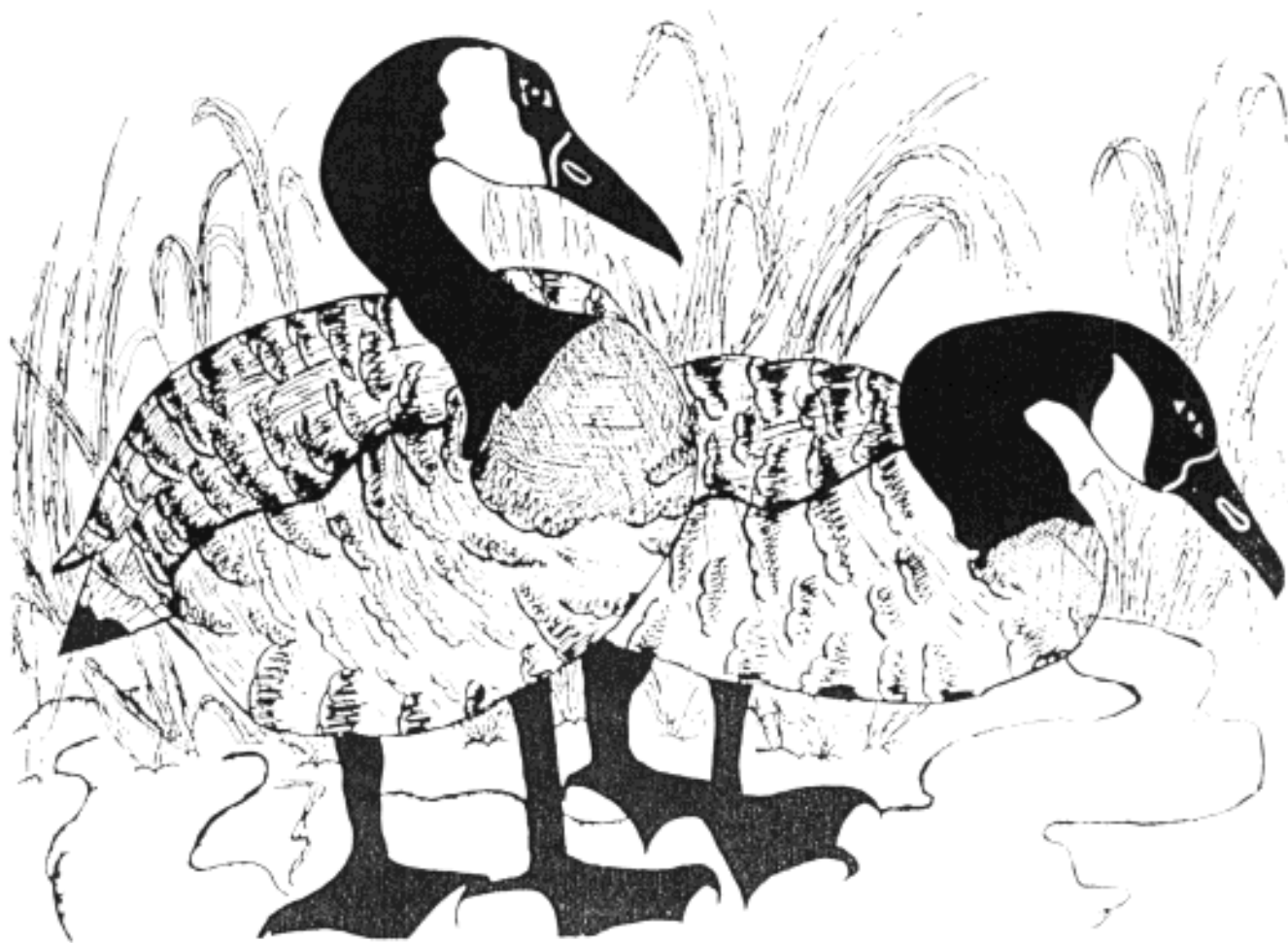


# TEXAS REGISTER

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***12th Grade***

***Hitchcock High School***

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# ATTORNEY GENERAL

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Under provisions set out in the Texas Constitution, the Texas Government Code, Title 4, §402.042 and numerous statutes, the attorney general is authorized to write advisory opinions for state and local officials. These advisory opinions are requested by agencies or officials when they are confronted with unique or unusually difficult legal questions. The attorney general also determines, under authority of the Texas Open Records Act, whether information requested for release from governmental agencies may be held from public disclosure. Requests for opinions, opinions, and open record decisions are summarized for publication in the *Texas Register*. The Attorney General responds to many requests for opinions and open records decisions with letter opinions. A letter opinion has the same force and effect as a formal Attorney General Opinion, and represents the opinion of the Attorney General unless and until it is modified or overruled by a subsequent letter opinion, a formal Attorney General Opinion, or a decision of a court of record. To request copies of opinions, phone (512) 462-0011. To inquire about pending requests for opinions, phone (512) 463-2110.

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Open Records Request

**ORQ-28 (ID# 115350-98).** Request from Mr. Donald R. Postell, City Attorney, City of Grand Prairie, P.O. Box 534045, Grand Prairie, Texas 75053-4045, regarding whether a mediated settlement

agreement, including financial and all other terms of that agreement, is confidential under section 154.073 of the Civil Practice and Remedies Code .

TRD-9805767

# EMERGENCY RULES

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

**Symbology in amended emergency sections.** New language added to an existing section is indicated by the text being underlined. [Brackets] and ~~strike-through~~ of text indicates deletion of existing material within a section.

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## TITLE 37. PUBLIC SAFETY AND CORRECTIONS

### Part III. Texas Youth Commission

#### Chapter 93. Youth Rights and Remedies

##### 37 TAC §93.1

Texas Youth Commission (TYC) adopts on an emergency basis an amendment to §93.1, concerning basic youth rights to provide for restricting the flow of mail among TYC youth when there is reason to believe there is a threat to the security and order of the facility and thus the safety of youth and staff.

This amendment is adopted on an emergency basis because the physical safety of persons and property may be eminent at certain TYC facilities. The amendment will allow staff action to limit mail that may be intended to encourage youth to create unrest.

The amendment is adopted on an emergency basis under the Human Resources Code, §61.075 which provides the Texas Youth Commission authority to determine the appropriate treatment/restriction of youth in custody.

The emergency adoption implements the Human Resources Code, §61.034.

##### §93.1. *Basic Youth Rights.*

(a) Purpose. The purpose of this rule is to establish that certain basic rights are recognized for each youth in the TYC system. The basic rights accorded each TYC youth are not absolute, but may be limited to the extent reasonably necessary for the TYC to discharge its statutory responsibilities with respect to public protection, treatment, and care and supervision.

(b) Each youth committed to the care and custody of the Texas Youth Commission (TYC) shall be accorded certain basic rights. If a youth feels that TYC, in the administration of its programs, has violated one or more of his or her basic rights or in some way has treated him unfairly, abusively or neglectfully, he may initiate action to remedy his situation, and may expect staff assistance in doing so.

(c) Right to Equal Treatment. Youth have the right not to be discriminated against because of race, sex, language, national origin, physical or other handicaps, religion, or personal opinions.

(d) Right of Free Speech and Expression. Youth have the right to express themselves freely, so long as their expressions do not interfere with the safe and orderly operation of the program, or except where totally free expression would be inappropriate due to the unique vulnerability of children to improper influences.

(e) Right of Religious Freedom. Youth have the right to participate in religious activities of their choice. The TYC shall not compel youth to participate in any religious activity.

(f) Right to Personal Possessions. Youth have the right to keep and use personal possessions so long as these possessions do not endanger the safety of staff and youth, disrupt programs and activities, encourage delinquent subcultural values, or appeal to the unique vulnerability of children to improper influences.

(g) Right to Receive Visitors. Youth have the right to receive visitors, limited only by considerations of facility security and order. Youth have a corresponding right to refuse to receive visitors.

(h) Right of Access to Mail and Telephone. Youth have the right to correspond freely through the mails except when correspondence between youth presents a risk to facility security and order. Staff may not read incoming or outgoing mail, but may open incoming mail in the youth's presence to inspect it for contraband. Youth may seal outgoing correspondence. Incoming and outgoing letters are not held for more than 24 hours, packages for more than 48 hours, excluding weekends and holidays. First class letters and packages are forwarded to a youth who has been transferred or released. Youth will be provided access to telephones to the extent possible within plant limitations, with equal opportunities for telephone use being provided to all residents within a facility. Youth will have access to a telephone in the event of an emergency. TYC does not have a responsibility to pay for incoming or outgoing long distance calls, except in an emergency. See (GAP) §93.13 of this title (relating to Use of Telephone).

(i) Right to Earnings and Monetary Gifts. TYC may limit the amount of money in a youth's personal possession, but may not withdraw money from a trust fund without the youth's consent.

(j) Right to Protection from Physical and Psychological Harm. Youth have the right to be protected from physical and psychological harm. They have the right to adequate food, clothing and shelter, and shall not be deprived of food or sleep in the interests of treatment or discipline. Youth shall not be administered tranquilizers or other drugs in the interest of discipline or order. Purposeless or degrading work is prohibited.

(k) Right to Medical and Dental Care. Youth have the right to basic and necessary medical and dental care, both routine and emergency.

(l) Right of Access to Attorneys. Youth have the right to confer with their attorneys in privacy, with appropriate restrictions on the time and place of meeting.

(m) Right to be Informed. Youth have the right to be informed of all rights, policies, procedures, and rules affecting them while in the custody of TYC.

(n) Right to Accuracy and Fairness in Decision Making. Youth have the right to expect accuracy and fairness in all decisions made concerning them. The degree of procedural protection afforded a youth shall be consistent with the requirements of due process of law.

(o) Right to Confidentiality of Records. Youth have the right to expect that their records will not be released to anyone other than those authorized by law to have access to them.

(p) Right to Express Grievances and Appeal Decisions. Youth have the right to have access to some method of resolving

complaints which is prompt and fair, without fear of reprisal. Youth have the right to appeal to the executive director from any decision made regarding them. See (GAP) §93.31 of this title (relating to Youth Complaint Resolution System).

Filed with the Office of the Secretary of State, on April 27, 1998.

TRD-9805830

Steve Robinson

Executive Director

Texas Youth Commission

Effective date: April 27, 1998

Expiration date: June 26, 1998

For further information, please call: (512) 424-6244



# PROPOSED RULES

Before an agency may permanently adopt a new or amended section or repeal an existing section, a proposal detailing the action must be published in the *Texas Register* at least 30 days before action is taken. The 30-day time period gives interested persons an opportunity to review and make oral or written comments on the section. Also, in the case of substantive action, a public hearing must be granted if requested by at least 25 persons, a governmental subdivision or agency, or an association having at least 25 members.

**Symbology in proposed amendments.** New language added to an existing section is indicated by the text being underlined. [Brackets] and ~~strike-through~~ of text indicates deletion of existing material within a section.

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## TITLE 1. ADMINISTRATION

### Part XII. Advisory Commission on State Emergency Communications

#### Chapter 251. Regional Plans-Standards

##### 1 TAC §251.9

The Advisory Commission on State Emergency Communications proposes new §251.9, concerning the use and distribution of 9-1-1 funds and other related funds. The rule was developed to assist local governments in requesting funds for the maintenance of rural addressing systems in Texas. The Advisory Commission on State Emergency Communications has adopted a policy regarding rural addressing maintenance and the use of state funds. These guidelines address the use and distribution of 9-1-1 Funds and other related funds. The maintenance of street addresses is essential to E9-1-1 systems utilizing the Automatic Location Identification (ALI) feature, which displays the locations of 9-1-1 callers.

Mr. James D. Goerke, executive director, has determined that for the first five-year period the section is in effect there may be limited fiscal implications for state or local government as a result of enforcing or administering the section.

Mr. Goerke also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be the proper maintenance of maps and records associated with an addressing system for the proper operation of an E9-1-1 system and the delivery of a caller's location. There will be no effect on small businesses. There are no anticipated economic costs to persons who are required to comply with the section as proposed.

Comments on the proposal may be submitted to James D. Goerke, Executive Director, Advisory Commission on State Emergency Communications, 333 Guadalupe Street, Suite 2-212, Austin, Texas 78701.

The new section is proposed under Texas Health and Safety Code, Chapter 771, §§771.051, 771.056, and 771.057, which provides the Advisory Commission on State Emergency Communications with the authority to develop and amend a regional

plan that meets standards set for the operation of prompt and efficient 9-1-1 services throughout a region. The maintenance of street addresses is essential to E9-1-1 systems utilizing the Automatic Location Identification feature which displays the locations of 9-1-1 callers.

The proposed section affects the Health and Safety Code, Chapter 771, §§771.051, 771.056, 771.057.

##### §251.9. Guidelines for Addressing Maintenance Funds.

The Advisory Commission on State Emergency Communications (ACSEC) has adopted a policy regarding rural addressing maintenance and the use of state funds. These guidelines address the use and distribution of 9-1-1 Funds and other related funds. The maintenance of street addresses is essential to E9-1-1 systems utilizing the Automatic Location Identification (ALI) feature, which displays the locations of 9-1-1 callers.

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

(A) 9-1-1 Database Record—A physical record, which includes the telephone subscriber information to include the caller's telephone number, related locational information, and class of service, and also conforms to NENA adopted database standards.

(B) 9-1-1 Funds—Funds assessed and disbursed in accordance with the Texas Health and Safety Code, Chapter 771.

(C) Addressing Completion—A county addressing project, based upon the inventory, has corrected address errors, assigned street address, provided all new or changed addresses to telephone companies, and established a maintenance method.

(D) Capital Replacement Cost—The non-recurring cost of replacing equipment purchased with 9-1-1 funds amortized over a selected period of time.

(E) Digital Map—A computer generated and stored data set based on a coordinate system, which includes geographical and attribute information pertaining to a defined location. A digital map includes street name and locational information, data sets related emergency service provider boundaries, as well as other associated data.

(F) Emergency Communications District—A public agency or group of public agencies acting jointly that provided 9-1-1 service before September 1, 1987, or that had voted or contracted before that date to provide that service; or a district created under Texas Health and Safety Code, Chapter 772, Subchapter B, C, D, or E.

(G) Graphical Display of Location Information—The ability to display a map on a telecommunicator's terminal in response to a 9-1-1 call or inquiry that relates to the caller's location. Features may include the display of an address or geographic based coordinate locations and the ability to zoom, pan, and show other related geographical information or features.

(H) Geographic Information System (GIS)—A system necessary to map emergency service number (ESN) boundaries and reflect annexations and other feature changes; to list emergency service provider translations for ESNs to provide and maintain master street address guide (MSAG) format; to validate and resolve database discrepancies; to project new addresses and block ranges as an initial assignment or correction; for ongoing issuance of new addresses; and for locator maps for emergency services providers.

(I) Regional Planning Council—A commission established under Local Government Code, Chapter 391, also referred to as a regional council of governments (COG).

(J) Strategic Plan—As part of a regional plan, a document identifying 9-1-1 equipment and related activity, by strategic plan component, required to support planned levels of 9-1-1 service within a defined area of the state. The strategic plan normally covers at least a three year planning period and specifically projects 9-1-1 costs and revenues associated with this section including equalization surcharge requirements.

(i) Strategic Plan Component. Within a 9-1-1 implementation priority level, a category of 9-1-1 activity and/or equipment generally associated with 9-1-1 implementation cost.

(ii) Strategic Plan Level. An ACSEC established statewide implementation priority generally associated with a level of 9-1-1 service - e.g., Automatic Number Identification (ANI).

(K) Unaddressed County—A county in Texas which has not completely assigned new addresses and provided all new or changed addresses to telephone companies under a county addressing process.

(2) Policy and procedures. As authorized by the Texas Health and Safety Code, Chapter 771, the ACSEC may impose 9-1-1 emergency service fees and equalization surcharges to support the planning, development, and provision of 9-1-1 service throughout the State of Texas. The implementation of such service involves the procurement, installation, and operation of equipment designed to either support or facilitate the delivery of an emergency call to an appropriate emergency response agency. In addition, the ACSEC has funded addressing projects throughout the state to allow for the implementation of Automatic Location Identification (ALI) level of service. In the funding of such projects, it has been the policy of the ACSEC to fund geographic information systems and the development of digital maps to support such activities. The ACSEC recognizes that the maintenance of addressing systems is essential to the proper operation of an E9-1-1 system and the delivery of a caller's location. If not properly maintained, the maps and records associated with an addressing system will soon become unreliable and problematic.

(A) A regional planning council or emergency communication district applying on behalf of a county which is operating

9-1-1 service and has completed a county addressing project is considered eligible.

(B) In accordance with state law, interlocal agreements shall be executed between the regional planning council and the county. The agreement shall identify the responsibilities of all parties and provide for the reporting of performance measures.

(C) An addressing maintenance plan shall be submitted by the regional planning council in conjunction with the approved strategic plan. The maintenance plan shall provide an overview of all projected activities, identify all parties involved and their associated responsibilities.

(D) Budgets shall be developed by the local governments each fiscal year, identifying all projected addressing maintenance expenditures. These budgets will be reviewed annually during the strategic plan review process. Activities performed by the regional planning council shall be identified within its administrative budget.

(E) Addressing maintenance funds will be allocated based on need as justified by the local government and approved by the Commission. If equalization surcharge funds are required for addressing maintenance, they shall be allocated first to eligible recipients requiring such funds for administrative budgetary purposes, followed by Level I, II and III activities, in that order.

(F) Annual budgeted costs associated with addressing maintenance shall be monitored by the ACSEC staff for consistency with approved strategic plans.

(3) Requesting addressing maintenance funds. A strategic plan amendment from a regional planning council or a request from an emergency communication district is required as a means of requesting funds under this program.

(A) A strategic plan amendment from a regional planning council or a request from an emergency communication district must contain the following:

(i) a fully executed interlocal agreement between the regional planning council and the county;

(ii) an addressing maintenance plan identifying all activities and responsible parties involved; and

(iii) an approved budget outlining addressing maintenance components and projected expenditures.

(B) Funds requested by a regional planning council or an emergency communication district shall be reflected as an expenditure on the ACSEC Financial Status Report.

(4) Budget components. A regional planning council or an emergency communication district must submit an addressing maintenance budget to the ACSEC for approval. Addressing maintenance budgets may include the following cost components listed in subparagraphs (A)-(K) of this paragraph:

(A) Personnel - Unless otherwise justified, 0.5 FTE will be the maximum allowable for each county. For each staff position, the following must be provided:

(i) position title;

(ii) duties related to addressing maintenance;

(iii) total salary for the budget period;

(iv) chargeable salary (total salary less release time);



(v) percentage of time to be charged to addressing maintenance; and

(vi) total salary chargeable to addressing maintenance.

(B) Travel - Total local travel estimated for the budget period multiplied by the current reimbursement rate for use of personally owned vehicles as defined by the State of Texas. List the cost rate for county owned vehicles.

(C) Supplies - Total costs associated with consumable office supplies to be purchased during the budget period. Also, total costs associated with the reproduction of maps for use by local emergency service agencies may be reflected as part of this item.

(D) Rent - Total square feet of space devoted to addressing maintenance times the rental rate to be charged during the budget period.

(E) Maintenance and repairs - Total maintenance costs for addressing maintenance equipment during the budget period. Computers, printers, plotters, distance measuring devices (DMD), global positioning satellite (GPS) equipment and sign-making machines may be included.

(F) Communications - Total costs for communications including telephone, fax, courier, etc., during the budget period.

(G) Postage and Mailing - Total costs for postage and mailing services expected during the budget period.

(H) Utilities - Total costs for utilities such as electricity, gas, water, etc., expected during the budget period.

(I) Training - Total costs for training associated with addressing maintenance functions expected during the budget period.

(J) Other - Total costs for other items not identified in subparagraphs (A)-(I) of this paragraph.

(K) Street Sign Replacement - Cost share of the replacement of existing street signs located in the unincorporated areas of the county. This item shall not include the purchase of new signs in the county subsequent to the completion of rural addressing.

(5) Capital replacement. Costs for the replacement of equipment purchased with 9-1-1 funds shall be reflected within the regional planning council strategic plan Capital Recovery (Addressing) component. Computers, printers, plotters, distance measuring devices (DMD), global positioning satellite (GPS) equipment and sign-making machines may be included. A capital replacement schedule will be submitted to the ACSEC by the regional planning council.

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

Filed with the Office of the Secretary of State, on April 27, 1998.

TRD-9805856

James D. Goerke

Executive Director

Advisory Commission on State Emergency Communications

Earliest possible date of adoption: June 7, 1998

For further information, please call: (512) 305-6933



## TITLE 7. BANKING AND SECURITIES

### Part I. Finance Commission of Texas

## Chapter 1. Consumer Credit Consumer

### Subchapter A. Regulated Loan Licenses

#### Division 5. Refund

##### 7 TAC §1.102

The Finance Commission of Texas (the commission) proposes the amendment of §1.102, concerning the definitions to be used in Chapter 3A. (Texas Civil Statutes, Article 5069-3A.101 *et seq.*)

The amendment adds a new definition for the term "amount financed" as it is used in the chapter.

Leslie L. Pettijohn, Consumer Credit Commissioner, has determined that for the first five-year period the section as proposed will be in effect there will be no fiscal implications for state or local government as a result of administering or enforcing the section.

Ms. Pettijohn also has determined that for each year of the first five-year period the section as proposed will be in effect the public benefit anticipated as a result of the adoption of the section is the clarification of the new statutory requirements set forth in Chapter 3A to aid the industry in compliance. No net economic cost will result to persons required to comply with the section. No difference will exist between the cost of compliance for small businesses and the cost of compliance for the largest businesses affected by the section.

Comments on the proposed adoption of the amendment may be submitted in writing to Leslie L. Pettijohn, Consumer Credit Commissioner, 2601 North Lamar Boulevard, Austin, Texas 78705-4207.

The amendment is proposed under Texas Civil Statutes, Article 5069-3A.901, which authorizes the Finance Commission to adopt rules to enforce new Chapter 3A.

Texas Civil Statutes, Articles 5069-3A.002, is affected by the proposed amendment.

##### *§1.102. Definitions.*

Words and terms used in this chapter that are defined in Chapter 3A of Article 5069 have the same meanings as defined in Chapter 3A. The following words and terms, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise.

(1) Acquisition Charge— An interest charge authorized for making the cash advance under authority of Article 3A.402 of Article 5069.

(2) Add-on interest — A method for calculating precomputed interest in which the borrower agrees to pay the total of payments, which includes both interest and principal, as opposed to agreeing to pay the principal plus interest as it accrues at a certain rate. Add-on interest is calculated at the outset of a loan on the cash advance for the full term, as if the principal did not decline over the course of the loan. For example, a \$1,000 loan with 12 monthly installments and an add-on interest amount of 8 dollars per hundred per annum would have a total charge of interest of \$80.00 and monthly payments of \$90.00, yielding an annual percentage rate ("APR") of 14.45%.

(3) Amount Financed — The amount of money which is used, forborne, or detained and upon which interest is charged. The cash advance plus any other amounts that are financed by the creditor are included. Any points or other prepaid finance charges, excluding

the administrative loan fee, that are not paid at closing and that are financed as part of the transaction are included in the amount financed. This definition is only applicable for the purposes of this chapter for computing earnings, deferments, maximum charges, and determining refunds of unearned interest. It is not intended to be analogous with the similar term that is used in the Truth-in-Lending Act (15 U.S.C. §1601 et seq.).

(4) Authorized Charge — Any charge authorized by applicable Texas law to be included in the credit transaction.

(5) Authorized Lender — A person who has obtained a license from the commissioner, or a bank, savings bank, savings and loan association, or credit union doing business under the laws of this State or the United States. Banks chartered in other states insured by the Federal Deposit Insurance Corporation are included in this term. Separate entities that are subsidiaries or affiliates of licensees or authorized banks, savings banks, savings and loan associations, or credit unions are not authorized lenders unless they meet the required elements of the definition of an authorized lender in their own right.

(6) Commissioner — Consumer Credit Commissioner of the State of Texas.

(7) Date of Consummation — The date of closing or execution of a loan contract.

(8) Default Charge or Late Charge — The additional interest charge for late payment on a loan.

(9) Deferment Charge — The payment of an additional interest charge to defer the payment date of a scheduled payment on a contract.

(10) Dual Interest Coverage — Insurance that provides benefits to both the holder of a loan and the borrower in the event of a loss of the security covered by the policy. The policy contains a loss payable clause or endorsement that provides benefits that are payable at the discretion of the holder.

(11) Installment Account Handling Charge (IAHC) — An interest charge authorized for making a loan under Article 5069-3A.402.

(12) Installment Loan — Any type of closed-end loan with multiple scheduled payments.

(13) Interest-bearing Loan — A loan in which the borrower agrees to pay the principal and interest that accrues at a certain periodic rate.

(14) Interpretation Letter — A formal interpretation of Article 5069 and the Texas Finance Code made by the Commissioner and approved by the Finance Commission under Texas Finance Code §14.408.

(15) Licensee — Any person who has been issued a consumer loan license pursuant to Chapter 3A of Article 5069. Another name for a "consumer loan license" is "regulated loan license."

(16) Making a Loan — The act of making a loan is either the determination of the credit decision to provide the loan, or the act of funding the loan or transferring money from the lender to the borrower. A person whose name appears on the loan documents as the payee of the note is considered to have "made" the loan.

(17) Negotiating a Loan — The process of submitting and considering offers between a borrower and a lender with the objective of reaching agreement on the terms of a loan. The act of passing information between the parties can, by itself, be considered

"negotiation" if it was part of the process of reaching agreement on the terms of a loan. "Negotiation" involves acts which take place before an agreement to lend or funding of a loan actually occurs.

(18) OCCC — Office of Consumer Credit Commissioner of the State of Texas.

(19) Precomputed Loan — A loan in which the borrower agrees to pay the total of payments that includes both principal and all anticipated interest through the full term of the loan. If a borrower prepays a precomputed loan, the borrower is entitled to a rebate of all unearned interest and unearned charges.

(20) Prepaid Interest — Interest paid separately in cash or by check before or at consummation in a transaction, or withheld from the proceeds of the credit at any time. Some common terms such as points, discounts, and origination fees have been used to identify this charge.

(21) Principal — The capital sum of the debt including any interest capitalized and added to the cash advance at the inception of the loan. This is the amount of money which is used, forborne, or detained and upon which interest is charged. The principal amount does not include any interest accrued after the inception of the loan, such as default charges.

(22) Pro Rata Method — A formula for determining the amount of unearned interest or other charges, such as insurance, to be refunded following prepayment or acceleration by applying the amounts to equal unit periods. This formula assumes that interest or other charges are earned in direct proportion to the time that a loan has been outstanding.

(23) Rebate — Refund of all or part of a precomputed charge or interest.

(24) Regulated Loan — Loan made under the authority of Article 5069-3A.101.

(25) Renewal or Refinance — A new loan contract that includes, in whole or in part, the net balance of one or more existing loan contracts.

(26) Simple Annual Rate — The interest rate under the loan agreement expressed as a percentage rate per year employing the U.S. Rule method.

(27) Sum of the Monthly Balances or Sum of the Periodic Balances Method — Another formula for determining the amount of unearned interest or other charges to be refunded. This is a variant of the Rule of 78. It provides that the fraction of the contract interest to be rebated at any given time in the loan term is the sum of the monthly loan balances for the months remaining in the originally scheduled loan term divided by the sum of the monthly balances for all of the months in the scheduled loan term. For example, for a 6-month loan of \$600 which is scheduled to be repaid in \$100 monthly installments, the rebate fraction after two months would be:  $400 + 300 + 200 + 100 \div 600 + 500 + 400 + 300 + 200 + 100 = 1000/2100 = 10/21 = 0.476$  (rounded). For any loan which is paid off in equal installments, the sum of the balances method and the Rule of 78 will provide identical rebates. If, however, a loan schedule contains unequal payments and especially where the debt is retired by a final balloon payment, the rebates under the two formulas will be different.

(28) Term Loan — A loan made repayable in a single payment.

(29) Transacting a Loan — Any of the significant events associated with the lending process through funding, including the

preparation, negotiation and execution of loan documents and the transfer of money by the lender to the borrower or to a third party on the borrower's behalf. This also includes the act of arranging a loan.

(30) United States Rule — Ruling of United States Supreme Court in *Story v. Livingston*, 38 U.S. (13 Pet.) 369, 371 (1839) that, in partial payments on a debt, each payment is applied first to interest and any remainder reduces the principal. Under this rule, accrued but unpaid interest cannot be added to the principal and interest cannot be compounded.

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

Filed with the Office of the Secretary of State, on April 27, 1998.

TRD-9805819

Leslie L. Pettijohn

Commissioner

Finance Commission of Texas

Earliest possible date of adoption: June 7, 1998

For further information, please call: (512) 936-7640



## Chapter 4. Currency Exchange

### 7 TAC §4.3

The Finance Commission of Texas (the commission) proposes an amendment to §4.3, concerning reporting and recordkeeping requirements for currency transmitters that engage in currency exchange transactions.

Section 4.3 specifies the reporting and recordkeeping requirements which must be met by persons conducting currency exchange or currency transmission transactions. Section 4.3(a) as amended will clarify that "currency exchange" includes transactions wherein currency transmitters in Texas accept for transmission the currency of one government and pay out at the receiving end in the currency of another government. Thus, currency transmitters which also engage in currency exchange transactions must comply with the currency exchange reporting and recordkeeping requirements set forth in §4.3(e)(1).

Section 4.3(i) as amended will also provide that persons engaged in currency exchange transactions may, with the prior written approval of the banking commissioner, comply with 31 Code of Federal Regulations, Part 103, in lieu of compliance with the currency exchange reporting and recordkeeping requirements set forth in §4.3(e)(1). The amendment to §4.3(i) is proposed in response to concerns raised by the Non-Bank Funds Transmitters Group (the "Group"). The Group raised concerns that §4.3(e)(1) may conflict with new federal reporting and recordkeeping regulations pertaining to currency exchange transactions which are expected to be adopted in the foreseeable future. The Group also asserted that the currency exchange reporting and recordkeeping requirements of §4.3(e)(1), unlike federal law, do not recognize the practical aspects of non-bank currency transmission businesses such as customers with accounts, "will-call transactions," and non-face-to-face transactions. These concerns are fully addressed by allowing currency transmitters engaging in currency exchange transactions to be exempt from the currency exchange reporting and recordkeeping requirements of §4.3(e)(1) if they comply with federal currency exchange regulations.

Stephanie Newberg, Director, Special Audit Division, Texas Department of Banking, has determined that for each year of the first five-years the section as proposed will be in effect, there will be no fiscal implications for state or local government as a result of enforcing or administering the section.

Ms. Newberg also has determined that for each year of the first five-year period the section as proposed will be in effect, the public benefit anticipated as a result of the amendment will be clarification of recordkeeping and reporting processes under Finance Code, Chapter 153, enhanced protection of the rights and interests of industry customers and the public at large, and a more efficient and effective examination process. If adopted, the proposed amendment will enhance the orderly administration of Finance Code, Chapter 153, and ensure that its purposes, as they relate to recordkeeping and reporting are substantially fulfilled. No economic cost will be incurred by a person required to comply with this section, and there will be no effect on small businesses.

Comments on the proposal may be submitted in writing to Stephanie Newberg, Director, Special Audit Division, Texas Department of Banking, 2601 North Lamar Boulevard, Austin, Texas 78705-4294, or by e-mail to [stephanie.newberg@banking.state.tx.us](mailto:stephanie.newberg@banking.state.tx.us).

The amendment is proposed pursuant to the Finance Code, §153.002(2), which authorizes the commission to adopt rules "necessary to implement this chapter, including ... recordkeeping and reporting requirements of a license holder."

Finance Code, Chapter 153, is affected by the proposed amendment.

#### §4.3. Reporting and Recordkeeping.

(a) For purposes of this section, a "currency business" refers to a person that engages in or has engaged in currency exchange or currency transmission transactions, whether the person is licensed under the Finance Code, Chapter 153, or is exempt from licensing under the Finance Code, §153.117(a)(2). As used in this section, "currency exchange" includes transactions wherein currency transmitters accept for transmission in Texas the currency of one government and pay at another location in the currency of another government.

(b)-(h) (No change.)

(i) In lieu of compliance with this section, the commissioner may authorize a currency business to maintain records of currency transmission and currency exchange transactions in accordance with 31 CFR, Part 103 [§103.33(f)]. Such authorization must be pursuant to the commissioner's written approval based on review of current audited financial statements of the currency business. To support authorization under this subsection, the audited financial statements must have been issued by a certified public accountant acceptable to the commissioner within the 18-month period prior to its submission to the department and must have an unqualified opinion. If at an examination or other review of the records of a currency business by the department a violation of 31 CFR, Part 103 [§103.33(f)], or the Finance Code, Chapter 153, is cited, the authorization of the currency business pursuant to this subsection is subject to immediate revocation by order of the commissioner.

(j) (No change.)

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

Filed with the Office of the Secretary of State, on April 24, 1998.

TRD-9805757

Everette D. Jobe

Certifying Official

Finance Commission of Texas

Proposed date of adoption: June 12, 1998

For further information, please call: (512) 475-1300



## Chapter 9. Rules of Procedure for Contested Case Hearings, Appeals, and Rulemakings

### Subchapter B. Contested Case Hearings

#### 7 TAC §9.34

The Finance Commission of Texas, the Texas Department of Banking, the Savings and Loan Commissioner and the Consumer Credit Commissioner (the agencies) propose an amendment to §9.34, concerning post-hearing proceedings.

The proposed amendment to §9.34 will clarify the original intent of the section. The amendment to subsections (a) and (b) should eliminate apparent confusion as to the time and manner in which exceptions, replies to exceptions, and briefs should be filed. The proposed amendment to subsection (b)(4) makes clear that, after the case is under submission, the agency head can remand it back to the administrative law judge for additional briefing from the parties or for reopening of the evidence. New subsection (b)(5) as proposed makes it clear that the agency head can also take any other lawful and appropriate action with regard to the case. New subsection (c) as proposed specifies how to notify the agency of pertinent court decisions that may come out after briefing on exceptions to the proposal for decision is complete and the case is under submission to the agency head for decision. Finally, the proposed amendment to subsection (d) will provide that the administrative law judge must recirculate a proposal for decision that on remand has been substantially revised, before it is sent back to the agency head for consideration.

Larry Craddock, administrative law judge for the agencies, has determined that for the first five-year period the section is in effect, there will be no fiscal implication for state or local government as a result of enforcing or administering the section.

Mr. Craddock also has determined that for each year of the first five-year period the section as proposed will be in effect, the public benefit anticipated as a result of the amendment will be clarification of ambiguous language to facilitate prompt and efficient administrative hearings at the agencies. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the amendment as proposed.

Comments on the proposal may be submitted in writing to Larry Craddock, Administrative Law Judge, Finance Commission of Texas, 2601 North Lamar Boulevard, Austin, Texas 78705-4294, or by e-mail to larry.craddock@banking.state.tx.us.

The amendment is proposed pursuant to Government Code §2001.004, which requires all administrative agencies to adopt rules of practice stating the nature and requirements of all available formal and informal procedures. The amendment is also proposed under specific rulemaking authority in the substantive statutes administered by the agencies.

Finance Code, §31.003(a)(5), authorizes the finance commission to adopt rules necessary or reasonable to facilitate the fair hearing and adjudication of matters before the banking commissioner and the finance commissioner.

Finance Code, §152.102, authorizes the finance commission to adopt rules necessary for the enforcement and orderly administration of that chapter (regulating sale of checks).

Finance Code, §153.002, authorizes the finance commission to adopt rules necessary to implement that chapter (regulating currency exchange and transmission).

Finance Code, §154.051(b), authorizes the department of banking to adopt rules concerning matters incidental to the enforcement and orderly administration of that chapter (regulating pre-paid funeral benefits).

Finance Code, §11.302, authorizes the finance commission to adopt rules applicable to state savings associations or to savings banks. Finance Code, §96.002(a)(2), and §66.002, also authorize the savings and loan commissioner and the finance commission to adopt procedural rules for deciding applications filed with the savings and loan commissioner or the savings and loan department.

Finance Code, §11.304, authorizes the finance commission to adopt rules necessary for supervising the consumer credit commissioner and for ensuring compliance with Finance Code, Chapter 14 and Title 4, plus amendments to the source law made by Acts 1997, 75th Legislature, Chapter 1396). Texas Civil Statutes, Article 5069-3A.901, also authorizes the finance commission to adopt rules necessary for the enforcement of Article 5069-3A.001. Finance Code, §371.006, further authorizes the consumer credit commissioner to adopt rules necessary for the enforcement of Finance Code, Chapter 371.

#### §9.34. *Post-hearing Proceedings.*

(a) Following the hearing the administrative law judge upon request shall give the parties an opportunity to file written briefs and proposed findings of fact and conclusions of law. Pursuant to Government Code, §2001.062, the administrative law judge shall review these materials and all evidence and testimony, and prepare a proposal for decision containing a statement of the reasons for the proposed decision and of each finding of fact and conclusion of law necessary to the proposed decision. The administrative law judge shall also prepare a proposed final order for the agency head to sign adopting the proposed decision. Upon completion, the administrative law judge shall serve copies of the proposal for decision and proposed final order on all parties and give each adversely affected party an opportunity to file exceptions and present briefs. If a party files exceptions or presents briefs, the administrative law judge shall give an opportunity to other parties to file replies to the exceptions or briefs. Exceptions, replies to exceptions, and related briefs must be filed within deadlines established by the administrative law judge. The [parties shall send these materials to the] administrative law judge [who] may amend the proposal for decision and proposed final order in response to the exceptions, replies, or briefs submitted. If the administrative law judge makes substantive revisions, the administrative law judge shall circulate the amended proposal for decision and proposed final order to the parties for additional exceptions and briefs before submitting the proposal for decision and the proposed final order based thereon to the agency head(s) for approval.

(b) After the administrative law judge has circulated the proposal for decision and proposed order to the parties and the parties

have had an opportunity to file exceptions and briefs in the manner provided in subsection (a) of this section, the administrative law judge shall submit the proposal for decision and proposed order together with all materials listed in Government Code, §2001.060, to the agency head(s) for review. No additional briefs may be submitted after the case is under submission to the agency head(s) for decision unless requested by the agency head(s). The agency head(s) may:

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

(4) remand the proceeding for further examination by the administrative law judge, including for the limited purpose of receiving additional briefing or evidence from the parties on specific issues; or

(5) take another lawful and appropriate action with regard to the case [direct the administrative law judge to give further consideration to the proceeding with or without reopening the hearing].

(c) If a court renders a decision that may be pertinent to the outcome of the case after it is under submission to the agency head, a party may direct the agency's attention to such decision by a cover letter transmitting a copy of the decision to the administrative law judge and agency head(s) (at the same time furnishing a copy to opposing parties). The cover letter may reference the case to which the decision pertains but may not contain arguments.

(d) [(e)] If [ø] remand pursuant to subsection (b) of this section results in a substantially revised proposal for decision and order [additional evidence is received which results in a substantial revision of the administrative law judge's recommendation for final action], the administrative law judge shall circulate the revised proposal for decision and order to the parties for additional exceptions and replies [prepare a new proposal for decision and proposed final order and serve them on the parties and give the parties an opportunity to file exceptions and make replies to the new proposal for decision and proposed final order] in the manner provided by subsection (a) of this section. After the parties have had an opportunity to file additional exceptions and replies, the administrative law judge shall submit the revised proposal for decision and order, together with the supplemental record, to the agency head(s) for consideration in the manner provided by subsection (b) of this section.

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

Filed with the Office of the Secretary of State, on April 24, 1998.

TRD-9805758

Everette D. Jobe

Certifying Official

Finance Commission of Texas

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For further information, please call: (512) 475-1300



## Part II. Texas Department of Banking

### Chapter 17. Trust Company Regulation

#### Subchapter A. General

##### 7 TAC §17.3

The Finance Commission of Texas (the commission) proposes new §17.3, concerning sale or lease agreements between a

trust company and an officer, director, manager, managing participant, principal shareholder, or principal participant of the trust company, or an affiliate of the trust company (insider).

Under Texas Civil Statutes, Article 342a-4.107(a), if the approval of a disinterested majority of a trust company's board cannot be obtained, a trust company may not sell or lease an asset to an insider or purchase or lease an asset from an insider without the prior approval of the banking commissioner. However, under Texas Civil Statutes, Article 342a-4.107(b), a trust company may not consummate, renew, or extend a lease involving real property in which an insider has an interest without the prior written approval of the banking commissioner.

As proposed, subsection (a) requires a sale or lease agreement between a trust company and an insider to be in writing.

As proposed, subsection (b) specifies that such agreements must have terms and rates that are substantially equivalent to or more favorable to the trust company than those prevailing at the time for comparable transactions with or involving nonaffiliated parties.

As proposed, subsection (c) clarifies the phrase "approval of a disinterested majority of the board," and requires board consideration of all insider sale or lease agreements.

As proposed, subsection (d) specifies the form and content of the written request which must be submitted to the banking commissioner if a trust company must seek the prior written approval of the banking commissioner to enter into a sale or lease agreement with an insider.

Finally, as proposed, subsection (e) sets out applicable record keeping requirements, and proposed subsection (f) specifies that subsection (c) is not applicable to a legally binding, written lease, entered into by a trust company prior to June 16, 1991, until such lease is renewed or extended beyond its original term.

Proposed §17.3 is comparable to and drawn from existing §3.22.

Everette D. Jobe, General Counsel, Texas Department of Banking, has determined that for the first five-year period the section is in effect, there will be no fiscal implication for state or local government as a result of enforcing or administering the section.

Mr. Jobe also has determined that for each year of the first five years the section is in effect, the public benefit anticipated as a result of enforcing this section is the clarification of highly complex statutory standards to aid the industry in compliance. No net economic cost will result to persons required to comply with the proposed section. No difference will exist between the cost of compliance for small businesses and the cost of compliance for the largest businesses affected by this section.

Comments on the proposed section may be submitted in writing to Jerry Sanchez, Assistant General Counsel, Texas Department of Banking, 2601 North Lamar Boulevard, Austin, Texas 78705-4294, or by e-mail to [jerry.sanchez@banking.state.tx.us](mailto:jerry.sanchez@banking.state.tx.us).

The section is proposed under Texas Civil Statutes, Article 342a-1.003(a), which authorizes the commission to adopt rules to implement and clarify the law and to preserve or protect the safety and soundness of trust companies.

Texas Civil Statutes, Article 342a-4.107, is affected by the proposal.

§17.3. Sale or Lease Agreements With an Officer, Director, Principal Shareholder, or Affiliate.

(a) Agreement in writing. A sale or lease agreement between a trust company and an officer, director, principal shareholder, or affiliate of the trust company must be in writing. Existing verbal agreements must be reduced to writing and approved by the board.

(b) Terms of agreement. A sale or lease agreement between a trust company and an officer, director, principal shareholder, or affiliate must comply with applicable laws and regulations, be subject to the exercise of prudent judgment, and have terms and rates that are substantially equivalent to or more favorable to the trust company than those prevailing at the time for comparable transactions with or involving nonaffiliated parties.

(c) Board action. All transactions subject to Texas Civil Statutes, Article 342a-4.107(a), must receive the prior approval of at least a majority of a quorum composed entirely of disinterested directors of the Board or the transaction at issue must be submitted for prior approval of the banking commissioner. For purposes of this section, a quorum shall consist of a majority of the number of directors elected at the last meeting of shareholders. Even if the transaction is subject to the prior approval of the banking commissioner because a quorum composed entirely of disinterested directors cannot be obtained, as a matter of good corporate policy, a trust company proposing to enter into a transaction subject to Texas Civil Statutes, Article 342a-4.107, should obtain the affirmative vote of a majority of the disinterested directors of the board.

(d) Application for approval. If a sale or lease agreement requires the written approval of the banking commissioner prior to consummating, renewing, or extending a sale or lease agreement, a written request for approval must be submitted to the banking commissioner at least 60 days prior to the proposed effective date of the sale or lease agreement and must include the following information:

- (1) a copy of the proposed sale or lease agreement;
- (2) a complete description of the personal or real property to be sold or leased;
- (3) a full disclosure of all existing transactions and/or relationships, whether direct or indirect, between the trust company and the parties involved;
- (4) in the case of a lease agreement involving real property, a copy of the minutes of the board meeting reflecting an analysis of the information contained in this subsection;
- (5) a certified copy of a board resolution approving the transaction and indicating those directors voting or abstaining, as the case may be, and either:
  - (A) evidence that the transaction received the affirmative vote of at least a majority of disinterested directors on the board;
  - or
  - (B) a statement explaining the reasons the affirmative vote of at least a majority of disinterested directors on the board could not be obtained;
- (6) copies of appropriate supporting documentation, including analysis of comparable terms and rates for the real or personal property to be sold or leased;
- (7) in the case of a lease agreement, evidence demonstrating that the trust company will account for the lease in accordance with Financial Accounting Standards Board Statement Number 13; and

(8) other information which the banking commissioner may request.

(e) Records. A trust company shall maintain the originals of all sale or lease agreements with an officer, director, manager, managing participant, principal shareholder, or principal participant of the trust company, or an affiliate, which documents must be made available at all times to the Texas Department of Banking for examination and review. For purposes of this subsection, required documentation need not be retained beyond three years after the expiration of the sale or lease agreement to which the documentation pertains.

(f) Exemption. Subsection (d) of this section does not apply to a legally binding, written lease entered into by a trust company prior to June 16, 1991, until such lease is renewed or extended beyond its original term.

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

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TRD-9805760

Everette D. Jobe

General Counsel

Texas Department of Banking

Proposed date of adoption: June 12, 1998

For further information, please call: (512) 475-1300



## Chapter 21. Trust Company Corporate Activities

The Finance Commission of Texas (the commission) proposes new §21.1, an amendment to §21.2, and new §§21.3, 21.31, 21.32, 21.41, and 21.42 concerning corporate filings for trust companies.

Effective September 1, 1997, Texas Civil Statutes, Articles 342a-1.001 et seq, became the governing law for trust companies under the jurisdiction of the Texas Department of Banking (the department). New regulations implementing this law require proposal and adoption.

