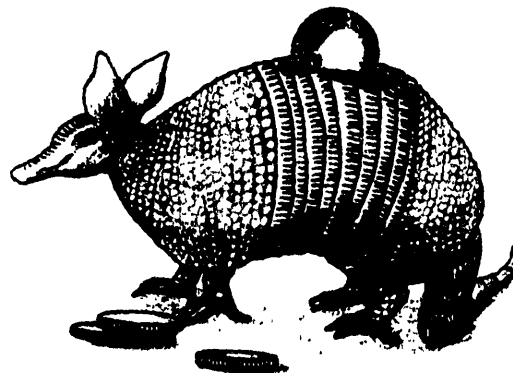
Ramon Johnston, RASD
Region 24
P.O. Box 702
Carrizo Springs, Texas 78834
(512) 876-3533

Walton Reedy
Executive Director
Region 23
P.O. Box 729
Belton, Texas 76513
(817) 939-1801

Issued in Austin, Texas, on January 6, 1983

TRD-830132 Ross Newby
Executive Director
Texas Commission on
Alcoholism

Filed: January 6, 1983
For further information, please call (512) 475-2577.



**Banking Department of Texas
Applications To Acquire 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 5, 1983, the banking commissioner received an application to acquire control of Heights State Bank, Houston, by Don V. Brelsford, Fred M. Knapp, Josef Minberg, Roy J. Saunders, and Jesse R. Sharman, all of Houston.

Additional information may be obtained from Robert E. Stewart, 2601 North Lamar, Austin, Texas 78705, (512) 475-4451.

Issued in Austin, Texas, on January 5, 1983.

TRD-830124 O. A. Cassity III
Assistant General Counsel
Banking Department of Texas

Filed: January 6, 1983
For further information, please call (512) 475-4451.

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 6, 1983, the banking commissioner received an application to acquire control of Citizens State Bank of Ganado, Ganado, by Louis A. Farris, Jr., and C. W. Murchison, Jr., both of Dallas.

Additional information may be obtained from Robert E. Stewart, 2601 North Lamar, Austin, Texas 78705, (512) 475-4451.

Issued in Austin, Texas, on January 6, 1983.

TRD-830158 O. A. Cassity III
Assistant General Counsel
Banking Department of Texas

Filed: January 7, 1983
For further information, please call (512) 475-4451.

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 December 16, 1982, the banking commissioner received an application to acquire control of Comfort State Bank, Comfort, by A. C. Schwethelm of Comfort.

Additional information may be obtained from Robert E. Stewart, 2601 North Lamar, Austin, Texas 78705, (512) 475-4451.

Issued in Austin, Texas, on January 6, 1983.

TRD-830159 O. A. Cassity III
Assistant General Counsel
Banking Department of Texas

Filed: January 7, 1983
For further information, please call (512) 475-4451.

Office of Consumer Credit Commissioner Rate Ceilings

Pursuant to the provisions of House Bill 1228, 67th Legislature of Texas, Regular Session, 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 | | |
| 01/17/83-01/23/83 | 18.00% | 18.00% |
| Monthly Rate Ceiling (Variable Commercial Only) | | |
| 01/01/83-01/31/83 | 18.00% | 18.00% |
| Quarterly Rate Ceiling | | |
| 01/01/83-03/31/83 | 18.00% | 18.00% |
| Annual⁽⁵⁾ Rate Ceiling | | |
| 01/01/83-03/31/83 | 22.72% | 22.72% |

- (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 Texas Civil Statutes, Article 5069-1.01(f).

Issued in Austin, Texas, on January 10, 1983.

TRD-830208 Sam Kelly
Consumer Credit Commissioner

Filed: January 10, 1983
For further information, please call (512) 475-2111.