Proposed §21.1 pertains to definitions applicable to corporate filings. Proposed §21.1 is comparable to and drawn from existing §15.1. The proposed amendment to §21.2 will add correct cross-references to the new proposed sections. Proposed §21.3 will act to reduce regulatory burden on trust companies by establishing guidance for utilizing the expedited procedure for certain corporate applications that require the approval of the banking commissioner.

Proposed §21.31 specifies the information which must initially be filed with the banking commissioner by a trust company before the trust company may exercise its authority to accept trust deposits pursuant to Texas Civil Statutes, Article 342a-5.40 1. Proposed §21.31 also specifies recordkeeping requirements. Proposed §21.31 further specifies that exempt trust companies may not engage in trust deposits. The commission believes deposit taking is an inappropriate activity for exempt trust companies, limited by definition to a narrow range of clientele. The commission specifically invites comments from interested parties on this issue.

Proposed §21.32 specifies the investments which a trust company may utilize for purposes of maintaining security for trust

deposits pursuant to Texas Civil Statutes, Article 342a-5.401, authorizes a trust company to utilize certificates of deposit for purposes of maintaining security for trust deposits, and requires a trust company to disclose to its clients that the trust deposits are not insured by the Federal Deposit Insurance Corporation if that is the case. Proposed §21.32 also requires that the value of the securities may be evaluated daily to ensure that the deposits are fully secured, or a margin of 10% must be maintained at all times; however, the value of the securities must be evaluated at least monthly to ensure that the deposits are fully secured. The market value of the securities must be equal to or greater than the total amount of the deposits plus any interest, accrued and unpaid. Proposed §21.32 also specifies recordkeeping requirements.

Proposed §21.41, concerning written notices and applications for change of home office, sets out when a notice and an application are necessary, the information which must be included in the filing with the banking commissioner, sets publication standards, and clarifies the role of the banking commissioner in the process.

Proposed §21.42, concerning establishing and closing of additional offices by trust companies subject to regulation by the banking commissioner, sets out the regulatory procedures for establishing and closing an additional office other than the home office of a trust company.

Several of the proposed sections refer to supervisory or regulatory concerns as a basis for denial or conditions on approval of an application. The industry should specifically note that the banking commissioner will evaluate whether the applicant is adequately prepared to address Year 2000 issues, a source of significant supervisory concerns. The Federal Financial Institutions Examination Council provides useful information at <http://www.ffiec.gov/y2k/default.htm>.

Everette D. Jobe, General Counsel, Texas Department of Banking, has determined that for the first five-year period the sections as proposed will be in effect, there will be no fiscal implications for state or local government as a result of enforcing or administering the sections.

Mr. Jobe also has determined that for each year of the first five-year period the sections as proposed will be in effect, the public benefit anticipated as a result of the proposed sections will be guidance for the trust company industry in engaging in a significant new activity with due regard for safety and soundness. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the sections as proposed.

Comments on the proposal may be submitted in writing to Everette D. Jobe, General Counsel, Texas Department of Banking, 2601 North Lamar Boulevard, Austin, Texas 78705-4294, or by e-mail to [everette.job@banking.state.tx.us](mailto:everette.job@banking.state.tx.us).

## Subchapter A. Fees and Other Provisions of General Applicability

### 7 TAC §§21.1–21.3

The sections are proposed under Texas Civil Statutes, Article 342a-1.003(1), (a)(2), which authorize the commission to adopt rules necessary or reasonable to implement and clarify Texas Civil Statutes, Article 342a-1.001 et seq, to preserve the safety and soundness of trust companies, to provide for recovery of the cost of maintenance and operation of the department and the

cost of enforcing the law through the imposition and collection of ratable and equitable fees for notices, applications, and examinations, and to facilitate the fair hearing and adjudication of matters before the commissioner and the commission.

Texas Civil Statutes, Articles 342a-1.003, 342a-3.202, and 342a-3.203, are affected by the proposal.

#### §21.1. Definitions.

Words and terms used in this chapter that are defined in Texas Civil Statutes, Articles 342a-1.001 et seq, have the same meanings as defined therein. The following words and terms, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise.

(1) Accepted filing—An application, request, notice, or protest filed under Texas Civil Statutes, Articles 342a-1.001 et seq, this chapter, or another rule adopted pursuant to Texas Civil Statutes, Articles 342a-1.001 et seq, for which the appropriate fee has been paid pursuant to §21.2 of this title (relating to Filing and Investigative Fees), and regarding which the banking commissioner has notified the person or entity who submitted the filing, in writing, that the submission is complete and has been accepted for filing.

(2) Additional office—A location of a trust company other than the trust company's home office, at which the trust company engages in the trust business.

(3) Day—A calendar day. Eligible trust company—A Texas chartered trust company that:

(A) possesses capital and surplus that equals or exceeds current minimum statutory or regulatory requirements;

(B) received a satisfactory rating at the most recent examination by the department or federal regulatory agencies;

(C) is not operating in violation of a regulatory condition or commitment letter; and

(D) is not operating under a memorandum of understanding, determination letter or other notice of determination, order to cease and desist, or other state or federal administrative enforcement order.

(4) General interest items—Include, but are not limited to, local and international news, weather, sports, features, comics, entertainment and advertisements directed to the general public.

(5) Newspaper of general circulation—A newspaper that:

(A) devotes not less than 25% of its total column lineage to general interest items, provided that a newspaper of general circulation does not include a specialized newspaper or other periodical directed to a specific interest group or occupation, such as a legal notice or court related newspaper;

(B) is published at least once a week;

(C) is entered as second class postal matter in the county where published; and

(D) has been published regularly and continuously for at least 12 months before the applicant, protesting party or other entity publishes notice, provided that a weekly newspaper is considered to have been published regularly and continuously if the newspaper omits not more than three issues in a twelve month period.

(6) Public notice—A matter, including an application, request, notice, or protest, whether by proclamation or declaration, required or authorized to be published in a newspaper of general circulation by Texas Civil Statutes, Articles 342a-1.001 et seq, this

chapter, or another rule adopted pursuant to Texas Civil Statutes, Articles 342a-1.001 et seq, or required to be published by the banking commissioner.

(7) Submitted filing—An initial application, request, notice, or protest filed under Texas Civil Statutes, Articles 342a-1.001 et seq, this chapter, or another rule adopted pursuant to Texas Civil Statutes, Articles 342a-1.001 et seq, that has not been abandoned and is not an accepted filing.

§21.2. *Filing and Investigation Fees.*

(a) (No change.)

(b) Filing fees. Simultaneously with a submitted application or notice, an applicant shall pay to the department:

(1)-(8) (No change.)

(9) \$200 for a notice to change home office with no abandonment of existing office pursuant to Texas Civil Statutes, Article 342a-3.202(c), and §21.41(a) of this title (relating to Written Notice and Application for Change of Home Office);

(10) \$1,500 for an application to relocate the home office with abandonment of existing office pursuant to Texas Civil Statutes, Article 342a-3.202(d), and §21.41(b) of this title, except as otherwise provided in paragraph (11) of this subsection ;

(11) \$500 for an application by an eligible trust company to relocate the home office with abandonment of existing office pursuant to §21.3 of this title (relating to Expedited Filings);

(12) ~~[(44)]~~ \$200 for a notice of additional office pursuant to Texas Civil Statutes, Article 342a-3.203(a), and §21.42 of this title (relating to Establishment, Relocation and Closing of an Additional Office), plus an additional \$1,300 if the banking commissioner notifies the applicant pursuant to Texas Civil Statutes, Article 342a-3.203(b), and §21.42(c) of this title that additional information and analysis is required;

~~[(12)]~~ \$1,500 for an application to open an additional office pursuant to Texas Civil Statutes, Article 342a-3.203(b) ];

(13)-(18) (No change).

(19) \$1,000 for an application for authority to accept deposits pursuant to Texas Civil Statutes, Article 342a-3.101 and Article 342a-5.401, and §21.31 ~~§21-24~~ of this title (relating to Notice to Engage in Trust Deposits);

(20)-(21) (No change).

(c)-(f) (No change).

§21.3. *Expedited Filings.*

(a) Eligible trust companies may file an expedited filing according to forms and instructions provided by the department solely for home office relocations within the same city pursuant to Texas Civil Statutes, Article 342a-3.202(d), and §21.41(b) of this title (relating to Written Notice and Application for Change of Home Office), together with the fee required by §21.2 of this title (relating to Filing and Investigation Fees). Notice must be published as required by §21.41(e) of this title.

(b) Notwithstanding another provision of this section, the banking commissioner may deny expedited filing treatment to an eligible trust company, in the exercise of discretion, if the banking commissioner finds that the filing involves one or more of the following:

(1) the proposed transaction involves significant policy, supervisory, or legal issues;

(2) approval of the proposed transaction is contingent on additional statutory or regulatory approval by the banking commissioner or another state or federal regulatory agency;

(3) the proposed transaction will result in a fixed asset investment in excess of the limitation contained in Texas Civil Statutes, Article 342a-5.001(b);

(4) the proposed transaction significantly impacts the strategic plan of the trust company;

(5) the proposed transaction would cause capital and surplus to fall below current minimum statutory or regulatory requirements;

(6) the proposed transaction involves an issue of regulatory concern as determined by the banking commissioner in the exercise of discretion; or

(7) the application is deficient and specific additional information is required, or the filing fee has not been paid.

(c) The banking commissioner may deny or withdraw expedited filing treatment if a protest is filed. If a protest is filed, the application will be processed under §21.41 of this title.

(d) The department shall notify the applicant on or before the 15th day following the date the application is accepted for filing if expedited filing treatment is not available under this section. Such notification must be in writing and must indicate the reason why expedited treatment is not available. Notification is effective when mailed by the department and is not subject to appeal.

(e) Unless the applicant is otherwise notified by the department, an expedited filing is approved on the 15th day after the date the applicant is notified that expedited filing treatment is available or the expiration of the period for filing a public comment or protest, whichever is the last to occur.

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

Filed with the Office of the Secretary of State, on April 24, 1998.

TRD-9805761

Everette D. Jobe

General Counsel

Texas Department of Banking

Proposed date of adoption: June 12, 1998

For further information, please call: (512) 475-1300



## Subchapter C. Trust Deposits

### 7 TAC §21.31, §21.32

The new sections are proposed under Texas Civil Statutes, Article 342a-1.003(a)(1), which authorizes the commission to adopt rules to implement and clarify Texas Civil Statutes, Articles 342a-1.001 et seq to preserve the safety and soundness of trust companies, and to facilitate the fair hearing and adjudication of matters before the commissioner and the commission.

Texas Civil Statutes, Article 342a-3.011 and Article 342a-5.401, are affected by the proposal.

#### §21.31. *Notice To Engage In Trust Deposits.*

(a) Compliance required. A trust company may not deposit trust funds with itself as an investment pursuant to Texas Civil



Statutes, Article 342a-5.401, unless it first complies with this section and §21.32 of this title (relating to Acceptance of Trust Deposits).

(b) Notice of activity. At least 30 days before accepting trust deposits, a trust company shall file a notice with the banking commissioner containing the following information, together with the filing fee required by §21.2 of this title (relating to Filing and Investigation Fees):

(1) an estimate of the anticipated dollar volume of trust deposits, an estimate of the maximum trust deposit for any one account, and an estimate of the total number of accounts that will invest in trust deposits;

(2) a copy of the added or revised portion of the trust company's strategic plan that addresses the acceptance of trust deposits, in compliance with Texas Department of Banking Policy Memorandum Number 1009, regarding strategic plans;

(3) if trust deposits are to be insured by the Federal Deposit Insurance Corporation (FDIC), or its successor, evidence of such insurance;

(4) if trust deposits are to be secured by a pledged fund of securities:

(A) a description of the initial fund of securities securing the anticipated trust deposits, including disclosure of current market value and an evaluation of the securities under the standards of Texas Civil Statutes, Article 342a-5.101(f); and

(B) identification of the federal reserve bank, state or nationally chartered depository institution, or clearing corporation, that controls the securities pledged against the trust deposits and a copy of the executed pledge agreement with such institution;

(5) if trust deposits are to be secured by a pledged certificate of deposit:

(A) evidence of the certificate of deposit that discloses its value and associated costs, including penalties, for early redemption or withdrawal; and

(B) identification of the FDIC-insured depository institution that issued the certificate of deposit, a copy of the executed pledge agreement with such institution, and an acknowledgment of the pledge from the issuing institution;

(6) a certified copy of a board resolution directing management of the trust company to:

(A) maintain adequate security and/or FDIC insurance to fully secure and/or insure the trust deposits; and

(B) maintain adequate policies, procedures, and records regarding trust deposits; and

(7) such other information that the banking commissioner may reasonably request.

(c) Action by banking commissioner.

(1) the trust company may begin accepting trust deposits on the 31st day after the date the banking commissioner receives the trust company's completed notice letter unless the banking commissioner specifies an earlier or later date, requests additional information, or prohibits the activity as provided in this subsection. The banking commissioner may prohibit the trust company from accepting trust deposits only if the banking commissioner concludes that:

(A) the trust deposits would not be fully insured or secured as required by Texas Civil Statutes, Article 342a-5.401, and this section;

(B) the activity would adversely affect the safety and soundness of the trust company;

(C) the trust company has a less than satisfactory rating as of the trust company's most recent examination; or

(D) the trust company is subject to an enforcement order under Texas Civil Statutes, Article 342a-6.001 et seq, or is not otherwise operating in substantial compliance with all applicable state and federal laws and regulations.

(2) The banking commissioner may extend the 30-day period under paragraph (1) of this subsection if the banking commissioner determines that the trust company's notice raises issues requiring additional information or additional time for analysis. If the 30-day period is extended, the trust company may accept trust deposits only on prior written approval by the banking commissioner, except that the banking commissioner must approve or prohibit the proposed activity or convene a hearing under Texas Civil Statutes, Article 342a-3.009, not later than the 60th day after the date the banking commissioner receives the trust company's notice. If a hearing is convened, the banking commissioner must approve or prohibit the proposed activity not later than the 30th day after the date the hearing is completed.

(3) A trust company that is denied the right to accept trust deposits by the banking commissioner under this section may appeal as provided by Texas Civil Statutes, Article 342a-3.010, or may file a new notice under this section with additional information relevant to the banking commissioner's determination, with applicable filing fee.

(d) Authority to accept trust deposits. Only a trust company which transacts business with the public may deposit trust funds with itself as an investment pursuant to Texas Civil Statutes, Article 342a-5.401. An exempt trust company under Texas Civil Statutes, Articles 342a-3.011 through 342a-3.019, may not accept trust deposits.

(e) Records. A trust company shall maintain written documentation adequate to demonstrate compliance with this section, which documents must be available at all times to the department for examination and review. For purposes of this subsection, required documentation need not be retained beyond three years.

#### §21.32. Acceptance of Trust Deposits.

(a) Compliance required. A trust company may not deposit trust funds with itself as an investment pursuant to Texas Civil Statutes, Article 342a-5.401, unless it first complies with this section and §21.31 of this title (relating to Notice to Engage in Trust Deposits). Trust deposits must be fully insured by deposit insurance issued by the Federal Deposit Insurance Corporation (FDIC), or its successor, or fully secured by a separate fund of pledged securities, by pledged certificates of deposit, or a combination of the foregoing.

(b) Pledged collateral. A separate fund of securities or certificates of deposit that are pledged to secure trust deposits must be maintained in a federal reserve bank, a state or nationally chartered depository institution, or a clearing corporation, as defined by Business & Commerce Code, §8.102, either in this state or elsewhere, and must:

(1) for a fund of securities, contain only bonds, notes, or other evidences of indebtedness which are investment grade, convertible to cash within three business days, at least 80% of which have a maturity date of not later than the 91st day after the date of

purchase. For purposes of this subsection, investment grade refers to a security that is rated "Baa" or better by Moody's or "BBB" or better by Standard & Poor's rating services in accordance with the terms of the Uniform Agreement on Classification Of Assets And Appraisal Of Securities by the Federal Financial Institutions Examination Council;

(2) for a fund of securities, the value of the securities must at all times equal or exceed 110% of the deposits held plus accrued and unpaid interest; provided, however, that if the value of the securities is evaluated daily and reduced to writing, the value of the securities must at all times equal or exceed 100% of the deposits held plus accrued and unpaid interest. In any event, the value of the securities must be evaluated at least monthly to ensure that the deposits are fully secured; and

(3) for a certificate of deposit, be fully insured by the FDIC.

(c) Noninsurability by FDIC. If a trust company's trust deposits are not insured by the FDIC, a trust company must provide each client related to an account from which deposits may be accepted with a written notice conspicuously stating that: "Your de posit with this trust company is not insured by the FDIC." This notice must be provided to the client prior to any deposit activity regarding the related account and must be signed by both the client and the trust company. The notice must be in type that is boldfaced, capitalized, underlined or otherwise set out from surrounding written material so as to be conspicuous. Furthermore, all documents issued by a trust company evidencing a deposit transaction, must contain a notice complying with the requirements of this subsection.

(d) Records. A trust company shall maintain all written documentation adequate to demonstrate compliance with this section, which documents must be available at all times to the department for examination and review. For purposes of this subsection, required documentation need not be retained beyond three years.

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

Filed with the Office of the Secretary of State, on April 24, 1998.

TRD-9805762

Everette D. Jobe  
General Counsel

Texas Department of Banking

Proposed date of adoption: June 12, 1998

For further information, please call: (512) 475-1300



## Subchapter D. Trust Company Offices

### 7 TAC §21.41, §21.42

The new sections are proposed under Texas Civil Statutes, Articles 342a-1.003, which authorizes the commission to adopt rules necessary and reasonable to implement and clarify the statute, to preserve the safety and soundness of trust companies, and to facilitate the fair hearing and adjudication of matters before the commissioner and the commission.

Texas Civil Statutes, Article 342a-3.202 and Article 342a-3.203, are affected by the proposal.

#### §21.41. Written Notice and Application for Change of Home Office.

(a) Relocation by notice. If the location that is the home office of a trust company prior to a proposed relocation of the home office is to remain an additional office of the trust company after the

relocation, the trust company may relocate its home office by filing a written notice pursuant to Texas Civil Statutes, Article 342a-3.202(c). The filed notice must contain all information required by subsection (c) of this section, accompanied by the required filing fee pursuant to §21.2 of this title (relating to Filing Fees and Cost Deposits), and notice of the submission must be published as required by subsection (e) of this section. A trust company filing notice of a home office relocation under this subsection may relocate its home office on the 31st day after the required notice and fee have been received by the banking commissioner, unless the banking commissioner gives notice in writing, prior to the expiration of that time period, that an earlier or later date is authorized or that additional information and additional time for analysis is required. Upon issuance of a notice requiring additional information and additional time for analysis, the trust company may relocate its home office only on written approval of the banking commissioner. Except as otherwise provided in this section, the banking commissioner shall evaluate the notice under the criteria of §21.42(e) of this title (relating to Establishment and Closing of an Additional Office).

(b) Relocation by application. If Texas Civil Statutes, Article 342a-3.202(c), and subsection (a) of this section do not apply, a trust company desiring to change its home office location must file an application with the banking commissioner pursuant to Texas Civil Statutes, Article 342a-3.202(d), setting forth all information required by subsection (d) of this section, accompanied by the required filing fee pursuant to §21.2 of this title, and notice of the submission must be published as required by subsection (e) of this section. The banking commissioner shall issue a written notice no later than 15 days after the date the initial filing is received, as required by §21.4 of this title (relating to Required Information and Abandoned Filings), informing the applicant either that all filing fees have been paid and the application is complete and accepted for filing, or that the application is deficient and specific additional information is required. Except as otherwise provided in this section, the banking commissioner shall evaluate the application under the criteria of §21.42(e) of this title. An applicant under this subsection may not relocate its home office without the prior written approval of the banking commissioner.

(c) Contents of notice. The notice filed under subsection (a) of this section must disclose:

(1) the name of the trust company requesting the home office relocation;

(2) the street address of the trust company's home office before the requested home office relocation;

(3) the street address of the trust company's proposed home office;

(4) the desired effective date of the home office relocation under subsection (a) of this section;

(5) a copy of the resolution adopted by the trust company's board of directors authorizing the proposed home office relocation;

(6) the cost to be incurred in connection with the relocation and a statement of the impact of such cost on the trust company's ability to meet liquidity requirements;

(7) evidence that the trust company has considered applicable federal law, if any;

(8) a description of any actual, proposed, or contemplated financial involvement by an officer, director, manager, managing participant, or principal shareholder or participant of the trust company with respect to its home office relocation; and

(9) such other information as the banking commissioner may require.

(d) Contents of application. The application submitted under subsection (b) of this section must disclose:

(1) the name of the trust company requesting the home office relocation;

(2) the street address of the trust company's home office before the requested home office relocation;

(3) the street address of the trust company's proposed home office;

(4) the desired effective date for the home office relocation;

(5) a copy of the resolution adopted by the trust company's board of directors authorizing the home office relocation;

(6) the cost to be incurred in connection with the relocation and a statement of the impact of such cost on the trust company's ability to meet liquidity requirements;

(7) a written statement signed by the principal executive officer of the trust company or a majority of the trust company's board of directors stating whether the home office relocation will result in an abandonment of all or a part of the community served by the trust company present home office location and, if so, an explanation of how the abandonment is consistent with the original determination of public convenience and advantage for the establishment of the trust company at its existing home office location;

(8) a written statement signed by the principal executive officer of the trust company or a majority of the trust company's board of directors stating whether the home office relocation is anticipated to result in a reduction of trust services presently offered by the trust company at its present location within the 18-month period after the proposed effective date of the relocation and, if so, an explanation of the anticipated reduction in trust and fiduciary services and how the diminution in services is consistent with the original determination of public convenience and advantage for the establishment of the trust company at its existing home office location;

(9) a description of any actual, proposed, or contemplated financial involvement by an officer, director, manager, managing participant, or principal shareholder or participant of the trust company with respect to the home office relocation;

(10) evidence that the trust company has considered applicable federal law, if any; and

(11) such other information as the banking commissioner may require.

(e) Public notice and participation.

(1) Within 14 days of the initial submission of a notice or application under subsection (a) or (b) of this section, the trust company shall publish notice of the submission as required by §21.5 of this title (relating to Public Notice). Notice must be published in the community where the current home office of the trust company is located and in the community where the proposed home office will be located, and must disclose the locations of the existing and proposed home offices.

(2) For a period of 14 days after publication of notice or such longer period as the banking commissioner may allow for good cause shown, the public may submit written comments or protests. Persons submitting comments are not entitled to further notice of

or participation in the proceedings. In the event of a properly filed protest, each protesting party has the rights and responsibilities of a protesting party to a notice of additional office under §21.42 of this title.

(f) Articles of association. An amendment to the articles of association of the trust company is not required to effect a change in the location of its home office under this section. However, if the articles of association are subsequently restated for any reason, the trust company must include the address of its then current home office in the restated articles of association.

§21.42. Establishment, Relocation and Closing of an Additional Office.

(a) Establishment or relocation by notice. A trust company may establish or relocate an additional office pursuant to Texas Civil Statutes, Article 342a-3.203, by filing a written notice with the banking commissioner containing all information required by subsection (b) of this section, accompanied by the required filing fee pursuant to §21.2 of this title (relating to Filing Fees and Cost Deposits), and notice of the submission must be published as required by subsection (d) of this section. A trust company filing notice of an additional office under this subsection may establish the additional office on the 31st day after the date the required notice and fee are received by the banking commissioner unless the banking commissioner gives notice in writing, prior to the expiration of that time period, that an earlier or later date is authorized or that additional information is required pursuant to subsection (c) of this section.

(b) Contents of notice. The notice filed under subsection (a) of this section must disclose:

(1) the name and home office location of the trust company requesting the additional office;

(2) the street address of the trust company's proposed additional office;

(3) a description of the activities proposed to be conducted at the proposed additional office;

(4) the desired effective date for establishment of the additional office;

(5) a certified copy of the resolution adopted by the trust company's board of directors authorizing the proposed additional office;

(6) the cost to be incurred in connection with the establishment of the additional office and a statement of the impact of such cost on the trust company's ability to meet liquidity requirements;

(7) a description of any actual proposed, or contemplated financial involvement by any officer, director, manager, managing participant, or principal shareholder or participant of the trust company with respect to establishing the additional office;

(8) evidence that the trust company has considered applicable federal law, if any; and

(9) such other information as the banking commissioner may require.

(c) Request for additional information. At any time before the 31st day after the date the notice required by subsection (a) of the section is filed, the banking commissioner may issue written notice to the trust company specifying a later date for establishing or relocating an additional office and requiring the submission of additional information and additional time for analysis. Upon issuance of

a notice requiring the submission of additional information and additional time for analysis, the trust company may establish or relocate the additional office only on written approval of the banking commissioner.

(d) Public notice and participation.

(1) Within 14 days of the initial submission of the notice required under subsection (a) of this section, the trust company shall publish notice of the submission as required by §21.5 of this title (relating to Public Notice). Notice must be published in the community where the proposed additional office will be located and must specifically disclose the location of the proposed additional office.

(2) For a period of 14 days after publication of notice or such longer period as the banking commissioner may allow for good cause shown, the public may submit written comments or protests. Persons submitting comments will not be charged fees or costs, but are not entitled to further notice of or participation in the proceedings. Each protesting party has the rights and responsibilities set forth in subsections (f) and (g) of this section.

(e) Criteria for determining significant supervisory or regulatory concern. The banking commissioner may deny permission to establish or relocate an additional office of a trust company if the commissioner has significant supervisory or regulatory concern about the proposed transaction.

(1) In evaluating whether significant supervisory concerns exist regarding a proposed additional office, the banking commissioner shall consider the financial condition of the trust company, the financial effect of the additional office on the trust company, the management abilities of the trust company, and the history and prospects of the trust company and its affiliates regarding fulfillment of responsibilities to regulatory agencies and to the public. A request will ordinarily be denied if the trust company is in less than satisfactory financial condition as of its most recent examination.

(2) In evaluating whether significant regulatory concerns exist regarding a proposed additional office, the banking commissioner will consider the relevant marketplace and the convenience of the public in accessing desired trust services and preferred trustees. The banking commissioner will follow the principles that the marketplace normally is the best regulator of economic activity, and that healthy competition promotes a sound and more efficient trust company system that serves customers well. Accordingly, absent significant supervisory concerns, the general policy of the banking commissioner is to approve applications, requests and notices to establish and relocate additional offices, provided that approval would not otherwise violate applicable provisions of federal or state law (including any requirements for federal banking agency approval).

(3) In evaluating whether the banking commissioner should have significant supervisory or regulatory concerns as set forth in paragraphs (1) and (2) of this subsection, the banking commissioner will consider written material in the record, including the contents of the application, notice or request, comments on file, the department's files as they relate to the current financial condition of the trust company, and other data that the banking commissioner may properly officially notice. Specifically, the banking commissioner shall approve the establishment or relocation of an additional office if the following considerations are met:

(A) the department's files do not indicate significant supervisory concerns as they relate to the current financial condition of the trust company, including but not limited to its capital, asset quality, management, earnings and liquidity;

(B) the costs of establishing or relocating the office, including costs of purchasing or leasing the office site, necessary furnishings, staffing and equipment, do not significantly affect the operations of the trust company as a whole;

(C) the projected earnings appear reasonable and sufficient to support expenses attributable to the establishment and relocation of the office without jeopardizing the safety and soundness of the trust company;

(D) the depth and quality of management of the trust company and of the proposed additional office are sufficient to justify a belief that the trust company will operate in compliance with law;

(E) the trust company has demonstrated a responsiveness to recommendations made in past state and federal regulatory examinations or other regulatory findings and the trust company has generally been operated in substantial compliance with all applicable state and federal laws; and

(F) no areas of general supervisory concern exist as determined by the banking commissioner in the exercise of discretion.

(4) The banking commissioner shall direct the department to assemble, evaluate, and make a recommendation regarding all relevant documentation and data as set forth in this subsection on or before the 30th day after the date the application is accepted for filing.

(5) The banking commissioner shall either approve, conditionally approve, or deny the application, notice, or request on or before the 30th day after the date of the department's recommendation.

(f) Protest.

(1) A protest may be initiated by notifying the department in writing of the intent to protest the establishment of an additional office at the specified location within the time period allowed by subsection (d) of this section, accompanied by the filing fee as set forth in §21.2(c) of this title (relating to Filing and Investigation Fees). If the protest is untimely, the filing fee will be returned to the protesting party. If the protest is timely, the department will notify the applicant of the protest and mail or deliver a complete copy of the non-confidential sections of the application to the protesting party on or before the 14th day after receipt of the protest or the application, whichever occurs later.

(2) The protesting party shall file a detailed protest responding to each substantive statement contained in the notice on or before the 20th day after the date of receipt of the application. The protesting party's response must indicate with regard to each such statement whether it is admitted or denied. The applicant shall file a written reply to the detailed response on or before the 10th day after the date the response is filed. Both the detailed response and the reply thereto must be verified by affidavit and must contain a certificate of service on the opposing party. When applicable, statements in the response and in the reply may be supported by references to data available in sources of which official notice may properly be taken. Comments received by the department and any replies of the applicant to such comments will also be made available to the protesting party.

(3) The banking commissioner may extend any time period set forth in this subsection for good cause shown. Good cause includes, but is not limited to, failure of the department to furnish required documentation, forms, or information within a reasonable time to permit its effective use by the recipient, or failure of a party to timely serve a filed document on an opposing party. The filing date is the date the document is actually received by the department

and not the date of mailing. Failure to timely file a required document is considered an abandonment of the application or protest, as applicable. Rule 21a, Texas Rules of Civil Procedure, governs the methods and manner of authorized service and the computation of time periods under this subsection.

(g) Hearing.

(1) The banking commissioner may not be compelled to hold a hearing prior to allowing or not allowing an additional office to be established. In the exercise of discretion, the banking commissioner may consider granting a hearing on a notice of additional office at the request of either the filing trust company or a protesting party. The banking commissioner may order a hearing even if no hearing has been requested.

(2) A party requesting a hearing must indicate with specificity what issues are involved that cannot be determined on the basis of the record compiled pursuant to subsection (e) of this section and why the issues cannot be so determined. The request for hearing and the banking commissioner's decision with regard to granting a hearing will be made a part of the record. If a hearing is not requested or if a request for hearing is denied, the banking commissioner will consider the notice in the manner set forth in and solely on the basis of the written record established pursuant to subsection (e) of this section.

(3) If a hearing is granted, the administrative law judge shall enter appropriate order(s) and conduct the hearing within 30 days after the date the hearing was granted, or as soon thereafter as is reasonably possible, under Chapter 9 of this title (relating to Rules of Procedure for Contested Case Hearings, Appeals, and Rulemakings) and the Administrative Procedure Act (Texas Government Code, Chapter 2001). Issues will be limited to those on which testimony is absolutely necessary, and the administrative law judge may require testimony to be submitted in written form and prefiled. No evidence will be received on matters that are not in dispute. No issues or evidence will be considered that are not relevant to the standards set forth in subsection

(e) of this section or that are not supported by the notice, response, or reply. A proposal for decision, exceptions and replies to such proposal for decision, the final decision of the banking commissioner, and motions for rehearing are governed by Chapter 9 of this title.

(h) Closing an additional office.

(1) Subject to paragraph (2) of this subsection, at least 30 days prior to the date a trust company proposes to close an additional office, the trust company shall file written notice with the banking commissioner disclosing:

(A) the name and home office location of the trust company seeking to close the additional office location;

(B) the street address of the additional office location to be closed;

(C) the effective date of the proposed closing;

(D) evidence of distribution of written notice of closing to all customers and account holders at least 45 days prior to the proposed closing date.

(E) the place and street address of location where records from the closed office will be transferred;

(F) a copy of the resolution adopted by the trust company's board of directors authorizing the proposed closing of the additional location; and

(G) such other information as the banking commissioner may require.

(2) If the trust company must comply with notice requirements of federal banking law applicable to closing a branch office, in lieu of compliance with paragraph (1) of this subsection, the trust company may provide the banking commissioner with a copy of the closing notice filed with the appropriate federal banking regulator simultaneously with its filing.

(3) Once the additional office has been closed, the trust company may not reopen the additional office except upon notice or application for a new additional office in compliance with this section.

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

Filed with the Office of the Secretary of State, on April 24, 1998.

TRD-9805763

Everette D. Jobe

General Counsel

Texas Department of Banking

Proposed date of adoption: June 12, 1998

For further information, please call: (512) 475-1300



## Part VI. Credit Union Department

### Chapter 91. Chartering, Operations, Mergers, Liquidations

#### Subchapter B. Organization Procedures

##### 7 TAC §91.209

The Texas Credit Union Commission proposes amendments to §91.209, concerning reports and charges for late filing. The commission proposes the amendment to help administer the Credit Union Department's responsibility to regulate credit unions in Texas. The department is charged, generally, with the duty to regulate state-chartered credit unions to ensure safety and soundness and compliance with state or federal laws, among other purposes. To implement its duties, the department, through the Credit Union Commissioner, regularly examines the financial condition and operations of credit unions. When needed, the commissioner may require submission of a report or other document to carry out the department's regulatory duty. A credit union's failure to timely file a required report or document impedes the efficient administration of the laws regulating credit unions and causes the department to incur additional expense. The commission intends the amendment of §91.209 to motivate timely filing of reports and other documents required by the commissioner with the assessment of a separate charge of \$100 per day when the credit union fails to meet the submission deadline. In addition, if the required report or other document is not filed, the department would have the authority to conduct a supplemental examination for the purposes of completing the report or document and to assess a supplemental examination fee as prescribed in 7 TAC 97.113(c), which represents an additional

expense being incurred as a result of the credit union's failure to submit the required report or document. The activities of the department are funded with assessments paid by credit unions and the charges and fees proposed under this proposal are expressly authorized under Texas Finance Code, §15.402.

Lynette Pool-Harris, Deputy Commissioner, has determined that there will be no fiscal implications as a result of enforcing or administering the proposed amended rule.

Ms. Pool-Harris has also determined that for each year of the first five years the amended section, as proposed, is in effect, the public benefit anticipated as a result of enforcing the section will be greater assurance that the state regulator is making every effort to ensure that their credit unions are complying with state law and regulations and are operating in a safe and sound manner. There will be no effect on small businesses as a result of enforcing this section as amended. There is an economic cost anticipated only to those parties who do not comply with the rule and are therefore subject to the late filing penalties.

Written comments on the proposed amendments must be submitted within 30 days after their publication in the *Texas Register* to Carol P. Shaner, Staff Services Officer, Credit Union Department, 914 East Anderson Lane, Austin, Texas 78752-1699.

The amendments are proposed under the provision of the Texas Finance Code, §15.402, which authorizes the commission to adopt reasonable rules for administering Title 2, Chapter 15 and Title 3, Subchapter D of the Texas Finance Code; and to set reasonable supervision fees, charges, and revenues to be paid by a credit union.

The specific section affected by the proposed amendments is Texas Finance Code, §15.402.

*§91.209. Reports [Filing Fee] and Charges [Penalties] for Late Filing.*

[The fee for late filing of reports of condition is \$100 per day.]

(a) A credit union shall prepare and forward to the Department any report or other document which the Commissioner requires and will comply with all instruction relating to submitting the report or document. For the purposes of this Section, the Commissioner's request shall be in writing and must specifically advise the credit union that the provisions of this Section apply to the request.

(b) If a credit union fails to file a report or provide a document within the timeframe specified in the instruction and after notice of non-receipt, the commissioner may assess a charge for the late filing of \$100 per day. The credit union shall pay the late charge to the department within 30 days of the assessment.

(c) If a credit union fails to file a report or provide the requested information within the specified time, the commissioner or any person designated by the commissioner may examine the books, accounts and records of the credit union, prepare the report or gather the information and charge the credit union a supplemental examination fee as prescribed in §97.113(c) of this title (relating to supplemental examinations). The credit union shall pay the fee to the department within 30 days of the assessment.

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

Filed with the Office of the Secretary of State, on April 20, 1998.

TRD-9805561

Harold E. Feeney

Commissioner

Credit Union Department

Earliest possible date of adoption: June 7, 1998

For further information, please call: (512) 837-9236

## TITLE 10. COMMUNITY DEVELOPMENT

### Part I. Texas Department of Housing and Community Affairs

#### Chapter 80. Manufactured Housing

The Texas Department of Housing and Community Affairs (Department) Manufactured Housing Division proposes repeal of §80.1, §§80.21 - 80.29, §§80.36 - 80.41, §§80.51 - 80.65, §80.67, §80.118, §80.121, §§80.123 - 80.126, §§80.129 - 80.132, §80.135, §§80.181 - 80.186, §§80.201 - 80.208, the Manufactured Housing Rules. The sections are repealed to allow for proposal of new sections that will update the rules substantially in order to comply with the Texas Manufactured Housing Standards Act, Article 5221f, effective on September 1, 1997.

Hershal E. Blankenship, Director of the Manufactured Housing Division of the Department, has determined that for the first five years the sections are repealed there is expected to be an estimated reduction in cost to state government of \$36,000 each year for the repeal of §80.28, §80.123, and §80.203, which deletes the requirement to process monthly used home inventory reports, monthly installation summary reports and sales summary reports. These repealed sections will not be included in the proposed new rules. There is expected to be no fiscal implications for local government as a result of repealing the sections as proposed.

Mr. Blankenship also has determined that for each year of the first five years the sections are repealed, license holders, consumers and the general public will benefit because unnecessary information will be deleted and replaced by new sections with updated and clarified responsibilities and requirements that comply with the Texas Manufactured Housing Standards Act, Article 5221f. There is expected to be a probable reduction in economic cost as a result of repealing §80.28(a), §80.64(g), §80.123, §80.129, §80.186, and §80.203. The savings will be as followings:

Repeal of §80.28(a) is expected to have a probable reduction in economic cost of approximately \$30 each month to retailer/installer license holders as a result of deleting the provision for reporting monthly installation summaries to the department. It is anticipated that these savings in retailer/installer license holder costs will be passed on to the consumer.

Repeal of §80.64(g) is expected to have a probable reduction in economic cost of \$25 for each home installed with air conditioning to retailer/installer license holders as a result of deleting the requirement for a notarized air conditioning installation report.

Repeal of §80.123 is expected to have a probable reduction in economic cost of \$15 per month to retailer license holders as a result of deleting the requirement for a monthly sales summary

report to be sent to the department. It is anticipated that the public will benefit when these savings in retailer license holder costs are passed on to the consumer.

Repeal of §80.129 is expected to have a probable reduction in economic cost of approximately \$10 per repossessed home to retailer license holders as a result of deleting the requirement for retailers to provide the department with repossession sales reports.

Repeal of §80.186 is expected to have a probable reduction in economic cost of approximately \$10 for each used home inventory to licensed retailers as a result of deleting the requirement for posting used homes with notices regarding habitability requirements.

Repeal of §80.203 is expected to have a probable reduction in economic cost of \$15 per month to retailer license holders as a result of deleting the requirement for a monthly used home inventory report to be sent to the department. It is anticipated that the public will benefit when these savings in retailer license holder costs are passed on to the consumer.

It is anticipated that these savings in retailer/installer license holder costs will be passed on to the consumer. There is expected to be no economic costs to persons/businesses as a result of repealing the sections as proposed.

Comments may be submitted to Hersh E. Blankenship, Director of the Manufactured Housing Division, of the Texas Department of Housing and Community Affairs, 507 Sabine Street, Austin, Texas 78701 within 30 days of the date of this publication.

## Codes and Standards

### 10 TAC §80.1

*(Editor's note: The text of the following section proposed for repeal will not be published. The section may be examined in the offices of the Texas Department of Housing and Community Affairs or in the Texas Register office, Room 245, James Earl Rudder Building, 1019 Brazos Street, Austin.)*

The repealed section is proposed under the Texas Manufactured Housing Standards Act, Article 5221f, §9, which provides the department with authority to amend, add, and repeal rules governing the Manufactured Housing Division of the department.

No other statute, code, or article is affected by the repealed section.

§80.1. *Texas Manufactured Home Code Effective Dates.*

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

Filed with the Office of the Secretary of State, on April 27, 1998.

TRD-9805843

Larry Paul Manley

Executive Director

Texas Department of Housing and Community Affairs

Earliest possible date of adoption: June 7, 1998

For further information, please call: (512) 475-3726



## Fee Structure

### 10 TAC §§80.21–80.29, 80.36–80.41

*(Editor's note: The text of the following sections proposed for repeal will not be published. The sections may be examined in the offices of the Texas Department of Housing and Community Affairs or in the Texas Register office, Room 245, James Earl Rudder Building, 1019 Brazos Street, Austin.)*

The repealed sections are proposed under the Texas Manufactured Housing Standards Act, Article 5221f, §9, which provides the department with authority to amend, add, and repeal rules governing the Manufactured Housing Division of the department.

No other statute, code, or article is affected by the repealed sections.

§80.21. *Engineering Services Fees.*

§80.22. *Initial 100% Inspection Fees.*

§80.23. *Plant Inspection Fee.*

§80.24. *Manufactured Housing Increased Frequency Inspection Fee.*

§80.25. *Retailer Alteration Fee.*

§80.26. *Texas Seal Fee for Used Homes.*

§80.27. *Monitoring Inspection Fee.*

§80.28. *Installation Inspection Fee.*

§80.29. *Fees for Certificate of Registration.*

§80.36. *Authorized Fee Distributions.*

§80.37. *Fee for Homeowner's Temporary Installer's Registration.*

§80.38. *Educational Fee.*

§80.39. *Rebuilt Homes Fee.*

§80.40. *Fee for Inspection of Use Change.*

§80.41. *Fee for Consumer Complaint Inspection.*

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

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TRD-9805844

Larry Paul Manley

Executive Director

Texas Department of Housing and Community Affairs

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For further information, please call: (512) 475-3726



## Standards and Requirements

### 10 TAC §§80.51–80.65, 80.67

*(Editor's note: The text of the following sections proposed for repeal will not be published. The sections may be examined in the offices of the Texas Department of Housing and Community Affairs or in the Texas Register office, Room 245, James Earl Rudder Building, 1019 Brazos Street, Austin.)*

The repealed sections are proposed under the Texas Manufactured Housing Standards Act, Article 5221f, §9, which provides the department with authority to amend, add, and repeal

rules governing the Manufactured Housing Division of the department.

No other statute, code, or article is affected by the repealed sections.

§80.51. *Mobile Home and Hud-Code Manufactured Home Installation Requirements.*

§80.52. *Definitions.*

§80.53. *Provisions for Stabilizing Systems.*

§80.54. *Generic Installation Requirements.*

§80.55. *Approval of Stabilizing Devices and Systems.*

§80.56. *Requirements for Ground Anchor Approval.*

§80.57. *Approval of Devices of Anchoring Systems Used with Ground Anchors.*

§80.58. *Approval of Anchoring Systems Employing Anchoring Devices Other than Ground Anchors.*

§80.59. *Quality Control.*

§80.60. *Withdrawal of Approval of Anchoring Systems, Equipment, or Device.*

§80.61. *Notification of Withdrawal of Approval Anchoring Systems.*

§80.62. *Blocking Standards.*

§80.63. *Other Materials and Methods for Mobile Homes and Hud-Code Manufactured Homes.*

§80.64. *Procedures for Retailer Alterations.*

§80.65. *Texas Manufactured Housing Standards Code.*

§80.67. *Hud-Code Custom Construction.*

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

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Larry Paul Manley

Executive Director

Texas Department of Housing and Community Affairs

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For further information, please call: (512) 475-3726



## General Requirements

### 10 TAC §§80.118, 80.121, 80.123-80.126, 80.129-80.132, 80.135

The repealed sections are proposed under the Texas Manufactured Housing Standards Act, Article 5221f, §9, which provides the department with authority to amend, add, and repeal rules governing the Manufactured Housing Division of the department.

No other statute, code, or article is affected by the repealed sections.

§80.118. *Definitions.*

§80.121. *Installation Responsibilities.*

§80.123. *Retailer Sales Information.*

§80.124. *Security Requirements.*

§80.125. *Registration Requirements.*

§80.126. *Rules for Hearings.*

§80.129. *Repossessions Sales Reports.*

§80.130. *Delivery of Warranty.*

§80.131. *Correction Requirements.*

§80.132. *Procedures for Handling Consumer Complaints.*

§80.135. *Manufactured Housing Auctions.*

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

Filed with the Office of the Secretary of State, on April 27, 1998.

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Larry Paul Manley

Executive Director

Texas Department of Housing and Community Affairs

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## Consumer Notice Requirements

### 10 TAC §§80.181-80.186

*(Editor's note: The text of the following sections proposed for repeal will not be published. The sections may be examined in the offices of the Texas Department of Housing and Community Affairs or in the Texas Register office, Room 245, James Earl Rudder Building, 1019 Brazos Street, Austin.)*

The repealed sections are proposed under the Texas Manufactured Housing Standards Act, Article 5221f, §9, which provides the department with authority to amend, add, and repeal rules governing the Manufactured Housing Division of the department.

No other statute, code, or article is affected by the repealed sections.

§80.181. *Formaldehyde Emission Controls for Certain Wood Products.*

§80.182. *Health Notice on Formaldehyde Emissions.*

§80.183. *Air Chamber Test Method for Certification and Qualification of Formaldehyde Emission Levels.*

§80.184. *Venting, Ventilation, and Combustion Air.*

§80.185. *Additional Retailer Requirements.*

§80.186. *Posting Used Homes.*

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

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Larry Paul Manley

Executive Director

Texas Department of Housing and Community Affairs

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## Titling

### 10 TAC §§80.201–80.208

*(Editor's note: The text of the following sections proposed for repeal will not be published. The sections may be examined in the offices of the Texas Department of Housing and Community Affairs or in the Texas Register office, Room 245, James Earl Rudder Building, 1019 Brazos Street, Austin.)*

The repealed sections are proposed under the Texas Manufactured Housing Standards Act, Article 5221f, §9, which provides the department with authority to amend, add, and repeal rules governing the Manufactured Housing Division of the department.

No other statute, code, or article is affected by the repealed sections.