Texas Energy and Natural Resources Advisory Council Department of Energy Report on Area Geological Characterization for the Palo Duro and Dalhart Basins

The Texas Energy and Natural Resources Advisory Council (TENRAC), has received from the U.S. Department of Energy a program document that is part of its National Waste Terminal Storage Program. The document, titled "Area Geological Characterization Report for the Palo Duro and Dalhart Basins, Texas" (DOE/CH/10140-1), is available for review by the public in the following locations: Information Services Department, Texas Energy and Natural Resources Advisory Council, 200 East 18th Street, Austin; Hereford City Library, Hereford; and Tulia City Library, Tulia. The public is invited to provide comments on the document. Comments should be submitted by February 10, 1983, and should be addressed

to Dr. Milton L. Holloway, Executive Director, Texas Energy and Natural Resources Advisory Council, 200 East 18th Street, Austin, Texas 78701.

Issued in Austin, Texas, on January 5, 1983.

TRD-830086 Milton L. Holloway
Executive Director
Texas Energy and Natural
Resources Advisory Council

Filed: January 5, 1983

For further information, please call (512) 475-0414.

Texas Health Facilities Commission Applications Accepted for Amendment, Declaratory Ruling, and Notices 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; 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 the date of this publication of notice. 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 50049, Austin, Texas 78763, and must be received at the commission no later than 5 p.m. on the last day allowed for filing of a request to become a party.

The contents and form of a request to become a party to any of these applications must meet the criteria set out in 25 TAC §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.

American Medical International, Inc., Houston
AH82-1230-317
NIEH—Request for a declaratory ruling that a certificate of need is not required for American Medical International, Inc., to acquire by purchase Raleigh Hills Hospital, an existing 26-bed alcohol

treatment hospital located in Dallas, from Advanced Health Systems.

American Medical International, Inc., Houston
AH82-1230-319
NIEH—Request for a declaratory ruling that a certificate of need is not required for American Medical Internations, Inc., to acquire by purchase Raleigh Hills General Hospital, an existing 70-bed hospital with 33 medical/surgical and 37 alcohol treatment beds located in Houston, from Advanced Health Systems.

American Medical International, Inc., Houston
AH82-1230-321
NIEH—Request for a declaratory ruling that a certificate of need is not required for American Medical International, Inc., to acquire by purchase Raleigh Hills Hospital, an existing 45-bed hospital with 18 medical/surgical and 27 alcohol treatment beds located in San Antonio, from Advanced Health Systems.

Harold Shilling, M.D., P.A., and
Adams Management Services, Inc., Fort Worth
AN82-1231-313
NIEH—Request for a declaratory ruling that a certificate of need is not required for Harold Shilling, M.D., P.A., and Adams Management Services, Inc., to acquire by lease Valvista Pavillion, an existing 118-bed ICF nursing facility located in Athens, from Valle Vista Properties, Inc.

Sisters of Mercy, doing business as Mercy Hospital
of Laredo, Laredo
AH81-0626-032A(010383)
CN/AMD—Request for an extension of the completion deadline from December 31, 1982, to July 1, 1984, in Certificate of Need AH81-0626-032, which authorized the certificate holder to implement certain energy conservation measures for its building, including the modification of the existing shell of the building located at 1515 Logan Avenue, Laredo.

Arthur P. Mowery and William T. Mowery, Troup
AN83-0104-329
NIEH/DR—Request for a declaratory ruling that neither a certificate of need or a notice of intent is required for Jesse W. Hodges and Bernice I. Hodges to transfer 100% of the stock in Westwood Convalescent Home, Inc., to their sons, Arthur P. Mowery and William T. Mowery. The transfer of stock will be a gift, and no capital expenditure will be involved. Westwood Convalescent Home, Inc., is an existing 60-bed ICF nursing facility located in Troup; or in the alternative, that only a notice of intent is necessary.

Southeast Imaging, Houston
AS83-0105-335
NIE—Request for a declaratory ruling that a certificate of need is not required for Southeast Imaging to acquire a C.T. whole body scanner to be

used to provide services to outpatients. The proposed C.T. scanner will be located at 8121 Broadway in Houston.

Issued in Austin, Texas, on January 10, 1983.