§80.201. *Definitions Concerning Titling.*

§80.202. *Fees for Title Documents.*

§80.203. *Reports.*

§80.204. *Titling Forms.*

§80.205. *Titling Transactions.*

§80.206. *Assignment of Lien.*

§80.207. *Reinstatement of Canceled Documents of Title.*

§80.208. *Recording Tax Lien on Manufactured Homes.*

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

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Larry Paul Manley

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## Chapter 80. Texas Department of Housing and Community Affairs

The Texas Department of Housing and Community Affairs (Department) proposes a new §80.10, §80.11, §80.20, §§80.50 - 80.56, §§80.62 - 80.64, §80.66, §§80.119 - 80.123, §§80.125 - 80.128, §§80.130 - 80.132, §80.135, §80.180, and §§80.202 - 80.208, the Manufactured Housing Rules.

New §80.10 describes the historical record for standards adopted for manufactured housing in accordance with the Texas Manufactured Housing Standards Act (Act), Article 5221f and clarifies the identity of the standards adopted.

New §80.11 concerns definitions related to manufactured housing. Definition sections previously existed in several locations throughout the repealed rules. To allow the reader a way to easily reference the definitions, the separate sections previously in the repealed rules have been combined into one section and alphabetized in Subchapter B named "Definitions."

New §80.20 concerns required fees to the department for services rendered for inspections, issuance of Texas Seals, licensing, educational instruction, training and administrative costs.

New §80.50 concerns wind zone regulations that require homes manufactured on or after September 1, 1997, to meet the U.S. Department of Housing and Urban Development standards for Wind Zone II in order to be installed in Wind Zone II. Homes constructed prior to September 1, 1997, will be allowed to be installed in Wind Zone I and II without restriction. The selling retailer of a home constructed on or after September 1, 1997, to Wind Zone I standards must give a written notice to the buyer that states the home was not designed nor constructed to withstand hurricane force winds, and is not permitted to be installed in Wind Zone II counties in Texas, and there may be restrictions in other states prohibiting installation in Wind Zone II or III areas.

New §§80.51 - 80.56, §§80.62 - 80.64, and §80.66 concern standards and requirements for installation of the manufactured homes, stabilizing system requirements, procedures for retailer alterations, and rebuilding or repairing "salvaged" manufactured homes for purposes of issuance of a manufactured home document of title. The new rules clarify and organize installation inspection requirements, wind zone installation requirements, and stabilizing system requirements; ensure that homes are installed in a safe and proper manner for the general public and the consumers protection; enhance the durability of manufactured homes; and establish generic installation standards for use statewide.

New §§80.119 - 80.123, §§80.125 - 80.128, §§80.130 - 80.132, and §80.135 concern responsibilities for the installation of manufactured homes; requirements for correcting deviations to a manufactured home installation; responsibilities of the manufacturer, retailer, and installer; security, license, and advertising requirements; procedures for hearings and arbitrations; delivery of warranties; consumer complaint handling procedures; correction requirements pertaining to consumer complaints; and manufactured housing auctions. The new rules explain various types of administrative actions related to licensing, and reference new and revised sections in the Act, Article 5221f. The new rules update procedures for handling consumer complaints to include the federal requirements and clarify the consumer complaint inspection process. New §§80.119 - 80.123 concern the requirements for installers, manufacturers, retailers, security, and licensing. These rules do the following: encourage use of knowledgeable installers, protect the general public, consumers, and license holders by allowing better detection of unauthorized and unlawful activities; effectively administer the Act by requiring up-to-date reports and installation manuals from the manufacturers; require the retailers to provide proof to the department that the consumers receive the required information; assure that license holders conform to security requirements; clarify licensing terminology and requirements; assure that manufactured homes are rebuilt according to standards; and protect the general public and consumers by ensuring review and analysis of pertinent documents before issuing a license. The new rule §80.128 concerning arbitration requirements establishes procedures to comply with the requirements in §13A(h) of the Act, Article 5221f. New §80.135 clarifies requirements for manufactured housing auctions to protect consumers and give homeowners authority to auction their own home.

New §80.180 concerns notice to the consumer of formaldehyde emissions in manufactured homes. The notice must be posted in the home as outlined in the Federal Manufactured Home Construction and Safety Standards. Retailers shall deliver

a copy of the "Important Health Notice" prescribed by the U.S. Department of Housing and Urban Development to the consumer before the execution of any mutually binding sales agreement.

New §§80.202 - 80.208 concern the method and requirements in obtaining a title or filing a tax lien, and instructions regarding required reports from the manufacturer and retailer. The new rules do the following: clarify the requirements and procedures for issuance of a title; provide information that will assist license holders, consumers, and the general public in conforming with the requirements in the Act, Article 5221f; clarify the procedures for filing a lien; and assist the department in data entry of information.

Hershal E. Blankenship, Director of the Manufactured Housing Division of the Department, has determined that for each year of the first five years the rules will be in effect, the net fiscal implications are expected to be an additional \$955,500 in expense to the Manufactured Housing Division of the Texas Department of Housing and Community Affairs on an annual basis. The expected fiscal implications by section are as follows:

§80.10 - \$ 0 §80.11 - \$ 0 §80.20 - Increase in Revenue \$5,000 & Savings of \$12,000 §80.50 - \$ 0 §80.51 - \$ 0 §80.52 - \$ 0 §80.53 - \$ 0 §80.54 - \$ 0 §80.55 - \$ 0 §80.56 - \$ 0 §80.62 - \$6,500 §80.63 - \$ 0 §80.64 - \$ 0 §80.66 - \$ 0 §80.119 - \$630,000 §80.120 - \$ 0 §80.121 - Savings of \$24,000 §80.122 - \$ 0 §80.123 - \$ 0 §80.125 - \$ 0 §80.126 - \$ 0 §80.127 - \$ 0 §80.128 - \$ 0 §80.130 - \$ 0 §80.131 - \$ 0 §80.132 - \$360,000 §80.135 - \$ 0 §80.180 - \$ 0 §80.202 - \$ 0 §80.203 - \$ 0 §80.204 - \$ 0 §80.205 - \$ 0 §80.206 - \$ 0 §80.207 - \$ 0 §80.208 - \$ 0

Hershal E. Blankenship, Director of the Manufactured Housing Division of the Department, has determined that for each year of the first five years the rules will be in effect, the expected fiscal implications for each section of the rules are as follows:

New §80.10 is expected to have no fiscal implications for state or units of local government as a result of enforcing or administering the section.

New §80.11 is expected to have no fiscal implications for state or units of local government as a result of enforcing or administering the section.

New §80.20 is expected to be a reduction in estimated cost for state government of \$12,000 each year as a result of deleting the requirement (repealed §80.28) to process monthly installation summary reports. There is expected to be an increase in state revenue of approximately \$5,000 per year as a result of a new provision in §80.20 which provides that a \$100 fee will be charged to either a license holder or the consumer for an additional inspection. An additional inspection may be requested when there is a dispute between the license holder and the consumer. This fee is to be paid by the party deemed responsible by the department for requiring the additional inspection. There are expected to be no fiscal implications for units of local government as a result of enforcing or administering the section.

New §§80.50 - 80.56 are expected to have no fiscal implications for state or units of local government as a result of enforcing or administering these sections.

New §80.62 is expected to have an additional estimated cost to state government of \$6,500 each year as a result of a

new requirement (§80.62(l)) to mail to all licensed installers, retailers, and manufacturers, a list of all approved stabilizing components and systems. There are expected to be no fiscal implications for units of local government as a result of enforcing or administering the section.

New §80.63, §80.64, and §80.66 are expected to have no fiscal implications for state or units of local government as a result of enforcing or administering these sections.

New §80.119 is expected to have an additional estimated cost to state government of \$630,000 each year as a result of a new requirement (§80.119(f)(2)) for expanded field inspector oversight of the installation process. The new process will enable the field inspector to be present, when possible, when the sections of the home are joined together to allow inspection of this critical element of the installation before the joints are covered. The cost will be more than offset by decreased license holder service costs and consumer maintenance costs and improved construction integrity of the manufactured home.

New §80.120 is expected to have no fiscal implications for state or units of local government as a result of enforcing or administering the section.

New §80.121 is expected to have an estimated reduction in cost to state government of \$24,000 each year as a result of deleting the requirements (repealed §80.123 and §80.203) for department staff to process monthly sales summary reports, monthly installation summary reports, and used home inventory reports. There are expected to be no fiscal implications for units of local government as a result of enforcing or administering the section.

New §80.122, §80.123, §§80.125 - 80.128, §80.130, and §80.131 are expected to have no fiscal implications for state or units of local government as a result of enforcing or administering these sections.

New §80.132 is expected to have an additional estimated cost to state government of \$360,000 each year as a result of a new requirement (§80.132(2)(C)) for more detailed field inspector consumer complaint reports. There are expected to be no fiscal implications for units of local government as a result of enforcing or administering the section.

New §80.135 is expected to have no fiscal implications for state or units of local government as a result of enforcing or administering these sections.

New §80.180 is expected to have no fiscal implications for state or units of local government as a result of enforcing or administering this section.

New §§80.202 - 80.208 are expected to have no fiscal implications for state or units of local government as a result of enforcing or administering these sections.

Mr. Blankenship also has determined that for each year of the first five years the sections as proposed will be in effect, the public benefit as a result of enforcing the sections is clarification and increased detail regarding various aspects of manufactured housing rules; and benefit from increased safety, improved quality of home installations, and improved consumer complaint procedures. The public benefit/probable economic costs for each section of the rules is as follows:

New §80.10 improves clarification of the section by identifying the standards adopted that concern the enforcement of the

Texas Manufactured Housing Standards Act, Article 5221f. This clarification will also benefit small businesses. There are expected to be no economic costs to persons/businesses who are required to comply with the section as proposed.

New §80.11 provides easy referencing by combining the definitions into one section that previously existed in separate definition sections in the repealed rules. There are expected to be no economic costs to persons/businesses who are required to comply with the section as proposed.

New §80.20 consolidates existing fee structures under a single section so information regarding all fees can be located by reference to this single section. There is expected to be a probable reduction in economic cost to consumers and license holders as a result of changes to this section as follows: There is expected to be a economic cost of \$100 for each additional inspection requested by either consumers or license holders as a result of collection of a \$100 fee for an additional inspection as proposed in §80.20(i)(2). An additional inspection may be requested when required to resolve a dispute between the license holder and the consumer. The fee is to be paid by the party, license holder or consumer deemed responsible by the department for requiring the additional inspection. There is expected to be a probable reduction in economic cost of approximately \$30 each month to retailer/installer license holders as a result of deleting a provision (repealed §80.28(a)) for reporting monthly installation summaries to the department. It is anticipated that these savings in retailer/installer license holder costs will be passed on to the consumer.

New §80.50 clarifies the wind zone regulations and the written notice to consumers regarding wind zone regulations will help educate consumers about the importance of having the correct type of home for the wind zone where the home is to be located. There are expected to be no economic costs to persons/businesses who are required to comply with this section of the rules as proposed.

New §80.51 is expected to have a probable reduction in economic cost as a result of the provisions in this section of the proposed rules. There is expected to be a probable economic cost of \$2 per appendix to manufacturer license holders as a result of a new provision (§80.51(a)(2)) requiring manufacturers to file an appendix with this department describing how the generic standards are not applicable to a particular home model. There is expected to be an additional probable economic cost of \$5 per updated manual and appendix to manufacturer license holders as a result of a new provision (§80.51(a)(3)) requiring manufacturers to send copies of updated installation manuals and appendixes to their retailers. Consumers and the general public will benefit from increased safety, having current installation instructions available, and having timely updates of the state generic standards. There is expected to be a probable reduction in economic cost of \$200 per engineered drawing to retailer and installer license holders as a result of a new provision (§80.51(d)) that eliminates the requirement for separately engineered drawings on each home site of a development using the same permanent foundation system. Consumers will also benefit from the availability of permanent foundation systems at less cost.

New §80.52 will benefit the consumers and the general public by disseminating more detailed descriptions and instructions for permanent foundation criteria which will potentially upgrade the quality of the installations and safety of the occupants. There

are expected to be no economic costs to persons/businesses who are required to comply with this section of the rules as proposed.

New §80.54 will benefit consumers by providing increased knowledge of the importance of site preparation and more specific information regarding the importance of drainage and ground vapor control. There is expected to be a probable economic cost each year to retailer/installer license holders and/or consumers as a result of the provisions in this section. This includes a probable economic cost of \$33.60 per average manufactured home section to retailer/installer license holders as a result of incorporating a provision regarding ground vapor control (§80.54(b)(5)). Moisture penetration can lead to accelerated deterioration and reduction in the value of manufactured homes. This provision will enhance the durability of homes and although this cost will likely be passed to consumers, it is expected to be offset by savings in service costs to consumers resulting from required maintenance and repair to homes from water vapor damage. There is expected to be a probable economic cost of \$10 per home sold to retailer/installer license holders and/or consumers as a result of a new provision (§80.54(c)) requiring a notice be given to consumers regarding proper site preparation for installation of their home. This will benefit consumers by making them more aware of their responsibilities regarding one of the most important aspects of manufactured home installation, site preparation. It is estimated that this cost will be more than offset by savings in service costs and costs to consumers resulting from required maintenance and repair when home site is not properly prepared.

New §80.55 will benefit consumers and license holders by providing increased detail and illustrations regarding anchor system standards. This section will also increase the likelihood that anchoring systems are installed correctly, upgrading the quality of the installations and safety of the occupants. There is expected to be a probable economic cost of \$140 per manufactured home section to retailer/installer license holders as a result of a new provision (§80.55(f)(6)) requiring two longitudinal ties at each end of a home section less than 60 feet in length. The purpose of this provision is to provide additional safety for the home occupants by providing additional stability in the anchoring system. While this cost will likely be passed to the consumer, it is estimated that this cost will be more than offset by increased safety for home occupants and savings from homes that might otherwise be damaged or destroyed by windstorms.

New §80.56 will benefit consumers and license holders by providing increased detail and illustrations regarding multi-section connection standards. This section will also increase the likelihood that multi-section manufactured homes will be installed correctly, upgrading the quality of the installations and safety of the occupants. There are expected to be no economic costs to persons/businesses who are required to comply with this section of the rules as proposed.

New §80.62 will benefit consumers and license holders by providing increased detail regarding the approval process for stabilizing components and systems. This section will also increase the likelihood that manufactured homes will be installed using approved systems, upgrading the quality of the installations and safety of the occupants. There are expected to be no economic costs to persons/businesses who are required to comply with this section of the rules as proposed.

New §80.63 will benefit consumers and license holders by providing increased detail regarding stabilizing systems, components, other materials, and methods for manufactured homes. This section will also increase the likelihood that manufactured homes will be installed using approved stabilizing systems and components, upgrading the quality of the installations and safety of the occupants. There are expected to be no economic costs to persons/businesses who are required to comply with this section of the rules as proposed.

New §80.64 will benefit consumers and license holders by providing increased detail regarding procedures for alterations of manufactured housing. This section will also increase the likelihood that manufactured homes will be installed using approved alterations, improving the quality of the home and safety of the occupants. There are expected to be no economic costs to persons/businesses who are required to comply with this section of the rules as proposed.

New §80.66 will benefit consumers and license holders by providing increased detail regarding the requirements for rebuilding or repairing a "salvaged" manufactured home. This section will also increase the likelihood that manufactured homes will be rebuilt to the required standards, upgrading the quality of rebuilt homes and safety of the occupants. There is expected to be a probable reduction in economic cost of \$25 for each home installed with air conditioning to retailer/installer license holders as a result of repealed §80.64(g), regarding the requirement for a notarized air conditioning installation report.

New §80.119 will benefit consumers and license holders by providing increased detail regarding the installation responsibilities. There is expected to be a fiscal impact of \$10 per multi-section home installed to retailer/installer license holders as a result of a new requirement (§80.119(f)(2)) to notify the department field office prior to installation of a multi-section home. The purpose of the notification is to enable a field inspector to be present, when possible, when the sections of the home are joined together. This procedure will enable inspection of this critical element of the installation before the marriage line connection points are covered. The cost will be more than offset by decreased license holder service costs, consumer maintenance costs, and improved construction integrity of the manufactured home.

New §80.120 is expected to have no economic costs to persons/businesses who are required to comply with this section of the rules as proposed.

New §80.121 is expected to have a probable reduction in economic cost of \$15 per month by retailer license holders as a result of deleting the current requirement for a monthly sales summary report (repealed §80.123) to be sent to the department. This section is expected to have an additional probable reduction in economic cost of \$15 per month by retailer license holders as a result of deleting the current requirement (repealed §80.203) for a monthly used home inventory report to be sent to the department. It is anticipated that the public will benefit when these savings in retailer license holder costs are passed on to the consumer.

New §80.122 is expected to have no economic costs to persons/businesses who are required to comply with this section of the rules as proposed.

New §80.123 will benefit license holders by providing increased detail regarding licensing requirements. There is expected to

be a probable economic cost of approximately \$375 to each licensed rebuilder as a result of a new requirement §80.123(d) for rebuilders to be certified by the department. The certification will be given by demonstrating to a state inspector that a home was rebuilt in accordance with applicable laws, codes, standards, rules, order, and directives of the department. This section will also increase the likelihood that license holders know and comply with licensing requirements.

New §80.125 is expected to have no economic costs to persons/businesses who are required to comply with this section of the rules as proposed. This section will benefit license holders by clarifying prohibited advertising methods and benefit consumers who might be enticed by false, deceptive or misleading advertising regarding manufactured housing.

New §80.126 is expected to have no economic costs to persons/businesses who are required to comply with this section of the rules as proposed.

New §80.127 will benefit license holders by clarifying rules regarding sanctions and penalties which can be imposed by the department for violations of the Act and rules. There are expected to be no economic costs to persons/businesses who are required to comply with this section of the rules as proposed.

New §80.128 will benefit license holders and consumers by clarifying rules regarding binding arbitration. There is expected to be a minimal fiscal impact to license holders and consumers for arbitration costs as a result of new rules providing for binding arbitration as directed in the Act.

New §80.130 will benefit consumers by a changed provision in this rule which requires that warranty documents be delivered to the consumer at the time the contract for sale is signed rather than when the home is tendered for possession. There is expected to be a probable reduction in economic cost of approximately \$10 per reposessed home to retailer license holders as a result of deleting the previous requirement (repealed §80.129) for retailers to provide the department with repossession sales reports.

New §80.131 will benefit consumers by clarifying warranty responsibilities and correction requirements when deviations from standards are reported. There are expected to be no economic costs to persons/businesses who are required to comply with this section of the rules as proposed.

New §80.132 will benefit consumers and license holders from increased detail regarding the procedures for handling consumer complaints associated with manufactured homes. This section will also increase the likelihood that manufactured homes with deviations from standards are repaired in a timely fashion. There are expected to be no economic costs to persons/businesses who are required to comply with this section of the rules as proposed.

New §80.135 will benefit consumers and license holders through clarification and increased detail regarding the procedures for auctioning manufactured homes to consumers and licensed retailers. There are expected to be no economic costs to persons/businesses who are required to comply with this section of the rules as proposed.

New §80.180 is expected to have no economic costs to persons/businesses who are required to comply with this section of the rules as proposed. In addition, there is expected to be a savings of approximately \$10 for each home in inventory to

licensed retailers as a result of deleting the current requirement (repealed §80.186) for posting used homes with notices regarding habitability requirements.

New §§80.202 - 80.208 are expected to have no economic costs to persons/businesses who are required to comply with this section of the rules as proposed.

Comments may be submitted to Hershail E. Blankenship, Director of the Manufactured Housing Division, of the Texas Department of Housing and Community Affairs, 507 Sabine Street, Austin, Texas 78701 within 30 days of the date of this publication.

## Subchapter A. Codes and Standards

The new section is proposed under the Texas Manufactured Housing Standards Act, Article 5221f, §9, which provides the department with authority to amend, add, and repeal rules governing the Manufactured Housing Division of the department.

No other statute, code, or article is affected by the new rule.

### §80.10. Texas Manufactured Housing Standards Code.

(a) The Texas Manufactured Housing Standards Code for HUD-Code manufactured homes shall be the Federal Standards established under Title VI of the Housing and Community Development Act of 1974 and each change, amendment, or requirement shall become effective in conjunction with the effective date set by the federal program.

(b) The historical record of standards adopted for manufactured homes in accordance with the Standards Act, is as follows:

- (1) Prior to December 11, 1969: none;
- (2) December 12, 1969 - August 31, 1971: American National Standards Institute (ANSI), A119.1-1963, plumbing, heating and electrical;
- (3) September 1, 1971 - December 15, 1971: none;
- (4) December 15, 1971 - February 16, 1972: ANSI, A119.1-1969, plumbing, heating and electrical;
- (5) February 17, 1972 - January 31, 1973: ANSI, A119.1-1973, plumbing, heating and electrical;
- (6) February 1, 1973 - September 19, 1973: ANSI, A119.1-1973, plumbing, heating, electrical and construction;
- (7) September 20, 1973 - August 31, 1974: ANSI, A119.1-1973, plumbing, heating, electrical and construction;
- (8) September 1, 1974 - June 14, 1976: ANSI, A119.1-1974, plumbing, heating, electrical and construction; and
- (9) June 15, 1976 - Future: HUD-Code - National Manufactured Home Construction and Safety Standards, Part 3280, promulgated by the United States Department of Housing and Urban Development (HUD), Code of Federal Regulations (CFR), Title 24.

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

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Larry Paul Manley

Executive Director

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For further information, please call: (512) 475-3726

## Subchapter B. Definitions

### 10 TAC §80.11

The new section is proposed under the Texas Manufactured Housing Standards Act, Article 5221f, §9, which provides the department with authority to amend, add, and repeal rules governing the Manufactured Housing Division of the department.

No other statute, code, or article is affected by the new rule.

#### §80.11. Definitions.

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

(1) Alteration - The replacement, addition, and modification or removal of any equipment or its installation after sale by the manufacturer to a retailer, but prior to sale and installation to a purchaser which may affect the construction, fire safety, occupancy plumbing, heat-producing, or electrical system. An alteration is deemed to be prior to sale if the alteration is part of the retail sales contract. It includes any modification made in the manufactured home which may affect the compliance of the home with the standards, but it does not include the repair or replacement of a component or appliance requiring plug-in to an electrical receptacle where the replaced item is of the same configuration and rating as the one being replaced. It also does not include the addition of an appliance requiring "plug-in" to an electrical receptacle, which appliance was not provided with the manufactured home by the manufacturer, if the rating of the appliance does not exceed the rating of the receptacle to which it is connected (FMHCSS §3287.7(c)).

(2) Anchoring components - Any component which is attached to the manufactured home and is designed to resist the horizontal and vertical forces imposed on the manufactured home as a result of wind loading. These components include auger anchors, rock anchors, slab anchors, ground anchors, stabilizing plates, connection bolts, j-hooks, buckles, and split bolts.

(3) Anchoring equipment - Straps, cables, turnbuckles, and chains, including tensioning devices, which are used with ties to secure a manufactured home to anchoring components or other approved devices.

(4) Anchoring systems - Combination of ties, anchoring components, and anchoring equipment that will resist overturning and lateral movement of the manufactured home from wind forces.

(5) APA - Administrative Procedure Act, Texas Government Code, Chapter 2001.

(6) Business use - Any use other than for dwelling purposes.

(7) Calendar days - Includes every day on the calendar.

(8) Certificate of Attachment to Real Estate - A certificate issued by the department to the person who surrenders the manufacturer's certificate of origin or document of title when the home has been permanently affixed to real estate.

(9) Coastline - The shoreline that forms the boundary between the land and the Gulf of Mexico or a bay or estuary connecting to the Gulf of Mexico that is more than five miles wide.

(10) Credit document - The credit sale contract or the loan instruments including all the written agreements between the consumer and creditor that relate to the credit transaction.

(11) Creditor - A person involved in a credit transaction who:

(A) extends or arranges the extension of credit; or

(B) is a retailer or broker as defined in the Standards Act and participates in arranging for the extension of credit.

(12) Custom designed stabilization system - An anchoring and support system that is not an approved method as prescribed by the state generic standards, manufacturer's installation instructions, or other systems pre-approved by the department.

(13) DAPIA - The Design Approval Primary Inspection Agency.

(14) Defect - A failure to comply with an applicable federal manufactured home safety and construction standard that renders the manufactured home or any part or component thereof not fit for the ordinary use for which it was intended, but does not result in an unreasonable risk of injury or death to occupants of the affected manufactured home (FMHCSS §3282.7(j)).

(15) Department - The Texas Department of Housing and Community Affairs (TDHCA).

(16) Diagonal tie - A tie intended to primarily resist horizontal forces, but which may also be used to resist vertical forces.

(17) Director - The Executive Director of the Texas Department of Housing and Community Affairs (TDHCA).

(18) Dwelling unit - One or more habitable rooms which are designed to be occupied by one family with facilities for living, sleeping, cooking and eating.

(19) FMHCSS - Federal Manufactured Home Construction and Safety Standards that implement the National Manufactured Home Construction and Safety Standards Act of 1974, 42 USC 5401, et seq., and means a reasonable standard for the construction, design, and performance of a manufactured home which meets the needs of the public including the need for quality, durability, and safety.

(20) Footing - That portion of the support system that transmits loads directly to the soil.

(21) Ground anchor - Any device at the manufactured home site designed to transfer manufactured home anchoring loads to the ground.

(22) HUD-Code manufactured home - A structure constructed on or after June 15, 1976, according to the rules of HUD, transportable in one or more sections, which, in the traveling mode, is eight body feet or more in width or 40 body feet or more in length, or, when erected on site, is 320 or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air-conditioning, and electrical systems. The term does not include a recreational vehicle as that term is defined by 24 CFR, §3282.8(g).

(23) Imminent safety hazard - A hazard that presents an imminent and unreasonable risk of death or severe personal injury that may or may not be related to failure to comply with an applicable federal manufactured home construction and safety standard (FMHCSS §3282.7(q)).

(24) Independent testing laboratory - An agency that tests products for conformance to standards and employs at least one engineer or architect licensed in at least one state.

(25) Installation information - A term used to describe the reports used to inform the department of information needed to perform installation inspections (includes "Affidavit of Installation" and "Form E - Statement of Home Location").

(26) IPIA - The Production Inspection Primary Inspection Agency which evaluates the ability of manufactured home manufacturing plants to follow approved quality control procedures and/or provides ongoing surveillance of the manufacturing process.

(27) Main frame - The structural components on which the body of the manufactured home is mounted.

(28) Manufactured home - A HUD-Code manufactured home or a mobile home and collectively means and refers to both.

(29) Manufactured home identification numbers - For purposes of title records, the numbers shall include the HUD label number(s) and the serial number(s) imprinted or stamped on the home in accordance with HUD departmental regulations. For homes manufactured prior to June 15, 1976, the Texas seal number, as issued by the department, shall be used instead of the HUD label number. If a home manufactured prior to June 15, 1976, does not have a Texas seal, or if a home manufactured after June 15, 1976, does not have a HUD label, a Texas seal shall be purchased from the department and attached to the home and used for identification in lieu of the HUD label number.

(30) Manufactured home site - That area of a lot or tract of land on which a manufactured home is installed.

(31) Mobile home - A structure that was constructed before June 15, 1976, transportable in one or more sections, which, in the traveling mode, is eight body feet or more in width or 40 body feet or more in length, or, when erected on site, is 320 or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air-conditioning, and electrical systems.

(32) Permanent foundation - A system of supports, including piers, either partially or entirely below grade which is constructed or certified in accordance with the criteria outlined in §80.52(a) and (b), of this title (relating to Permanent Foundation Performance Criteria).

(33) Permanently affixed - Having been anchored to the real estate by attachment to a permanent foundation.

(34) Rebuild - To make a salvaged manufactured home habitable in accordance with §80.66 of this title (relating to Rebuilding or Repairing a "Salvaged" Manufactured Home).

(35) Rebuilder - Any person, within the state, who has been certified by the department to rebuild a salvaged manufactured home, as defined in the Standards Act, §8(g), in accordance with the rules and regulations of the department.

(36) Serious defect - Any failure to comply with an applicable federal manufactured home construction and safety standard that renders the manufactured home or any part thereof not fit for the ordinary use for which it was intended and which results in an unreasonable risk of injury or death to occupants of the affected manufactured home (FMHCSS §3282.7(gg)).

(37) Shim - A wedge-shaped piece of cedar, oak, walnut, pecan, gum, ash, hickory, elm, or other comparable hardwood not to exceed one (1) inch vertical (actual) height.

(38) Stabilizing components - All components of the anchoring and support system such as piers, footings, ties, anchoring equipment, ground anchors, and any other equipment which supports the manufactured home and secures it to the ground.

(39) Standards Act - Texas Revised Civil Statutes, Article 5221f.

(40) Support system - A combination of footings, piers, caps and shims that support the manufactured home.

(41) TDHCA - The Texas Department of Housing and Community Affairs (Department).

(42) TDHCA inspector - An inspector who is an employee of the department or an inspector who is an employee of an entity performing inspection services under contract with the department.

(43) TMHSA - Texas Manufactured Housing Standards Act, Texas Revised Civil Statutes, Article 5221f.

(44) Used manufactured home - Any manufactured home for which a document or certificate of title has previously been issued by an appropriate agency of any state.

(45) Vertical tie - A tie intended to primarily resist the uplifting and overturning forces.

(46) Wind Zone I - All Texas counties not in Wind Zone II.

(47) Wind Zone II - Aransas, Brazoria, Calhoun, Cameron, Chambers, Galveston, Jefferson, Kenedy, Kleberg, Matagorda, Nueces, Orange, Refugio, San Patricio, and Willacy counties.

(48) Working days - Includes every day on the calendar except Saturday, Sunday, and federal and state holidays.

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

Filed with the Office of the Secretary of State, on April 27, 1998.

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Larry Paul Manley

Executive Director

Texas Department of Housing and Community Affairs

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For further information, please call: (512) 475-3726



## Subchapter C. Fee Structure

### 10 TAC §80.20

The new section is proposed under the Texas Manufactured Housing Standards Act, Article 5221f, §9, which provides the department with authority to amend, add, and repeal rules governing the Manufactured Housing Division of the department.

No other statute, code, or article is affected by the new rule.

§80.20. Fees.

(a) Annual License Fees:

(1) \$375 for each manufacturer's plant license;

(2) \$225 for each retailer's sales license;

(3) \$225 for each rebuilder's license;

(4) \$125 for each broker's license;

(5) \$125 for each installer's license; and

(6) \$50 for each salesperson's license.

(b) Installation Fees:

(1) There is a fee of \$20 for the installation of each manufactured home which is not installed on a permanent foundation.

(2) There is a fee of \$100 for the installation of a manufactured home on a permanent foundation.

(3) Installation fees shall be submitted to the department as follows:

(A) When the installation occurs in conjunction with a title transfer, the fee must be submitted to the department along with the application for title and the Form E (Affidavit of Installation); or

(B) For secondary moves (when there is no title transfer), the fee must be submitted to the department along with a completed Form T (Installation Report) within ten (10) working days following the installation date.

(4) Fee distributions to local governmental entities performing inspection functions pursuant to contract with the department shall be made in accordance with department procedures and the provisions of the contract.

(c) Alteration Fee: There is a fee of \$30 per hour or a minimum fee of \$30 for the inspection of alterations made upon the structure, plumbing, heating, or electrical systems of manufactured homes. The fee is paid to the department by the person making the alterations. The person shall also reimburse the department for mileage and per diem incurred by department personnel to and from the place of inspection.

(d) Seal Fee: There is a fee of \$15 for the issuance of Texas Seals. Any person who sells, exchanges, lease purchases, or offers for sale, exchange, or lease purchase a used HUD-Code manufactured home manufactured after June 15, 1976, that does not have a HUD label affixed, or a used mobile home manufactured prior to June 15, 1976, that does not have a Texas Seal affixed shall file an application to the department for a Texas Seal. The application shall be accompanied by the seal fee of \$15 made payable to the department.

(e) Monitoring Fee: There is a fee, as required by HUD, to be paid by each manufacturer in this state for each HUD-Code manufactured home produced. The monitoring inspection fee is established by the secretary of HUD, (pursuant to 24 CFR §3282.307) who shall distribute the fees collected from all manufacturers among the approved and conditionally approved states based on the number of new homes whose first location after leaving the manufacturing plant is on the premises of distributor, retailer, or purchaser in that state, and the extent of participation of the state in the joint monitoring program established under the National Manufactured Housing Construction and Safety Standards Act of 1974.

(f) Homeowner's Temporary Installer's License: There is a fee of \$40 for the issuance of a homeowner's temporary installer's license, which shall also include the cost of the installation inspection. The fee shall be made payable to the department.

(g) Education Fee: Each attendee at the course of instruction in the law and consumer protection regulations for license applicants shall be assessed a fee of \$125. If a manufacturer requests the training be performed at his or her facility, the manufacturer shall reimburse the department for the actual costs of the training session (educational fee plus actual cost of travel).

(h) Habitability Inspection:

(1) There is a fee of \$100 for the inspection of a manufactured home which is to be titled for use as a residence after the title has been previously canceled for other purposes and has been surrendered. The inspection is to determine if the home is habitable. The fee shall accompany a written request for the inspection. The person requesting the inspection for the use change of a manufactured home shall be charged for mileage and per diem incurred by department personnel traveling to and from the location of the manufactured home.

(2) There is a fee of \$125 for the plan review and inspection of a salvaged manufactured home which has been rebuilt to determine if the home is habitable for the issuance of a new title. The fee shall accompany a written request for the inspection. The rebuilder shall also be charged for mileage and per diem incurred by department personnel traveling to and from the location of the home.

(i) Consumer Complaint Inspection:

(1) There is a fee of \$100 for the initial inspection of a consumer's home in accordance with a consumer complaint when requested by a license holder or party other than a consumer. The fee shall accompany a written request for the inspection.

(2) There is a fee of \$100 for the reinspection of a consumer's home. The fee shall be paid by the license holder, party other than the consumer, or the consumer. The fee shall be paid by the party deemed responsible by the department.

(j) Titles: Fees relating to titles and title transactions are set forth in §80.202 of this title (relating to Fees for Title Documents).

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

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Executive Director

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## Subchapter D. Standards and Requirements

### 10 TAC 80.50–80.56, 80.62–80.64, 80.66

The new sections are proposed under the Texas Manufactured Housing Standards Act, Article 5221f, §9, which provides the department with authority to amend, add, and repeal rules governing the Manufactured Housing Division of the department.

No other statute, code, or article is affected by the new rules.

#### §80.50. Wind Zone Regulations.

(a) Aransas, Brazoria, Calhoun, Cameron, Chambers, Galveston, Jefferson, Kenedy, Kleberg, Matagorda, Nueces, Orange, Refu-

gio, San Patricio, and Willacy counties are in Wind Zone II. All other counties are in Wind Zone I.

(b) A manufactured home constructed on or after September 1, 1997 must meet the Wind Zone II standards adopted by HUD in order to be installed in a Wind Zone II county.

(c) All manufactured homes constructed prior to September 1, 1997 may be installed in Wind Zone I or Wind Zone II without restriction.

(d) A consumer purchasing a manufactured home constructed on or after September 1, 1997 to Wind Zone I standards must be given a written notice by the selling retailer that:

(1) The home was not designed nor constructed to withstand hurricane force winds which may occur in Wind Zone II or III areas; and

(2) The home is not permitted to be installed in Wind Zone II counties in Texas, and there may be restrictions in other states prohibiting installation in Wind Zone II or III areas.

(e) The notice required by this section shall be given to the consumer prior to the execution of any mutually binding sales agreement or retail installment sales contract.

(f) A manufactured home constructed on or after September 1, 1997 shall not be installed within 1,500 feet of the coastline in Wind Zone II, unless the home and its anchoring and support systems have been designed for the increased requirements specified for Exposure D in ANSI/ASCE 7-88.

#### §80.51. Manufactured Home Installation Requirements.

(a) The following tasks are the responsibility of the manufacturer:

(1) Manufacturers shall file with the department copies, in the number specified by the department, of installation instructions approved by the manufacturer's DAPIA. DAPIA approval stamps, engineer or architect approval stamps, and the installation manual effective date shall be on each page of the installation instructions or on the cover pages of bound installation manuals.

(2) A manufacturer may file an appendix to the state's generic standards as a part of the manufacturer's installation instructions if the design of one or more of its homes requires a change in the generic standards to protect the structural integrity of the home. The appendix shall specify which provision of the generic standards is being changed and clearly set forth in detail the change that is necessary.

(3) At least thirty (30) calendar days prior to the effective date of any change, modification, or update to the manufacturer's installation instructions or any appendix, the manufacturer shall file such change, modification, or update with the department and mail a copy(s) to all the manufacturer's retailers.

(b) Manufactured homes installed in Wind Zone I shall be installed in accordance with the manufacturer's installation instructions or the generic standards approved by the department for Wind Zone I.

(c) Manufactured homes installed in Wind Zone II shall:

(1) if constructed before September 1, 1997, be installed in accordance with the manufacturer's installation instructions for Wind Zone II or the department's generic standards for Wind Zone II;



(2) if constructed on or after September 1, 1997, have data plates indicating Wind Zone II construction and be installed in accordance with the manufacturer's installation instructions for Wind Zone II or the department's generic standards for Wind Zone II.

(d) In lieu of the requirements of subsections (b) and (c) of this section, a manufactured home or an identified class of manufactured homes may be installed at a particular area with similar soil properties according to county soil survey or other geotechnical reports in accordance with a custom designed stabilization system drawing that is stamped by a Texas licensed professional engineer or architect. A custom designed stabilization system may or may not meet the definition of a permanent foundation, but a copy of the stabilization system drawing must be forwarded to the department along with the installation report. It must be reported on the permanent foundation installation inspection report form and sent to the department at least ten (10) working days prior to the date of construction, along with the required fee, if the bottoms of the footings or piers are embedded more than 24 inches below the finished natural grade or engineered fill.

*§80.52. Permanent Foundation Criteria.*

(a) The permanent foundation system shall be either:

(1) capable of transferring all design loads imposed by or upon the structure into soil or bedrock without failure;

(2) placed at an adequate depth below grade to prevent frost damage;

(3) constructed of concrete, metal, treated lumber or wood, masonry, or other materials conforming to nationally recognized standards;

(4) designed so that all of the components of the foundation system cannot be easily removed from the site and used at any other location and the drawings state that the foundation is a permanent foundation for a manufactured home;

(5) designed so that the attached structure resists overturning due to wind pressure by the dead load resisting moment of the structure and foundation. The weight of earth superimposed over footings may be used to calculate the dead load resisting moment. The overturning moment shall not exceed the dead load resisting moment and the overturning moment, multiplied by a safety factor of 1.5, shall be less than or equal to the dead load stabilizing moment plus the stabilizing moment due to ground anchor reactions;

(6) designed to have the structure attached without the towing hitch, axles, brakes, wheels and other parts of the chassis that operate only during transportation; and

(7) designed in accordance with accepted engineering practice to resist damage due to decay, insects, and condensation. A Texas licensed engineer or architect shall stamp and sign each foundation drawing. If the foundation drawing is approved by the DAPIA, the engineer or architect may be licensed in another state; or

(b) In the alternative, it is a system which is certified by the consumer/mortgagor and the lender/mortgagee in a real estate loan transaction, or certified by the owner if there is no lien or the lien has been released, as having permanently affixed the structure to the real estate.

*§80.53. Manufacturer's Design Requirements.*

(a) Each new manufactured home shall be designed and constructed as a completely integrated structure capable of sustaining the design load requirements of the FMHCSS and shall be capable of transmitting the loads to anchoring systems without causing an unsafe

deformation or an abnormal internal movement of the structure or its structural parts.

(b) Each new manufactured home shall have provisions for anchoring systems which, when properly designed and installed, will resist overturning and lateral movement of the manufactured home up to the respective design loads.

(c) The provisions of this section shall be followed and the support and anchoring systems shall be designed by a licensed professional engineer or architect.

(d) The manufacturer shall design homes to make provisions for the necessary support and anchoring systems, but is not required to provide the anchoring equipment. Printed installation instructions for support and anchoring systems for each model shall be filed with the department as required by the department. When the manufacturer's installation instructions provide for the main frame structure to be used as the point for connection to diagonal ties, no specific connecting devices need to be provided on the frame. Ties shall be designed and installed to prevent self disconnection when the ties are slack. For example, open end hooks shall have set screws or other mechanisms to prevent disconnection when there is slack in the strapping.

(e) The manufacturer shall provide printed instructions with each new home specifying the location, orientation and required capacity of stabilizing components on which the design is based. The installer must use stabilizing components that have the required capacity and install them according to the anchor or stabilizing component manufacturer's current installation instructions. When soil auger anchor shafts are not installed in-line with the diagonal frame ties or the combined loads of two ties, approved stabilizer plates, or other approved methods, must be used in accordance with the installation instructions for the soil auger anchors and stabilizer plates.

(f) The minimum number of ties required per side shall be sufficient to resist the wind load stated in the FMHCSS §3280.305(c).

*§80.54. Standards for the Installation of Manufactured Homes.*

(a) All manufactured homes shall be installed in accordance with one of the following:

(1) the home manufacturer's installation instructions;

(2) the state's generic standards set forth in this section and §80.55 (relating to Anchoring Systems) and §80.56 (relating to Multi-Section Connection Standards);

(3) a custom designed stabilization system;

(4) a stabilization system pre-approved by the department; or

(5) on a permanent foundation.

(b) Site Preparation Responsibilities and Requirements:

(1) The purchaser is responsible for the proper preparation of the site where the manufactured home (new or used) is to be installed unless the home is installed in a rental community. Except in rental communities, the purchaser shall remove all debris, sod, tree stumps and other organic materials from all areas where footings are to be located. In areas where footings are not to be located, all debris, sod, tree stumps and other organic material shall be trimmed, cut, or removed down to a maximum height of 8 inches above the ground or to a lower level if needed to properly install the vapor retarder material. The retailer must give the purchaser a site preparation notice as described in this section prior to the execution of any binding sales

agreement. If the installation is a secondary move, not involving a retail sale, the installer must give the homeowner the site preparation notice prior to any agreement for the secondary installation of the home.

(2) If the retailer or installer provides the materials for skirting or contracts for the installation of skirting, the retailer or installer is responsible for installing the ground vapor retarder and for providing for the proper cross ventilation of the crawl space. If the purchaser or homeowner contracts with a person other than the retailer or installer for the skirting, the purchaser or homeowner is responsible for installing the ground vapor retarder and for providing for the proper cross ventilation of the crawl space.

(3) Clearance: A minimum clearance of 18 inches between the ground and the bottom of the floor joists must be maintained. In addition, the installer shall be responsible for installing the home with sufficient clearance between the I-Beams and the ground so that after the crossover duct prescribed by the manufacturer is properly installed it will not be in contact with the ground. Refer to §80.56 (relating to Multi-Section Connection Standards) for additional requirements for access openings to the crawl space and utility connections. It is strongly recommended that the installer not install the home unless all debris, sod, tree stumps and other organic materials are removed from all areas where footings are to be located.

(4) Drainage: Except in rental communities, proper drainage is the responsibility of the homeowner. It is strongly recommended that the installer not install the home unless the exterior grade is sloped away from the home or another approved method to prohibit surface runoff from draining under the home is provided. Drainage prevents water build-up under the home. Water build-up may cause shifting or settling of the foundation, dampness in the home, damage to siding and bottom board, buckling of walls and floors, delamination of floor decking and problems with the operation of windows and doors.

(5) Ground Vapor Control: If the space under the home is to be enclosed with skirting and/or other materials provided by the retailer and/or installer, a vapor retarder that keeps ground moisture out of the home must be installed to prevent moisture damage to the structure. The installer shall ensure that a minimum 6 mil polyethylene sheeting or its equivalent is properly installed and the area under the home is covered with sheeting and overlapped approximately 12 inches at all joints. Any tear larger than 18 inches long or wide must be taped using a material appropriate for the sheeting used. The laps should be weighted down to prevent movement. Any small tears and/or voids around construction (footings, anchor heads, etc.) are acceptable. In addition, crawl space ventilation must be provided at the rate of minimum 1 square foot of net free area, for every 150 square feet of floor area. At least six openings shall be provided, one at each end of the home and two on each side of the home. The openings shall be screened or otherwise covered to prevent entrance of rodents (note: screening will reduce net free area). The vapor retarder prevents water vapor build-up under the home. Water vapor build-up may cause dampness in the home, damage to siding and bottom board, buckling of walls and floors, delamination of floor decking and problems with the operation of windows and doors. For example, a 16'x76' single section home has 1216 square feet of floor area. This 1216 square feet divided by 150 equals 8.1 square feet or 1166 square inches of net free area crawl space ventilation.

(c) Notice: The site preparation notice to be given to the consumer shall be as follows:

Figure 1: 10 TAC §80.54(c)

(d) Footers and Piers:

(1) Proper sizing of footings depends on the load carrying capacity of both the piers and the soil. To determine the load bearing capacity of the soil, the installer may use any of the following methods:

(A) Pocket penetrometer:

(i) Test a typical area adjacent to or within 10 feet of the perimeter of the unit;

(ii) Dig down to undisturbed soil. This should be a minimum of 1 square foot surface area; and

(iii) Using the pocket penetrometer take seven (7) readings, eliminate the highest and the lowest and average the remaining five (5).

(B) Soil surveys from the U.S. Department of Agriculture;

(C) Values from tables of allowable or presumptive bearing capacities given in local building codes. Such tables are commonly available from the local authority having jurisdiction; or

(D) Any other test data from soil analysis reports.

(2) The footing must be placed on firm, undisturbed soil, or fill compacted to at least 90% of its maximum relative density. Installation on loose, noncompacted fill may invalidate the home's limited warranty.

(3) Footer configurations:

Figure 2: 10 TAC §80.54(d)(3)

(4) Footer sizing and capacities: The following tables represent maximum loads and spacings based on footer size and soil bearing capacity. Other approved footers may be used if equal or greater in bearing area than those footer sizes tabulated.

Figure 3: 10 TAC §80.54(d)(4)

(5) Piers and pier spacings: One of the most important parts of home installation is proper pier installation. Incorrect size, location or spacing of piers may cause serious structural damage to the home. Spacing and location of piers shall be in accordance with the tables listed in these standards (Table 3B, without perimeter piers; Table 3C, with perimeter piers).

(A) Spacing shall be as even as practicable along each main I-Beam. Pier spacing may exceed tabulated values up to 30% so long as the total pier count remains the same. End piers are to be located within 24 inches of the end of the main frame.

(B) Piers shall extend at least 6 inches from the centerline of the I-Beam or be designed to prevent dislodgment due to horizontal movement of less than 4 inches.

(C) Load bearing supports or devices shall be listed by an independent testing laboratory, nationally recognized inspection agency, or other nationally recognized organization and approved by the department. Engineers or architects licensed in Texas may design load bearing supports or devices for a single installation. A copy of the design for this particular home and site shall be provided to the department before the home is installed, but department approval is not required.

(D) Sidewall openings greater than 4 feet shall have perimeter piers located under each side of the opening, i.e. patio doors, recessed porches/entries, bay windows and porch posts. Perimeter piers for openings are not required for endwalls.

(6) Pier design: Piers shall be constructed per the following details:

Figure 4: 10 TAC §80.54(d)(6)

(A) Shimming (if needed): Hardwood shims are commonly used as a means for leveling the home and filling any voids left between the bottom flange of the I-Beam and the top of the pier cap. Wedge shaped shims must be installed from both sides of the I-Beam to provide a level bearing surface. The allowable height must not exceed 1 inch. Shims shall be at least 4 inches wide (nominal) and 6 inches long. Over shimming should be avoided.

(B) Table 3B - Pier loads (pounds) at tabulated spacings WITHOUT perimeter supports:

Figure 5: 10 TAC §80.54(d)(6)(B)

(C) Table 3C - Pier loads (pounds) at tabulated spacings WITH perimeter supports:

Figure 6: 10 TAC §80.54(d)(6)(C)

Figure 7: 10 TAC §80.54(d)(6)(C)

(7) Typical multi-section pier layout:

Figure 8: 10 TAC §80.54(d)(7)

(8) Typical single section pier layout:

Figure 9: 10 TAC §80.54(d)(8)

(9) Multi-section units mating line column supports:

(A) On multi-section units, openings larger than 4 feet must have piers installed at each end of the opening. To determine the pier loads, refer to Table 3D in subparagraph (D) of this paragraph.  
Figure 10: 10 TAC §80.54(d)(9)(A)

(B) Column loads for each section may be combined when the columns are opposite each other. The footer must be sized for the combined loading.

(C) Additional piers are required under marriage walls (see wall between column #3 and #4 in the Marriage Line Elevation drawing in subparagraph (A) of this paragraph). The maximum spacing is the same as the spacing at the main I-Beams, without perimeter piers, and one half the spacing of the perimeter piers, with perimeter piers installed.

(D) Table 3D: Mating line column loads (pounds).

Figure 11: 10 TAC §80.54(d)(9)(D)

#### §80.55. Anchoring Systems.

(a) General Requirements: For units built on or after September 1, 1997, the installer must verify that the unit is designed for the Wind Zone in which it is to be installed. Note: A Wind Zone I unit, built on or after September 1, 1997, may not be installed in a Wind Zone II area. However, a Wind Zone II unit may be installed in a Wind Zone I area.

Figure 1: 10 TAC §80.55(a)

(b) Material Specifications:

(1) Strapping shall be Type 1, Finish B, Grade 1 steel strapping, 11/4 inches wide and 0.035 inches in thickness, certified by a licensed professional engineer or architect as conforming with the American Society for Testing and Materials (ASTM) Standard Specification D3953 91, Standard Specification for Strapping, Flat Steel, and Seals. Tie materials shall be capable of resisting an allowable working load of 3,150 pounds with no more than 2% elongating and shall withstand a 50% overload (4,725 pounds total). Ties shall have a resistance to weather deterioration at least equivalent to that provided by coating of zinc on steel of not less than 0.30 ounces per square foot on each side of the surface coated (0.0005

inches thick), as determined by ASTM Standards Methods of Test for Weight of Coating on Zinc-coated (galvanized) Iron or Steel Articles (ASTM A 90-81). Slit or cut edges of zinc-coated steel strapping are not required to be zinc coated.

(2) All anchoring components must be approved by the department. Installers shall only use approved anchoring components. An installer may obtain a list of approved anchoring components from the department, anchor manufacturer and/or supplier of anchoring components.

(c) Anchors shall be installed per the following details:

(1) in direction of load,

Figure 2: 10 TAC §80.55(c)(1)

(2) installed against direction of load (vertical and/or angled), a stabilizer plate must be installed.

Figure 3: 10 TAC §80.55(c)(2)

(d) WIND ZONE I Installation:

(1) Typical anchor layout, single and multi-section units (WIND ZONE I ONLY):

Figure 4: 10 TAC §80.55(d)(1)

(2) Table 4A: The following table describes the maximum spacing for diagonal ties along each side of the unit.

Figure 5: 10 TAC §80.55(d)(2)

(3) Table 4B: Minimum number of diagonal ties required per side, per unit length. Table based on 2 feet inset of anchors at each end.

Figure 6: 10 TAC §80.55(d)(3)

(e) WIND ZONE II Installation:

(1) In place of the requirements as shown in subsection (d) of this section, units designed for Wind Zone I and built prior to September 1, 1997, and units designed for Wind Zone II and built prior to July 13, 1994, require diagonal ties as set forth in Table 5A when these units are installed in Wind Zone II. See also §80.50 of this title (relating to Wind Zone Regulations). Items not specifically addressed in this section are the same as for Wind Zone I installations.  
Figure 7: 10 TAC §80.55(e)(1)

(2) Units built to Wind Zone II on or after July 13, 1994.

(A) Units built to Wind Zone II on or after July 13, 1994, should have either built-in, or provisions for connecting, vertical ties along the sidewall(s) of each unit(s). A diagonal tie must be installed at each vertical tie location (except for designated shearwall tie). Built-in vertical ties shall be connected to anchors. If there are brackets or other provisions for connecting vertical ties, vertical ties shall be added at the brackets or provisions and connected to anchors.

(B) Only factory installed vertical ties may be closer than 4 feet from each other.

(C) Where tie locations are clearly marked as a shear wall strap, a perimeter pier must be installed at that location. See subsection §80.54(c) of this title (relating to Standards for the Installation of Manufactured Homes) for perimeter pier construction. Diagonal tie is not required.

(D) Where the vertical tie spacing exceeds 8'-0" on-center (see also note 6 in table 5A for exception), the anchoring system must be approved by the home manufacturer's installation manual, or designed by a professional engineer or architect licensed in the state of Texas.

(E) Where pier heights exceed 36 inches in height, the diagonal strap shall be connected to the opposite I-Beam (see Figure 1).

Figure 8: 10 TAC §80.55(e)(2)(E)

(F) Where vertical tie locations are not easily discernable, the vertical ties may be connected to the main I-Beam rails and the anchor installed directly below that connection point. The diagonal tie must be connected to the opposite main I-Beam. In no case shall the distance between those ties exceed 5'-4" on-center (see Figure 2).

Figure 9: 10 TAC §80.55(e)(2)(F)

(3) Multi-section centerline anchoring requirements (Wind Zone II only):

(A) centerline anchor ties are required for ALL Wind Zone II installations, regardless of the date the unit was manufactured, when installation occurs on or after the effective date of these rules.

(B) factory installed centerline vertical ties, brackets, buckles or any other connecting devices must be connected to a ground anchor. No additional anchors as described in subparagraph (D) of this paragraph are required.

(C) to avoid obstructions and/or piers and footers, the anchor may be offset up to 12 inches perpendicular to the centerline.

(D) where factory preparations do not exist, install anchors and angle iron brackets at each side of mating line openings wider than 48 inches per table 5B (see Figure 5B for detail).

(i) Where equal spans exist opposite each other (i.e., each section), a double bracket assembly may be used. The maximum opening is per table 5B. Total uplift load may not exceed the anchor and/or strap capacity (i.e., 3150 pounds).

(ii) the angle iron bracket is minimum 11 gauge. The holes for the lag screws are a maximum of 4 inches apart.

(iii) lag screws/bolts are minimum 5/16 x 3 inches, full thread.

(4) For openings separated by a wall or post 16 inches or less in width, the opening span is the total of the spans on each side of the wall/post.

(f) Bracket Installation.

(1) Table 5B: Maximum Centerline wall opening for column uplift brackets (see figure 5B for typical installation details).  
Figure 10: 10 TAC §80.55(f)(1)

(2) Figure 5B shows both single and double bracket assemblies for illustration purposes only. Use a single bracket for openings which exist on one section only. Use double bracket where openings are opposite each other on two sections of the home.

(3) When only one bracket assembly is required, it may be installed on either side of the column/opening stud(s), but no more than 12 inches from the column or opening stud(s). (See examples in figure 5C.)

(4) When two bracket assemblies are required, they must be installed on each side of the column/opening stud(s), but no more than 12 inches from the column/opening stud(s) (see examples in figure 5C), and they must be angled away from each other a minimum of 12 inches.

Figure 11: 10 TAC §80.55(f)(4)

(5) Example: A double section unit with each section being 14 feet wide;

(A) Span "A" is 18'-0", matching span both sections;

(B) Span "B" is 14'-8", matching span both sections;

(C) Span "C" is 6'-8", matching span both sections;

and

(D) Span "D" is 13'-4", one side only.

Figure 12: 10 TAC §80.55(f)(5)

(6) Longitudinal ties:

(A) Longitudinal ties are required for ALL Wind Zone II installations, regardless of date of manufacture, when installation occurs after the effective date of these rules.

(B) Longitudinal ties are designed to prevent lateral movement along the length of the home.

(C) The strap may be connected or wrapped around front or rear chassis header members, around existing chassis cross members, or spring hangers. Their location along the length of the home is not critical, as long as the number of longitudinal ties required for each end of each home section are installed with their pull in opposite directions. See Figures 1 and 2 in subparagraph (D) of this paragraph.

(D) Units less than 60 feet in box length require at least two longitudinal ties per end per section. These longitudinal ties are in addition to the sidewall ties.

Figure 13: 10 TAC §80.55(f)(6)(D)

§80.56. Multi-Section Connection Standards.

(a) Air infiltration at mating surfaces: Before positioning additional sections, the mating line surfaces along the floor, endwall and ceiling require material to limit air infiltration. The following are acceptable materials and/or procedures:

(1) expanding foam (this may also be applied after the units are joined);

(2) carpet or carpet pad (should be held in place with fasteners); and

(3) insulation, sill sealer (should be held in place with fasteners).

Figure 1: 10 TAC §80.56(a)(3)

(b) Floor Connections:

(1) gaps between floors up to 1-1/2 inches maximum which do not extend the full length of the floor may be filled with lumber, plywood or other suitable shimming materials. Fastener lengths in shimmed areas may need to be increased to provide minimum 1-1/4 inches penetration into opposite floor rim joist.

(2) gaps less than 1/2 inch width need not be shimmed.

(3) the floor assemblies of multi-section units must be fastened together. Fastener options and maximum spacings are listed in table 6A in paragraph (5) of this subsection.

(4) any tears or damages to the bottom board due to fastener installation must be repaired.

(5) Table 6A: Floor connections - Wind Zone I and II:

Figure 2: 10 TAC §80.56(b)(5)

(c) Endwall Connections:

(1) endwalls must be fastened together at the mating line with minimum #8x4 inch wood screws or 16d nails at maximum 8 inches on-center or 12 inches on-center maximum for 5/16 lags; toed or driven straight; and

(2) fastener length may need to be adjusted for gaps and/or toeing, to provide minimum 1-1/2 inch penetration into opposite endwall stud.

Figure 3: 10 TAC §80.56(c)(2)

(d) Roof Connection: (Note: Fasteners must not be used to pull the sections together.)

(1) roofs shall be connected with the fasteners and spacings specified in Table 56(6)(c);

(2) gaps between the roof sections (at ridge beam and/or open beam ledgers) of up to 1-1/2 inches wide maximum which do not extend the full length of the roof must be filled with lumber and/or plywood shims. Gaps up to 1/2 inch need not be shimmed. The fastener length used in the shimmed area may need to be increased to provide a minimum 1-1/4 inch penetration into the adjacent roof structural member;

(3) Table 56(d)(3): Roof Connection - Fastener type and spacing;

Figure 4: 10 TAC §80.56(d)(3)

(4) Figure 56(6)(c).

Figure 5: 10 TAC §80.56(d)(4)

(e) Exterior Roof Close Up:

(1) Ensure that shingles are installed to edge of roof decking at peak. Follow nailing instructions on the shingle wrapper. Note: Wind Zone II (high wind) installations require additional fasteners.

(2) Before installing ridge cap shingles, a minimum 6 inch wide piece of 30 gauge galvanized flashing must be installed the length of the roof.

(3) When flashing is not continuous, lap individual pieces a minimum of 6 inches.

(4) Fasten flashing into roof sheathing with minimum 16 gauge staples with 1 inch crown or roofing nails of sufficient length to penetrate roof decking. Maximum fastener spacing is 6 inches on-center each roof section. Place fasteners a minimum of 3/4 inches along edge of flashing.

(5) Install ridge shingles directly on top of flashing.

(6) Check remainder of roof for any damaged or loose shingles, remove any shipping plastic or netting, wind deflectors, etc. Make sure to seal any fastener holes with roofing cement.

Figure 6: 10 TAC §80.56(e)(6)

(f) Exterior Endwall Close Up: Cut closure material to the shape and size required and secure in place, starting from the bottom up, i.e.: bottom starter, vertical or horizontal siding, then roof overhang, soffit and fascia. All closure material should be fitted and sealed as required to protect the structure or interior from the elements.

(g) HVAC (heat/cooling) Duct Crossover:

(1) Crossover duct must be listed for EXTERIOR use.

(2) Duct R-value shall be a minimum of R-4.

(3) The duct must be supported 48 inches on-center (maximum) and must not be allowed to touch the ground. Either strapping, to hang the duct from the floor, or pads to support it off the ground are acceptable.

(4) The duct to the collar or plenum connections must be secured with bands or straps approved for such use. Keep duct as

straight as possible to avoid kinks or bends that may restrict the air flow. Extra length must be cut off.

Figure 7: 10 TAC §80.56(g)(4)

(h) Water Crossover Connection (multi-sections only):

(1) If there is water service to other sections, connect the water supply crossover lines as shown in the applicable detail.

Figure 8: 10 TAC §80.56(h)(1)

(2) If the water crossover connection is not within the insulated floor envelopes, wrap the exposed water lines in insulation and secure with a good pressure sensitive tape or nonabrasive strap, or enclose the exposed portion with an insulated box.

(3) If water piping at the inlet is exposed, a heat tape should be installed to prevent freezing. A heat tape receptacle has been provided near the water inlet. When purchasing a heat tape, it must be listed for manufactured home use, and it must be installed per manufacturer's instructions.

(i) Drain, Waste and Vent System (DWV):

(1) Portions of the DWV system which are below the floor may not have been installed, to prevent damage to the piping during transport. Typically, the DWV layout is designed to terminate at a single connection point to connect to the on-site sewer system. For a new home where on-site DWV connections are not assembled per the manufacturer's instructions, the DWV system must be assembled in accordance with Part 3280 of the FMHCSS.

(2) The following guidelines apply:

(A) All portions of the DWV system shall be installed to provide a minimum of 1/4 inch slope per foot, in the direction of the flow.

(B) Changes in direction from vertical to horizontal, and horizontal to horizontal, shall be made using long sweep elbows and/or tees.

(C) All drain piping shall be supported at intervals not to exceed 4 feet on-center. The support may be either blocking or strapping. When strapping is used, it should be nonabrasive.

(D) Piping must be assembled with the appropriate cleaners, primers and solvents (note: both ABS and PVC systems are common, but require different adhesives). Be sure to follow the instructions of the product used.

(E) A cleanout must be installed at the upper (most remote) end of the floor piping system (see diagrams in subparagraph (F) in this paragraph).

(F) Typical details:

Figure 9: 10 TAC §80.56(i)(2)(F)

(j) Electrical Connections: Depending on the model and/or manufacturer of the home, electrical crossovers may be located in either the front end and/or rear end of the home. Check along mating line for other labeled access panels.

(1) Crossover connections may be one of the following:

(A) approved snap or plug-in type;

(B) junction boxes inside floor cavity (note: crossover wiring routed outside the floor cavity must be enclosed in conduit). If the boxes and/or covers are metal, they must be grounded by the use of the ground wire; or

(C) pigtail between receptacles/switches between sections (one circuit only).

(2) Chassis Bonding: Each chassis shall be bonded to the adjacent chassis with a solid or stranded, green insulated or bare, number 8 copper conductor. The conductor is connected to the steel chassis with a solderless lug. Alternate bonding: A 4 inch wide by 30 gauge continuous metal strap may be used as an alternate, when attached to the chassis members with two #8x 3/4 inch self tapping metal screws each end of the strap.

Figure 10: 10 TAC §80.56(j)(2)

(3) typical crossover details:

Figure 11: 10 TAC §80.56(j)(3)

(4) Shipped loose equipment:

(A) Electrical equipment such as ceiling fans, chandeliers, exterior lights, etc., which may have been shipped loose, must be installed in accordance with the adopted National Electric Code (NEC). Connect all corresponding color coded or otherwise marked conductors per the applicable sections of the NEC.

(B) Bonding strap removal: 240 volt appliances (range, dryer, etc.) shall have the bonding strap removed between the ground and the neutral conductors. Cords used to connect those appliances shall be four conductor, four prong.

(5) Electrical testing: At the time of installation, the following tests must be performed:

(A) all site installed or shipped loose fixtures shall be subjected to a polarity test to determine that the connections have been properly made.

(B) all grounding and bonding conductors installed or connected during the home installation shall be tested for continuity, and

(C) all electrical lights, equipment, ground fault circuit interrupters and appliances shall be subjected to an operational test to demonstrate that all equipment is connected and functioning properly.

(6) Main panel box feeder connection: The main panel box is wired with the grounding system separated from the neutral system (4-wire feeder). The grounding bus in the panel must be connected through a properly sized green colored insulated conductor to the service entrance equipment (meter base) located on or adjacent to the home. Refer to the following table for proper feeder conductor sizes.

Figure 12: 10 TAC §80.56(j)(6)

(k) Fuel Gas Piping Systems:

(1) Crossover Connections: All underfloor fuel gas pipe crossover connections shall be accessible and be made with the connectors supplied by the home manufacturer, or, if not available, with flexible connectors listed for exterior use and a listed quick disconnect (Method A), or a shut-off valve (Method B). When shut-off valve is used, it must be installed on the supply side of the gas piping system. The crossover connector must have a capacity rating (btuh) of at least the total btuh's of all appliances it serves.

(2) Testing: The fuel gas piping system shall be subjected to an air pressure test of no less than 6 ounces and no more than 8 ounces. While the gas piping system is pressurized with air, the appliance and crossover connections shall be tested for leakage with soapy water or bubble solution. This test is required of the person connecting the gas supply to the home, but may also be performed by the gas utility or supply company.

Figure 13: 10 TAC §80.56(k)(2)

#### §80.62. Approval of Stabilizing Components and Systems.

(a) Installers shall only use prefabricated or site built stabilizing components and systems approved by the department, specified by the home manufacturer's DAPIA approved installation instructions, or specified for one or more homes in a particular area by a Texas licensed engineer or architect. Before granting approval for any prefabricated stabilizing component or system that will be used for more than one home, the department will require the component or system to be certified by an engineer, architect, or independent testing laboratory. The engineer or architect may be licensed in any state. The independent testing laboratory must have at least one engineer or architect licensed in at least one state. The producer or vendor of the component or system seeking department approval must send a request letter to the department with at least two copies of the certification report. The department may accept certification reports in electronic formats. The certification report copies must have letter size (8.5 inch by 11 inch) pages. In the request letter, the producer or vendor must grant the department the right to reproduce the certification report. If the department approves the certification report, the department shall place a stamp of approval on the copies, keep one copy, and return all other stamped copies to the producer or vendor. The stamp of approval will have the following information:

(1) the title "Texas Department of Housing and Community Affairs";

(2) the phrase "Approved stabilizing component or system"; and

(3) date of approval.

(b) The department will maintain a list of stabilizing components and systems that have been approved by the department for use in Texas.

(c) A report that certifies a stabilizing component or system shall contain, at the minimum, the following:

(1) the name, address, phone number, facsimile number, and trademark of the agency issuing the certification report or the name, signature, license number, state where licensed, address, phone number, facsimile number, and seal of the engineer or architect;

(2) date of certification report;

(3) the name, address, phone number, and facsimile number of the vendor or producer of the component or system;

(4) drawing or photograph of component or system;

(5) a description of the vendor's or producer's method for identifying the component or system;

(6) at least a 2 inch by 4 inch blank space for the department approval stamp on each page or the cover page of a bound document;

(7) a unique number or other identification for the certification report;

(8) the initial qualifying test report or information about how the report can be obtained;

(9) a description of the continuing validation system and the time period of the certification;

(10) installation instructions for the component or system that are shipped to each purchaser;

(11) a description of the working load capacity for the component or system. If the component is a ground anchor, the anchor shall be certified by a professional engineer, architect or

nationally recognized testing laboratory as to its resistance, based on the maximum angle of diagonal tie and/or vertical tie loading and angle of anchor installation, and type of soil in which the anchor is to be installed;

(12) a description of all allowable conditions for use of the component or system such as (but not limited to) types of soil, weather exposure, atmospheric environment (rural, industrial, coastal), and characteristics of other associated components; and

(13) a statement that the certifying independent testing laboratory, certifying engineer, or certifying architect certifies the component or system to be in conformance with a specific standard adopted by the department. This statement shall be on each page or shall be on the cover sheet of a bound document.

(d) The department adopts the applicable standards and publications set forth in Chapter 47 of the Council of American Building Officials (CABO) One and Two Family Dwelling Code, 1995 Edition, for materials used to fabricate stabilizing components and systems. The department adopts the stabilizing component destruction test failure criteria of the following publications:

(1) The FMHCSS, 24 CFR, Part 3280;

(2) Appendix A - CABO One and Two Family Dwelling Code, 1995 Edition, published by CABO, 5203 Leesburg Pike, Suite 708, Falls Church, Virginia 22041; and

(3) Appendix H - Standard Building Code, 1994 Edition, published by Southern Building Code Congress International, Inc., 900 Montclair Road, Birmingham, Alabama 35213-1206.

(e) Applicable reports of the National Evaluation Service Committee of the Council of American Building Officials, applicable evaluation reports from the International Conference of Building Officials (ICBO) Evaluation Service, Inc. of the ICBO, Southern Building Code Congress International, or applicable reports from a successor of any of the preceding organizations are acceptable as certification reports.

(f) The department may withhold approval if the certification information:

(1) is incomplete;

(2) does not conform to the rules of the department;

(3) contradicts the qualifying tests; or

(4) has contradictory statements.

(g) Conditions that may cause the executive director to issue an administrative order that withdraws approval (or a renewal of approval) from a stabilizing component or system may include but are not limited to:

(1) the engineer, architect, or independent testing laboratory withdraws the certification;

(2) the engineer, architect, or independent testing laboratory improperly certified the component or system;

(3) a significant characteristic of a device or system has been changed without a revision of the original certification;

(4) the producer distributes installation instructions that are substantively different from those in the certification or original qualifying tests;

(5) changes in the law, rules, or standards;

(6) the continuing validation system for a component has been changed without a revision of the original certification;

(7) information provided by the original certification is obsolete;

(8) the department receives evidence that the component or system often fails to anchor or support the home, and

(9) the producer fails to provide test results after the department directs the producer to test the component or system. The test will be performed by a recognized independent testing laboratory under the observation of a qualified representative or designee of the department.

(h) Notice of withdrawal of approval of a component or system must be given to all license holders.

(i) The department's approval letters for stabilizing components and systems are valid for a period of ten (10) years or for the time period of certification, whichever is less. The approval letter expires at the end of the shorter period.

(1) If the time period for certification exceeds the ten (10) year approval period, the producer of the stabilizing components and systems may apply for a renewal of the approval letter. The renewal shall be valid for an additional period:

(A) of ten (10) years; or

(B) if the time period of certification expires prior to the end of the ten (10) year period, for a lesser period ending with the expiration of the time period of certification.

(2) All department approval letters issued prior to the effective date of this section remain valid for a period of ten (10) years and expire ten (10) years following the effective date of this section.

(j) The vendor or producer of the component or system must apply for a renewal letter at least ninety (90) calendar days prior to the date the approval letter expires and supply the information necessary for the department to issue a renewal letter. The department may issue a temporary renewal letter for a period of not more than six (6) months in order to have time to review all the information submitted by a producer or vendor. The contents of a renewal letter issued by the department are as follows:

(1) conditions of the renewal with a description of the department approval stamp that will appear on the document shipped by the producer or vendor to purchasers;

(2) a unique number or other identification for the renewal letter;

(3) the name, address, phone and facsimile number of the producer or vendor of the device or system;

(4) a description of the continuing validation system and the time period of the renewal;

(5) a reference to the document (single sheet or bound document) attached to the renewal letter which is shipped to each purchaser by the producer or vendor which includes:

(A) the name, address, phone and facsimile number of the vendor of the component or system;

(B) a description of the vendor's method of marking the component or system;

(C) drawing or photograph of component or system with a reference to the detailed drawing stamped by an engineer or architect;

(D) installation instructions;

(E) reference to the initial qualifying test report;

(F) reference to a previous Texas approval letter;

(G) at least a 2 inch by 4 inch blank space for the department approval stamp on each page or a cover page for a bound document;

(H) description of method for identifying the soil for ground anchors and footings;

(I) a description of the working load capacity for the component or system;

(J) if the component is a ground anchor, a certification by a professional engineer, architect, or nationally recognized testing laboratory as to its resistance, based on the maximum angle of diagonal tie and/or vertical tie loading and angle of anchor installation, and type of soil in which the anchor is to be installed; and

(K) a description of all allowable conditions for use of the component or system such as (but not limited to) types of soil, weather exposure, atmospheric environment (rural, industrial, coastal), and characteristics of other associated devices.

(k) Approved components and systems sold to retailers or installers prior to the expiration of the applicable approval letter or renewal letter may be used and installed for a period of not more than ninety (90) calendar days following the date of expiration of the approval or renewal letter.

(l) In December of each year, the department shall mail to all licensed installers, retailers, and manufacturers a list of all approved components and systems and the date on which the approval letter for each component or system expires.

#### §80.63. Other Materials and Methods for Manufactured Homes.

(a) Unique stabilizing systems to be used on more than one home, designed for a particular area with similar soil properties according to county soil survey maps, must be approved by an engineer or architect, licensed in Texas, or the home manufacturer's DAPIA.

(b) Stabilizing components or systems which are unique for one identified home at one identified location shall be designed by an engineer or architect, licensed in Texas, and the design documents shall be filed with the installation report. No department approval letter is required.

(c) All stabilizing components must be resistant to all effects of weathering including that encountered along the Texas gulf coast. Nonconcrete stabilizing components and systems for use within 1500 feet of the coastline shall be specifically certified for this use. Treated wood components shall only be used in permanent foundations conforming to the CABO One and Two Family Dwelling Code, 1995 Edition.

(d) All stabilizing components shall be installed in accordance with the provisions of this chapter and to resist overturning and lateral movement of the home.

(e) The following types of stabilizing systems are special stabilizing systems, not associated with a particular location, and shall meet the requirements of subsection (f) of this section:

(1) a preapproved permanent foundation system;

(2) a stabilizing system with piers over 60 inches high (measured from top of footing to top of the last concrete block) which have diagonal tie angles over 50 degrees;

(3) a stabilizing system designed to resist damage due to flooding;

(4) a stabilizing system for manufactured homes located within 1500 feet of the coastline, unless approved by the manufacturer's DAPIA; and

(5) a site built stabilizing component or system with materials and methods in accordance with the applicable standards and publications set forth in Chapter 47 of the CABO One and Two Family Dwelling Code, 1995 Edition.

(f) This subsection refers only to special systems as listed in subsection (e) of this section. A Texas licensed engineer or architect must design a special stabilizing system. If a special stabilizing component, device, or system is not designed for a particular area with similar soil properties according to county soil survey maps, the department must also approve the stabilization system drawing, photographs, calculations, test reports, and specifications before any home is installed on the special stabilizing system. The department will issue a letter that references the submitted documents and describes any conditions of approval. An approval letter will have an expiration date. The department may renew an approval letter for a special stabilizing system if the owner of the documents describing the special stabilizing system notifies the department and requests another review. The department will review to determine if the special stabilizing system still conforms to present standards. DAPIA approved stabilizing system designs with appropriate effective dates for specified makes and models of homes shall not require an approval letter from the department. The installer shall send the department a copy of the DAPIA approved stabilizing system design before the home is installed. The prefabricated components and stabilizing systems specified by the DAPIA approved stabilizing system shall be installed in accordance with the applicable conditions and instructions for the components and systems.

#### §80.64. Procedures for Alterations.

(a) No alteration shall be made by a retailer or installer without prior approval of the department. A written request for any alteration approval shall be filed with the department, except for the alterations which are pre-approved as described in this section.

(1) If the alteration is not approved, the department will notify the retailer in writing of the reason for the refusal. If additional information is necessary to complete the evaluation of the request for approval, the retailer shall furnish any additional information deemed necessary by the department.

(2) If the alteration is approved, the alteration shall be completed in accordance with the department's approval and any requirements made as a condition of the approval. Following completion of an approved alteration, the retailer shall notify the department in writing, and the department may accept the certification of the retailer that the alteration was made as approved. The department may inspect the home, as altered, to assure compliance with the applicable standards.

(b) The installation of self-contained or split system ("A" coil) comfort cooling equipment and devices shall not be considered an alteration, if the installation is performed in accordance with the specific instructions of the manufacturer of the home as approved by the manufacturer's DAPIA, and if the specific equipment and devices used have been expressly approved by the manufacturer's DAPIA.



(c) Other than as set forth in subsection (b) of this section, the installation of self-contained or split system ("A" coil) comfort cooling equipment and devices is an alteration and is pre-approved if done by a state licensed air conditioning contractor.

(d) If the sale of a home includes air conditioning, the selling retailer shall maintain in the sales file a record of the name and license number of the air conditioning contractor which installed the air conditioning system.

§80.66. Rebuilding or Repairing a "Salvaged" Manufactured Home.

(a) Any home which has sustained sufficient damage to be declared salvage as defined in the Standards Act, §8, may be rebuilt/ repaired for purposes of issuance of a manufactured home document of title at the option of the department after inspection in accordance with department procedures. Notification in writing to the department at its Austin headquarter's office shall be required before rebuilding/ repair begins.

(b) The rebuilder must:

(1) notify the department in writing ten (10) working days before rebuilding (or monthly for continuous activity) and provide the following, if available:

(A) HUD or Texas Seal number;

(B) data plate and comfort cooling certificate information (applicable wind and roof load zones, manufacturer's name and address, home model, list of appliance models, home production date, thermal zones, transmission coefficients, furnace certification temperatures, and duct capacity for cooling);

(C) copy of salvage declaration report;

(D) description of damage;

(E) description of cause of damage (water, wind, impact, fire, etc.); and

(F) location of home during rebuilding.

(2) provide a plan for rebuilding, sealed by a licensed professional engineer, that contains the following:

(A) drawings and specifications that describe the rebuilding;

(B) if more than one home is rebuilt in any one (1) month period, then a quality assurance manual that describes the following:

(i) system testing;

(ii) inspection process of cavities before concealment; and

(iii) record keeping.

(C) list of new parts and appliances;

(D) list of reused or salvaged parts and appliances; and

(E) rebuilder's data plate (if applicable).

(3) notify the department when concealed cavities will be exposed for department inspectors;

(4) remove damaged material and equipment;

(5) add new or used materials and equipment;

(6) repair all defects; and

(7) repair and test all systems.

(c) The department may schedule inspections of the home during the rebuilding process.

(d) Any person who purchased a rebuilt manufactured home and received a salvage title as evidence of ownership after June 18, 1987, may be issued a document of title upon application to the department.

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

Filed with the Office of the Secretary of State, on April 27, 1998.

TRD-9805839

Larry Paul Manley

Executive Director

Texas Department of Housing and Community Affairs

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For further information, please call: (512) 475-3726



## Subchapter E. General Requirements

### **10 TAC §§80.119–80.123, 80.125–80.128, 80.130–80.132, 80.135**

The new sections are proposed under the Texas Manufactured Housing Standards Act, Article 5221f, §9, which provides the department with authority to amend, add, and repeal rules governing the Manufactured Housing Division of the department.

No other statute, code, or article is affected by the new rules.

#### §80.119. Installation Responsibilities.

(a) For new manufactured homes, the retailer is the installer and must warrant the proper installation of the home. If the retailer subcontracts with an independent licensed installer, then the subcontractor is jointly and severally liable for the portion of the installation that the subcontractor performed.

(b) For used manufactured homes, the person contracting with the consumer for the installation of the home is the installer and must warrant the proper installation of the home. If the contracting installer subcontracts with an independent licensed installer, then the subcontractor is jointly and severally liable for the portion of the installation that the subcontractor performed. The contracting installer is responsible to furnish the consumer with the installation warranty and site preparation notice. All verification and copies of the installation warranty and site preparation notice must be maintained in the installer's installation file for a period of no fewer than six (6) years from the date of installation.

(1) The person contracting directly with the consumer for only the transportation of the used home to a manufactured home site is not an installer if the person does not contract to perform or perform any installation functions. In this case, the installer is the person that contracts for the construction of the foundation systems, whether temporary or permanent, and the placement and erection of the used home and its components on the foundation system.

(2) The selling retailer may sell a used home and deliver possession to the consumer at the sales location (e.g. F.O.B. the sales location). In this case, the retailer shall not perform any installation functions nor transport the home to the home site.

(c) The installer is fully responsible for the complete installation even though the installer may subcontract certain installation

functions to independent contractors pursuant to the Standards Act, §7(j). It is unlawful for a subcontractor who is acting as an agent for a licensed installer to advertise and/or offer installation services to any person unless the licensed installer's name appears prominently in the advertisement.

(d) The sale of a new or used home by a retailer which includes an agreement to deliver the home and install the home at the home site is not completed until possession of the home is tendered to the consumer at the home site.

(e) Electrical, fuel, mechanical, and plumbing system crossover connections for multi-section homes, and completions of drain lines underneath all homes in accordance with DAPIA approved on-site assembly drawings are installer responsibilities and cannot be excluded by wording of the installation contract. The installation of air conditioning at the home site must be performed by a licensed air conditioning contractor. The installation and ventilation of skirting or other material that encloses the crawl space underneath a manufactured home is an installer responsibility, if it is part of the sales or installation contract.

(f) Notice of Installation.

(1) Except as otherwise specified for permanent foundations, the installer shall forward the installation report (Form T) to the department within ten (10) working days after the installation is completed. The installation report form shall be furnished by the department.

(A) When the installation occurs in conjunction with a title transfer, the installation report must be sent to the appropriate TDHCA field office. DO NOT SEND INSTALLATION FEES TO THE FIELD OFFICE.

(B) For secondary moves (when there is no title transfer), the installation report and the required installation fee must be submitted to the department.

(2) In addition, if the home is a multi-section home, the installer must notify the appropriate TDHCA field office by telephone, facsimile, or in person, the last working day prior to the day that the sections are scheduled to be connected. This notification must include the home serial numbers, label/seal numbers, names and addresses of the purchaser, the manufacturer, the retailer, the installer and the installer's phone and facsimile numbers, the exact location of the home and complete directions and instructions for the inspector to find the home, and an approximate time when the sections will be joined together. This notice may be satisfied by submitting a completed Form T with an added note of the approximate time the sections will be joined together. No additional notice is required if the scheduled connection of the sections is delayed for any reason; however, installers are expected to cooperate with the inspector and provide accurate information regarding any changes to previous installation plans, upon request.

(g) The installer shall file an application to install a manufactured home on a permanent foundation on a form approved by the department. The fee for the permanent foundation installation shall be forwarded with the application.

(1) A copy of the foundation system drawing as stamped and signed by the licensed engineer or architect must be filed with the application.

(2) The application must be received by the department at least ten (10) calendar days prior to the date on which construction of the permanent foundation system is scheduled to begin. No additional notice is required if the scheduled construction is delayed.

(3) Installers shall provide a copy of the application and the foundation system drawing to the TDHCA inspector at the time an inspection is performed.

(4) If the permanent foundation system design is approved by the authorized local government official and if the applicable building inspection fees are paid to the local government, the provisions of this section do not apply. The installer must, however, file a sworn statement of these facts with the department prior to the date on which the construction of the foundation system is scheduled to begin.

(5) If the permanent foundation is certified by the consumer/mortgagor and the lender/mortgagee in a real estate transaction, or is certified by the owner if there is no lien or the lien has been released, as having permanently affixed the structure to the real estate, the provisions of this section do not apply. The fee for the permanent foundation installation must be paid and sent to the department along with the certification.

(h) The installer must complete the installation in accordance with the standards and requirements of this chapter.

§80.120. Manufacturer's Responsibilities.

Manufacturers licensed with the department shall:

(1) Submit the reports required by §80.203 of this title (relating to Manufacturer's Monthly Shipment Report);

(2) Use the Manufacturer's Certificate of Origin (MCO) prescribed by the department for homes shipped to retailers in Texas; and

(3) Supply to the department current and revised copies of approved installation manuals required by §80.51 of this title (relating to Manufactured Home Installation Requirements).

§80.121. Retailer's Responsibilities.

(a) Manufactured housing retailers shall retain as part of each sales record and make available for review by department personnel, upon request, the following information:

(1) For all manufactured homes:

(A) name and address of the purchaser and the date of purchase;

(B) verification that the purchaser received the Formaldehyde Health Notice required by the Act, §20;

(C) verification that the purchaser was advised of the Wind Zone, thermal zone, and roof load zone for which the home was constructed. If this information is not available for a used home, the purchaser will be advised of this fact and the used home will be disclosed as being constructed to Wind Zone I, thermal zone 1, and the roof load design for the South;

(D) verification that the purchaser received the Wind Zone notice as required by §80.50 of this title (relating to Wind Zone Regulations);

(E) verification that the purchaser received the site preparation notice; and

(F) verification that the purchaser received written notice of the two (2) year limitation of notice for filing a claim with the department.

(2) For all new manufactured homes:

(A) verification that the manufacturer's new home warranty, consumer's manual, and retailer's installation warranty were delivered to the purchaser;

(B) verification of the date that the manufactured home information card was mailed to the manufacturer; and

(C) verification of delivery of conspicuous notice relating to defect or damage under the new home warranty as required by the Standards Act, §14(l).

(3) For used manufactured homes:

(A) verification that the purchaser received the written 60-day habitability warranty; and

(B) verification that the purchaser received the retailer's installation warranty if the retailer contracted for the installation as a part of the sales agreement.

(b) All verifications and copies of notices required by this chapter must be maintained in the retailer's sales file, and the sales file must be maintained for a period of not less than six (6) years from the date of sale.

§80.122. Security Requirements.

(a) For purposes of meeting the security requirements of Standards Act, §13, "other security" means an assignment of a certificate of deposit from or on a state or federally chartered bank or savings and loan association, properly signed and filed with the department. Such deposits are hereinafter referred to as security. Forms shall be furnished by the department for filing an assignment of such security. If such security is reduced by a claim, the license holder shall, within twenty (20) calendar days, make up the deficit as required by Standards Act, §13(i). No advance notice is required by the department to the license holder, but the department shall verify receipt of the deposit.

(b) An assignment of such security filed with the department for compliance with the Standards Act, §13, shall remain on file with the department for two (2) years after the person ceases doing business as a manufacturer, retailer, broker, rebuilder, or installer, or until such later time as the director may determine that no claims exist against the security. A bond or certificate of deposit may be filed in lieu of or to replace the assigned security. In the event a bond is filed to replace the assigned security and the initial effective date of the bond is the same or prior to the date of the assignment of security, such security or deposit may be immediately withdrawn upon request.

(c) If the security requirement of a license holder is canceled during the annual license period, the license shall be automatically canceled on the date security coverage ceases.

(d) To be exempt from the additional security as required by the Standards Act, §13(f), a manufacturer who does not have a manufacturing plant in this state must have a bona fide service facility.

(1) The manufacturer shall provide the department with the name, address and phone number of the service facility, conspicuous notice of which shall be provided to each Texas retailer who purchases homes from the manufacturer.

(2) The service facility shall be capable of compliance with the provisions of Sub-part I of the procedural and enforcement regulations promulgated by HUD, and capable of providing warranty service within the reasonable time requirements set by the department, and shall be subject to periodic review and inspection by department personnel.

(3) If the department determines that the requirements of paragraph (2) of this subsection have not been met, notice must be sent of that determination and of the requirement of an additional bond amount.

§80.123. License Requirements.

(a) Manufacturer. Any person constructing or assembling new manufactured housing for sale, exchange, or lease purchase within this state shall be licensed as a manufacturer. An application shall be submitted on the form required by the department and shall be completed giving all the requested information. The application shall be accompanied by the required security and payment of the license fee. Every distinct corporate entity must be separately licensed. Each separate plant location operated by a license holder which is not on property which is contiguous to or located within 300 feet of the license holder's licensed manufacturing facility requires a separate license and security.

(b) Retailer. Any person engaged in the business of buying for resale, selling, or exchanging manufactured homes or offering such for sale, exchange, or lease purchase to consumers shall be licensed as a retailer. An application for license shall be submitted on the form required by the department and be completed giving all the requested information. The application shall be accompanied by the required security and payment of the license fee. No person shall be considered a retailer unless engaged in the sale, exchange, or lease purchase of two or more manufactured homes to consumers in any consecutive twelve (12) month period. Sales, exchanges, or lease purchases by any employee or agent of a business entity are deemed to be sales of the business entity. Each separate sales location which is not on property which is contiguous to or located within 300 feet of a licensed sales location requires a separate license and security.

(c) Broker.

(1) Any person engaged by one or more other persons to negotiate or offer to negotiate bargains or contracts for the sale, exchange, or lease purchase of a manufactured home to which a certificate or document of title has been issued and is outstanding shall be licensed as a manufactured housing broker. An application for license shall be submitted on the form required by the department and be completed giving all the requested information. The application shall be accompanied by the required security and payment of the license fee. Each office location of the broker shall be licensed and proper security posted unless an office is on property which is contiguous to or located within 300 feet of an office licensed with the department.

(2) A broker shall not maintain a location for the display of manufactured homes without being licensed as a retailer.

(3) Paragraphs (1) and (2) of this subsection shall not apply to the sale, exchange, or lease purchase of a manufactured home in a single real estate transaction when the home and land are sold as realty with improvements.

(d) Rebuilder. Any person who desires to be certified by the department to alter, repair, or otherwise rebuild a salvaged manufactured home, as that term is defined in the Standards Act, §8(g), within this state, shall be licensed. An application shall be submitted on the form required by the department and shall be completed, giving all the requested information. The application shall be accompanied by the required license fee. In addition to the license requirements, the licensed rebuilder must be certified by the department. In order to be certified by the department, the department must observe the rebuilding process of the first home to verify that the manufactured home will be rebuilt in accordance with

applicable laws, codes, standards, rules, orders, and directives of the department. The department will certify the applicant as a rebuilder once all requirements have been met.

(e) Installer.

(1) Every person who contracts to perform or performs installations shall submit the required security, complete the necessary license forms and any other information needed, and be issued a license prior to performing an installation function. The required license fee must accompany the application for license.

(A) Each applicant for license shall have public liability insurance coverage, including completed operations coverage in an amount of not less than \$300,000 for bodily injury each occurrence and property damage insurance in an amount of not less than \$100,000 each occurrence. A combined single limit of \$300,000 will be considered to be in compliance with this section. If the applicant will be engaged in the transportation of manufactured housing incidental to the installation, the applicant must also have motor vehicle liability insurance coverage in an amount of not less than \$250,000 bodily injury each person, \$500,000 bodily injury each occurrence, \$100,000 property damage each occurrence. A combined single limit of \$500,000 will be considered to be in compliance with this section. Cargo insurance on each home or transportable section of not less than \$50,000 per towing motor vehicle is required.

(B) At the time of initial license and on renewal, a certificate of insurance must be filed with the department by the insurance carrier or its authorized agent certifying the kind, type and amount of insurance coverage and which provides for thirty (30) calendar days notice of cancellation. If the applicant does not provide proof of the required motor vehicle liability insurance and the cargo coverage, the applicant must sign an affidavit that the applicant will not engage in any transportation of manufactured housing. If the applicant transports only his/her own property, and furnishes the department with an affidavit attesting to that fact, cargo coverage is not required.

(C) An installer, also licensed as a retailer, may satisfy the insurance requirements by filing a certificate of insurance which shows that the license holder has motor vehicle-garage liability coverage including completed operations, and has dealer's physical damage (open lot) including transit insurance coverage in amounts not less than those set forth in subsection (e)(A) of this section.

(D) If the required insurance coverage expires or is canceled, and proof of replacement coverage is not received prior to the expiration date or date of cancellation, the installer's license is automatically terminated.

(2) The installer responsible for the installation in accordance with the provisions of §80.119 of this title (relating to Installation Responsibilities) shall maintain a file containing a copy of the installation report as filed with the department.

(f) Homeowner's Temporary Installation.

(1) A homeowner may apply for a temporary license as an installer for the purpose of installing such owner's used manufactured home. The application shall be submitted on a form and contain such information as required by the department, and it must be accompanied by a cashier's check or money order payable to TDHCA in payment for the required fee. The issuance of a homeowner's temporary installer's license by the department shall not relieve any warranty responsibility required by the Standards Act except for damage or defects which may occur as a result of the installation of the home by the homeowner.

(2) The application must be accompanied by a certificate of insurance issued by the insurance carrier or its authorized agent to prove insurance coverage for the installation of the home as follows: public liability insurance coverage including completed operations in an amount of not less than \$300,000 for bodily injury each occurrence and property damage insurance in an amount of not less than \$100,000 each occurrence, for which a combined single limit of \$300,000 will be considered to be in compliance with this section; and motor vehicle liability insurance coverage of not less than \$250,000 bodily injury each person, \$500,000 bodily injury each occurrence and \$100,000 property damage each occurrence, for which a combined single limit of \$500,000 will be considered to be in compliance with this section. A copy of the manufacturer's installation instructions or installation instructions stamped by a licensed professional engineer or architect shall accompany the application.