TRD-830212 John R. Neel
 General Counsel
 Texas Health Facilities
 Commission

Filed: January 10, 1983

For further information, please call (512) 475-6940.

Texas Department of Human Resources Public Hearing

The Texas Department of Human Resources (TDHR) will conduct a hearing to receive comments on the selection of a new contractor to provide weatherization services. The hearing will be held on January 27, 1983, at 11 a.m. at the American Red Cross of Brazoria County, 212 Magnolia Street, Angleton. The invitation for offers on the weatherization program was published in the May 25, 1982, issue of the *Texas Register* (7 TexReg 2008).

The American Red Cross of Brazoria County was selected to provide weatherization services for Brazoria County. The contract will begin February 1, 1983, and will end June 30, 1983. Service delivery will be in accordance with the Department of Energy regulations.

The department is interested in receiving comments on:

- (1) the agency's experience and performance in weatherization or housing renovation activities;
- (2) the agency's experience in assisting low-income persons in the area to be served; and
- (3) the agency's capacity to undertake a timely and effective weatherization program.

Issued in Austin, Texas, on January 10, 1983.

TRD-830210 Marlin W. Johnston
 Commissioner
 Texas Department of Human
 Resources

Filed: January 10, 1983

For further information, please call (512) 441-3355, ext. 2037.

Texas Low-Level Radioactive Waste Disposal Authority Contract Award

The Texas Low-Level Radioactive Waste Disposal Authority has entered into a contract with Ebasco Services Inc., to perform the work specified in the authority's request for proposals (RFP) RWDA-82-1, published in the October 1, 1982, issue of the *Texas Register* (7 TexReg 3563). This is a professional services contract awarded pursuant to the provisions of Texas Civil Statutes, Article 664-4.

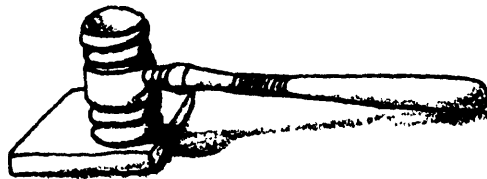
In response to the RFP, the authority received 20 proposals. All proposals were evaluated upon their technical merit, qualifications and experience of staff, and administrative factors. The contact person for additional information is Robert V. Avant, Jr., P.E., Assistant General Manager, Texas Low-Level Radioactive Waste Disposal Authority, 1300-C East Anderson Lane, Suite 175, Austin, Texas 78752, (512) 835-6795.

Issued in Austin, Texas, on January 5, 1983

TRD-830092 Lawrence R. Jacobi, Jr., P.E.
 General Manager
 Texas Low-Level Radioactive
 Waste Disposal Authority

Filed: January 5, 1983

For further information, please call (512) 835-6795.



Polygraph Examiners Board Correction of Error

A notice of open meetings submitted by the Polygraph Examiners Board contained an error as published in the January 7, 1983, issue of the *Texas Register* (8 TexReg 65). The dates and times of the meetings are Thursday-Saturday, January 13-15, 1983, at 9 a.m. daily.

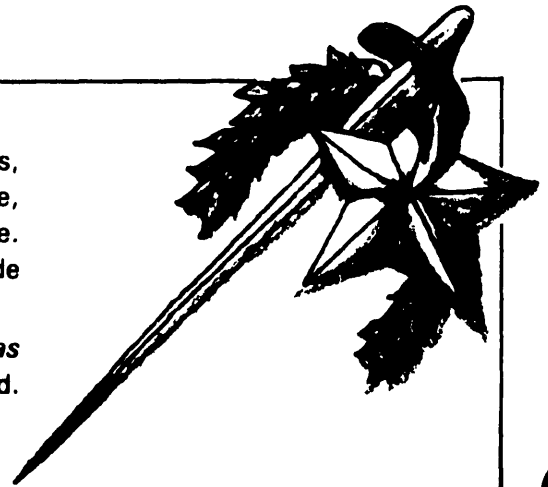
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