(3) Upon approval of the application, the homeowner will be issued a temporary license for the installation of that home set out in the application and a temporary installer's (TI) number. The temporary license shall be valid only for the period of time set forth on the license certificate.

(4) The temporary installer's (TI) number must be displayed on the back of the home in letters and figures not less than 8 inches in height when the home is moved over the roads, streets, or highways in this state.

(g) Salesperson.

(1) A salesperson means an individual, partnership, company, corporation, association, or other group who, for any form of compensation, sells or lease-purchases or offers to sell or lease-purchase manufactured housing to consumers as an employee or agent of a retailer or broker. A person or entity licensed as a retailer or broker with the department is not required to register as a salesperson, and the owner of a sole proprietorship, a partner in a partnership, or an officer in a corporation which is duly licensed does not have to register as a salesperson so long as such individual is properly listed in the retailer's or broker's application for license.

(2) The salesperson is an agent of the retailer or broker for whom sales or lease-purchases, or offers, are made. The retailer or broker is liable and responsible for the acts or omissions of a salesperson in connection with the sale or lease-purchase of a manufactured home. It is a violation of the Standards Act and this chapter for a retailer or broker of manufactured housing to employ a salesperson who is not licensed with the department.

(3) An application for license must be made by every salesperson. Each applicant for certificate of license as a salesperson must file with the department an application for license on a form provided by the department containing:

(A) the full legal name, permanent mailing address, date of birth, telephone number, Texas driver's license number or Texas identification number, and social security number of the applicant;

(B) places of employment of the applicant for the preceding three (3) years, providing the name of firm(s), address(es), and dates of employment;

(C) a statement that the applicant is the authorized agent for a manufactured housing retailer or broker; the statement shall be signed by the employer.

(4) Except as may otherwise be authorized, the fee for a salesperson's license shall be submitted to the department in the

form of a cashier's check or money order. Salesperson licenses shall be valid for a period of one (1) year from the date of issuance.

(5) Salesperson annual renewal license forms shall be available at manufactured housing retailer and broker locations, or any office of the department. Renewal forms and payment of the renewal fee shall be made by the salesperson prior to the expiration of the current license.

(6) Salespersons shall be issued a license card by the department containing effective date and license number. The salespersons shall be required to present a valid license card upon request.

(h) Applicable License Holder Ownership Changes.

(1) A license holder shall not change the location of a licensed business unless the license holder first files with the department:

(A) a written notification of the address of the new location; and

(B) an endorsement to the bond reflecting the change of location.

(2) The change of location is not effective until the notification and endorsement are received by the department.

(3) For a change in ownership of less than fifty percent (50%) of the licensed business entity, no new license is required provided that the existing bond or other security continues in effect.

(4) For a change in ownership of fifty percent (50%) or more, the license holder must file with the department, along with the appropriate fee:

(A) a license application by the purchaser providing information as may be required by the department; and

(B) certification by the surety that the bond for the licensed business entity continues in effect after the change in ownership; or

(C) an application for a new license along with a new bond or other security and proof that the education requirements of the Standards Act, §7(p), have been met.

(i) Education Requirements. Effective September 1, 1987, all applicants for license, except salespersons, shall attend and complete 20 hours of educational instruction as required by the Standards Act and this title. A manufacturer may request a one-day in-plant training session be presented by the department in lieu of completing the instruction requirement. The license will not be issued until the owner, partner, corporate officer, or other person who will personally have the day-to-day management responsibility for the business location, or the salesperson to be licensed, attends and completes this educational requirement. This section shall not apply to the renewal of licenses, nor to the license of additional business locations.

(j) Denial, Suspension, or Revocation of License Relating to Criminal Background.

(1) The following criteria shall be utilized to determine whether an applicant shall be issued a license if that applicant states in his/her application for said license that he/she has a record of criminal convictions within five (5) years preceding the date of the application:

(A) the nature and seriousness of the crime;

(B) the relationship of the crime to the intended manufactured housing business activity;

(C) the extent to which a license holder might engage in further criminal activity of the same or similar type as that in which the applicant previously had been involved;

(D) the relationship of the crime to the ability, capacity, or fitness required to perform the duties and discharge the functions and responsibilities of the license holder's occupation or industry; and

(E) whether the offenses were defined as crimes of moral turpitude by statute or common law, from Class A misdemeanors to first, second, and third degree felonies carrying fines and/or imprisonment or both. Special emphasis shall be given to the crimes of robbery, burglary, theft, embezzlement, sexual assault, and conversion.

(2) In addition to the factors that may be considered in paragraph (1) of this subsection, the department, in determining the present fitness of a person who has been convicted of a crime, may consider the following:

(A) the extended nature of the person's past criminal activity;

(B) the age of the person at the time of the commission of the crime;

(C) the amount of time that has elapsed since the person's last criminal conviction;

(D) the conduct and work activity of the person prior to and following the criminal conviction;

(E) evidence of the person's rehabilitation or attempted rehabilitation effort while incarcerated or following release; and

(F) other evidence of the person's present fitness, including letters of recommendation from prosecution, law enforcement, and correctional officers who prosecuted, arrested, or had custodial responsibility for the person; the sheriff and chief of police in the community where the person resides; and any other persons in contact with the convicted person.

(3) It shall be the responsibility of the applicant to the extent possible to secure and provide to the department the recommendations of the prosecution, law enforcement, and correctional authorities as required by this subsection.

(4) The applicant shall furnish proof in any form, as may be required by the department, that he/she has maintained a record of steady employment and has otherwise maintained a record of good conduct and has paid all outstanding court costs, supervision fees, fines, and restitution as may have been ordered in all criminal cases in which the applicant was convicted.

(5) If the department suspends or revokes a valid license, or denies a person a license or the opportunity to be examined for a license in accordance with this subsection because of the person's prior conviction of a crime and the relationship of the crime to the license, the department shall:

(A) notify the person in writing stating reasons for the suspension, revocation, denial, or disqualification; and

(B) offer the person the opportunity for a hearing on the record.

(k) License Renewal Requirements. It is the responsibility of the license holder to renew the license prior to its expiration date; however,

(1) the department will mail each license holder a renewal notice and application for renewal at least forty-five (45) calendar days prior to the date on which the current license expires. Notice will be mailed to the last known address indicated in department records;

(2) in order to prevent the expiration of a certificate of license, all applications for license renewals must be received by the department prior to the date on which the current license expires; and

(3) if an application for license renewal is received by the department after the date on which the current license expires, the license will not be reinstated except with approval of the director. The director may require a hearing prior to reinstatement.

(4) All renewal licenses and a reinstatement license approved by the director shall be dated as of the day following the date on which the current license expires.

(l) Application and Appeals.

(1) Initial application processing.

(A) It is the policy of the department to issue the license within seven (7) working days after receipt of all required information and the following conditions have been met:

(i) all required forms are properly executed; and

(ii) all requirements of applicable statutes and department rules have been met.

(B) Applicants may make application for license in person at the department's headquarters office in Austin during regular working hours. However, the issuance of a license number will be delayed until the application has been thoroughly reviewed.

(C) License applications and accompanying documents received shall be processed and issued within seven (7) working days if all conditions for license have been met.

(D) Within seven (7) working days of the date received by the department, license applications and accompanying documents found to be incomplete or not properly executed shall be returned to the applicant with an explanation of the specific reason and what information is required to complete license. Upon receipt of all required information, the license will be issued within seven (7) working days.

(E) Upon written request, the department will call the license holder and provide the license number assigned.

(2) Appeals. Applicants may appeal any dispute arising from a violation of the time periods set for processing an application. An appeal is perfected by filing with the director a letter explaining the time period dispute. The letter of appeal must be received by the director no later than twenty (20) calendar days after the date of the letter of explanation from the department outlined in subparagraph (D) of this subsection. The department will decide the appeal within twenty (20) calendar days of the receipt of the letter of appeal by the director.

§80.125. Advertising Regulations.

(a) A license holder is prohibited from publishing or distributing any form of advertising which is false, deceptive, or misleading.

(b) There are no restrictions on:

(1) the use of any advertising medium;

(2) a person's personal appearance or the use of a person's voice in an advertisement;

(3) the size or duration of an advertisement; or

(4) the use of a trade name in an advertisement.

(c) A retailer or broker must not advertise any interest rate or finance charge which is not expressed as an annual percentage rate and must comply with the disclosure requirements of the federal Truth-in-Lending Act.

§80.126. Rules for Hearings.

(a) Unless otherwise expressly set forth in the Standards Act or this chapter, all hearings shall be held and conducted pursuant to the applicable provisions of Government Code, Chapter 2001.

(b) Any party to a hearing may request that a record of the hearing be made and transcribed by an independent court reporter, other than an employee of the department. Such request must be made not later than seven (7) calendar days prior to the hearing. The additional cost and expense of the independent court reporter may be assessed against the party making the request. In all hearings, the published rules and regulations of the secretary of HUD shall be considered, if relevant. If the department believes that such rules and regulations are relevant to any issue to be involved in the hearing, the notice of hearing shall specifically refer to such HUD rules and regulations.

(c) If, after receiving notice of a hearing, a party fails to appear in person or by representative on the day and time set for hearing or fails to appear by telephone in accordance with Government Code, Chapter 2001, the hearing may proceed in that party's absence and a default judgment may be entered.

(d) Any person for whom a license was revoked, denied, or suspended by a final order issued after a hearing under Government Code, Chapter 2001, may only be issued a new license after a hearing under Government Code, Chapter 2001, and determination by the director that the certificate of license may be issued.

(e) Pursuant to the Administrative Procedures Act, each party has the right to file exceptions to the Proposal for Decision and present a brief with respect to the exceptions. All exceptions must be filed with the department within ten (10) working days of the Proposal for Decision, with replies to be filed ten (10) working days after the filing of exceptions.

§80.127. Sanctions and Penalties.

(a) In accordance with the provisions of Government Code, Chapter 2306, §2306.604, the director may assess and enforce penalties and sanctions against a person who violates any applicable law, rule, regulation, or administrative order of the department. The director may:

(1) issue to the person a written reprimand that specifies the violation;

(2) revoke or suspend the persons license;

(3) place on probation a person whose license is suspended; or

(4) assess an administrative penalty in an amount not to exceed \$1,000 for each violation in lieu of, or in addition to, any other sanction or penalty.

(b) In determining the amount of a sanction or penalty, the board and the director shall consider:

(1) the kind or type of violation and the seriousness of the violation;

(2) the history of previous violations; the kind or type of previous violations, and the length of time between violations;

(3) the amount necessary to deter future violations;

(4) the efforts made to correct the violation or previous violations; and

(5) any other matters that justice may require.

(c) Violations will be subject to sanctions and penalties as set forth in Government Code, Chapter 2306.604. Revocation or suspension of a license may be assessed only for multiple, consistent, and/or repeated violations. For first-time violations of a department rule which does not relate to the construction or installation of the home, a voluntary letter of compliance will be issued in lieu of other sanctions.

(d) Consumer complaints relating to warranties are not considered violations until there has been a determination that the complaint is subject to a warranty and the license holder giving the warranty fails or refuses to respond to a warranty order of the department for correction of the warranty item. The failure to correct a serious defect, an imminent safety hazard, or a defect pursuant to applicable state and federal regulations and/or warranty orders is a violation.

(e) All written notices and preliminary reports of violations shall specify in detail the particular law, rule, regulation, or administrative order alleged to have been violated along with a detailed statement of the facts on which the allegation is based.

(f) The respondent in an administrative hearing shall be entitled to due process and a hearing under the provisions of Government Code, Chapter 2001 and Chapter 2306. The respondent and the director may enter into a compromise settlement agreement in any contested matter prior to signing of the final order.

§80.128. Arbitration Rules.

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

(1) Authorized representative - An attorney authorized to practice law in the State of Texas or a person designated by a party to represent the party.

(2) Award - The written decision of the arbitrator.

(3) Chief judge - The chief administrative law judge of the State Office of Administrative Hearings (SOAH) or his/her designee.

(4) Department - The Texas Department of Housing and Community Affairs (TDHCA).

(5) Dispute - The factual and/or legal controversy including the amount of the claim.

(6) Manufactured Homeowners' Recovery Fund (HORF) - A special fund reserved for the payment of valid consumer claims and other authorized expenses of the department.

(7) Party/Parties - Consumer, manufactured housing license holder of the department, or a surety company, or the department in cases that potentially impact the HORF, and persons who hold, or have previously held, a security interest in the manufactured home, and any other person involved in the dispute who agrees to the arbitration.

(8) Surety bond - A bond or security filed with the department which shall be open to successive claims.

(9) Surety - Person or organization which undertakes to pay money or perform another act if his principal fails to do so.

(b) Election of Arbitration and Options.

(1) The department finds that the manufacture and sale of manufactured homes affects interstate commerce; accordingly, the parties may agree on binding arbitration under Title 9, United States Code.

(2) The binding arbitration shall not supersede nor interfere with the department's informal dispute resolution process. The parties must submit all disputes involving warranties to the department for processing through the informal dispute resolution process.

(3) The parties may elect to use private, local, regional, or national arbitration services or may select arbitrators proposed by the SOAH as set forth in this section. This election must be set forth in the written agreement for binding arbitration.

(4) Arbitrators shall be selected by mutual agreement of the parties or in accordance with the specific provisions of the written agreement for binding arbitration.

(c) Qualifications for Arbitrators. Unless provided by the SOAH, potential arbitrators must have the following minimum standards:

(1) at least five (5) years of experience in the legal profession; or

(2) at least five (5) years experience in the resolution of claims with experience as a presiding officer; or

(3) at least ten (10) years of experience in the regulation of the manufactured housing industry; and

(4) the attributes necessary to be a successful arbitrator, including expertise, honesty, integrity, impartiality, and the ability to manage the arbitration process.

(d) Awards.

(1) The arbitrator may grant any remedy or relief that the arbitrator deems just and equitable within the scope of the parties, including, but not limited to, specific performance of a contract. However, the award must be consistent with applicable state and federal law, including the Standards Act, Government Code, Chapter 2306, Title 9, United States Code, and this chapter.

(2) The award shall be based on the facts established in the arbitration proceeding, in the opinion of the arbitrator or a majority of the arbitrators, including stipulations of the parties and on the state and federal statutes and formal rules and regulations, as properly applied to those facts.

(3) Subject to the limitations set forth in this section, the arbitrator may assess arbitration fees, expenses, and compensation.

(4) If there is more than one arbitrator, all decisions must be made by a majority.

(5) The award must:

(A) be in writing;

(B) be dated and signed by the arbitrator or a majority of the arbitrators; and

(C) state the basis of, and the rationale for, the award.

(6) The award is final and binding on all parties. Parties may apply to the state or federal district courts for confirmation, vacation, modification, or correction of the award only to the extent allowed under Title 9, United States Code.

(7) Solely for the purpose of correcting clerical errors, the arbitrator retains jurisdiction of the award for twenty (20) calendar days after the date of the award.

(e) Duties of the Arbitrator.

(1) The arbitrator shall afford a full and equal opportunity to all parties for the presentation of any material and relevant evidence and shall protect the interests of all parties.

(2) If the dispute may involve the HORF, the arbitrator shall notify the department in writing as soon as she/he has knowledge of this fact and shall provide the department the opportunity to introduce evidence or present arguments relating to the claim against the HORF.

(3) Copies of the award shall be served on all parties and to the department.

(f) Costs of Arbitration.

(1) The costs of arbitration shall be paid by the parties. The arbitrator shall apportion the costs between the parties as in her/his discretion is fair, just, and equitable, subject to the limitation of consumers' costs in this subsection.

(2) The costs of arbitration to the consumer are limited to a maximum of:

(A) \$250 if the claims for damages do not exceed \$50,000;

(B) \$500 if the claims for damages exceed \$50,000 but do not exceed \$250,000; and

(C) \$1,000 if the claims for damages exceed \$250,000.

(3) The costs of arbitration shall include the fee or fees for the arbitrator or arbitrators and all incidental expenses directly related to the conduct of the arbitration proceeding.

(4) Subject to the limitation of consumers' costs in this subsection, costs shall be paid in accordance with the rules of the arbitrator, or if the SOAH is selected to handle the arbitration, in accordance with the provisions of subsection (j) of this section.

(g) Notice To Department. All notices required to be sent to the department shall be sent to TDHCA, Manufactured Housing Division, P. O. Box 12489, Austin, Texas 78711.

(h) Notice To Surety Companies. Upon receipt of a notice of intent to arbitrate, the department shall furnish the selected arbitrator with a list of the surety companies of the license holders involved in the dispute to be given notice of the proceeding and an opportunity to participate.

(i) Arbitration Not Using SOAH. The provisions of this subsection relate only to arbitrations for which the parties have agreed to use the services of a private, local, regional, or national arbitration service.

(1) Subject to the provisions of subsections (a)-(h), the parties shall follow the rules of the applicable arbitration service.

(2) The party requesting the arbitration shall file a written notice of intent to arbitrate with the department. The written notice shall:

(A) contain the name, address, telephone and facsimile number of the selected arbitrator or arbitrators and, if applicable, the arbitration organization through which the arbitration will be conducted;

(B) contain a description of the nature of the dispute and the remedy sought along with a description of the manufactured home by HUD/Seal number and serial number and the date of sale or occurrence; and

(C) have attached a copy of the written agreement for the binding arbitration.

(j) Arbitration Using SOAH. The provisions of this subsection relate only to arbitrations for which the parties have agreed to use the services of SOAH. Subject to the provisions of subsections (a)-(h), the parties shall follow these additional rules.

(1) A written notice of intent to arbitrate shall be filed with the Manufactured Housing Division of the department and all involved parties by certified mail, return receipt requested. This notice of intent shall include a written statement that contains the following:

(A) a statement that the parties have agreed in writing to submit their dispute to arbitration under these rules;

(B) the nature of the dispute that is being submitted to arbitration, including a complete description of the manufactured home by HUD/Seal and serial number, and date of sale or occurrence;

(C) a brief description of the factual and/or legal controversy, including the amount in controversy, if any;

(D) the remedy sought;

(E) any special information that should be considered in compiling a panel of potential arbitrators; in the event the parties fail to indicate the number of arbitrators to be used, the dispute shall be heard and determined by one arbitrator;

(F) a statement that the hearing locale shall be determined by the arbitrator pursuant to paragraph 14(D) of this subsection;

(G) a list of all parties, and their attorneys or representatives, including addresses, telephone and facsimile numbers;

(H) a nonrefundable filing fee of \$100 made payable to the department;

(I) an estimate of length of the hearing in hours. This estimate must be approved by the department before arbitration can begin; and

(J) a deposit equal to 150% of the estimated cost of the hearing, payable to the department. This deposit is calculated by multiplying the estimated length of number of hearing hours by \$70. This figure is then multiplied by 1.5, and the product multiplied by the number of arbitrators to be used.

(2) Costs of Arbitration.

(A) The filing fee of \$100 which is nonrefundable.

(B) Each arbitrator's fee is not to exceed \$70 an hour for case preparation, travel, pre-hearing conferences, hearings, preparation of the Award, and any other required post-hearing work.

(C) The unused portion of the deposit shall be refunded by the department after an accounting from the arbitrator.



(D) If the cost of the arbitration exceeds the deposit of the estimated cost, the department shall invoice the appropriate parties and collect any monies due the department.

(E) All fees and deposits are payable to the department at P. O. Box 12489, Austin, Texas 78711.

(F) The department shall distribute arbitration fees to SOAH in response to monthly billing statements.

(3) Initiation of Arbitration.

(A) Immediately upon receipt of notice of intent to arbitrate, the filing fee, and the deposit of estimated cost, the department shall forward the information to SOAH so that arbitration can be initiated. The department shall furnish SOAH with a list of the surety companies of the license holders involved in the dispute so that they may be given notice of the arbitration and an opportunity to seek to be made parties of the arbitration. Also the department shall furnish SOAH an accounting of the filing fee and deposit of the estimated cost. The case shall be file stamped and given a SOAH docket number which identifies it as a case submitted for arbitration. The docket number will be used on all subsequent correspondence and documents filed with SOAH relating to this arbitration.

(B) The party that did not initiate the arbitration must file an answering statement with SOAH within ten (10) calendar days after receipt of the notice of intent from the electing party. That answering statement shall include a statement that the party agrees to arbitrate and an indication of whether the party agrees or disagrees with the statements in the initial notice of intent to arbitrate.

(4) Changes of Claim. If either party desires to make any new or different claim, it shall be made in writing and filed with SOAH. The other party shall have ten (10) calendar days from the date of such mailing in which to file an answer with SOAH. After the arbitrator is appointed, however, no new or different claim may be submitted except with the arbitrator's consent.

(5) Filing and Service of Documents.

(A) All documents filed by either party with SOAH shall be simultaneously served on the other parties, using the same method of service, if possible. Documents required to be filed with SOAH shall be delivered to the docket clerk before 5:30 p.m. local time. The time and date of filing shall be determined by the file stamp affixed by the SOAH docket clerk.

(B) Service may be made by first class mail, overnight courier, or certified mail return receipt requested to the party or its representative at its last known address. Documents containing 20 or fewer pages, including exhibits, may be filed with SOAH by electronic transmission according to requirements set out in its rules. All documents served on another party shall have a certificate of service signed by the party or its representative that certifies compliance with this rule. A proper certificate shall give rise to a presumption of service.

(C) If any document is sent to the SOAH clerk by certified mail or first class mail in an envelope or wrapper properly addressed and stamped and is deposited in the mail on or before the last day for filing same, and it is received within three (3) working days of the filing date, it shall be deemed properly filed.

(D) Documents filed by facsimile that are received at SOAH after 5:30 p.m. shall be deemed filed the first day following that is not a Saturday, Sunday, or official state holiday.

(6) Selection of Arbitrator.

(A) Any Administrative Law Judge (ALJ) employed by SOAH may be selected as an arbitrator. The parties may propose the name of a particular ALJ to arbitrate in a particular case in the notice of intent to arbitrate. However, the usual procedure will be for SOAH to provide the parties with a list of potential arbitrators, for selection to be made as described in subparagraph (B) of this paragraph.

(B) SOAH will provide a list of potential arbitrators to the parties in the case. The list of potential arbitrators in each case will be created by selecting persons employed as an ALJ at SOAH, giving due regard to the complexity of the dispute, the expertise needed to understand the dispute, the experience and training of the proposed arbitrators, and the requests of the parties concerning the location of the hearing.

(C) SOAH shall send each party an identical list of persons qualified to serve as an arbitrator in the dispute within ten (10) calendar days after receipt of the notice of intent to arbitrate by SOAH. SOAH will also give the parties a copy of the resumes of these persons. The number of persons on the list shall be equal to the sum of the number of parties involved in the arbitration plus the number of arbitrators agreed to be used.

(D) Each party shall have ten (10) calendar days from the transmittal date to strike one name. The remaining names should be numbered in order of preference, if such preference exists. If a party does not return the list within the time specified, all persons named therein shall be deemed acceptable. It is not necessary for the parties to exchange the name of the candidate that they are striking, nor will those names be disclosed to the candidates.

(E) SOAH will notify the parties of the arbitrator or arbitrators selected.

(7) Disclosure Requirements and Challenge Procedure.

(A) A potential arbitrator must not become or continue to be the arbitrator in any dispute if she/he believes or perceives that participation as an arbitrator would be a conflict of interest. A potential arbitrator must disclose any bias or any financial or personal interest she/he may have in the result of the particular arbitration as well as any past or present relationship with the parties, their principals, or their representatives.

(B) The duty to disclose is a continuing obligation throughout the arbitration process.

(C) Upon receipt of such information from the arbitrator or another source, SOAH shall communicate the information to the parties and, if appropriate, to the arbitrator and others. Upon objection of a party to the continued service of an arbitrator, the chief judge shall determine whether the arbitrator should be disqualified and shall inform the parties of his/her decision, which shall be conclusive.

(8) Vacancies. If for any reason an arbitrator is unable to perform the duties of the office, the chief judge may, on proof satisfactory to him/her, declare the office vacant. Vacancies shall be filled in accordance with the applicable provisions of this chapter for initial appointment of an arbitrator.

(9) Qualifications of Arbitrators.

(A) The chief judge shall designate impartial third parties who shall be subject to the standards and duties prescribed by the applicable sections of the Civil Practices and Remedies Code (CPRC), and who shall have the qualified immunity prescribed therein.

(B) Potential arbitrators shall have a current resume on file, available to persons interested in utilizing the arbitration process, that shows her/his experience, education, professional licenses and certifications, and professional associations and publications.

(10) Record. The Arbitrator may make a tape recording of the proceeding which may be destroyed after the time for final appeal has passed.

(11) Interpreters. Any party intending to use an interpreter for themselves or any of their witnesses must provide the other parties notice of their intent to use an interpreter and the identity of the interpreter at least thirty (30) calendar days prior to the arbitration. The other parties may file objections to the use of that interpreter which will be ruled upon by the arbitrator or have present their own interpreter selected and paid for by them. Any other party retaining an interpreter in response to another party's designation of their intent to use an interpreter must notify the other parties within fifteen (15) calendar days prior to the arbitration proceeding of the identity of the interpreter.

(12) Duties of the Arbitrator. In addition to the duties set forth in subsection (e) of this section, the arbitrator:

(A) shall notify the department when the arbitrator's fees and expenses have exceeded the deposit estimated by the electing party so the department can collect additional expenses; and

(B) shall not issue an Award until notified by the department in writing that all monies have been received by the department as described in subsection (j)(2) of this section.

(13) Communication of Parties with Arbitrator. The parties shall not communicate with the arbitrator concerning the issues of the dispute other than at an oral hearing, or through properly filed documents, unless the parties and the arbitrator agree otherwise.

(14) Date, Time, and Place of Hearing.

(A) The arbitration hearing shall be scheduled to begin no later than the ninetieth day after the date that the arbitrator is selected.

(B) The arbitrator shall set the date, time, and place for each hearing. She/he shall send a notice of hearing to the parties at least thirty (30) calendar days in advance of the hearing date, unless otherwise agreed to by the parties.

(C) The arbitrator may grant a continuance of the arbitration at the request of any party.

(D) All hearings shall be held in Austin or in the region where one or more parties are located, as determined by the arbitrator. Preference will be given to using government facilities.

(15) Representation. Any party may be represented by counsel or other authorized representative.

(16) Public Hearings and Confidential Material. The arbitrator shall maintain the privacy of the hearings unless the law provides to the contrary. Any person having a direct interest in the arbitration is entitled to attend hearings. It shall be discretionary with the arbitrator to determine the propriety of the attendance of any other person.

(17) Preliminary Conference. The arbitrator may set a preliminary conference and may require parties to file a statement of position prior to that conference.

(18) Exchange of Information. By the thirtieth day after the date SOAH mailed notice to the parties of the name of the

appointed arbitrator, the parties shall have exchanged the following information:

(A) list of witnesses that a party expects to call identifying the subject matter on which the witness may testify; and

(B) copies of documents or other tangible things relevant to the dispute.

(19) Discovery. The arbitrator may authorize discovery upon a showing of good cause. Parties are to voluntarily disclose information related to the dispute being arbitrated, as provided in paragraph (18) of this subsection.

(20) Control of Proceedings. The presiding arbitrator shall exercise control over the proceedings, including but not limited to, determining the consequences of any party's failure to comply with these rules and/or the rulings of the arbitrator, the manner and order of interrogating witnesses and presenting evidence so as to:

(A) make the interrogation and presentation effective for the determination of the truth;

(B) avoid needless consumption of time; and

(C) protect witnesses from harassment or undue embarrassment.

(21) Evidence.

(A) The parties may offer evidence as they desire and shall produce additional evidence that the arbitrator considers necessary to understand and resolve the dispute. However, any documentary evidence not timely exchanged between the parties before the hearing will be excluded from consideration unless good cause is shown.

(B) The arbitrator is the judge of the relevance and materiality of the evidence offered. Strict conformity to the rules of judicial proceedings is not required. The Texas Rules of Civil Evidence are not binding on the arbitrator but may be used as a guideline.

(C) All privileges recognized by the Texas Rules of Civil Procedure may be invoked to protect privileged documents. If requested, the arbitrator shall decide whether a document is in fact privileged.

(D) Each party shall produce any witnesses under its control without the necessity of a subpoena. Individuals may be compelled by the arbitrator, as provided in Title 9, United States Code §7, to attend and give testimony or to produce documents at the arbitration proceeding or at a deposition authorized under subsection (j)(19) of this section.

(22) Witnesses. Witnesses shall testify under oath. Testimony may be presented in a narrative, without strict adherence to a "question and answer" format.

(23) Exclusion of Witnesses. Any party may request that the arbitrator exclude witnesses from the hearing except when they are testifying. If such a request is made, the arbitrator shall instruct the witnesses not to discuss the case outside the official hearing other than with the designated representatives or attorneys in the case. However, an individual who is a party or any other party representative shall not be excluded under this rule. A witness or other person violating these instructions may be punished by the exclusion of evidence as the arbitrator deems appropriate.

(24) Evidence by Affidavit. The arbitrator may receive and consider evidence of witnesses by affidavit. Affidavit testimony

must be filed with the arbitrator and served on the other party no later than thirty (30) calendar days before the hearing. The other party will have fifteen (15) calendar days to file any objection to the admissibility of the affidavit or to file controverting affidavits. The arbitrator shall give such evidence only such weight as the arbitrator deems it entitled to after consideration of any objection made to its admission.

(25) Order of Proceedings.

(A) The arbitrator may allow each party to make an opening statement, clarifying the issues involved.

(B) The parties shall present the evidence supporting their respective claims in the order directed by the arbitrator. Witnesses for each party shall answer questions propounded by the other parties and the arbitrator.

(C) Exhibits offered by either party may be received in evidence by the arbitrator.

(D) The parties may make oral closing statements or, at the request of the arbitrator, may submit arguments in writing.

(26) Attendance Required.

(A) The arbitrator may proceed in the absence of any party or representative of a party who, after notice of the proceeding, fails to be present or to obtain a continuance.

(B) An arbitrator may not make an award solely on the default of a party and shall require the party who is present to submit evidence, as required by the arbitrator, before making an Award.

§80.130. Delivery of Warranty.

(a) For purposes of the Standards Act, §§7, 8, and 14, the written warranty documents shall have been timely delivered if given to the homeowner at the time the contract for sale is signed.

(b) The "installer" as defined in §80.119(a) of this title (relating to Installation Requirements), shall deliver the installation warranty required by the Standards Act, §14(d) and (m), to the consumer at the time of entering into the installation contract. If the retail sale of a used manufactured home includes installation, the selling retailer must, as the contracting installer, give the installation warranty. The installer must keep a copy of the installation warranty and proof of delivery to the consumer in a permanent file for review by the department.

§80.131. Correction Requirements.

(a) The retailer, installer, or manufacturer shall take immediate corrective action when notification is received from a consumer and the nature of the complaint indicates an imminent safety hazard or serious defect.

(b) Except as provided in subsection (a) of this section, manufacturers, retailers, and installers shall perform their obligations in accordance with their respective written warranty within a reasonable period of time. A reasonable period of time is deemed to be forty (40) calendar days following receipt of the consumer's written notification unless there is good cause requiring more time. The consumer's written notification must be received by the manufacturer, retailer, or installer within forty (40) calendar days following the end of the one (1) year warranty period for new homes and for used homes within sixty (60) calendar days after the date of the sale.

(c) The manufacturer, installer, and retailer shall make available for review by department personnel, records relating to their respective warranty responsibilities, to assure that warranty work has

been accomplished and that warranty work has been done in accordance with design or standards criteria and properly completed.

§80.132. Procedures for Handling Consumer Complaints.

In order to comply with the Standards Act, §2, to provide for the protection of the citizens who purchase manufactured housing and to provide fair and effective consumer remedies, the following procedures will be followed:

(1) On initial contact by a consumer, the department will attempt to verify if the consumer has a valid complaint that is subject to the department's authority. If the department determines that the department has jurisdiction:

(A) If the consumer has not previously notified the manufacturer, retailer or installer in writing, the department will instruct the consumer to provide written notification to the manufacturer, retailer, or installer and give the license holder a reasonable amount of time to make repairs.

(B) If the consumer has previously provided written notification to the manufacturer, retailer or installer of the need for warranty service or repairs, but believes such has not been completed in a satisfactory manner, the department shall mail a complaint form to the consumer with instructions to complete it and return it to the department. On receipt of the complaint form, the department will make a determination regarding whether or not to open a consumer complaint. If a consumer complaint is opened, the department shall forward copies of the complaint form to the manufacturer, retailer and/or installer, as appropriate, by certified mail, return receipt requested. The department shall also include in the certified mail the "Manufacturer's Response Form" or "Retailer's Response Form," as appropriate, which must be completed and returned to the department within ten (10) working days. The department shall perform a home inspection, if required. If a home inspection is performed, the department will assign responsibilities for repair, and notify the manufacturer, retailer, installer, and consumer of their responsibilities to complete such warranty or service repair in accordance with §80.131(b) of this title (relating to Correction Requirements).

(2) The department shall make a consumer complaint home inspection if a consumer, manufacturer, or retailer requests such inspection.

(A) Consumer Request. The consumer may, at any time, request that the department perform a consumer complaint home inspection if the consumer has not been provided proper warranty service. The department may require that the request be in writing on a form provided by the department. If the department has reason to believe that the consumer complaint is covered by a warranty of a license holder, the department shall conduct a home inspection. There is no fee for an inspection performed at the request of the consumer when the department determines that a home inspection is warranted.

(B) Industry Request. Manufacturer or retailer requests for a consumer complaint home inspection must be in writing on such form as the department may require, shall identify the home by HUD label and serial number(s), and shall provide the necessary information for the department to contact the consumer and determine the physical location of the home. The request must be accompanied by the required fee. The manufacturer or retailer may request a consumer complaint home inspection if the manufacturer or retailer:

(i) believes that the consumer's complaints are not covered by the respective written warranty, or implied warranties; or

(ii) believes that the warranty service was previously properly provided; or

(iii) has a dispute as to the respective responsibilities pursuant to the warranties.

(C) The department will perform the inspection within fifteen (15) working days from the date an inspection is requested. The inspector shall:

(i) inspect all items included in the consumer complaint filed with the department and any additional items identified by the consumer prior to completion of the inspection. Any items identified by the consumer after the home inspection is complete shall be handled as a new consumer complaint.

(ii) For each item inspected, the inspector shall determine whether or not the item is covered by either the manufacturer's, retailer's, or installer's warranty and, if covered, by which of the respective warranties. In addition, the inspector shall categorize items as follows:

(I) The item is a warranty item (also identify which warranty);

(II) The result of normal wear and tear, not a warranty item;

(III) The result of owner abuse neglect or modification, not a warranty item;

(IV) Within commercially acceptable standards, not a warranty item;

(V) Meets the current federal and state standards, not a warranty item;

(VI) Cosmetic, not a warranty item;

(VII) License holder not notified within warranty period;

(VIII) Unable to determine, additional information is required; or

(IX) Other (explain).

(D) Within five (5) working days following the consumer complaint home inspection, the department shall mail its written report and orders, if any, to the consumer, manufacturer, retailer, and installer by certified mail, return receipt requested.

(3) When service or repairs are completed following any notice or orders from the department pursuant to paragraph 2(D) of this section, the manufacturer, retailer, and/or installer shall forward to the department copies of service or work orders reflecting the date the work was completed, or other documentation to establish that the warranty service or repairs have been completed. If the consumer refuses to sign the service or work order, the license holder shall note this fact on the service or work order. These service or work orders must be received by the department within ten (10) calendar days after the expiration of the period of time specified in the warranty order issued by the department.

(4) Each license holder must maintain both a current physical location address and a current mailing address with the department. Service of notice of hearing or other notice sent by certified mail will be sent to the license holder's current mailing address according to the department's records. If the department sends a notice to the manufacturer, retailer, or installer at the mailing address by certified mail, and the notice is refused or unclaimed, the department may presume that the license holder was provided proper notice.

(5) Once the department receives the service or work orders with the consumer's signature indicating that all items have been satisfactorily completed, the department shall send a notice to the consumer that the department has closed the complaint file.

(6) If service or repairs cannot be made within the specified time frame, the license holder shall notify the department in writing prior to the expiration of the specified time frame by certified mail. The notice shall list those items which have been, or will be, completed within the time frame and shall show good cause why the remainder of the service or repairs cannot be made within the specified time frame. The license holder shall request an extension for a specific time. If the department fails to respond in writing to the request within five (5) working days of the date of receipt of the notice of request for extension, the extension has been granted.

(7) If the department decides that another inspection is necessary because of conflicts among the parties to a complaint regarding the nature or quality of the corrective work, whomever the department deems to be responsible for errors requiring the additional inspection will be required to pay the inspection fee to the department.

§80.135. Manufactured Housing Auctions.

(a) Auction of Manufactured Housing to Texas Consumers.

(1) The person(s) selling more than one home through an auction in a twelve (12) month period must be licensed as a retailer with this department and the specific location at which the auction is to be held must be bonded in accordance with the Standards Act.

(2) The auctioneer must be licensed as a manufactured housing salesperson with the Texas Department of Housing and Community Affairs and licensed as an auctioneer, pursuant to the Texas Auctioneer Act, Article 8700.

(3) The retailer must notify this department in writing at least thirty (30) calendar days prior to the auction with such notice to contain the date, time, and physical address and location of the proposed auction.

(4) The retailer must keep and maintain a file copy of all notices, circulars, or advertisements of any kind relating to the auction of manufactured housing.

(5) A manufactured home that is not habitable may not be sold to a consumer as a manufactured home for dwelling purposes. The seller must surrender the title and HUD label or Texas Seal, or a statement that there was no label or seal, to the department along with the required fee and an application to cancel the title to business use, before the home is auctioned.

(6) The retailer must give notice to each person attending the auction, and the notice shall contain the following:

(A) a statement that the homes offered for sale are habitable pursuant to the Standards Act, §8(b);

(B) a statement that any home purchased at the auction must be installed by an installer licensed with this department;

(C) the appropriate warning concerning formaldehyde as required by the Standards Act, §20; and

(D) the appropriate notice regarding home construction and Wind Zone standards as outlined in the Standards Act.

(7) The retailer shall retain sales records as required by §80.121 of this title (relating to Retailer's Responsibilities) if the home is sold to a consumer.

(b) Auction of Manufactured Housing to Licensed Retailers.

(1) No license with the department is required of a lender whose repossessed manufactured homes are being auctioned, if the lender is selling to a retailer who is licensed with the department. The auctioneer must be licensed only pursuant to the Texas Revised Civil Statutes, Texas Auctioneer Act, Article 8700.

(2) The auctioneer must notify the Texas Department of Housing and Community Affairs at least thirty (30) calendar days prior to the auction. Such notice must contain the date, time, and physical address and location of the proposed auction.

(3) The auctioneer must keep and maintain a file copy of all notices, circulars, or advertisements of any kind relating to the auction of manufactured housing.

(4) The auctioneer must keep and maintain an accurate register of all persons attending the auction. This register should show the name of the individual, the manufactured housing retailer business name, the address of the retailer, and the current license number of the manufactured housing retailer.

(5) The auctioneer must keep and forward to the Texas Department of Housing and Community Affairs immediately following the auction, a complete list of all manufactured homes sold at such auction including the name of manufacturer, model, serial and HUD numbers, along with the name, address, and license number of the retailer purchasing the home.

(6) In lieu of the auctioneer maintaining and filing the information in paragraphs (1)-(5) of this subsection with the department, the consigner of the manufactured homes may contract with the auctioneer to file the information with the department.

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

Filed with the Office of the Secretary of State, on April 27, 1998.

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Larry Paul Manley

Executive Director

Texas Department of Housing and Community Affairs

Earliest possible date of adoption: June 7, 1998

For further information, please call: (512) 475-3726



## Subchapter F. Consumer Notice Requirements

### 10 TAC §80.180

The new section is proposed under the Texas Manufactured Housing Standards Act, Article 5221f, §9, which provides the department with authority to amend, add, and repeal rules governing the Manufactured Housing Division of the department.

No other statute, code, or article is affected by the new rule.

*§80.180. Formaldehyde Notice Requirements.*

(a) The consumer notice related to formaldehyde must be posted in the home in accordance with the FMHCSS.

(b) In addition to the requirement of subsection (a) of this section:

(1) A retailer shall deliver a copy of the "Important Health Notice" prescribed by HUD to the consumer before the execution of any mutually binding sales agreement. If it is a cash sale, the copy of the notice must be delivered before the acceptance of payment or the

execution of title transfer documents. An agreement to order a HUD-Code manufactured home from the manufacturer, or an agreement to hold a home in inventory for a period of time, which is secured by a forfeitable consumer deposit, is a "mutually binding sales agreement" for purposes of this section.

(2) The consumer must sign the copy of the notice. The retailer shall keep the originally signed copy in the permanent sales file and shall give a copy to the consumer at the time the original copy is signed. If requested, the retailer shall deliver a copy of the signed notice to the manufacturer of the home.

(3) The copy of the notice to be signed by the consumer may be reduced in size from the notice required to be posted in the home and may be entirely reproduced in either red or black. This copy of the notice must be on a form approved by the department, dated, and must contain the following certification immediately above the place for the consumer's signature in bold face type which is at least eight points in size: "I (We) certify that this Important Health Notice was prominently displayed in the kitchen of the manufactured home being purchased and further that this notice was given to me (us) on the date shown and prior to the signing of any binding agreement. I (We) have read the notice and understand it."

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

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Larry Paul Manley

Executive Director

Texas Department of Housing and Community Affairs

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For further information, please call: (512) 475-3726



## Subchapter G. Titling

### 10 TAC §§80.202-80.208

The new sections are proposed under the Texas Manufactured Housing Standards Act, Article 5221f, §9, which provides the department with authority to amend, add, and repeal rules governing the Manufactured Housing Division of the department.

No other statute, code, or article is affected by the new rules.

*§80.202. Fees for Title Documents.*

(a) Title Transaction Fees.

(1) There shall be a fee of \$35 for each title transaction. Except as otherwise expressly provided, the fee shall be submitted in the form of a cashier's check or money order payable to the Texas Department of Housing and Community Affairs. The fee shall accompany the required documents forwarded to the Manufactured Housing Division of the department at its principal office in Austin. Ten dollars of the fee for each title transaction shall be deposited in the HORF. A title transaction is:

(A) the issuance, reissuance, reinstatement, or cancellation of a manufactured home document of title including issuance of corrected titles (unless the correction is required because of an error by the department);

(B) the issuance of a salvage title;

- (C) the cancellation of a manufacturer's certificate of origin;
- (D) the filing of an inventory financing lien;
- (E) the filing of foreclosure documents or a repossession affidavit; and
- (F) the recording of a transfer of ownership from a lienholder to or through a retailer.

(2) There shall be a separate transaction fee of \$35 for Quick Title Service related to the issuance or cancellation of titles in addition to the \$35 for each title transaction. Quick Title Service shall be defined as the processing of the documents related to a title transfer or cancellation within three (3) working days from the day the application is received in the Manufactured Housing Division. Title transfer documents must be received in good transfer order in the department's manufactured housing division in Austin for the issuance of a manufactured housing title or cancellation on a Quick Title Service basis. Title transfer documents which are not in good transfer order or which are incomplete will be returned to the sender, and the title application will be processed within three (3) working days from the date that correct and completed documents are received.

(b) The \$35 fee is payable for any subsequent issuance or reissuance of a manufactured home document of title except for the issuance of a corrected document of title in those instances where an error was made by the department in the document of title.

(c) All persons licensed with the department as a manufacturer, retailer, broker, or installer may submit company or business firm checks in payment of the fee for the issuance of titles. All state or federally chartered banks, savings banks or savings institutions and all commercial lenders or mortgage bankers who extend credit for the retail purchase of manufactured homes may also pay title transaction or title search fees with company or business firm checks at the discretion of the department. All checks shall be made payable to the Texas Department of Housing and Community Affairs.

(d) One check may be submitted in payment of the aggregate fees for multiple title transactions or the issuance of more than one document of title. When multiple applications are submitted, a form prescribed by the department must be included which shall identify each application and reconcile the \$35 fee for each application with the total amount of the check.

(e) There shall be a fee of \$10 for any title search which shall be paid to the department by the requesting party in the form of a cashier's check or money order. The request must be in writing and must state the specific information being requested.

§80.203. Manufacturer's Monthly Shipment Report.

(a) Every manufacturer shall submit a monthly report to the department of all manufactured homes produced during the preceding month for shipment to any point in Texas. The report shall contain the following information:

- (1) the HUD label number(s);
- (2) the serial number(s);
- (3) the license number of the retailer as assigned by the department;
- (4) a designation as to single or multiple sections; and
- (5) the name and address of the purchaser, consignee, or person to whom it was shipped.

(b) The manufacturer's monthly shipment report shall be filed with the department by the 15th day of the month following the manufacture of the home and/or shipment.

(c) If a manufacturer has no sales, consignments, or shipments to any person or place during any month, the report must be filed stating such fact.

§80.204. Titling Forms.

(a) Manufacturer's Certificate of Origin (MCO).

(1) The manufacturer shall issue a Manufacturer's Certificate of Origin (MCO) for each new home which is consigned, transferred, or sold by the manufacturer to a retailer in this state. The certificate of origin information shall be on a form prescribed by the department or it will be returned for reissuance.

(2) The MCO shall be surrendered to the department upon application for the issuance of an initial document of title to the home.

(3) If a new home is sold by an out-of-state retailer to a consumer in this state and the MCO is not on the form prescribed by the department, there must be attached to the original MCO a separate sheet certified by the manufacturer which contains all of the information required by the Texas MCO.

(b) Application for Issuance of Document of Title to a Manufactured Home.

(1) The manufactured home document of title shall be issued on the basis of information submitted on a properly executed application for title containing the following information:

- (A) a description of the home including the manufacturer's name and address;
  - (B) the model designation;
  - (C) the number of sections of the home;
  - (D) the total square feet of the home;
  - (E) the HUD label or Texas seal number and serial number;
  - (F) the weight and size of each section, excluding the hitch;
  - (G) the Wind Zone reflected on the MCO if available;
- and

(H) if available, the date of manufacture reflected on the MCO (the "date of manufacture" is the date the home was produced and the HUD label affixed to the home and is not to be construed as the "year model").

(2) The MCO shall accompany the application for title on the original sale from retailer to private individual.

(3) Other information shall include, but not be limited to, the following:

- (A) the name(s) and address(es) of the seller(s) and the county where currently installed;
- (B) the name(s) and address(es) of the purchaser(s) and the county and location where the home will be installed;
- (C) the name and address of the lienholder, if any, and the date of the lien.

(4) The department will not process the application if the lienholder information is not complete.

(5) The right of survivorship may be elected when husband and wife are purchasers or transferees. The document of title shall indicate whether the right of survivorship has been elected.

(6) The application must contain the signatures of seller(s) and purchaser(s).

(7) The application shall be submitted to the Texas Department of Housing and Community Affairs at the Austin headquarter's office, with supporting documents.

(c) Installation Information.

(1) The installation information, on forms approved by the department, must accompany each application for title, and shall contain the following information:

(A) description of the home, including:

(i) serial number;

(ii) HUD label number or Texas seal number;

(iii) size of home;

(iv) name of manufacturer; and

(v) Wind Zone, if available.

(B) whether or not the home was, or will be, moved as a result of the sale or transfer;

(C) whether or not the home was, or will be, installed at a new location as a result of the sale or transfer;

(D) the location of the home immediately prior to the sale or transfer;

(E) if moved, or to be moved, the location of the home after the move and the name and address of the person or company that moved, or will move, the home; and

(F) if installed, or to be installed, the location of the home after installation; and the name and address of the person or company that installed, or will install, the home.

(2) If the home was installed as a result of the sale or transfer, the installation fee required under §80.20(b) of this title (relating to Fees) must be submitted along with the installation information (Form E). The installation fee may be combined with the titling fee for each home.

(d) Manufactured Home Document of Title.

(1) The department shall maintain records of ownership of manufactured homes. The department shall issue a manufactured home document of title for each manufactured home, which shall set forth the ownership of the home in accordance with the records of the department.

(2) The document of title shall contain the following information:

(A) the date of the certificate and the number of the certificate;

(B) the name(s) and address(es) of the purchaser(s) of the home and the county where the home is installed for occupancy;

(C) the name and address of the manufacturer, the model designation of the home, the number of sections, and the total square feet of living space in the home;

(D) the HUD label and/or Texas seal number, the serial number, and the size (excluding hitch) and the weight of each transportable section of the home;

(E) the name and address of the seller of the home;

(F) the date of any lien(s) and the name(s) and address(es) of the lienholder(s);

(G) space for the signature(s) of the purchaser(s) and a designation of right of survivorship;

(H) the date of manufacture reflected on the MCO if available (the "date of manufacture" is the date the home was produced and the HUD label affixed to the home and is not to be construed as the "year model");

(I) Wind Zone, if available;

(J) a statement to the effect that the document of title may not reflect the existence of a tax lien notice filed for the manufactured home since the document of title was issued and that information about tax liens for which notice has been filed may be obtained from the department on written request.

(3) Each certificate shall be authenticated by the facsimile signature of the director. The facsimile signature shall be that of the person holding such position at the time the certificates are printed, and the validity of the certificates is not affected by any subsequent change.

(4) The department shall issue a manufactured home document of title in the following cases:

(A) after receipt of a properly executed application for title, installation information on forms approved by the department, and the MCO upon the initial retail sale; and

(B) after receipt of a properly executed application for title, installation information on forms approved by the department, and the original manufactured home document of title when there is a transfer of ownership or the addition of a lien or lienholder.

(5) If the home is subject to any lien, the original of the document of title shall be mailed to the first lienholder of record. A nontransferable copy shall be mailed to the purchaser(s) and to the second lienholder, if any. If no lien exists, the original shall be mailed to the purchaser(s).

§80.205. Titling Transactions.

(a) Corrected Manufactured Housing Document of Title.

(1) The department shall make corrections to a manufactured home document of title upon receipt of a properly executed application for title and the previously issued original.

(2) The corrected certificate of ownership shall be mailed to the lienholder of record if a lien is recorded and a copy shall be mailed to the purchaser(s) and any other lienholder(s). If no lien exists, the original shall be mailed to the purchaser(s).

(3) No fee shall be required for this transaction if an error was made by the department.

(b) The department shall issue a certified copy of the original manufactured home document of title or of the nontransferable copy upon receipt of a properly executed application for title. If a lien is recorded on the document of title, the certified copy of the original document of title shall be mailed to the lienholder of record.

(c) Inventory Financing Liens.

(1) A lien and security interest on manufactured homes in the inventory of a retailer is perfected by filing an inventory finance security form approved by the department and in compliance with these sections.

(2) The creditor-lender financing the inventory and the retailer must execute a security agreement which expressly sets forth the rights and obligations of the two parties in the inventory finance arrangement.

(3) The inventory finance security form shall contain the following:

(A) the date of the security agreement between the parties;

(B) signatures of both the retailer and the creditor-lender;

(C) the name, address, and license number of the retailer; and

(D) the name and address of the creditor-lender.

(4) A separate form must be filed for each licensed retailer.

(5) The filing of the inventory-finance security form perfects a security interest in all manufactured homes which have been financed by the creditor-lender or for which the creditor-lender has advanced any funds or has incurred any obligation which enabled the retailer to acquire the manufactured home. The filing of the inventory-finance security form also perfects a security interest in all manufactured homes which are thereafter acquired by the retailer, for which the creditor-lender advances any funds or incurs any obligation. The security interest for these future acquisitions attaches immediately upon the advancement of funds or the incurrence of the obligation. The creditor-lender is not required to file additional inventory-finance security forms.

(6) No provision in the security agreement between the parties to an inventory financing arrangement shall in any way modify, change, or supersede the requirements of this section for the perfection of security interests in manufactured homes in the inventory of a retailer.

(d) For Release of Lien.

(1) The lienholder shall deliver a properly executed release of lien form prescribed by the department to the owner of record.

(2) The lien recorded on a manufactured home document of title shall be released by the department upon receipt of a release of lien form properly executed by the lienholder of record, and a new document of title shall be issued to the owner(s) of record.

(e) Foreclosure or Repossession.

(1) In the event of foreclosure or repossession of a manufactured home, the department shall issue a new manufactured home document of title in the name of the lienholder, upon receipt of a properly executed application for title containing the following information:

(A) The description of the home shall be included along with an indication of whether the home is a foreclosure or repossession;

(B) The name and address of the lienholder and name of the person authorized to sign for the lienholder; and

(C) An indication of whether the home was repossessed by judicial order or sequestration. A true copy of the order or bill of sale shall be attached.

(2) In the event of foreclosure or repossession of a manufactured home, the department will not issue a new manufactured home document of title until receipt of release of lien.

(f) Surrender of Title Documents for Cancellation.

(1) The department shall cancel any outstanding title to a manufactured home upon receipt of a properly executed application. Title documents shall be surrendered for cancellation in the following instances:

(A) The manufactured home, or transportable section, has been permanently affixed to real estate and is defined as real estate by the Property Code;

(B) The manufactured home, or transportable section, has been declared salvage as defined in the Standards Act, §8; or

(C) The manufactured home has been sold, exchanged or transferred by lease purchase for business use.

(2) The department will not cancel a document of title if a lien is filed with the department or recorded on the manufactured home document of title. In either such instance, the department will notify the owner and each lienholder that the title has been surrendered for cancellation, and that the department will not cancel the title unless the lien is released.

(g) Right of Survivorship: If both husband and wife are shown as purchasers or transferees, they may execute the right of survivorship election on an application for title. Such election constitutes an agreement for the right of survivorship. If the survivorship election is taken, then the department will issue a new document of title to the surviving spouse upon receipt of a copy of the death certificate of the deceased spouse, and a properly executed application for title.

§80.206. Assignment of Lien.

(a) A lien may be assigned from one lienholder to another by completing a properly executed application for title requesting the assignment of lien. The application for title must be signed by both lienholders and supported by the outstanding title, a copy of the assignment agreement, and the fee.

(b) Should two lienholders anticipate assignments of lien for a large number of homes, they may prefile a copy of the assignment agreement with the department. The department will assign a file number, and the lienholder may reference the file number in place of including a copy of the assignment agreement with each application.

§80.207. Reinstatement of Canceled Documents of Title.

(a) A manufactured home document of title issued by the department which has been canceled because the home has been permanently affixed to real estate may be reinstated subject to the following documents being filed with the department:

(1) a properly executed release of lien releasing any lien resulting from a security interest in the home from the lender;

(2) if no lien or security interest exists, an affidavit executed before a notary public that no lien or security interest exists;

(3) a properly executed application for reinstatement accompanied by a certified check or money order for \$35;

(4) a certification from a title insurance company authorized to do business in Texas that no other liens exist on the man-



ufactured home and if a certificate of attachment to real estate has been filed in the deed records of the county in which the real estate is located, that a notice of removal from real estate has been filed in the deed records of the county in which the real estate from which the home was removed is located; and

(5) written request for a habitability inspection to ensure that the home is habitable. The request must be accompanied by the required fee of \$100.

(6) If the title is being transferred, a properly executed application for title must be submitted along with the fee required by §80.202 of this title (relating to Fees for Title Documents).

(b) If a manufactured home document of title has been canceled as a result of the home having been previously sold for business use, the department will reinstate the title subject to the following:

(1) receipt of a written request for an inspection of the home to determine if the home is habitable. The required fee must accompany the application; and

(2) following the inspection, a written finding by the inspector that the home is habitable; and, if so

(3) the receipt of a properly executed application for reinstatement accompanied by the proper transaction fee; and

(4) if title is being transferred, a properly executed application for title accompanied by the proper fee.

§80.208. Recording Tax Lien on Manufactured Homes.

(a) The collector for a taxing unit may file notice of the unit's tax lien on a manufactured home with the department, if the tax has not been paid by January 31 of the year following the year for which the tax is assessed. The notice must include:

(1) name and address of owner of the manufactured home;

(2) address and location of the manufactured home as shown on the collector's records;

(3) amount of tax owed, tax year for which tax was imposed, and name of taxing unit that imposed the tax;

(4) tax roll account number and taxing unit identification (ID) number; and

(5) manufacturer name, correct serial number and HUD label number or Texas seal number.

(b) The notice must be on a form prescribed by the department, and will consist of four parts:

(1) white - for TDHCA;

(2) blue - for lienholder;

(3) orange - for notice of cancellation;

(4) yellow - for collector.

(c) The white and blue portions of the notice are sent to the department to file the notice of tax lien. The department will stamp both portions received and recorded. The white portion will be returned to the collector, and the blue portion will be returned to the lienholder, if applicable. The orange portion will be retained by the collector for notice of lien cancellation. Upon cancellation of the lien, the orange portion should be completed and sent to the department where it will be date stamped upon receipt, recorded, and returned to the collector.

(d) The collector may simultaneously file notice of tax liens of all the taxing units served by the collector. However, notice of any lien for taxes for the prior calendar year must be filed with the department prior to September 1 of the following year. Any lien for which the notice is not received and recorded by the department by the September 1 deadline is extinguished and is not enforceable.

(e) If the information on the tax lien notice matches that of the title of record, the department shall record a tax lien notice, and shall indicate the existence of the lien on any document of title for the manufactured home issued by the department, until the collector for the taxing unit files a notice canceling the tax lien. Simultaneously with the recording of a tax lien, the department must mail a notice of the tax lien to any other lienholders of record.

(f) If the information on the tax lien notice does not match that of the title of record, the notice will be returned to the taxing unit.

(g) For all manufactured homes sold, or to which ownership is transferred, after December 31, 1985, the recording of a tax lien notice filed with the department constitutes constructive notice of the existence of the lien to all purchasers of the manufactured home who purchase it after the date or recordation of the lien and before the collector for the taxing unit files a notice canceling the tax lien.

(h) If a tax lien ceases to exist, the collector for the taxing unit shall file a notice with the department stating that the lien no longer exists. Such notice shall be filed no later than ten (10) calendar days after payment of the taxes.

(i) For the purposes of this section, the term "manufactured housing" has the meaning assigned by the Standards Act, §3(17), but does not apply to any manufactured home which has been declared to be real estate and for which the document of title has been canceled.

(j) A personal property tax lien may not be enforced against a manufactured home transferred to a bona fide purchaser who does not have constructive notice of the existence of the lien.

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

Filed with the Office of the Secretary of State, on April 27, 1998.

TRD-9805842

Larry Paul Manley

Executive Director

Texas Department of Housing and Community Affairs

Earliest possible date of adoption: June 7, 1998

For further information, please call: (512) 475-3726

## TITLE 13. CULTURAL RESOURCES

### Part I. Texas State Library and Archives Commission

#### Chapter 2. General Policies Procedures

##### Subchapter A. Principles and Policies of the Commission

###### 13 TAC §§2.1, 2.111-2.1555

The Texas State Library and Archives Commission proposes new §2.1 which defines terms used in Chapter 2. The

commission also proposes a new Subchapter C pertaining to grants policies containing new §§2.111 - 2.155 which establish policies for awarding and administering grants. The sections establish the guidelines for different grant programs whose general purpose is to assist local governments to improve their library services. These sections set forth the general conditions and criteria for possible grant awards for specific purposes. Grants will aid local communities to establish new library services, maintain and foster cooperative library services with other communities, provide outreach services for populations with special needs, and provide interlibrary loan services. The Commission previously adopted its guidelines for administration of various grant programs as part of a State Plan for Library Services and Construction Act, which was updated and submitted annually to the U.S. Department of Education. The Commission's authority for adopting such a plan is contained in Government Code §441.009. Under new federal legislation, the Library Services and Technology Act, the federal administrative agency has changed to the Institute of Museum and Library Services, and the requirement to submit a plan to the federal government has changed in frequency from every year to every five years. With this new federal procedure the Commission will no longer adopt by rule an annual plan that contains specific grant guidelines each year. The proposed sections will establish Commission policy for administration of specific grant programs.

Raymond Hitt, Assistant State Librarian, has determined that for each year of the first five years the sections are in effect there will be fiscal implications for state and local government. State and local governments will receive approximately an additional \$2.5 million dollars each year for the next five years in grants depending on subsequent appropriation levels. There will be no fiscal implications for small businesses or individuals as a result of enforcing or administering the section.

Mr. Hitt also has determined that for each of the first five years the section is in effect the public benefits anticipated as a result of enforcing the section will be to establish clear policy for the administration of grant programs of the commission. The programs will improve library services available to the public.

Comments may be submitted to Jeanette Larson, Director of the Library Development Division, Texas State Library and Archives Commission, P. O. Box 12927, Austin, Texas 78711-2927.

The new sections are proposed under the Government Code §441.006 and §441.0091.

The proposed new sections affect the Government Code §441.006 and §441.0091.

#### §2.1. Definitions.

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

(1) Commission – The Texas State Library and Archives Commission.

(2) Library – The staff, collections, archives, and property of the Texas State Library and Archives Commission organized to carry out the Commission responsibilities.

(3) Loan Period – A period of time beginning with the date the Library delivers or mails an item to a customer and ending with the date that the customer returns it to the Library.

(4) Over-size paper copy – Any printed impression on paper larger than 8 1/2 inches by 14 inches. Each side of a piece of paper is counted as a single-copy. A piece of paper that is printed on both sides is counted as two copies.

(5) State Archives – A non-circulating collection of Texas state government records, private papers, maps, photographs, newspapers, and published materials that document the history of the State of Texas and the growth and actions of its government.

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

Filed with the Office of the Secretary of State on April 18, 1998.

TRD-9805407

Raymond Hitt

Assistant State Librarian

Texas State Library and Archives Commission

Earliest possible date of adoption: June 7, 1998

For further information, please call: (512) 463-5440

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### 13 TAC §2.11

*(Editor's note: The text of the following section proposed for repeal will not be published. The section may be examined in the offices of the Texas State Library and Archives Commission or in the Texas Register office, Room 245, James Earl Rudder Building, 1019 Brazos Street, Austin.)*

The Texas State Library and Archives Commission proposes to repeal §2.11. The repealed section contains definitions for Chapter 2 General Policies and Procedures. The commission will propose a new §2.1 that will contain the definitions used in Chapter 2.

Raymond Hitt, Assistant State Librarian, has determined that for each year of the first five years the sections are in effect there will not be fiscal implications for state or local government. There will be no fiscal implications for small businesses or individuals as a result of enforcing or administering the section.

Mr. Hitt also has determined that for each of the first five years the section is in effect the public benefits anticipated as a result of enforcing the section will be to have better organized policies.

Comments may be submitted to Jeanette Larson, Director of the Library Development Division, Texas State Library and Archives Commission, P. O. Box 12927, Austin, Texas 78711-2927.

The repeal is proposed under the Government Code §441.006.

The proposed repeal affects the Government Code §441.006. Rules to be repealed.

#### §2.11. Definitions.

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

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Raymond Hitt

Assistant State Librarian

Texas State Library and Archives Commission

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For further information, please call: (512) 463-5440

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## Subchapter C. Grant Policies

### Division 1. General Grant Guidelines

#### 13 TAC §§2.111–2.119

The new sections are proposed under the Government Code §441.006 and §441.0091.

The proposed new sections affect the Government Code §441.006 and §441.0091.

#### §2.111. Scope of Subchapter.

The commission operates a variety of grant programs including competitive, formula, and negotiated grants. This subchapter applies to all types of grant programs. However, § 2.115 of this subchapter (relating to Peer Review) applies only to competitive grant programs.

#### §2.112. General Selection Criteria.

(a) Grants shall be awarded based on guidelines that reflect applicable state and federal mandates. Selection criteria are designed to select applications that provide the best overall value to the state.

(b) The award criteria include:

(1) program quality as determined by a peer review process; and

(2) the cost of proposed service.

(c) The commission may consider additional factors in determining best value, including:

(1) financial ability to perform services;

(2) state and regional service needs and priorities;

(3) improved access for poorly served areas and populations;

(4) ability to continue services after grant period;

(5) past performance and compliance.

#### §2.113. Content of Grant Guidelines.

Grant guidelines shall include at a minimum:

(1) goals describing the purpose of the grant program;

(2) eligibility requirements;

(3) description of the services to be provided;

(4) applicable priorities and restrictions; and

(5) the selection criteria and the process to evaluate grant applications and select awards.

#### §2.114. Screening of Applications.

(a) Commission staff will screen applications to determine if all requested information has been provided in a timely fashion, on prescribed forms.

(b) An application must be complete with proper authorization for consideration.

(c) The commission staff will provide written notification to applicants eliminated through the screening process.

#### §2.115. Peer Review.

(a) The commission may use peer reviewers to evaluate applications in competitive grant programs.

(b) The director and librarian may select professionals and citizens to evaluate grant applications. Peer reviewers must have

appropriate training or service on citizen boards in an oversight capacity and may not evaluate specific applications in which there is, or is an appearance of, a conflict of interest.

(c) The commission staff will provide written instructions and training for all peer reviewers.

(d) The reviewers score each application according to the review criteria stated in the grant guidelines.

#### §2.116. Funding Decisions.

(a) The commission staff will submit a recommended priority ranked list of applicants for possible funding. Final approval of a grant award is solely at the determination of the Commission.

(b) Applications for grant funding will be evaluated only upon the information provided in the written application.

(c) The commission staff may negotiate with selected applicants to determine the terms of the award. To receive an award, the applicant must accept any additional or special terms and conditions listed in the grant contract and any changes in the grant application.

(d) The commission staff will notify unsuccessful applicants in writing.

#### §2.117. Cancellation or Suspension of Grants.

The commission has the right to reject all applications and cancel a grant solicitation at any point before a contract is signed.

#### §2.118. Adoption of Uniform Grants Management Standards (UGMS).

The commission adopts by reference the Uniform Grant and Contract Management Standards. The standards adopted by reference have been published as 1 TAC 5.141-5.167.

#### §2.119. Negotiated Grants.

(a) The commission may award negotiated grants to provide interlibrary loan services if it determines that the best value will be achieved without competition.

(b) An award shall be made and/or renewed each year if:

(1) the provider demonstrates capability of delivering interlibrary loan service in a timely fashion at a reasonable cost;

(2) the commission finds a continuing regional and statewide need for the services (relative to other services); and

(3) funds are available to continue the award.

(c) Renewal of an award is not automatic.

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

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Raymond Hitt

Assistant State Librarian

Texas State Library and Archives Commission

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For further information, please call: (512) 463-5440

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## Division 2: Library Services and Technology Act, Library Cooperation Grants - Part A, Technology, Guidelines for Public Libraries.

### 13 TAC §§2.120–2.125

The new sections are proposed under the Government Code §441.006 and §441.0091.

The proposed new sections affect the Government Code §441.006 and §441.0091.

#### §2.120. *Goals and Purposes.*

(a) This grant program promotes access to learning and information resources in all types of libraries for individuals of all ages; and promote library services that provide all users access to information through state, regional, national, and international electronic networks; and provides linkages among and between libraries.

(b) Programs may be in one of the following categories:

(1) Establish or enhance electronic linkages among or between libraries-to establish a new network or update the electronic technology in an existing one by providing better or enhanced access to library resources and materials in more than one system member public library or with multi-type libraries; or

(2) Encourage libraries in different areas, and encourage different types of libraries to establish consortia and share resources - to encourage public libraries to participate in public library consortia or participate in multi-type library consortia that include a public library (which is a member of the Texas Library System) and to share between themselves the technology-based resources of all libraries within the consortium.

#### §2.121. *Eligible Applicants.*

(a) Texas Library System member public libraries, Major Resource Systems, and regional library systems through their governing authority (city, county, or corporation) are eligible to apply for funds. These funds are awarded to public libraries but may be used with all types of libraries as defined in the Library Services and Technology Act (LSTA), P.L. 104-208, and that are members of a consortia as defined by the LSTA.

(b) Successful applicants are eligible to apply for grant funds for the two years following the initial grant year. The second and third application will be evaluated with the same criteria as new applications. No applicant will be eligible for a fourth year of funding for the same project.

#### §2.122. *Eligible Expenses.*

(a) This grant program will fund costs for staff, equipment, capital expenditures, materials, and professional services needed to:

(1) create a new or enhance an existing network of system member public libraries;

(2) create a multi-type library network that includes a system member public library;

(3) create linkages between system member public libraries and educational, social, or cultural information services;

(4) create linkages between system member public libraries separated by geographical barriers.

(b) This grant program will not fund the following costs:

(1) building construction or renovation;

(2) food, beverages, or gifts;

(3) equipment or technology not specifically needed to carry out the goals of the grant;

(4) transportation/travel for participants or non-grant funded personnel;

(5) programs to enhance service within existing library structures, i.e. branch libraries;

(6) dumb terminals; or

(7) American Standard Code for Information Interchange (ASCII) connections; or

(8) databases currently offered or similar to ones offered by the Texas State Library and Archives Commission (i.e., a magazine index database may not be purchased since one is already provided by the Texas State Electronic Library, TSEL).

#### §2.123. *Criteria for Award.*

The Library Services and Technology Act Advisory Council will score proposals in nine criteria. The maximum number of points for each category is as follows:

(1) Community Profile. (15 points) The applicant describes the greater community to be served by the grant. Identifies a service that might be used if it were available; and includes demographic, statistics, library records, or surveys to support these statements. Attaches letters of cooperation showing their commitment to the project from agencies to be involved in the shared service. The applicant thoroughly describes services, programs, activities; describes the location where they will be offered; and explains how these services will attract shared library users.

(2) Shared Services. (15 points) The application should show details of the existing technology plan of the system member public library, Major Resources System, or regional library system and how the shared service is designed to mesh with technology purchased or to be purchased with Telecommunications Infrastructure Fund (TIF) grants, the service provided by Universal Service Fund Education Rate discounts, and House Bill 2128.

(3) Personnel. (5 points) List who will administer the funds. List which positions will provide the services. List how much time will be spent in each position on assigned duties. List how the qualifications of each person relate to their job duties. Full job descriptions are required for new hires.

(4) Timetable. (5 points) The applicant presents a timetable for project activities within the fiscal year (i.e., a list of actions with a date by which they will be accomplished); provides verification that facilities will be available, equipment and materials delivered; and explains how the staff will be hired and trained in time to carry out the services as planned.

(5) Objectives. (10 points) The applicant sets achievable, measurable outcomes; describes how the outcomes will demonstrate expanded library services; and presents a reasonable method to collect data.

(6) Reaching a Shared Target Area. (10 points) The applicant submits a plan for introducing the shared library services to targeted users; the plan uses a variety of communication techniques and includes verbal communication.

(7) Expenses Justified. (15 points) The applicant fully justifies the budget by describing how budgeted items will contribute to the shared services; quotes a source for the stated costs (e.g., city pay classification for staff, catalog or city/county bid list for equipment); the costs are reasonable to achieve project objectives.

(8) Adequacy of Resources. (15 points) The applicant describes the joint resources which will be used to support this

expansion of services during the grant year; submits estimated costs for continuing the expanded services next year, with a plan for how the library or group of libraries will assume those costs in the future. A written commitment of future support from governing bodies is desirable, but not required.

(9) Evaluation. (10 points) The applicant presents a method to count users of the shared services as well as the effectiveness of the service. Provides a method to identify any new library users.

§2.124. Grant Review and Award Process.

(a) Commission staff will review each application for the following:

(1) legal eligibility of the institution to participate in a grant program and appropriate authorizing signature;

(2) conformance to the federal and state regulations pertaining to grants;

(3) inclusion of unallowable costs;

(4) errors in arithmetic or cost calculations;

(5) submission of all required forms; and

(6) whether the application arrived at the Texas State Library and Archives Commission by the required date and time.

(b) Commission staff will raise issues and questions regarding the needs, methods, staffing and costs of the applications. Staff comments will be sent to the LSTA Council with the applications for consideration by the council.

(c) Applicants will be sent a copy of the staff comments to give applicants an opportunity to respond in writing. Applicants may not modify the proposal in any way; however, applicants' responses to staff comments will be distributed to the council.

(1) Applications with significant errors, omissions, or eligibility problems will not be rated.

(2) Commission staff will be available to offer technical assistance to council members.

(d) Applications will be scored using the following process:

(1) The Library Services and Technology Act Advisory Council will review all complete and eligible grant applications forwarded to them by commission staff and complete a rating form for each. Each member will evaluate the proposal in relation to the specific requirements of the criteria and will mark a weighted rating, ranging from 0 - 15 points depending on the points assigned to each criteria.

(2) No council member who is associated with an applicant or with an application, or who stands to benefit directly from an application will evaluate that application. Any council member who feels unable to fairly evaluate a particular application may choose not to review that application.

(3) Council members will consider and assess the strengths and weaknesses of any proposed project only on the basis of the documents submitted. Considerations of geographical distribution, demographics, type of library, or personality will not influence the assessment of a proposal by the council.

(4) Council members may not discuss proposals with any applicant before the proposals are reviewed. Commission staff is available to provide technical assistance to council members.

Commission staff will conduct all negotiations and communication with the applicants.

(5) Council members may offer a motion to set conditions for funding a given application, e.g., reduction of project budget, revision of project objectives. Such motions must be approved by a majority vote of council members present and eligible. The motion must include a statement of the reasons for setting such conditions. Council members who are ineligible to evaluate a given proposal will not vote on funding conditions.

(6) Council members who do not attend the meeting may mail the evaluation forms to the chairperson in care of the Library Development Division of the Texas State Library and Archives Commission. In order to be counted, the mailed forms must arrive before the meeting.

§2.125. Decision Making Process.

To be considered for funding by the Texas State Library and Archives Commission, an application must receive a minimum adjusted mean score of 50 points. Commission staff will tabulate the council's work using a method that eliminates the high and low score, called an adjusted mean score.

(1) Applications will be ranked in priority order by score for consideration by the commission.

(2) If insufficient funds remain to fully fund the next application, the staff will negotiate a reduced grant with the next ranked applicant.

(3) If the council recommends funding an application which, for legal, fiscal, or other reasons, is unacceptable to the staff, a contrary recommendation will be made. The council will be informed of this situation prior to presentation to the commission. A positive recommendation to the commission will be contingent upon successfully completing these negotiations prior to the commission meeting. If Council is unable to produce a set of recommendations for funding, the staff will use the same evaluation procedures to develop recommendations to the commission.

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

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Raymond Hitt

Assistant State Librarian

Texas State Library and Archives Commission

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For further information, please call: (512) 463-5440

◆ ◆ ◆  
Division 3. Library Services and Technology Act,  
Library Cooperation Grants-Part B, Services ,  
Guidelines for Public Libraries

**13 TAC §§2.130-2.135**

The new sections are proposed under the Government Code §441.006 and §441.0091.

The proposed new sections affect the Government Code §441.006 and §441.0091.

§2.130. Goals and Purposes.

(a) This grant program promotes access to learning and information resources in all types of libraries for individuals of all ages; and promotes library services that provide all users access to information through state, regional, national, and international electronic networks; and provides linkages among and between libraries.

(b) The grant encourages libraries in different areas, and encourages different types of libraries to establish consortia and share resources-encourages public libraries to participate in public library consortia or participate in multi-type library consortia that include a public library (which is a member of the Texas Library System) and to share between themselves the services of all libraries within the consortium.

§2.131. Eligible Applicants.

(a) Texas Library System member public libraries, Major Resource Systems, and regional library systems through their governing authority (city, county, or corporation) are eligible to apply for funds. These funds are awarded to public libraries but may be used with all types of libraries as defined in the Library Services and Technology Act (LSTA) P.L. 104-208, and that are members of a consortium as defined by the LSTA.

(b) Successful applicants are eligible to apply for grant funds for the two years following the initial grant year. The second and third application will be evaluated with the same criteria as new applications. No applicant will be eligible for a fourth year of funding for the same project.

§2.132. Eligible Expenses.

(a) This grant program will fund costs for staff, equipment, capital expenditures, materials, and professional services needed to provide:

- (1) cooperative multi-library or multi-type library training programs; ;
- (2) cooperative multi-library or multitype library literacy volunteer training programs;
- (3) cooperative multi-library or multi-type library programs;
- (4) cooperative multi-library or multi-type library preservation projects.

(b) This grant program will not fund the following costs:

- (1) building construction or renovation;
- (2) food, beverages, or gifts;
- (3) equipment or technology not specifically needed to carry out the goals of the grant;
- (4) transportation/travel for participants or non-grant funded personnel; or
- (5) programs to enhance service within existing library structures, i.e. branch libraries.

§2.133. Criteria for Award.

The Library Services and Technology Act Advisory Council will score proposals in nine criteria. The maximum number of points for each category is as follows:

(1) Community Profile. (15 points) The applicant describes the greater community to be served by the grant. Identifies a service that might be used if it were available; and includes demographic, statistics, library records, or surveys to support these statements. Attaches letters of cooperation showing their commitment

to the project from agencies to be involved in the shared service. The applicant thoroughly describes services, programs, activities; describes the location where they will be offered; and explains how these services will attract shared library users.

(2) Shared Services. (15 points) The applicant describes thoroughly the shared services, programs, activities, and materials to be purchased; describes locations where they will be offered; and explains how these services will attract shared library users.

(3) Personnel. (5 points) List who will administer the funds. List which positions(s) will provide the services. List how much time will be spent in each position on assigned duties. List how the qualifications of each person relates to their job duties. Full job descriptions are required for new hires.

(4) Timetable. (5 points) The applicant presents a timetable for project activities within the fiscal year (i.e., a list of actions with a date by which they will be accomplished); provides verification that facilities will be available, equipment and materials delivered; and an explanation of how the staff will be hired and trained in time to carry out the services as planned.

(5) Objectives. (10 points) The applicant sets achievable, measurable outcomes; describes how the outcomes will demonstrate expanded library services; and presents a reasonable method to collect data.

(6) Reaching a Shared Target Area. (10 points) The applicant submits a plan for introducing the shared library services to targeted users; the plan uses a variety of communication techniques, and includes verbal communication.

(7) Expenses Justified. (15 points) The applicant fully justifies the budget by describing how budgeted items will contribute to the shared services; quotes a source for the stated costs (e.g., city pay classification for staff, catalog or city/county bid list for equipment); the cost are reasonable to achieve project objectives.

(8) Adequacy of Resources. (15 points) The applicant describes the joint resources which will be used to support this expansion of services during the grant year; submits estimated costs for continuing the expanded services next year, with a plan for how the library or group of libraries will assume those costs in the future. A written commitment of future support from governing bodies is desirable, but not required.

(9) Evaluation. (10 points) The applicant presents a method to count the users of the shared services as well as the effectiveness of the service. Applicant provides a method to identify any new library users.

§2.134. Grant Review and Award Process.

Commission staff will review each application for the following:

- (1) legal eligibility of the institution to participate in a grant program and appropriate authorizing signature;
- (2) conformance to the federal and state regulations pertaining to grants;
- (3) inclusion of unallowable costs;
- (4) errors in arithmetic or cost calculations;
- (5) submission of all required forms; and
- (6) whether the application arrived at the Texas State Library and Archives commission by the required date and time.

(b) Commission staff will raise issues and questions regarding the needs, methods, staffing and costs of the applications. Staff

comments will be sent to the LSTA Council with the applications for consideration by the council.

(c) Applicants will be sent a copy of the staff comments to give applicants an opportunity to respond in writing. Applicants may not modify the proposal in any way; however, applicants' responses to staff comments will be distributed to the council.

(1) Applications with significant errors, omissions, or eligibility problems will not be rated.

(2) Commission staff will be available to offer technical assistance to council members.

(d) Applications will be scored using the following process:

(1) The Library Services and Technology Act Advisory Council will review all complete and eligible grant applications forwarded to them by commission staff and complete a rating form for each. Each member will evaluate the proposal in relation to the specific requirements of the criteria and will mark a weighted rating, ranging from 0 - 15 points depending on the points assigned to each criteria.

(2) No council member who is associated with an applicant or with an application, or who stands to benefit directly from an application will evaluate that application. Any council member who feels unable to fairly evaluate a particular application may choose not to review that application.

(3) Council members will consider and assess the strengths and weaknesses of any proposed project only on the basis of the documents submitted. Considerations of geographical distribution, demographics, type of library, or personality will not influence the assessment of a proposal by the council.

(4) Council members may not discuss proposals with any applicant before the proposals are reviewed. Commission staff is available to provide technical assistance to council members. Commission staff will conduct all negotiations and communication with the applicants.

(5) Council members may offer a motion to set conditions for funding a given application, e.g., reduction of project budget, revision of project objectives. Such motions must be approved by a majority vote of council members present and eligible. The motion must include a statement of the reasons for setting such conditions. Council members who are ineligible to evaluate a given proposal will not vote on funding conditions.

(6) Council members who do not attend the meeting may mail the evaluation forms to the chairperson in care of the Library Development Division of the Texas State Library and Archives Commission. In order to be counted, the mailed forms must arrive before the meeting.

#### §2.135. Decision Making Process.

To be considered for funding by the Texas State Library and Archives Commission, an application must receive a minimum adjusted mean score of 50 points. Commission staff will tabulate the council's work using a method that eliminates the high and low score, called an adjusted mean score.

(1) Applications will be ranked in priority order by score for consideration by the commission.

(2) If insufficient funds remain to fully fund the next application, the staff will negotiate a reduced grant with the next ranked applicant.

(3) If the council recommends funding an application which, for legal, fiscal, or other reasons, is unacceptable to the staff, a contrary recommendation will be made. The council will be informed of this situation prior to presentation to the commission. A positive recommendation to the commission will be contingent upon successfully completing these negotiations prior to the commission meeting. If council is unable to produce a set of recommendations for funding, the staff will use the same evaluation procedures to develop recommendations to the commission.

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

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Raymond Hitt

Assistant State Librarian

Texas State Library and Archives Commission

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For further information, please call: (512) 463-5440

### Division 4. Library and Technology Act, Special Projects Grants, Guidelines for Public Libraries

#### 13 TAC §§2.150-2.155

The new sections are proposed under the Government Code §441.006 and §441.0091.

The proposed new sections affect the Government Code §441.006 and §441.0091.

#### §2.150. Goals and Purposes.

This grant program expands public library services to all members of the library's community. It enables libraries to develop local programs for populations with special needs. Programs may be in one of the following categories:

(1) Services to People with Limited English Proficiency-To improve access to library resources and services to individuals not born in the United States or whose native language is not English and therefore have difficulty speaking, reading, writing, or understanding the English language.

(2) Services to Older Adults-To provide services, programs, and library materials for persons who are over 60 years of age.

(3) Community Information and Referral Centers-To provide patrons with specific information of a utilitarian or practical nature on groups or organizations in the library's service area or to refer patrons to an organization, agency, or individual capable of providing the information.

(4) Literacy Programs-To provide literacy programs for adults, school dropouts, and persons incarcerated in correctional facilities, in cooperation with other agencies and organizations, if appropriate.

(5) Services for People with Disabilities-To provide library services to individuals who have physical, mental, visual, or hearing disabilities..

(6) Intergenerational Library Programs-To develop intergenerational library programs that will match older adult volunteers with libraries interested in developing after school literacy and reading

skills programs for unsupervised school children during after school hours.

(7) Child Care Center Library Programs -To provide library services and programs to child care providers or child care centers, which are licensed or certified by the State, or otherwise meet the requirements of State law.

(8) Services for the Disadvantaged in Urban and Rural Areas - To make public library services accessible to disadvantaged individuals who are unable to benefit from public library services regularly made available to the general public. Disadvantages include, but are not restricted to, distance, socio-economic or educational deprivation, or cultural isolation from the general community.

§2.151. Eligible Applicants.

(a) Public libraries and public library systems, through their governing authority (city, county, or corporation) are eligible to apply for grants. Applicants must be members of the Texas Library System at the time of application.

(b) Successful applicants are eligible to apply for funding the two years following their initial grant. The second and third application will be evaluated with the same criteria as new applications. No applicant will be eligible for a fourth year of funding for the same project.

§2.152. Eligible Expenses.

(a) This grant program will fund costs for staff, equipment, capital expenditures, materials, and professional services needed to take library services, materials and activities into the community to:

(1) create new library services, which will attract new members of the appropriate target group into the library;

(2) train and develop library staff and volunteers in appropriate ways to provide service to the new users; and

(3) develop a structure for a complex service project (example: information and referral system) which may not provide services during the funding year, but intends to do so with local funding the following year.

(b) This grant program will not fund the following costs:

(1) building construction or renovation;

(2) food, beverages, or gifts;

(3) equipment or technology not specifically needed to provide services to the target population; or

(4) transportation/travel for participants or non-grant funded personnel.

§2.153. Criteria for Award.

The Library Services and Technology Act Advisory Council will score proposals on nine criteria. The maximum number of points for each category is as follows:

(1) Community Profile. (15 points) The applicant describes the community which the library serves and describes the segments of that community which it is not serving; identifies a service that the non-users might use if it were available; and includes demographic, statistics, library records, or surveys to support these statements.

(2) New Services. (15 points) The applicant describes thoroughly services, programs, activities, and material to be purchased; describes the location where they will be offered; and explains how these services will attract new library users.

(3) Personnel. (5 points) The applicant describes who will administer the grant funds and who will provide the services; how much time they will spend on their assigned duties; and how their qualifications relate to their job duties. Full job descriptions are required for new hires.

(4) Timetable. (5 points) The applicant presents a timetable for project activities within the fiscal year (i.e., a list of actions with a date by which they will be accomplished); provides verification that facilities will be available, equipment and materials delivered; and explains how the staff will be hired and trained in time to carry out the services as planned.

(5) Objectives. (10) The applicant sets achievable, measurable outcomes; describes how the outcomes will demonstrate expanded library services; and presents a reasonable method to collect data.

(6) Reaching the Hard-to-Reach. (10 points) The applicant submits a plan for introducing the new library services to traditionally hard-to-reach nonusers; the plan uses a variety of communication techniques, and includes verbal communication.

(7) Expenses Justified. (15 points) The applicant fully justifies the budget by describing how budget items will contribute to the new services; quotes a source for the stated cost (e.g., city pay classification for staff, catalog or city/county bid list for equipment); the costs are reasonable to achieve project objectives.

(8) Adequacy of Resources. (15 points) The applicant describes the local resources which will be used to support this expansion of services during the grant year; submits estimated costs for continuing the expanded services next year, with a plan for how the library will assume those costs in the future. A written commitment of future support from the governing body is desirable, but not required.

(9) Evaluation. (10 points) The applicant presents a method to count how many of the users of the new services are former nonusers. If the project proposes to educate individuals, the applicant describes educational outcomes and how they will be measured.

§2.154. Grant Review and Award Process.

(a) Commission staff will screen each application for the following:

(1) legal eligibility of the institution to participate in the grant program and appropriate authorizing signatures;

(2) conformance to the federal and state regulations pertaining to grants;

(3) inclusion of unallowable costs;

(4) errors in arithmetic or cost calculations;

(5) submission of all required forms; and

(6) whether the application arrived at the Texas State Library and Archives Commission by the required date and time.

(b) Commission staff will raise issues and questions regarding the needs, methods, staffing, and costs of the applications. Staff comments will be sent to the LSTA Council with the applications for consideration by the council.

(c) Applicants will be sent a copy of the staff comments to give applicants an opportunity to respond in writing. Applicants may not modify the proposal in any way; however, applicants' responses to staff comments will be distributed to the Council.



(1) Applications with significant errors, omissions, or eligibility problems will not be rated.

(2) Commission staff will be available to offer technical assistance to council members.

(d) Applications will be scored using the following process:

(1) The Library Services and Technology Act Advisory Council will review all complete and eligible grant applications forwarded to them by commission staff and complete a rating form for each. Each member will evaluate the proposal in relation to the specific requirements of the criteria and will mark a weighted rating, ranging from 0 - 15 points depending on the points assigned to each criteria.

(2) No council member who is associated with an applicant or with an application, or who stands to benefit directly from an application will evaluate that application. Any council member who feels unable to fairly evaluate a particular application may choose not to review that application.

(3) Council members will consider and assess the strengths and weaknesses of any proposed project only on the basis of the documents submitted. Considerations of geographical distribution, demographics, type of library, or personality will not influence the assessment of a proposal by the council.

(4) Council members may not discuss proposals with any applicant before the proposals are reviewed. Commission staff is available to provide technical assistance to council members. Commission staff will conduct all negotiations and communication with the applicants.

(5) Council members may offer a motion to set conditions for funding a given application, e.g., reduction of project budget, revision of project objectives. Such motions must be approved by a majority vote of council members present and eligible. The motion must include a statement of the reasons for setting such conditions. Council members who are ineligible to evaluate a given proposal will not vote on funding conditions.

(6) Council members who do not attend the meeting may mail the evaluation forms to the chairperson in care of the Library Development Division of the Texas State Library and Archives Commission. In order to be counted, the mailed forms must arrive before the meeting.

#### §2.155. Decision Making Process.

To be considered for funding by the Texas State Library and Archives Commission, an application must receive a minimum adjusted mean score of 50 points. Commission staff will tabulate the council's work using a method that eliminates the high and low score, called an adjusted mean score.

(1) Applications will be ranked in priority order by score for consideration by the commission.

(2) If insufficient funds remain to fully fund the next application, the staff will negotiate a reduced grant with the next ranked applicant.

(3) If the council recommends funding an application which, for legal, fiscal, or other reasons, is unacceptable to the staff, a contrary recommendation will be made. The council will be informed of this situation prior to presentation to the commission. A positive recommendation to the commission will be contingent upon successfully completing these negotiations prior to the commission meeting. If council is unable to produce a set of recommendations for

funding, the staff will use the same evaluation procedures to develop recommendations to the commission.

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

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Raymond Hitt

Assistant State Librarian

Texas State Library and Archives Commission

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For further information, please call: (512) 463-5440

## **TITLE 16. ECONOMIC REGULATION**

### **Part II. Public Utility Commission of Texas**

#### **Chapter 23. Substantive Rules**

##### **Subchapter C. Rates**

###### **16 TAC §23.24**

The Public Utility Commission of Texas proposes an amendment to §23.24, relating to Form and Filing of Tariffs. This amendment is proposed under Project Number 19205. The amendment is intended to aid in the regulation of retail electric service provided by jurisdictional electric utilities and to facilitate the provision of competitive energy services.

The amendment to §23.24 would clarify the commission's requirements relating to the filing of tariffs by electric utilities. Electric utilities would be required to include in their tariffs any discounts or other compensation offered to customers. The amendment would reorganize the provisions of §23.24 relating to requirements for electric utilities and telecommunications utilities; however, the amendment would not affect the regulation of telecommunications utilities.

In Project Number 14400, the commission's rulemaking to address integrated resource planning (completed in 1996), the commission indicated that it would address at a later date the issues of distribution unbundling and utilities' relationships with their affiliates. This proceeding addresses the unbundling of energy service. This proceeding includes new §25.223, relating to Unbundling of Energy Service, which is separately published but which requires coordination of comments as explained more fully below. The unbundling of costs (cost separation and the form of electric bills) is being addressed in Project Number 16536 and affiliate activities are being addressed in Project Number 17549.

Nat Treadway, policy analyst, Office of Policy Development, has determined that for the first five years that the proposed amendment is in effect there will be no fiscal implications for state and local government as a result of enforcing or administering the section.

Mr. Treadway also has determined that for the first five years that the proposed section is in effect the public benefit anticipated as a result of enforcing the section includes increased competition in the provision of energy service, enhanced cus-

tomer awareness of the availability, price, and terms and conditions of electric service, and improved regulatory oversight of retail electric service.

The proposed amendment relating to the filing of tariffs is likely to increase the costs to utilities of complying with the commission's rules, but the benefits described above are expected to outweigh the costs. The costs of complying with the proposed regulations are difficult to estimate and are likely to vary from utility to utility. Utilities that have already set forth all electric services in their tariffs may incur no significant costs with respect to compliance with aspects of the amendment. Utilities that provide many energy services that are not described in their tariffs may incur a significant cost. A rough estimate of the annual cost for utilities that must substantially reorganize operations is from \$500 to \$50,000, depending on the size of the utility. To put these figures in context, the cost of service for the largest electric utility in the state is about \$5.6 billion, while the revenue of a small utility is measured in millions of dollars.

For each year of the first five years the proposed amendment is in effect, there will be no effect on small businesses as a result of enforcing the proposed sections. The amendment may increase the opportunities for small businesses to provide services directly to customers, but the magnitude of this benefit is uncertain.

It is anticipated that the economic impact of the rules on the persons that are required to comply with them will be favorable, but it is impossible to estimate the magnitude of this benefit. The amendment should improve utility services by permitting a more focused application of the state's resources to the regulation of electric utilities and by bringing better pricing information and a wider array of services to customers.

Mr. Treadway has further determined that for the first five years the proposed amendment is in effect there will be a favorable effect on the opportunities for employment in the geographic areas of Texas affected by implementing the requirements of the rules, but it is impossible to estimate the magnitude of the benefit.

Comments on the proposed rule (16 copies) may be submitted to Filing Clerk, Public Utility Commission of Texas, 1701 N. Congress Avenue, P.O. Box 13326, Austin, Texas, 78711-3326, within 31 days after publication. Reply comments may be submitted within 45 days after publication. All comments should refer to Project Number 19205: Unbundling of Energy Service, and the comments should be incorporated within the comments filed on the proposed new §25.223, relating to Unbundling of Energy Service.

The commission requests that electric utilities that could be affected by the proposed amendment provide an estimate of the cost of compliance with the proposed amendment with the utility's initial comments. A utility's cost estimates should indicate its cost of revising its tariffs. Interested persons may reply to each utility's cost estimates. In addition, the commission invites specific comments regarding the costs associated with, and benefits that will be gained by, implementation of the amendment. The commission will consider the costs and benefits in deciding whether to adopt the amendment.

The commission staff will conduct a public hearing on this rule-making under Government Code §2001.029 at the commission's offices on Wednesday, July 1, 1998, at 9:00 a.m. in the commissioners' hearing room, seventh floor of the William

B. Travis Building, 1701 N. Congress Avenue, Austin, Texas, 78701. Interested persons may make oral comments concerning the proposed regulations at that time.

These sections are proposed under the Public Utility Regulatory Act, Texas Utilities Code Annotated §§14.002, 31.001(c), 32.101, 36.001, 36.003, 38.002, 38.003, 38.021, and 38.022 (Vernon 1998) (PURA). Section 14.002 provides the Public Utility Commission of Texas with the authority to make and enforce rules reasonably required in the exercise of its powers and jurisdiction. Section 31.001(c) requires that the commission formulate and apply rules, policies, and principles to protect the public interest in a more competitive electric marketplace. Section 32.101 requires an electric utility to file tariffs with each regulatory authority showing each rate that is in effect for a utility service, product, or commodity. Section 36.001 authorizes the regulator to establish the rates of an electric utility, and to adopt rules for determining the classification of customers and the applicability of rates. Section 36.003 directs the regulatory authority to ensure that each rate is just and reasonable. Sections 38.002 and 38.003 provide the commission with authority to adopt reasonable standards and classifications with respect to electric services. Section 38.021 addresses unreasonable preference or prejudice, and prohibits the utility from granting unreasonable preference or advantage to a person in a classification. Section 38.022 prohibits the utility from discriminating against a person who sells or leases equipment or performs services in competition with the electric utility, and prohibits the utility from engaging in a practice that tends to restrict or impair competition.

Cross Index to Statutes: Public Utility Regulatory Act §§14.002, 31.001(c), 32.101, 36.001, 36.003, 38.002, 38.003, 38.021, and 38.022.

§23.24. *Form and Filing of Tariffs.*

(a) Application.

(1) Telecommunications utilities. Unless the context clearly indicates otherwise, in this section the term "utility" insofar as it relates to telecommunications utilities, shall refer to dominant carriers.

(2) Electric utilities. This section applies to all electric utilities.

(b) Effective tariff.

(1) Telecommunications utilities. No utility shall directly or indirectly demand, charge, or collect any rate or charge, or impose any classifications, practices, rules, or regulations different from those prescribed in its effective tariff filed with the commission.

(2) Electric utilities. No utility shall directly or indirectly offer any service, collect any rate or charge, give any compensation or discount to a customer, or impose any classification, practice, or regulation different from that which is prescribed in its effective tariff filed with the commission. Customer contracts approved by the commission are part of the effective tariff.

(c) (No change.)

(d) Composition of tariffs.

(1) Telecommunications utilities. The tariff shall contain sections setting forth:

(A) [(+)] a table of contents;

(B) [(2)] a preliminary statement containing a brief description of the utility's operations;

(C) [(3)] a list of the cities, exchanges, and counties in which service is provided;

(D) [(4)] the rate schedules; and

(E) [(5)] the service rules and regulations, including forms of the service agreements.

(2) Electric utilities. The tariff shall contain sections and subsections setting forth:

(A) a table of contents;

(B) a list of the cities and counties in which service is provided;

(C) a brief description of the utility's operations;

(D) the rate schedules; and

(E) the service regulations, including the service agreement forms.

(e)-(j) (No change.)

(k) Compliance. Electric utilities that file new tariffs or tariff revisions shall comply with the 1998 amendments to this section with respect to the new or revised tariffs. Electric utilities affected by §25.223 of this title (relating to Unbundling of Energy Service) shall file new tariffs or tariff revisions in compliance with this section according to the compliance schedule adopted by the commission. All other electric utilities shall comply with this section within one year of the effective date of this section.

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

Filed with the Office of the Secretary of State, on April 24, 1998.

TRD-9805770

Rhonda Dempsey

Rules Coordinator

Public Utility Commission of Texas

Earliest possible date of adoption: June 7, 1998

For further information, please call: (512) 936-7308



## Chapter 25. Substantive Rules Applicable to Electric Service Providers

The Public Utility Commission of Texas proposes new §25.84, Annual Reporting of Electric Utilities' Relationships with Their Affiliates, §25.271, Code of Conduct for Electric Utilities and Their Affiliates, §25.272, Corporate Support Service Agreements Between Electric Utilities and Their Affiliates, §25.273, Contracts Between Electric Utilities and Their Affiliates, and §25.274, Compliance Proceeding to Implement Code of Conduct for Electric Utilities and Their Affiliates. These sections are proposed under Project Number 17549. Section 25.84 replaces the rule provision currently located at §23.11(c) of this title, relating to General Reports, and requires that electric utilities' report to the commission annually on relationships with their affiliates. Section 25.271 establishes broad safeguards to govern the interaction between regulated electric utilities and their affiliates. Section 25.272 establishes the requirements for the implementation of corporate support service agreements between reg-

ulated utilities and their affiliates. Section 25.273 establishes the fair, competitive bidding process that utilities may use to obtain products and services from an affiliate or other third party, and establishes requirements for any contracts with affiliates that may result from this competitive bidding process. Section 25.274 establishes the requirements for the compliance proceedings that will be necessary for the implementation of these new rules relating to affiliate activities.

In Project Number 14400, the commission's rulemaking to address integrated resource planning (completed in 1996), the commission indicated that it would address at a later date the issues of energy services unbundling and utilities' relationships with their affiliates. This rulemaking addresses affiliate activities, and the issue of energy services unbundling is being addressed in Project Number 19205.

Based on its extensive experience in regulating the electric power industry and in implementing the pro-competitive policies adopted by the U.S. Congress, the Texas Legislature, and the Federal Energy Regulatory Commission, the commission finds that there is a strong likelihood that a utility will favor its affiliates where those affiliates are providing services in competition with other, non-affiliated entities. The commission concludes that this would not be in the public interest.

Further, based on recent experience conducting periodic electric utility rate reviews and on other regulators' recent experiences with the motor carrier, telephone, and natural gas industries, the commission finds that there is a strong incentive for regulated utilities or their holding companies to subsidize their competitive activities with revenues or intangible benefits derived from their regulated monopoly businesses. The commission concludes that this is not in the public interest.

Finally, the commission finds that current regulations governing the relations between and among units/divisions of an electric utility (or an electric utility holding company) are not adequate to prevent or discourage anticompetitive behavior. The commission concludes that articulating new rules which reflect the current state of competition in the electric power industry will provide regulatory certainty, facilitate more efficient competition to the benefit of customers, and fairly balance the equities among competing service providers.

Based on its experience in regulating the electric power and local telephone industries, the commission has found that structural solutions are generally to be preferred over regulatory solutions in fostering competition. An example of a structural solution would be to completely prohibit a utility or its affiliate from engaging in activities which are or can be performed by unregulated entities. However, the commission is aware that efficient competition is fostered by encouraging the participation of many qualified participants, including unregulated affiliates. Consequently, these rules attempt to balance these potentially conflicting interests.

In the natural gas industry, which has become significantly competitive at the wholesale level, such a balanced solution has been highly effective in fostering healthy competition. Providing market participants with real-time knowledge of utility-to-affiliate interactions, for example, has allowed the natural gas market to police itself, rather than require extensive regulatory involvement. In both natural gas and electricity, the delivery system remains a natural monopoly but the production (power generation) and merchant (marketing) functions are now competitive rather than natural monopolies. Within these markets, the playing field

will be leveled, competition will be fostered, and customers will benefit from early, clear articulation of policies and processes governing the relationships between utilities' and affiliates' regulated and competitive functions. The benefit of such policies has been demonstrated in natural gas restructuring and in the commission's own two years of experience with the competitive wholesale electric power market.

In proposing these rules relating to affiliate activities, therefore, the commission has three objectives: fostering fair competition for all participants in the market place, preventing cross- subsidization of competitive activities by monopoly rate payers, and preventing anticompetitive behavior and utilities' circumvention of their regulatory obligations. As a result of the commission's establishing the rules governing the relationships between regulated utilities and their competitive affiliates, participants in the market place will benefit from full knowledge of "the rules of the road" in the current regulatory environment. If the Texas Legislature removes existing legal barriers to entry by new entrants into competitive activities, those functions would be governed by this code of conduct as well.

The commission requests that interested parties address the following issues in their comments on the proposed rules. The questions are grouped into twelve topics: application of the rules to cooperatives, application of the rules to affiliates that are also regulated utilities, separation of the utility from its affiliates, limitations on affiliate transactions, definition of corporate support services, migration of employees, use by an affiliate of a utility's name and logo, customer requests for information about products or services offered by affiliates, transfers of assets that take place before versus after the promulgation of these rules, regulation of transactions related to "exempt telecommunications carriers," the competitive bidding process, and review and approval of service agreements and contracts. This grouping provides a framework for discourse on these topics, and interested parties should organize their comments according to these categories. The commission also seeks any additional comments on the proposed rule that interested parties believe are appropriate. Furthermore, the commission will seek comment at a later date on the format of the annual reports required in proposed §25.84.

First, the commission seeks comment on the application of the proposed rules. Are certain exemptions or modifications to these rules appropriate for electric cooperatives? If so, what exemptions or modifications would allow the commission to meet its stated objectives? How might customers of electric cooperatives be affected by exemptions or modifications of these rules?

Second, the commission requests comment on how affiliates that are also regulated utilities, under the jurisdiction of this commission or another regulatory body, might be affected by the proposed rules. Are certain exemptions or modifications of these rules appropriate for affiliates that are also regulated utilities? If so, what exemptions or modifications would allow the commission to meet its stated objectives?

Third, the commission requests comment on the provisions requiring separation of the utility from its affiliates. The commission notes that there is a clear trade-off between the degree of structural separation between utilities and their affiliates versus the amount of regulatory oversight that is required by the commission to ensure that its three stated objectives are met; in other words, the greater the separation,

the less regulatory oversight required. To the extent that interested parties make arguments against structural separation due to potentially lost economies of scale and scope, such parties should provide an analysis showing how any alleged losses of economies of scale and scope compare to the increased costs to both the commission and the utility for the greater regulatory oversight required to balance the degree of separation between the utility and its affiliates.

Fourth, the commission seeks comment on the proposal to limit transactions between utilities and their affiliates to the following three possibilities: corporate support services, products and services offered by the utility through tariffs, or products and services purchased by the utility as a result of competitive bidding. Should the commission allow any other affiliate transactions beyond those entered into through one of these three methods?

Fifth, the commission solicits comment on the definition of corporate support services. Is the definition appropriate and sufficiently detailed?

Sixth, the commission requests comment on the provisions relating to migration of employees between the regulated utility and its affiliates. The provision prohibiting temporary assignment of employees includes an exception for restoration in the event of a "major service interruption." Is it necessary to define what constitutes a "major service interruption?" In addition, how and when should utilities inform the commission that this exception has been invoked? The proposed transfer fee formula includes a fee of 10% of ending salary for the first year of experience, with an additional 0.5% of ending salary for each year of employment with the regulated utility. Would a different transfer fee formula be more appropriate? How can the commission ensure that there is a balance between allowing fair compensation to the utility, without unduly impeding professional growth opportunities for the utility's employees? Should this provision be applied under extraordinary circumstances, such as a major corporate restructuring involving a mass transfer of employees from the utility to a new affiliate? Should certain classes of employees be exempted from the transfer fee provision, such as clerical employees or those employees engaged in the provision of corporate support services? Or, in the alternative, should the fee apply only to employees whose total annual compensation is above a specified floor, such as \$30,000?

Seventh, the commission seeks comment on the provision requiring use of a disclaimer when an affiliate uses the utility's name or logo. Would an outright prohibition on the use of the utility's name or logo provide for more efficient implementation of these rules? To the extent that interested parties argue for allowing use of the regulated utility's name and logo by its affiliates, with or without a disclaimer, they should address how the commission can ensure that the utility is fairly compensated for use of the trade name and logo. For example, should utilities be entitled to receive royalty payments? Furthermore, is the disclaimer compromise the best possible means to inform consumers that there is a corporate relationship between the regulated and unregulated entities, while simultaneously informing consumers that the two entities have different regulatory obligations and oversight by the commission?

Eighth, the commission requests comment on the provision requiring utilities to give customers a current list of all affiliated and non-affiliated providers when a customer requests information about products or services offered by affiliates and their

competitors. The commission believes that customers should be able to rely on such lists as being reasonably accurate, but that a utility should not be held liable for any inaccuracy in the list or lack of service provider viability if such is not the fault of the utility. The commission requests comment on what additional safeguards could be put in place to address this issue.

Ninth, the commission requests comment on the issue of how to address transfers of assets other than generation and transmission assets (from the utility to an affiliate) that take place before these rules are in effect. The proposed rules require that such asset transfers be subject to the competitive bidding requirements of §25.273. However, some utilities may already have made mass transfers of assets to their affiliates prior to these rules taking effect, which could afford the affiliate a competitive advantage not available to other entities, including those firms that are affiliated with a utility that transfers assets after the rules are adopted. How should the commission address this potential disparity in competitive advantage?

Tenth, the commission requests comment as to whether these proposed rules are sufficient to achieve the commission's goal of regulating the transactions between utilities subject to the provisions of the Public Utility Holding Company Act of 1935 (PUHCA) and their affiliated "exempt telecommunications companies" (ETCs) pursuant to the federal Telecommunications Act of 1996 §103, as codified at 15 U.S.C.A §79z-5c. The commission has proposed rules relating specifically to affiliate transactions between PUHCA-jurisdictional utilities and their affiliated ETCs in Project Number 17508. Are separate rules for these specific affiliate transactions required? If not, are there any changes that need to be made to the rules proposed herein to properly regulate transactions between utilities and their affiliated ETCs?

Eleventh, the commission seeks comment on the competitive bidding process set forth in proposed §25.273. The commission desires to provide sufficient guidance for what constitutes a "fair, competitive bidding process" without being overly prescriptive. How might these requirements be streamlined so as to provide greater flexibility for utilities to procure products and services in the event that such products and services are competitively available? What types of current services being obtained by a utility from an affiliate would fall under this rule? Should the commission establish a threshold annual dollar amount under which purchases by a utility from an affiliate, other than for corporate support services, would not be subject to the competitive bidding process? If so, what would be an appropriate threshold amount?

Finally, the commission requests comment on the provisions relating to the commission's review and approval of service agreements and contracts. Specifically, proposed §25.272 and §25.273 state that corporate support service agreements and contracts are "subject to commission review and approval for compliance with PURA requirements and commission rules." Should the commission require approval of these service agreements and contracts prior to their implementation by the utility? What procedural requirements for review and approval of these documents should be instituted by the commission? How should existing service agreements and contracts be treated by the commission?

Suzanne L. Bertin, assistant director, Office of Policy Development, has determined that for the first five-year period the sections are in effect there will be no fiscal implications for state or

local government as a result of the enforcing or administering the sections.

Ms. Bertin also has determined that for each year of the first five years the sections are in effect, the public benefit anticipated as a result of enforcing these sections will be improved regulatory oversight of electric utilities and enhanced competition in the provision of energy-related and telecommunications-related services.

It is anticipated that there will be economic costs incurred by persons who are required to comply with the new sections as proposed. The costs incurred are likely to vary from utility to utility, and are difficult to ascertain. The benefits accruing from implementation of these rules, however, are expected to outweigh these costs.

For each year of the first five years the sections are in effect, there will be no effect on small businesses as a result of enforcing the proposed sections.

Ms. Bertin has further determined that for the first five years the proposed sections are in effect there may be a favorable impact on the opportunities for employment in the geographic areas of Texas affected by implementing the requirements of the rules, but the magnitude of such an impact cannot be ascertained.

Comments on the proposed rule (16 copies) may be submitted to Filing Clerk, Public Utility Commission of Texas, 1701 N. Congress Avenue, P.O. Box 13326, Austin, Texas, 78701-3326, within 31 days after publication. Reply comments may be submitted within 45 days after publication. All comments should refer to Project Number 17549. The commission invites specific comments regarding the costs associated with, and benefits that will be gained by, implementation of the sections. The commission will consider the costs and benefits in deciding whether to adopt the sections.

## Subchapter D. Records, Reports, and Required Information

### 16 TAC §25.84

The commission staff will conduct a public hearing on this rule-making under Government Code §2001.029 at the commission's offices on June 25, 1998, at 9:00 a.m.

Section 25.84 is proposed under the Public Utility Regulatory Act, Texas Utilities Code Annotated (Vernon 1998) (PURA) §§11.002(a), 14.001, 14.002, 14.003, 14.151, 14.154, and 15 U.S.C.A. §79z-5c. Section 11.002(a) requires establishment of a comprehensive and adequate regulatory system by the Public Utility Commission of Texas to ensure just and reasonable rates, operations, and services. Section 14.001 grants the commission the general power to regulate and supervise the business of each utility within its jurisdiction. Section 14.002 provides the commission with the authority to make and enforce rules reasonably required in the exercise of its powers and jurisdiction. Section 14.003 grants the commission the authority to require submission of information by the utility regarding its affiliate activities. Section 14.151 grants the commission authority to prescribe the manner of accounting for all business transacted by the utility. Section 14.154 grants the commission limited authority over the utility's affiliates, with respect to their transactions with the utility. Finally, 15 U.S.C.A. §79z-5c grants the commission authority to regulate the transactions between PUHCA-jurisdictional utilities and their affiliated ETCs.

Cross Reference to Statutes: PURA §§11.002(a), 14.001, 14.002, 14.003, 14.151, 14.154, 15 U.S.C.A. §79z-5c.

§25.84. Annual Reporting of Electric Utilities' Relationships with Affiliates.

(a) Purpose. This section establishes annual reporting requirements for activities between utilities and their affiliates, as allowed under §25.271 of this title (relating to Code of Conduct for Electric Utilities and Their Affiliates).

(b) Application. This section applies to all electric utilities operating in the State of Texas as defined in the Public Utility Regulatory Act (PURA) §31.002 (1), and also to affiliates as defined in PURA §11.003 (2) to the extent specified herein.

(c) Definitions. Any terms defined in §25.271 of this title have the same meanings herein.

(d) Annual Report of Affiliate Activities. A "Report of Affiliate Activities" shall be filed annually with the commission. Using forms approved and provided by the commission, a utility shall report activities among itself and its affiliates in accordance with the requirements of §25.271 of this title. The report shall be filed by June 1, and shall encompass the time period from January 1 through December 31 of the immediately preceding year.

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

Filed with the Office of the Secretary of State, on April 23, 1998.

TRD-9805690

Rhonda Dempsey

Rules Coordinator

Public Utility Commission of Texas

Earliest possible date of adoption: June 7, 1998

For further information, please call: (512) 936-7308



## Subchapter K. Relationships with Affiliates

### 16 TAC §§25.271-25.274

Section 25.271 is proposed under the Public Utility Regulatory Act, Texas Utilities Code Annotated (Vernon 1998) (PURA) §§11.002(a), 14.001, 14.002, 14.003, 14.151, 14.154, 31.001(c), 32.101(c), 35.003(b), 35.034, 35.035, 36.003, 36.058, 38.021, 38.022, 55.006, 51.001 and 52.001 as well as 15 U.S.C.A. §79z-5c and Texas Revised Civil Statutes Annotated article 717p (Vernon Supplement 1998). Section 11.002(a) requires establishment of a comprehensive and adequate regulatory system by the Public Utility Commission of Texas to ensure just and reasonable rates, operations, and services. Section 14.001 grants the commission the general power to regulate and supervise the business of each utility within its jurisdiction. Section 14.002 provides the commission with the authority to make and enforce rules reasonably required in the exercise of its powers and jurisdiction. Section 14.003 grants the commission the authority to require submission of information by the utility regarding its affiliate activities. Section 14.151 grants the commission authority to prescribe the manner of accounting for all business transacted by the utility. Section 14.154 grants the commission limited authority over the utility's affiliates, with respect to their transactions with the utility. Section 31.001(c) requires that the commission formulate and apply rules, policies, and principles to protect the public interest in a more competitive electric market place. Sec-

tion 32.101(c) requires that customer proprietary information be treated as highly sensitive trade secrets. Section 35.003(b) prohibits electric utilities from granting undue preference to a person in connection with the purchase or sale of energy or other services. Section 35.034 grants the commission authority to approve transfers of certain assets between utilities and affiliates. Section 35.035 governs the valuation of assets transferred by a utility to or from an affiliate. Section 36.003 requires the commission to ensure that a utility's rates are just and reasonable, sufficient, equitable, and consistent in application to each class of consumer, and not unreasonably preferential, prejudicial, or discriminatory. Section 36.058 sets forth the circumstances under which the commission may allow payments by a utility to an affiliate. Section 38.021 requires that utilities not grant an unreasonable preference to or impose an unreasonable disadvantage on different persons in the same classification. Sections 38.022 and 55.006 require that utilities not discriminate against competitors or engage in practices that restrict or impair competition in electric and telecommunications markets, respectively. Sections 51.001 and 52.001 require that the commission implement innovative new rules, policies, and principles to protect the public interest in telecommunications markets and provide equal opportunity to telecommunications competitors. 15 U.S.C.A. §79z-5c grants the commission authority to regulate the transactions between PUHCA-jurisdictional utilities and their affiliated ETCs. Finally, Texas Revised Civil Statutes Annotated article 717p (Vernon Supplement 1998) grants Texas river authorities and their affiliates certain rights and privileges that differ from those of other electric utilities in the state.

Cross Reference to Statutes: PURA §§11.002(a), 14.001, 14.002, 14.003, 14.151, 14.154, 31.001(c), 32.101(c), 35.003(b), 35.034, 35.035, 36.003, 36.058, 38.021, 38.022, 55.006, 51.001, and 52.001, 15 U.S.C.A. §79z-5c, and Texas Revised Civil Statutes Annotated article 717p (Vernon Supplement 1998).

§25.271. Code of Conduct for Electric Utilities and Their Affiliates.

(a) Purpose. The provisions of this section establish broad safeguards to govern the interaction between regulated utilities and their affiliates. In promulgating these affiliate rules, the commission has three objectives: fostering fair competition for all participants in the market place, preventing cross-subsidization of competitive activities by monopoly rate payers, and preventing anticompetitive behavior and utilities' circumvention of their regulatory obligations.

(b) Application. This section applies to all electric utilities operating in the State of Texas as defined in the Public Utility Regulatory Act (PURA) §31.002 (1), and also to affiliates as defined in PURA §11.003 (2) to the extent specified herein. River authorities are exempted from subsection (d) of this section pursuant to Texas Revised Civil Statutes Annotated article 717p (Vernon Supplement 1998).

(c) Definitions. The following words and terms when used in this section shall have the following meaning unless the context clearly indicates otherwise:

(1) Affiliate rules - The body of rules in Chapter 25, Subchapter K, relating to Relationships with Affiliates, inclusive of §§25.271 of this title, 25.272 of this title (relating to Corporate Support Service Agreements Between Electric Utilities and Their Affiliates), 25.273 of this title (relating to Contracts Between Electric Utilities and Their Affiliates) and 25.274 of this title (relating to

Compliance Proceedings to Implement Code of Conduct for Electric Utilities and Their Affiliates).

(2) Antitrust laws - Federal and state antitrust laws including the following:

(A) Federal antitrust laws - Sherman Act, 15 United States Code §§1-7; Clayton Act, 15 United States Code §§12-27; and a portion of the Federal Trade Commission Act, 15 United States Code §45.

(B) Texas antitrust laws - Texas Free Enterprise and Antitrust Act of 1983, Texas Business & Commerce Code §§15.01-15.52.

(3) Arm's length transaction - The standard of conduct under which unrelated parties, each acting in its own best interest, would carry out a particular transaction. Applied to related parties, in testing whether a transaction is at "arm's length," it must be ascertained whether the transaction could have been made on the same terms to a disinterested third party in a bargained transaction.

(4) Corporate support services - Those services, generally administrative in nature, that relate to the operation of companies in any corporate family, regardless of whether a company in the corporate family is involved in the provision of energy, energy-related products or services, telecommunications, or telecommunications-related products or services. Examples of services meeting this definition include, but are not limited to, payroll, shareholder services, insurance, financial reporting, financial planning and analysis, corporate accounting, corporate security, human resources (compensation, benefits, employment policies), employee records, pension management, and telecommunications and information systems only to the extent they are not used in the provision of electricity, energy-related products or services or the provision of retail or wholesale telecommunications products or services. Examples of services not meeting this definition include, but are not limited to, regulatory affairs, lobbying, legal services, employee recruiting, engineering, purchasing of electric transmission, system operations, marketing, and telecommunications and information systems used in the provision of electricity or energy-related products or services or the provision of retail or wholesale telecommunications products or services.

(5) Proprietary customer information - Any information compiled by an electric utility on a customer in the normal course of providing electric service which makes possible the identification of any individual customer by matching such information with the customer's name, address, account number, type or classification of service, historical electricity usage, expected patterns of use, types of facilities used in providing service, individual contract terms and conditions, price, current charges, billing records, or any other information that the customer has expressly requested not be disclosed. Information relating to customers that is aggregated, redacted, or organized in such a way as to make it impossible to identify the customer to whom the information relates does not constitute proprietary customer information.

(6) Service agreements - Contracts between a utility and an affiliate for the provision of corporate support services.

(7) Temporary, intermittent, or rotational assignments - Non-permanent assignments that have a duration of less than one year, that begin and end in intervals, or that are cyclical in nature.

(d) Structural and transactional safeguards.

(1) Separate and independent entities. A utility shall be a corporate entity separate from its affiliates, operating independently.

(2) Separate officers, directors, and employees. A utility shall not jointly employ officers, directors, and employees with an affiliate. The exception is that a parent company officer or director may serve on the board of the utility or on the board of an affiliate providing services or products related to energy or telecommunications, but not on both the board of the utility and of an affiliate providing services or products related to energy or telecommunications.

(3) Books and records. A utility shall maintain books, records, and accounts separate from those of its affiliates, subject to review by the commission, as follows:

(A) In accordance with generally accepted accounting principles and consistent with state and federal guidelines, a utility shall record all transactions with its affiliates, whether direct or indirect.

(B) A utility shall prepare financial statements that are not consolidated with those of its affiliates.

(C) A utility and its affiliates shall maintain sufficient records to allow for an audit of the transactions between the utility and its affiliates. At any time, the commission may, at its discretion, require a utility to initiate, at the utility's expense, an audit performed by an independent third party.

(4) No credit support by a utility. A utility shall not allow an affiliate to obtain credit under any arrangement that would permit a creditor, upon default, to have recourse to the utility's assets. The financial arrangements of a utility's affiliates are subject to the following restrictions:

(A) Any indebtedness incurred by an affiliate will be without recourse to the utility;

(B) A utility shall not enter into any agreements under terms of which the utility is obligated to commit funds in order to maintain the financial viability of an affiliate;

(C) A utility shall not make any investment in an affiliate under circumstances in which the utility would be liable for the debts and/or liabilities of the affiliate incurred as a result of acts or omissions of an affiliate;

(D) A utility shall not issue any security for the purpose of financing the acquisition, ownership, or operation of an affiliate;

(E) A utility shall not assume any obligation or liability as guarantor, endorser, surety, or otherwise in respect of any security of an affiliate;

(F) A utility shall not pledge, mortgage or otherwise use as collateral any assets of the utility for the benefit of an affiliate;

(G) This subsection does not affect a utility's obligations under other law or regulations, such as the obligations of a public utility holding company under §23.18(c)(2) of this title (relating to Foreign Utility Company Ownership by Exempt Holding Companies).

(5) Arm's length transactions. Transactions between a utility and its affiliates shall be at arm's length. With the exception of transactions relating to corporate support services, transactions between a utility and its affiliates for products and services shall be made only in accordance with tariffs or through a fair, competitive bidding process.

(A) Tariffs. Tariffs shall meet the requirements delineated in §23.24 of this title (relating to Form and Filing of

Tariffs). Except as provided for in subparagraph (C) of this paragraph, any sales of a product or service by a utility to its affiliate shall be governed by a tariff on file with the commission, making the same products and services available to any third party entity on the same terms and conditions.

(B) Competitive bidding.

(i) Purchase of products or services by a utility from its affiliate. Except as provided for in subparagraph (C) of this paragraph, a utility may not enter into a transaction to purchase a product or service from an affiliate unless the transaction is the result of a fair, competitive bidding process formalized in a contract subject to the provisions of §25.273 of this title (relating to Contracts Between Electric Utilities and Their Affiliates).

(ii) Transfers of assets other than generation or transmission facilities. For purposes of this subparagraph, assets are defined as those that are in rate base, previously were in rate base, or are capital assets of the utility. Any transfer of assets from a utility to its affiliates, other than generation or transmission facilities, must be the result of a fair, competitive bidding process formalized in a contract subject to the provisions of §25.273 of this title.

(C) Corporate support services. A utility may engage in transactions directly related to the provision of corporate support services with its affiliates, in accordance with the requirements relating to service agreements set forth in §25.272 of this title (relating to Corporate Support Service Agreements Between Utilities and Their Affiliates). As a general principle, such provision of corporate support services shall not allow or provide a means for the transfer of confidential information from the utility to the affiliate, create the opportunity for preferential treatment or unfair competitive advantage, create opportunities for cross-subsidization of affiliates, or otherwise provide any means to circumvent these affiliate rules.

(D) Transfer of generation or transmission assets. The transfer of generation or transmission assets from a utility to an affiliate will be reviewed by the commission pursuant to the provisions of PURA §§14.101, 35.034, and 35.035 and any rule implementing those sections.

(6) Employee migration.

(A) Tracking migration of employees. A utility shall track and document all employee movement between the utility and its affiliates. Such information shall be made available to the commission on an annual basis in the context of the utility's filing pursuant to §25.84 of this title (relating to Annual Reporting of Electric Utilities' Relationships with Affiliates). The tracking information shall include the following: an identification code for the migrating employee, the respective titles held while employed at each entity, the effective dates of the migration, and amount of the transfer fee paid, if applicable. Movement of an employee from a utility to an affiliate or vice versa shall be accomplished through the employee's termination of employment with one company and acceptance of employment with the other.

(B) Employee rotation. Temporary, intermittent, or rotational assignments of utility employees to affiliates are prohibited. The exception to this provision is that employees may be temporarily assigned to an affiliated or non-affiliated utility to assist in restoring power in the event of a major service interruption.

(C) Transfer fee. A utility shall be entitled to a one-time payment by its affiliate for the costs that the utility has invested in development of an employee who changes employment from the utility to the utility's affiliate. Such fees shall be recorded

in a separate account for future consideration by the commission. The fees shall be calculated using the following formula:  $\text{transfer fee} = \text{final salary} \times ((\text{years of service with utility} \times 0.5\%) + 10\%)$ . This subparagraph should not be construed as to interfere with the conditions of employment resulting from a collective bargaining agreement recognized under federal law.

(7) Use of property and equipment. A utility shall not own property in common with its affiliate unless prior approval is obtained from the commission. A utility's office space and office equipment shall be physically separate from that of its affiliates, where physical separation is accomplished by having office space and equipment in either separate buildings or in secure, controlled-access areas within a building. A utility shall not share computer systems and information systems with an affiliate, nor shall a utility allow an affiliate access to its computer and information systems. The exception to this provision is that computer systems and information systems may be shared only to the extent necessary for the provision of corporate support services; however, the utility shall ensure that the proper cost allocation mechanisms, security access, and other safeguards are in place to ensure full compliance with these affiliate rules.

(e) Safeguards relating to provision of products and services.

(1) Products and services available on a non-discriminatory basis. If a utility makes a product or service available to an affiliate, it shall make the same product or service available to all non-affiliates on a nondiscriminatory basis. A utility shall process all requests for a product or service from affiliated and non-affiliated entities on a non-discriminatory basis. If a utility's tariff allows for discretion in its application, the utility shall apply that provision in the same manner to its affiliates and non-affiliates, as well as to their respective customers. If a utility's tariff allows no discretion in its application, the utility shall strictly apply that provision. Utilities are prohibited from using customer-specific contracts to circumvent these requirements.

(2) Discounts, rebates, or fee waivers. If a utility offers its affiliate a discount, rebate, or fee waiver for any product or service, it shall make the same available on a non-discriminatory basis to all non-affiliates. A pricing benefit made available by the utility through an open, competitive bidding process will be considered to satisfy this requirement. Specifically, no less than 24 hours prior to a utility's provision to its affiliate of a discount, rebate, or fee waiver, the utility shall post a conspicuously-placed notice on its Internet site or public electronic bulletin board for at least 30 consecutive calendar days providing the following information: the name of the affiliate involved in the transaction; the rate charged; the normal rate; the period for which the pricing benefit applies; the quantities and the delivery points involved in the transaction; any conditions or requirements applicable to the pricing benefit, along with documentation of any cost differential underlying the pricing benefit, and the procedures by which non-affiliates may obtain the same benefit.

(3) Tying arrangements prohibited. A utility shall not condition or tie the provision of any product, service, pricing benefit, or waiver of associated terms or conditions, to the purchase of any good or service from its affiliate. Nor may the utility give the appearance of engaging in such a tying arrangement.

(f) Information safeguards.

(1) Proprietary customer information. A utility shall not release proprietary customer information to an affiliate or any other person, other than the customer, without prior affirmative written



consent by the customer. The customer shall be advised in writing that, to the extent that the customer permits the release of such information, the information shall be made available to all affiliates and non-affiliates on a strictly nondiscriminatory basis.

(2) Nondiscriminatory availability of aggregate customer proprietary information. A utility shall make aggregate proprietary customer information, including but not limited to information about a utility's energy purchases, sales, or operations or about a utility's energy-related goods or services, available to its affiliate only if the utility makes such information available to all non-affiliates under the same terms and conditions and at the same price as it is made available to any of its affiliates. In addition, no later than 24 hours prior to a utility's provision to its affiliate of aggregate proprietary customer information, the utility shall post a conspicuously-placed notice on its Internet site or other public electronic bulletin board for at least 30 consecutive calendar days providing the following information: the name of the affiliate to which the information will be provided; the rate charged for the information; a meaningful description of the information provided; and the procedures by which non-affiliates may obtain the same information under the same terms and conditions.

(3) Information shared for corporate support services. A utility may exchange non-customer related proprietary information on an exclusive basis with its affiliates, provided the utility follows all commission-adopted pricing and reporting guidelines for such transactions and it is necessary to exchange this information in the provision of corporate support services pursuant to subsection (d)(5)(C) of this section. The affiliate's use of such non-customer-related proprietary information is limited to use in conjunction with corporate support services as defined in this rule and is not permitted for any other use.

(4) Other limitations on information disclosure. Nothing in this rule is intended to alter the specific limitations on disclosure of confidential information in the Texas Utilities Code, the Texas Government Code, Chapter 552, and the commission's substantive and procedural rules.

(g) Safeguards relating to joint marketing and advertising.

(1) Utility name or logo. A utility shall not allow the use of its name or logo by an affiliate in any written or auditory information, through radio or television, Internet-based, or other electronic format accessible to the public, unless the affiliate includes a disclaimer with its use of the utility name or logo. Such disclaimer shall be located at the first instance of the name or logo in the material distributed, must be written in a bold and conspicuous manner or clearly audible, as appropriate for the communication medium, and shall state the following: "{Affiliate name} is not the same company as {utility name}, and is not regulated by the Public Utility Commission of Texas. Customers of {utility name} do not have to buy products or services from {affiliate name} to continue to receive service from the regulated company, {utility name}. If you have questions about your rights as a consumer, please contact the Public Utility Commission of Texas by calling toll-free, 1-888-PUC-TIPS. Or, if you are in Austin, please call 936-7120." This disclaimer applies only to the affiliate's use of the utility's name or logo within the State of Texas.

(2) Joint business development, joint marketing prohibited.

(A) Unless otherwise provided by these rules, a utility shall not:

(i) provide or acquire leads on behalf of its affiliates;

(ii) solicit business, or acquire information on behalf of its affiliates; or

(iii) give the appearance of speaking or acting on behalf of any of its affiliates.

(B) A utility shall not engage in joint marketing or advertising of its products or services with those of an affiliate, and shall not act or appear to act on behalf of an affiliate in any communications and contacts with any existing or potential customers. Such joint marketing and communication includes, but is not limited to, the following activities:

(i) joint sales calls;

(ii) joint proposals, either as a request for proposal or a response to a request for proposal;

(iii) joint advertising, sales, communications, or correspondence, except that a utility may allow an affiliate access to customer bill advertising inserts so long as access to such inserts is made available on the same terms and conditions to non-affiliates offering similar services as the utility affiliate that uses bill inserts;

(iv) joint presentations at trade shows, conferences, or other marketing-type events within the State of Texas; and

(v) providing links from a utility's Internet web site to an affiliate's Internet web site.

(3) Consumer requests for specific affiliate information. If a consumer requests information from a utility about any of its affiliates, the utility shall refer the consumer to the affiliate for more information only if the consumer request specifically mentions the affiliate's name. If a consumer does not specifically mention the affiliate's name, the utility shall follow the procedures set forth in paragraph (4) of this subsection. Under this paragraph, the only information that a utility may provide to the consumer is the affiliate's address and telephone number. The utility shall not transfer the customer directly to the affiliate's customer service office via telephone or provide any other electronic link whereby the customer could contact the affiliate through the utility. When providing the consumer information about the affiliate, the utility shall not promote its affiliate or its affiliate's products or services.

(4) Consumer requests for general information about products or services offered by affiliates and their competitors. If a consumer requests general information from a utility about products or services provided by its affiliate or its affiliate's competitors, the utility shall provide to the consumer a current list of all affiliated and non-affiliated providers of these products or services, and shall not promote its affiliate or its affiliate's products or services. The utility shall be responsible for maintaining this service provider list. All service providers shall be arranged on the list in a random manner, using a uniform typeface. Any non-affiliated providers shall be responsible for ensuring that current information regarding their name and contact information is communicated to the utility maintaining the list. The utility shall post the current service provider list on its Internet site or other public electronic bulletin board on an ongoing basis and in a conspicuous manner, and shall file a current version of the list with the commission on a quarterly basis. In the event that the number of providers exceeds 100, the utility may direct the consumer to a telephone directory instead of providing a list of suppliers. Unless otherwise provided for in these rules, a utility shall not offer or provide customers advice or assistance with respect to its affiliates or other service providers.

(h) Remedies and enforcement.

(1) Enforcement by the commission. In addition to other methods that may be available, the commission may enforce the provisions of this rule by:

(A) Entering a cease and desist order or other comparable order directing the utility to discontinue or to correct violations;

(B) Pursuing administrative penalties under PURA, Chapter 15, Subchapter B.

(2) No immunity from antitrust enforcement. Nothing in these affiliate rules shall confer immunity from state or federal antitrust laws. Sanctions imposed by the commission for violations of this rule do not affect or preempt antitrust liability, but rather are in addition to any antitrust liability that may apply to the anticompetitive activity. Therefore, antitrust remedies also may be sought in federal or state court to cure anticompetitive activities by utilities and their affiliates.

(3) No immunity from civil relief. Nothing in these affiliate rules shall preclude any form of civil relief that may be available under federal or state law, including, but not limited to, filing a complaint with the commission.

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

Filed with the Office of the Secretary of State, on April 23, 1998.

TRD-9805691

Rhonda Dempsey

Rules Coordinator

Public Utility Commission of Texas

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For further information, please call: (512) 936-7308



## Subchapter I. Transmission and Distribution

### 16 TAC §25.223

The Public Utility Commission of Texas proposes new §25.223, relating to Unbundling of Energy Service. This section is proposed under Project Number 19205. The new section is intended to aid in the regulation of retail electric service provided by jurisdictional electric utilities and to facilitate the provision of competitive energy services.

In Project Number 14400, the commission's rulemaking to address integrated resource planning (completed in 1996), the commission indicated that it would address at a later date the issues of distribution unbundling and utilities' relationships with their affiliates. This proceeding addresses the unbundling of energy service. This proceeding includes an amendment to §23.24, relating to Form and Filing of Tariffs, which is separately published but which requires coordination of comments as explained more fully below. The unbundling of costs (cost separation and the form of electric bills) is being addressed in Project Number 16536 and affiliate activities are being addressed in Project Number 17549.

The commission determined in its consideration of integrated resource planning that unbundling distribution functions would facilitate further competition in the existing retail energy-service markets, and concluded that there is no longer a reason to maintain strict regulatory control over those markets. The provision of energy efficiency, for example, can probably be

opened to greater competition. As used in this proposed rule, energy service includes energy efficiency, installation and operation of energy-conserving equipment, technical and engineering services, and the management of energy-related risks. These are services that are available on a competitive basis in many areas.

By requiring resource solicitations (competitive bidding) and reducing barriers to entry in the energy-service market (contracts for demand-side resources), the commission has introduced competitive forces to electric utility resource acquisition in the wholesale electricity market. The new regulations adopted in 1996 established a distribution functional unbundling requirement for generating utilities, and the commission requested that the commission staff initiate a separate proceeding to define the details of distribution functional unbundling and establish a timetable for its implementation. (21 TexReg 6794, July 19, 1996.)

Unbundling of energy service advances the process of deregulating energy-service markets. The proposed new section requires the unbundling of energy service, and permits new service providers to offer energy services directly to customers. The commission recognizes that energy-service markets can flourish if regulations clearly separate competitive or potentially-competitive energy services from the sale of electricity that remains monopolistic. It is important to note that this rule does not afford consumers an opportunity to choose a provider of electricity. Further, although the definition of what is a monopoly electric service may change in the future, the current proposal is not dependent on future decisions regarding the structure of the electric industry.

The commission's proposed regulations arise from the statutory requirement that the commission address anticompetitive conduct by electric utilities. One potential concern that the commission has identified is the use of revenues from one sector of electric operations to subsidize activities in competitive markets. The separation of energy services from other distribution activities may be necessary to eliminate cross-subsidies. Another concern that the commission has identified is that electric utilities may use customer information acquired in providing electric service to prepare proposals in competitive energy-service markets. Access to information acquired in regulated markets provides electric utilities with special knowledge regarding customer energy usage patterns, appliances, buildings, and payment histories. These data are not generally available to competitors in the energy service industry, or are only available at significant expense. The unbundling of energy service from other distribution activities may be necessary to eliminate the preferential flow of information from one sector to another. Where aggregated information may be useful to all participants in the energy-service market, such information can be made available on a comparable or equal basis to all market participants.

The commission previously published for comment proposed new §25.221, relating to Electric Cost Separation under Project Number 16536. (23 TexReg 2652, March 13, 1998.) The Electric Cost Separation rule proposal refers to electric service as consisting of six types of service: generation service, transmission service, distribution service, metering and billing service, customer service, and energy service. The unbundling of energy service proposed here would require utilities to separate retail electric sales (monopoly) from energy service (competitive). Retail electric sales includes distribution service,

metering and billing service, and customer service, as those terms are defined here. Energy service, in contrast, includes activities that are not essential to the retail sale of electricity, including such activities as appliance repair and warranty, on-site generation, risk management, natural gas and propane services, and the efficiency-related activities cited above, to name but a few.

The current proposal includes a set of definitions, and several of these definitions are identical to those previously published for comment in the Electric Cost Separation rule proposal under Project Number 16536. Interested persons should note that the definitions of customer service and distribution service have been modified in this proposal. In considering the definitions in the new §25.223, relating to Unbundling of Energy Service, the commission will consider any comments filed under Project Number 16536 that relate to a term that is defined in both proposals. Therefore, it is not necessary that you repeat comments here. You may, however, provide additional comments if you believe comments are necessary in the context of this proposal.

Several of the definitions in the current proposal are identical to those published for comment in §25.271 of this title, (relating to Code of Conduct for Electric Utilities and Their Affiliates), under Project Number 17549. Comments are specifically requested on certain terms; however, it is not otherwise necessary that you repeat comments if you filed comments on the definitions in Project Number 17549. You may, however, provide additional comments if you believe comments are necessary in the context of this proposal.

The commission requests that interested parties particularly address the following questions in their comments. These questions are grouped into eight categories: the application of the proposed regulations; the provision of energy service in areas where competition may not arise; the unbundling of energy services; the unbundling of electric rates and services to increase the viability of the energy-service market; competition in metering and billing service; competition in distribution services; publicly-accessible information and protection of competitively-sensitive information; and the cost of complying with, and the benefits to be gained by, the proposed regulations. This grouping provides a framework for discourse on these topics, and interested parties should organize their comments using the topics listed above. The commission also seeks any other comments on the proposed rules.

First, the commission is interested in receiving comments on the application of the proposed regulations. Is an exemption for small utilities appropriate? If so, what exemptions would allow the commission to meet its goals? Would an exemption for a small utility deny choices or information to the customers of that utility?

Second, energy service, as defined here, includes a number of activities that are related to the provision of electric service, including demand-side management activities. Some energy services could be offered in a competitive market by companies that are not utilities. Some services may not be readily available on a competitive basis throughout the State. The proposed regulations are intended to foster the provision of retail energy service through competition, where that is possible, but permit utilities to continue to provide energy services that are not readily available in a competitive market. Will the proposed regulations ensure continuity in the provision of

energy services? If not, how might the commission identify energy services that cannot be provided on a competitive basis? What delivery mechanism is appropriate for energy services that cannot be competitively provided? How should the commission address service variations within a utility service area, in particular, instances where a service is competitively available in an urban setting but not competitively available in a rural setting?

Third, it has been suggested that it may not be necessary to prohibit electric utilities from providing energy service; rather, that it may be sufficient to require a functional separation of energy service from other distribution activities. Should the commission allow regulated utilities to provide a full range of energy services? There is a clear trade-off between the degree of functional separation and the amount of regulatory oversight that is required by the commission. To the extent that interested parties state that energy services ought to be provided by regulated utilities to avoid losing economies of scale and scope, such parties should provide an analysis showing how alleged losses of economies of scale and scope compare to the increased costs to both the commission and the utility for the greater regulatory oversight.

Fourth, it may be necessary to take additional actions to develop the energy-service market because some services depend upon the provision of new or unbundled electric rate and service options. For example, the commission is considering a requirement that would unbundle "greenness" from other generating resource attributes, and allow customers to choose this new service. Increased customer choice for "green pricing" may increase business opportunities for persons offering renewable energy technologies. The unbundling of other electric rates and services may enhance business opportunities for persons who provide products and services directly to customers. For example, businesses providing load-control devices and energy-efficient appliances may benefit from access to time-of-use rates; small-scale, on-site generation providers may benefit from standby tariffs; and customers might assume more responsibility for energy management if tariffs rewarded efficient behavior at the margin. In other words, some energy-service options are uneconomic unless the customer is offered a menu of electric service options. Regulatory policy regarding electric rates and services affects customer choices, and therefore may affect the viability of new products and services in the energy-service market. What attributes of electric service ought to be unbundled immediately to facilitate the development of a competitive energy service market?

Fifth, the commission is investigating the competitive provision of electric metering and billing service. Metering may not be a natural monopoly, and competitive metering service and billing service may enhance customer choice in the energy-service market. The risks and rewards associated with innovations in metering and billing may be most compatible with a competitive model. Should the commission allow competition in metering and billing service and require utilities to provide metering and billing choices to customers? If metering service remains a monopoly service for now, can a case be made for competitive billing service today? What are the advantages and disadvantages of competition in billing service, and what would be the impact on a competitive energy service market?

Sixth, the commission is investigating the potential for competitive provision of certain distribution services, including service drops, line extensions, and underground service. Should limited

forms of competition be introduced to lower the cost of distribution service and increase the options available to customers? Are there other actions which the commission should take to ensure that economic alternatives to distribution service are not foreclosed through monopoly- investment decision making?

Seventh, the commission has identified information that may be immediately useful to competitors in energy-service markets. The commission also believes there exists information, such as corporate records, that is necessary for the provision of electric service by an electric utility that need not be disclosed to the public or to any potential competitor. Under the rule proposal, information directly related to energy service, compiled by a utility during the normal course of providing electric service, and not explicitly included in the definition of competitively-sensitive information, proprietary customer information, trade secrets, or corporate-support-service information would be accessible to the public. If the commission's primary goal in this regard is to protect customer privacy, are the proposed information definitions appropriate? What types of information should be labeled as competitively-sensitive information and protected from disclosure? What types of information should be labeled as accessible utility information? What specific changes (additions or deletions) to these definitions are appropriate to balance the interests of the public and that of utilities? Is the process for acquiring accessible utility information reasonable; that is, does the process provide an appropriate balance between the costs and benefits for utilities and competitors?

Finally, the commission requests that electric utilities that could be affected by the proposed regulations provide an estimate of the cost of compliance with the proposed regulations with the utility's initial comments. A utility's cost estimates should indicate its cost of revising its tariffs and its cost of unbundling energy service. Interested persons may reply to each utility's cost estimates. In addition, the commission invites specific comments regarding the costs associated with, and benefits that will be gained by, implementation of the new regulations. The commission will consider the costs and benefits in deciding whether to adopt the new regulations.

Nat Treadway, policy analyst, Office of Policy Development, has determined that for the first five years that the proposed section is in effect there will be no fiscal implications for state and local government as a result of enforcing or administering the sections.

Mr. Treadway also has determined that for the first five years that the proposed section is in effect the public benefit anticipated as a result of enforcing the section includes increased competition in the provision of energy service, enhanced customer awareness of the availability, price, and terms and conditions of electric service, and improved regulatory oversight of retail electric service.

The proposed new section relating to unbundling energy service is likely to increase the costs to utilities of complying with the commission's rules, but the benefits described above are expected to outweigh the costs. The costs of complying with the proposed regulations are difficult to estimate and are likely to vary from utility to utility. Utilities that have already created affiliated energy service companies may incur no significant costs with respect to compliance with aspects of the new regulations. Utilities that provide many energy services on an integrated basis with distribution services may incur significant costs. A rough estimate of the annual cost for utilities that

must substantially reorganize operations is from \$50,000 to \$2.5 million, depending on the size of the utility. To put these figures in context, the cost of service for the largest electric utility in the state is about \$5.6 billion, while the revenue of a small utility is measured in millions of dollars.

For each year of the first five years the proposed sections are in effect, there will be no effect on small businesses as a result of enforcing the proposed section. The new section relating to unbundling energy service may increase the opportunities for small businesses to provide services directly to customers, but the magnitude of this benefit is uncertain.

It is anticipated that the economic impact of the rules on the persons that are required to comply with them will be favorable, but it is impossible to estimate the magnitude of this benefit. These rules should improve utility services by permitting a more focused application of the state's resources to the regulation of electric utilities, by deregulating certain energy services formerly provided by electric utilities, and by bringing better pricing information and a wider array of services to customers.

Mr. Treadway has further determined that for the first five years the proposed new section is in effect there will be a favorable effect on the opportunities for employment in the geographic areas of Texas affected by implementing the requirements of the rules, but it is impossible to estimate the magnitude of the benefit.

Comments on the proposed rule (16 copies) may be submitted to Filing Clerk, Public Utility Commission of Texas, 1701 N. Congress Avenue, P.O. Box 13326, Austin, Texas, 78711-3326, within 31 days after publication. Reply comments may be submitted within 45 days after publication. All comments should refer to Project Number 19205: Unbundling of Energy Service. These submissions should include any comments on the proposed amendments to §23.24, relating to Form and Filing of Tariffs.

The commission staff will conduct a public hearing on this rule-making under Government Code §2001.029 at the commission's offices on Wednesday, July 1, 1998, at 9:00 a.m. in the commissioners' hearing room, seventh floor of the William B. Travis Building, 1701 N. Congress Avenue, Austin, Texas, 78701. Interested persons may make oral comments concerning the proposed regulations at that time.

This section is proposed under the Public Utility Regulatory Act, Texas Utilities Code Annotated §§14.002, 31.001(c), 32.101, 34.003, 35.003(b), 36.001, 36.003, 38.001, 38.002, 38.003, 38.021, 38.022, 38.051, and 38.052 (Vernon 1998) (PURA). Section 14.002 provides the Public Utility Commission of Texas with the authority to make and enforce rules reasonably required in the exercise of its powers and jurisdiction. Section 31.001(c) requires that the commission formulate and apply rules, policies, and principles to protect the public interest in a more competitive electric marketplace. Section 32.101 requires an electric utility to file tariffs with each regulatory authority showing each rate that is in effect for a utility service, product, or commodity. Section 34.003 requires that the commission adopt an integrated resource planning process. Section 35.003(b) prohibits electric utilities from granting undue preference to a person in connection with the purchase or sale of electric energy or other utility service. Section 36.001 authorizes the regulator to establish the rates of an electric utility, and to adopt rules for determining the classification of customers and the applicability

of rates. Section 36.003 directs the regulatory authority to ensure that each rate is just and reasonable.

Section 38.001 requires an electric utility to furnish service, instrumentalities, and facilities that are safe, adequate, efficient, and reasonable. Sections 38.002 and 38.003 provide the commission with authority to adopt reasonable standards and classifications with respect to electric services. Section 38.021 addresses unreasonable preference or prejudice, and prohibits the utility from granting unreasonable preference or advantage to a person in a classification. Section 38.022 prohibits the utility from discriminating against a person who sells or leases equipment or performs services in competition with the electric utility, and prohibits the utility from engaging in a practice that tends to restrict or impair competition. Sections 38.051 and 38.052 authorize the regulator to inspect meters, and permit customers to request the testing of meters.

Cross Index to Statutes: Public Utility Regulatory Act §§14.002, 31.001(c), 32.101, 34.003, 35.003(b), 36.001, 36.003, 38.001, 38.002, 38.003, 38.021, 38.022, 38.051, and 38.052.

§25.223. Unbundling of Energy Service.

(a) Purpose. The purpose of this section is to increase customer choice in energy service. Electric utilities are prohibited from providing energy service unless the commission finds that the energy service is not a competitively-available service. The section also sets forth the terms and conditions for public access to non-proprietary utility information.

(b) Application. This section applies to all electric utilities that provide retail electric service in Texas.

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

(1) Accessible utility information - Information directly related to energy service compiled by an affected utility during the normal course of providing electric service. This includes, but is not limited to, information used to prepare electric tariffs, to provide electric service to customers, or to market, sell, or demonstrate any electric or energy-related service or product. Accessible utility information does not include:

- (A) information relating to corporate support services;
- (B) proprietary customer information;
- (C) trade secrets; or
- (D) competitively-sensitive information.

(2) Affected utilities - refers to all utilities to which this section applies.

(3) Competitively-available service - A service that may be obtained from two or more providers on reasonable terms and conditions such that no one provider may increase price without a reduction in sales or total revenues.

(4) Competitively-sensitive information - Any information compiled or retained by an affected utility that is not disclosed to the public or to affiliates because disclosure might expose the utility to an unreasonable risk of harm, including fuel price forecasts and wholesale power market transactions. Competitively-sensitive information does not include trade secrets.

(5) Corporate support service - Those services, generally administrative in nature, that relate to the operation of companies in any corporate family, regardless of whether a company in the corpo-

rate family is involved in the provision of energy, energy-related products or services, telecommunications, or telecommunications-related products or services. Examples of services meeting this definition include, but are not limited to, payroll, taxes, shareholder services, insurance, financial reporting, financial planning and analysis, corporate accounting, corporate security, human resources (compensation, benefits, employment policies), employee records, pension management, and telecommunications and information systems only to the extent they are not used in the provision of electricity, energy-related products or services or the provision of retail or wholesale telecommunications products or services. Examples of services not meeting this definition include, but are not limited to, regulatory affairs, lobbying, legal services, employee recruiting, engineering, purchasing of electric transmission, system operations, marketing, and telecommunications and information systems used in the provision of electricity or energy-related products or services or the provision of retail or wholesale telecommunications products or services.

(6) Customer service - A service that is related to the provision of electric service by a retail electric utility in Texas. Customer service does not include generation service, transmission service, distribution service, metering and billing service, or energy service. Customer service consists of the following services:

- (A) preparation and maintenance of tariffs;
  - (B) explanation of the tariff options to customers and determination of the appropriate rate schedule for a retail customer;
  - (C) administration of commission-authorized low-income programs and activities;
  - (D) electrical pulse service and the communication of information relating to customer usage;
  - (E) administration of commission-authorized energy efficiency and load management programs and activities;
  - (F) general customer education, school programs, and community education activities;
  - (G) safety advertising or other advertising required by the commission;
  - (H) economic development and community affairs;
- and,
- (I) materials, accounting, and administrative support required to carry out the functions in subparagraphs (A) - (H) of this paragraph.

(7) Distribution service - A service that ensures delivery of electric power from the transmission system to retail customers. Distribution service consists of the following services:

- (A) the safe delivery of electric power to retail customers, generally, but not exclusively, below 60 kilovolts;
- (B) the regulation and control of electricity in the distribution system;
- (C) planning, design, construction, operation, maintenance, repair, retirement, or replacement of distribution facilities, equipment, and protective devices;
- (D) customer communications relating to distribution facilities;
- (E) distribution system voltage and power continuity;
- (F) initiation of service, including installation and activation of facilities;

(G) monitoring of power delivery at the distribution feeder level;

(H) line extensions;

(I) underground service;

(J) access to and use of rights of way and distribution facilities by telephone, cable, security, wireless, and other non-electric services;

(K) response to electric delivery problems, including outages, interruptions, and voltage variations, and restoration of service in a timely manner; and

(L) materials, accounting, and administrative support required to carry out the functions in subparagraphs (A) - (K) of this paragraph.

(8) Electric service - The service provided by retail electric utilities that consists of one or more of the following: generation service, transmission service, distribution service, metering and billing service, customer service, and commission-approved energy service.

(9) Energy service - A service that is related to the provision of electric service by a Texas retail electric utility. Energy service does not include generation service, transmission service, distribution service, metering and billing service, or customer service. Energy service includes, but is not limited to:

(A) installation, sale, financing, repair, operation, or warranty of energy-consuming, customer-premise equipment;

(B) energy efficiency and load management programs and activities;

(C) technical assistance relating to any customer-premises process or device that consumes electricity;

(D) activities relating to customer-premises power quality and reliability services;

(E) trade group, builder, and developer activities;

(F) comprehensive or walk-through energy audits;

(G) customer-premises power-generation equipment and related services;

(H) building or facility design and related engineering services, or analysis and design of energy-related industrial processes;

(I) hedging and risk management services;

(J) propane, liquid propane gas, and other energy-based services;

(K) retail marketing, selling, demonstration, and merchant activities; and,

(L) materials, accounting and administrative support required to carry out the functions in subparagraphs (A) - (K) of this paragraph.

(10) Generation service - The production and purchase of electricity for retail customers and the production, purchase, and sale of electricity in the wholesale power market.

(11) Metering and billing service - A service that ensures that electricity delivered to retail customers is accurately measured and billed to customers. Metering and billing service consists of the following services:

(A) measurement or estimation of the electricity consumed or demanded by a retail electric customer during a specified period;

(B) meter calibration and testing;

(C) meter reading, including remote meter reading;

(D) individual customer outage detection and usage monitoring;

(E) theft detection and prevention;

(F) presentation of charges to customers for the actual services provided and the rendering of bills;

(G) extension of credit and collection of payments from customers;

(H) disbursement of funds collected;

(I) uncollectible accounts;

(J) customer account data management;

(K) response to customer inquiries and complaints in an appropriate and timely manner concerning generation service, transmission service, distribution service, or metering and billing service; and

(L) materials, accounting, and administrative support required to carry out the functions in subparagraphs (A) - (K) of this paragraph.

(12) Proprietary customer information - Any information compiled by an electric utility on a customer in the normal course of providing electric service which makes possible the identification of any individual customer by matching such information with the customer's name, address, account number, type or classification of service, historical electricity usage, expected patterns of use, types of facilities used in providing service, individual contract terms and conditions, price, current charges, billing records, or any other information that the customer has expressly requested not be disclosed. Information relating to customers that is aggregated, redacted, or organized in such a way as to make it impossible to identify the customer to whom the information relates does not constitute proprietary customer information.

(13) Transmission service - As defined in §23.67(b) and §23.70(b) of this title (relating to Open-access Comparable Transmission Service and Terms and Conditions of Open-access Comparable Transmission Service). For the purpose of this section, ancillary service, as defined in §23.67(b) of this title, is a component of transmission service.

(d) Energy service unbundling. Affected utilities shall not provide energy service without prior commission approval after the effective date of this section.

(e) Approval of energy service.

(1) Criteria. The commission shall consider the factors set forth in this paragraph in reviewing energy service tariffs offered by affected utilities.

(A) factors which favor commission approval:

(i) the energy service addresses a well-defined market or information failure or the needs of a class or group of customers that is difficult to reach through standard marketing techniques;

(ii) the energy service cannot reasonably be provided through a contract for demand-side resources or similar arrangement with energy- service providers;

(iii) the majority of the members of a nonprofit cooperative corporation have expressed a preference for the provision of the energy service by the cooperative; and

(iv) the cooperative addresses the preferences of members who want to choose other service providers;

(B) factors which favor prohibition:

(i) the energy service is a competitively-available service (taking into account geographic, demographic, and other relevant considerations); and

(ii) an affiliate of the affected utility offers any closely-related energy service in the same geographic area.

(2) Tariff required. To the extent that the commission authorizes an affected utility to provide energy service, the affected utility shall file tariffs describing each service. The tariff shall describe in detail the manner in which the energy service is provided to the customer and shall include a description of each potential interaction between utility employees and the customer. The affected utility may not provide any service not specifically set forth in the tariff.

(3) Demand-side management. The tariff shall describe the utility's role in administering demand-side management programs. The tariff shall describe the process for providing or acquiring demand-side resources from energy service providers. Affected utilities may acquire demand-side resources outside the resource solicitation process consistent with this paragraph and the utility's approved integrated resource plan.

(4) Cost of energy service. Subject to the Public Utility Regulatory Act (PURA), Chapter 34, Subchapter F, and PURA, Chapter 36, the commission may require an affected utility's customers through rates or other charges to contribute reasonable amounts to the funding of energy services that the utility is authorized to provide under this subsection.

(f) Provision of energy services by affiliates not prohibited. This section does not preclude the provision of energy service by the unregulated affiliates of affected utilities. The transfer of assets, products and services, or employees from the affected utility to an affiliate shall be governed by the structural and transactional safeguards set forth in section §25.271 of this title (relating to Code of Conduct for Electric Utilities and Their Affiliates).

(g) Accessible utility information. All affected utilities shall make accessible utility information available on the following terms:

(1) Public access. Affected utilities shall file tariffs that allow non-discriminatory public access to accessible utility information. The tariffs shall describe the information, available formats, procedures for obtaining access, and the charges, if any, for accessing this information. Free, electronic access to such information is encouraged. The tariffs shall comply with the confidentiality and disclosure protections of this section. Individual customer information shall be eliminated from the data as necessary to comply with this section, and customer information shall be aggregated only to the extent necessary to protect proprietary customer information, except where a customer has waived in writing the protection of proprietary customer information.

(2) Access plan. Affected utilities shall submit to the commission a plan relating to the creation and maintenance of

accessible utility information. The plan shall indicate the utility operating unit responsible for the information, the access required by other operating units, the type of information to be maintained, and the type of information to be created and maintained in the future. The utility shall indicate whether any accessible utility information has been destroyed during the past three years.

(3) Historic information. Information relating to the period prior to the effective date of this section shall include a description of the information and the year to which it relates. Such information shall be made available according to the following schedule:

(A) Load research data, hourly load profile data, appliance and equipment saturation surveys, and market surveys shall be made available within 60 days of the effective date of this section. This subparagraph applies to the most recent data of each type.

(B) All other accessible utility information shall be made available upon request.

(4) New information. Accessible utility information collected subsequent to the effective date of this section shall be described in separate tariffs. Internet accessibility is encouraged to provide equal access to the other operating units of the affected utility, to interested persons, and to affiliates of the utility.

(5) Protection of information. This section does not require a utility to divulge competitively-sensitive information, proprietary customer information, corporate support service information, or trade secrets.

(h) Affiliate conduct. Nothing in this section shall be construed as to limit the application of the commission's affiliate rules, as set forth in Chapter 25, Subchapter K of this title (relating to Relationships with Affiliates).

(i) Compliance. Affected utilities shall make a compliance filing which sets forth the plan for accessible utility information, a proposal for energy service tariffs to be approved by the commission, revised tariffs filed pursuant to the revisions to §23.24 of this title (relating to Form and Filing of Tariffs), and a date for the termination of energy services not approved by the commission. The commission shall review and approve, or modify and approve each application within 180 days. Affected utilities shall make a compliance filing for this section according to the following schedule:

(1) Affected utilities with more than one million meters on the effective date of this rule and any electric utility affiliated with such utilities shall file within 60 days of the effective date of this section.

(2) Affected utilities with more than 100,000 meters but fewer than one million meters on the effective date of this rule and any electric utility affiliated with such utilities shall file within 150 days of the effective date of this section.

(3) All other affected utilities shall file within one year of the effective date of this section.

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

Filed with the Office of the Secretary of State, on April 24, 1998.

TRD-9805771

Rhonda Dempsey

Rules Coordinator

Public Utility Commission of Texas

Earliest possible date of adoption: June 7, 1998  
For further information, please call: (512) 936-7308

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

(t) (No change.)

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

Filed with the Office of the Secretary of State on April 27, 1998.

TRD-9805874

James O. Fines, III  
Chairman

Texas State Board of Examiners of Perfusionists

Earliest possible date of adoption: June 7, 1998

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

## TITLE 22. EXAMINING BOARDS

### Part XXXIII. Texas State Board of Examiners of Perfusionists

#### Chapter 761. Perfusionists

##### 22 TAC §761.2

The Texas State Board of Examiners of Perfusionists (board) proposes an amendment to §761.2, concerning fees for licensure as a perfusionist. The amendment increases the annual fee for licensure renewal from \$75 to \$175.

The increase in the licensure renewal fee is required to comply with the Licensed Perfusionist Act, §9, Texas Civil Statutes, Article 4529e, (Act), which requires the fees charged, in the aggregate, to produce sufficient revenue to cover the cost of administering the Act.

Bobby D. Schmidt, Executive Secretary for the board, has determined that for the first five-year period the section will be in effect, there will be no fiscal implications for state government as a result of enforcing or administering the section as proposed. The costs and process of administering will be offset by revenues generated from licensing fees. There will be no fiscal implication for local government.

Mr. Schmidt also has determined that for each year of the first five years the section is in effect, the public benefit as a result of enforcing or administering the section will be to require that the fees charged, in the aggregate, produce sufficient revenue to cover the cost of administering this Act. There will be no additional costs to persons who may be required to comply with the section as proposed and no effect on small businesses, except for the increase of \$100 in fees for license renewal. There is no anticipated impact on local employment.

Comments on the proposal may be submitted to Bobby D. Schmidt, Executive Secretary, Texas State Board of Examiners of Perfusionists, 1100 West 49th Street, Austin, Texas 78756-3183, Telephone (512) 834-6751. Comments will be accepted for 30 days following the date of publication of this proposal in the *Texas Register*.

The amendment is proposed under Texas Civil Statutes, Article 4529e, §7 which provides the Texas State Board of Examiners of Perfusionists with the authority to adopt rules concerning the regulation of perfusionists.

The proposed amendment affects Texas Civil Statutes, Article 4529e.

##### §761.2. *The Board's Operation.*

(a)-(r) (No change.)

(s) Fees.

(1) (No change.)

(2) Schedule of fees for licensure as a perfusionist and a provisional licensed perfusionist is as follows:

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

(C) renewal fee - \$175 [\$75]

### Part XXXVI. Council on Sex Offender Treatment

#### Chapter 810. Council on Sex Offender Treatment

The Council on Sex Offender Treatment (council) proposes new §§810.1-810.9, 810.31-810.34, 810.61-810.65, and 810.91-810.92, concerning the sex offender treatment provider registry; criminal background check security; standards of practice; and code of professional ethics. Specifically, the sections cover introduction; definitions; registry criteria; registry renewal; fees; application availability; documentation of experience and training; revocation, denial or non-renewal of registration; complaints, disciplinary actions, administrative hearing and judicial review; access to criminal history records; records; destruction of criminal history records; frequency of criminal background checks; introduction to standards of practice; council assertions; assessment and evaluation concerns; issues to be addressed in treatment; code of professional ethics; and code of ethics.

House Bill (HB) 2699, 75th Legislature, 1997, transferred the administration and enforcement required by the council (Texas Civil Statutes, Article 4413(51), to the Texas Department of Health (department) effective September 1, 1997. Section 17 of this bill transfers all funds, property, records, and employees to the department as of September 1, 1997. The rules proposed for repeal in 40 Texas Administrative Code (TAC) Chapters 510 - 513 are hereby proposed in 22 TAC Chapter 810. The rules are proposed in 22 TAC Chapter 810 in order to be regrouped with other boards administratively attached to the department and are renumbered under one chapter instead of four chapters. A copy of the conversion chart showing the repealed rules and new rules is located in the "In Addition" section of this issue.

Ms. Donna Flippin, Acting Executive Director, has determined that for the first five-year period the sections are in effect, there will be fiscal implications as a result of enforcing or administering these sections as proposed. The effect on state government will be an anticipated increase in revenue to the state of approximately \$15,000 per year as a result of the proposed fee increases. The increases will help offset the current cost to state government to administer and enforce the program. There will be no fiscal implications on local government.

Ms. Flippin has also determined that for each year of the first five years the sections are in effect, the public benefits anticipated as a result of enforcing the sections, are compliance



with HB 2699, 75th Legislature, 1997, and a continuation of the registration of sex offender treatment providers. There are no anticipated economic costs to persons who are required to comply with the sections as proposed. There will be an additional \$100 cost for new registrants and an additional \$50 cost per year for renewal registrants. There is no anticipated impact on local employment.

Comments on the proposed new sections may be submitted to Ms. Donna Flippin, Professional Licensing & Certification Division, Texas Department of Health, 1100 West 49th Street, Austin, Texas 78756-3183, (512) 834-4530. Comments will be accepted for 30 days following the date of publication of the new sections in the *Texas Register*. A public hearing has been scheduled for 5:30 p.m., Tuesday, May 26, 1998, in Conference Room S-402, Texas Department of Health, located at the Exchange Building, 8407 Wall Street, Austin, Texas 78754.

## Subchapter A. Sex Offender Treatment Provider Registry

### 22 TAC §§810.1-810.9

The new sections are proposed under the Act, Texas Civil Statutes, Article 4413(51). Section 2(b) provides the council with the authority to adopt rules consistent with the Act and §8 provides the council with the authority to adopt rules concerning the registration requirements and procedures for sex offender treatment providers on the registry.

The proposed new sections affect Texas Civil Statutes, Article 4413(51).

#### §810.1. Introduction.

(a) Purpose. The provisions of this chapter govern the procedures relating to the registration of individuals as sex offender treatment providers in the State of Texas.

(b) Construction. These sections cover definitions, criteria for application, fees, continuing education, complaints and other general procedures, and policies of the Council on Sex Offender Treatment.

#### §810.2. Definitions.

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

- (1) Act - Texas Civil Statutes, Article 4413(51).
- (2) Board - The Texas Board of Health.
- (3) Council - The Council on Sex Offender Treatment.
- (4) Department - The Texas Department of Health.
- (5) Registrant - A person who is listed in the registry.
- (6) Registry - A database maintained by the council that contains the names of persons who have met the council's criteria in the treatment of sex offenders and who provide mental health or medical services for the rehabilitation of sex offenders.
- (7) Rehabilitation Service - A mental health treatment or medical intervention program designed to treat or remedy a sex offender's mental or medical problem that may relate or contribute to the sex offender's criminal or paraphiliac problem.
- (8) Sex Offender - A person who:

(A) is convicted of committing or adjudicated to have committed a sex crime under the laws of a state or under federal law, including a conviction of a sex crime under the uniform code of military justice;

(B) is awarded deferred adjudication for a sex crime under the laws of a state or under federal law;

(C) admits to having violated the law of a state or federal law with regard to sexual conduct; or

(D) experiences or evidences a paraphilia disorder as defined by the current version of the Diagnostic and Statistical Manual (DSM), as published by the American Psychiatric Association Press, including any subsequent revision of the manual.

#### §810.3 Registry Criteria.

The council maintains a database of registrants whose experience in the rehabilitation of sex offenders may vary. The council shall recognize the experience and training of treatment providers in either one of two categories. These may be "Registered Sex Offender Provider" or "Affiliate Sex Offender Treatment Provider."

(1) Registered Sex Offender Treatment Provider (RSOTP). The council may waive any prerequisite to registration for an applicant after receiving the applicant's credentials and determining that the applicant holds a valid registration from another state that has registration requirements substantially equivalent to those of this state. To be eligible as a RSOTP, the applicant must meet all of the following criteria:

(A) be licensed or certified to practice as a physician, psychiatrist, psychologist, licensed professional counselor, licensed marriage and family therapist, licensed master social worker-advanced clinical practitioner, or advanced nurse practitioner recognized as a psychiatric clinical nurse specialist or psychiatric mental health nurse practitioner, and who provides mental health or medical services for the rehabilitation of sex offenders;

(B) satisfy the experience and training required below:

(i) possess a minimum of 1000 hours of clinical experience in the areas of assessment and treatment of sex offenders, obtained within a consecutive seven-year period, and provide two reference letters from professionals who know of the applicant's clinical work in sex offender treatment; or

(ii) possess a minimum of 40 hours of documented continuing education training, as defined in §810.7 of this title (relating to Documentation of Experience and Training), obtained within three years prior to application date, in the specific area of sex offender treatment and evaluation. Of the initial 40 hours training required, 30 hours or 75% must be in sex offender rehabilitation training. Ten hours or 25% must be in victim training;

(C) submit a complete and accurate description of their treatment program on a form provided by the council;

(D) comply with the following. Persons making initial application or renewing their eligibility for the registry:

(i) must not have been convicted of a felony, or of any misdemeanor involving a sex offense, nor have received deferred adjudication for a sex offense, unless sufficient evidence of rehabilitation has been established as determined by the council;

(ii) must not have had licensure revoked, canceled, suspended, or placed on probationary status by any professional licensing body, unless sufficient evidence of rehabilitation has been established as determined by the council;

(iii) must not have been determined by any professional licensing body to have engaged in unprofessional or unethical conduct, unless sufficient evidence of rehabilitation has been established as determined by the council;

(iv) must not have been determined by the council to have engaged in deceit or fraud in connection with the delivery of services or documentation of registry requirements or registry eligibility;

(v) must submit themselves to a criminal history background check. An applicant may be required to submit a complete set of fingerprints with the application documents, or other information necessary to conduct a criminal history background check to be submitted to the Texas Department of Public Safety or to another law enforcement agency. If fingerprints are requested, the fingerprints must be taken by a peace officer or a person authorized by the council and must be placed on a form prescribed by the Texas Department of Public Safety; and

(vi) must not have violated any rule adopted by the council;

(E) submit an application fee defined in §810.5 of this title (relating to Fees);

(F) submit a copy of his or her professional license, as set out in subparagraph

(A) of this paragraph, indicating the applicant is current and in good standing;

(G) sign the application form(s) and attest to the accuracy of the application before a notary public; and

(H) complete the process within 90 days of the application's receipt in the council office.

(2) Affiliate Sex Offender Treatment Provider (ASOTP). To be eligible as an ASOTP, the applicant must meet all of the following criteria:

(A) be licensed or certified to practice as a physician, psychologist, psychological associate, licensed professional counselor, licensed marriage and family therapist, licensed master social worker, or advanced nurse practitioner recognized as a psychiatric clinical nurse specialist or psychiatric mental health nurse practitioner, who provides mental health or medical services for the rehabilitation of sex offenders;

(B) satisfy the experience and training required below:

(i) possess a minimum of 250 hours of clinical experience in the areas of assessment and treatment of sex offenders, provide two reference letters from professionals who know of the applicant's clinical work in sex offender treatment;

(ii) be supervised by an RSOTP at least monthly until RSOTP status is reached; and

(iii) possess a minimum of 40 hours of documented continuing education training, as defined in §810.7 of this title, obtained within three years prior to application date, in the specific area of sex offender treatment and evaluation. Of the initial 40 hours training required, 30 hours or 75% must be in sex offender rehabilitation training. Ten hours or 25% must be in victim training;

(C) submit a complete and accurate description of their treatment program on a form provided by the council;

(D) comply with the following. Persons making initial application or renewing their eligibility for the registry:

(i) must not have been convicted of a felony, or of any misdemeanor involving a sex offense, nor have received deferred adjudication for a sex offense, unless sufficient evidence of rehabilitation has been established as determined by the council;

(ii) must not have had licensure revoked, canceled, suspended, or placed on probationary status by any professional licensing body, unless sufficient evidence of rehabilitation has been established as determined by the council;

(iii) must not have been determined by any professional licensing body to have engaged in unprofessional or unethical conduct, unless sufficient evidence of rehabilitation has been established as determined by the council;

(iv) must not have been determined by the council to have engaged in deceit or fraud in connection with the delivery of services or documentation of registry requirements of registry eligibility;

(v) must submit themselves to a criminal history background check. An applicant may be required to submit a complete set of fingerprints with the application documents, or other information necessary to conduct a criminal history background check to be submitted to the Texas Department of Public Safety or to another law enforcement agency. If fingerprints are requested, the fingerprints must be taken by a peace officer or a person authorized by the council and must be placed on a form prescribed by the Texas Department of Public Safety; and

(vi) must not have violated any rule adopted by the council;

(E) submit an application fee defined in §810.5 of this title;

(F) submit a copy of his or her professional as set out in subparagraph (A) of this paragraph, indicating the applicant is current and in good standing;

(G) sign the application form(s) and attest to the accuracy of the application in the presence of a notary public; and

(H) complete the process within 90 days of the application's receipt in the council office.

(3) Supervision. All ASOTP's providing any sex offender treatment must be supervised. Supervision will include the following.

(A) An ASOTP providing any sex offender treatment is required to be under the supervision of an RSOTP and must provide annual documentation of that supervision to the council during the renewal period.

(B) The ASOTP must receive face to face supervision at least one hour per month, or if providing more than 20 hours of direct clinical sex offender treatment per month, the ASOTP must receive one hour of supervision per every 20 hours of sex offender treatment provided.

(C) The supervising RSOTP must submit to the council at the time of renewal the names of the ASOTP's they have supervised during the year on a form provided by the council.

(4) Registration Certificates. Upon successful completion of the application or renewal process, registrants will receive an official certificate from the council. This certificate must be displayed at all locations where sex offender treatment is provided. Duplicate certificates may be obtained for this purpose. The address and telephone number of the council must also be displayed at all

locations where sex offender treatment for the purpose of directing complaints against the registrant to the council.

(5) Application processing. The council shall comply with the following procedures in processing applications for a license.

(A) The following times shall apply from a completed application receipt and acceptance date for filing or until the date a written notice is issued stating the application is deficient and additional specific information is required. A written notice of application approval may be sent instead of the notice of acceptance of a complete application. The times are as follows:

(i) letter of acceptance of application for registry renewal - 30 days; and

(ii) letter of initial application deficiency - 30 days.

(B) The following times shall apply from the receipt of the last item necessary to complete the application until the date of issuance of written notice approving or denying the application. The times for denial include notification of the proposed decision and of the opportunity, if required, to show compliance with the law and of the opportunity for a formal hearing. The times are as follows:

(i) approval of application- 42 days; and

(ii) letter of denial of license or registration - 90 days.

(6) Refund processing. The council shall comply with the following procedures in processing refunds of fees paid to the council. In the event an application is not processed in the times stated in paragraph (5)(A) of this section.

(A) The applicant has the right to request reimbursement of all fees paid in that particular application process. Application for reimbursement shall be made to the executive director. If the executive director does not agree that the time has been violated or finds that good cause existed for exceeding the time, the request will be denied.

(B) Good cause for exceeding the time is considered to exist if the number of applications for registration or renewal exceeds by 15% or more, the applications processed in the same calendar quarter of the preceding year; another public or private entity relied upon by the council in the application process caused the delay; or any other condition exists giving the council good cause for exceeding the time.

(C) If the executive director denies a request for reimbursement under subparagraph (A) of this paragraph the applicant may appeal to the council for a timely resolution of any dispute arising from a violation of the times. The applicant shall give written notice to the council at the address of the council that he or she requests full reimbursement of all fees paid because his or her application was not processed within the applicable time. The executive director shall submit a written report of the facts related to the processing of the application and of any good cause for exceeding the applicable time. The council shall provide written notice of the decision to the applicant and the executive director. The council shall decide an appeal in favor of the applicant, if the applicable time was exceeded and good cause was not established. If the council decides the appeal in favor of the applicant, full reimbursement of all fees paid in that particular application process shall be made.

(D) The times for contested cases related to the denial of registration or renewal are not included with the times listed in paragraphs (5)(A) and (5)(B) of this subsection. The time for conducting a contested case hearing runs from the date the council

receives a written hearing request until the council's decision is final and appealable. A hearing may be completed within three to nine months, but may be shorter or longer depending on the particular circumstances of the hearing, the workload of the department and the scheduling of council meetings.

#### §810.4. Registry Renewal.

In order to maintain eligibility for the registry, all renewal applicants must comply with the following.

(1) All renewal applicants must submit every year a minimum of 12 hours of continuing education documentation in sex offender treatment of which three hours may be in sexual assault victim related training, beginning September 1999.

(2) All renewal applicants must submit renewal forms provided by the council and renewal fees defined in §810.5 of this title (relating to Fees).

(3) All registration certificates expire September 30, no matter the date of initial registration.

(4) All renewal applications must be postmarked by September 1 or a late fee may be assessed.

(5) Continuing education activities shall be instructor-directed activities such as conferences, symposia, seminars and workshops and must be accepted or approved for continuing education credits by the licensing agencies regulating professionals listed in §810.3 of this title (relating to Registry Criteria).

(6) No home or self-directed study courses will be considered for continuing education hours.

(7) All renewal applicants may count a maximum of four hours per renewal period for the presentation of continuing education training, lectures, or courses in the specific area of sex offender treatment and evaluation.

(8) No hours may be carried over from one renewal period to another renewal period.

#### §810.5. Fees.

The council has established the following registration fees.

(1) All applicants must submit a non-refundable application fee of \$200 and meet the following requirements for consideration and inclusion in the registry:

(A) return the completed, signed and notarized application form provided by the council;

(B) submit the registration fee in the form of a check or money order; and

(C) submit, within 90 calendar days, any documentation required to complete the application if requested by the council, or a new application and registration fee must be submitted.

(2) Additional fees will be charged for Federal Bureau of Investigations and Texas Department of Public Safety criminal background investigation. Fees shall be determined by those agencies conducting the investigation.

(3) Renewal forms and information will be mailed to each registrant at least 60 days prior to registration expiration and sent to the registrant's last address of record with the council.

(4) To renew, an RSOTP or an ASOTP must submit an annual renewal fee of \$100 and meet the following requirements.

(A) A person who is otherwise eligible to renew a registration may renew an unexpired registration by paying the

required registration fee to the council on or before the expiration date of the registration.

(B) If a registration has been expired for 90 days or less, the late renewal fee is \$150.

(C) If a registration has been expired for longer than 90 days but less than one year, the reinstatement fee is \$200.

§810.6. Application Availability.

Applications shall be made available upon receipt of a written or verbal request to the council.

§810.7. Documentation of Experience and Training.

In determining the acceptability of the treatment provider's experience and/or training, the council will require documentation of experience and/or training regarding the quality, scope, and nature of the applicant's work in sex offender treatment and rehabilitation. This will include two reference letters from professionals who can attest to the applicant's work in sex offender treatment. The council recognizes continuing education activities that are instructor-directed activities such as conferences, symposia, seminars and workshops and must be accepted or approved for continuing education credits by the licensing agencies regulating professionals listed in §810.3 of this title (relating to Registry Criteria).

§810.8. Revocation, Denial or Non-Renewal of Registration.

The council shall have the right to revoke a registration, refuse to accept a registration, and/or refuse to renew a registration upon proof that the treatment provider has:

(1) been convicted of any felony or a misdemeanor involving a sexual offense, or has ever received deferred adjudication for a sexual offense, unless sufficient evidence of rehabilitation has been established as determined by the council;

(2) had licensure revoked, canceled, suspended or placed on probationary status by any professional licensing body, unless sufficient evidence of rehabilitation has been established as determined by the council;

(3) been determined by any professional licensing body to have engaged in unprofessional or unethical conduct, unless sufficient evidence of rehabilitation has been established as determined by the council;

(4) been determined by the council to have engaged in deceit or fraud in connection with the delivery of services, supervision, or documentation of registry requirements or registry eligibility;

(5) violated the Act or any rule adopted by the council;

(6) been prohibited from renewal by the Education Code, §57.491 (relating to Loan Default Ground for Non-renewal of Professional or Occupational License); or

(7) been prohibited from renewal by a court order or attorney general's order issued pursuant to the Family Code, Chapter 232 (relating to Suspension of License for Failure to Pay Child Support).

§810.9. Complaints, Disciplinary Actions, Administrative Hearing and Judicial Review.

(a) A person wishing to report an alleged violation of the Act or this chapter by a registrant or other person shall notify the executive director. The initial notification may be in writing, by fax, or by personal visit to the council office.

(b) The executive director will review the complaint for violations of the Act or any rule adopted by the council.

(c) If it is determined that a violation of the Act or these sections may have occurred, the executive director will:

(1) refer complaint to registrant's primary licensing agency within 60 days;

(2) notify the registrant or other person in writing that a complaint has been filed; and

(3) notify the complainant in writing of receipt of the complaint.

(d) The council is authorized to revoke, suspend or refuse to renew a registration, place on probation a person whose registration has been suspended, or reprimand a registrant for a violation of the Act, or a rule of the council.

(e) If the suspension is probated, the council is authorized by §13C(a)(1)-(3) of the Act to impose certain requirements and limitations on a person.

(f) If any professional license of the registrant is revoked or suspended, the council shall propose revocation of registration.

(g) The council shall keep information about each complaint filed with the council. The information shall include:

(1) the date the complaint is received;

(2) the name of the complainant;

(3) the subject matter of the complaint;

(4) a record of all persons contacted in relation to the complaint;

(5) a summary of the results of the review or investigation of the complaint; and

(6) for a complaint for which the council took no action, an explanation of the reason the complaint was closed without action.

(h) Formal hearing.

(1) The formal hearing shall be conducted according to the provisions of the Administrative Procedure Act and this chapter. The parties to a hearing shall be the applicant or registrant and the executive director. The formal hearing shall be held in Travis County, Texas unless otherwise determined by the Administrative Law Judge (ALJ) or upon agreement of the parties.

(2) Prior to institution of formal proceedings to revoke or suspend a registrant, the executive director shall give written notice to the registrant by certified mail, return receipt requested, of the facts or conduct alleged to warrant revocation or suspension, and the person shall be given the opportunity, as described in the notice, to show compliance with all requirements of the Act and this chapter.

(3) To initiate formal hearing procedures, the executive director shall give the registrant written notice of the opportunity for hearing. The notice shall state the basis for the proposed action. Within 10 days after receipt of the notice, the registrant must give written notice to the executive director that he or she either waives the hearing or wants the hearing. Receipt of the notice is deemed to occur on the 10th day after the notice is mailed to the registrant's last reported address unless another date of receipt is reflected on a U.S. Postal Service return receipt.

(A) If the registrant fails to request a hearing, the registrant is deemed to have waived the hearing, and a default order may be entered.

(B) If the registrant requests a hearing within 10 days after receiving the notice of opportunity for hearing, the executive director shall initiate formal hearing procedures in accordance with this section.

(i) Final action.

(1) If the council suspends a registration, the suspension remains in effect for the period of suspension ordered, or until the executive director or the council determines that the reasons for suspension no longer exist. The registrant whose registration has been suspended is responsible for securing and providing to the executive director such evidence, as may be required by the council, that the reasons for the suspension no longer exist. The executive director or the council shall investigate prior to making a determination.

(2) During the time of suspension, the former registrant shall return all registration certificates to the council.

(3) If a suspension overlaps a renewal period, the former registrant shall comply with the normal renewal procedures in these sections. The council may not renew the certificate until the executive director or the council determines that the reasons for suspension have been removed.

(4) A person whose application is denied or whose registration certificate is revoked is ineligible to apply for registration under this Act for one year from the date of the denial or revocation.

(5) Upon revocation or non-renewal, the former registrant shall return all certificates issued to the registrant by the council.

(j) Appeal of a decision. A person may appeal a final decision of the council to exclude or remove the person from the registry by filing a petition for judicial review in the manner provided by the Government Code, Chapter 268, Article 1, §2001.176.

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

Filed with the Office of the Secretary of State on April 27, 1998.

TRD-9805883

Collier M. Cole, Ph.D.

Chairperson

Council on Sex Offender Treatment

Earliest possible date of adoption: June 7, 1998

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



## Subchapter B. Criminal Background Check Security

### 22 TAC §§810.31–810.34

The new sections are proposed under the Act, Texas Civil Statutes, Article 4413(51). Section 2(b) provides the council with the authority to adopt rules consistent with the Act and §8 provides the council with the authority to adopt rules concerning the registration requirements and procedures for sex offender treatment providers on the registry.

The proposed new sections affect Texas Civil Statutes, Article 4413(51).

#### §810.31. Access to Criminal History Records.

The council is authorized to obtain information about the conviction or deferred adjudication that relates to an applicant of the registry and maintained by the Texas Department of Public Safety or the Federal

Bureau of Investigation. The council may obtain a criminal history record from any law enforcement agency. The criminal history record information received under this section is for the exclusive use of the council and is privileged and confidential. The criminal history record information may not be released or otherwise disclosed to any person or agency except on court order or with the consent of the applicant.

#### §810.32. Records.

All other records of the council that are not made confidential by other law are open to inspection by the public during regular office hours. The contents of the criminal background check on each registrant are not public records and are confidential under lock and key security. Unless expressed in writing by the chairperson of the council, the executive director and the executive director's designee are the only staff authorized to have daily access to the criminal history records. These records will be maintained in separate files and not in the registrant files.

#### §810.33. Destruction of Criminal History Records.

The council will destroy adjudication information relating to a person after the council makes a decision on the eligibility of the applicant unless the information was the basis for a proposed revocation, suspension or refusal to renew a person's registration. The council will shred the information provided by the Texas Department of Public Safety, the Federal Bureau of Investigation or any other law enforcement agency, and the submitted applicant's finger print card.

#### §810.34. Frequency of Criminal Background Check.

The council will conduct a criminal background check on every new applicant, randomly at the time of renewal, and as necessary on all others.

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

Filed with the Office of the Secretary of State on April 27, 1998.

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Collier M. Cole, Ph.D.

Chairperson

Council on Sex Offender Treatment

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



## Subchapter C. Standards of Practice

### 22 TAC §§810.61–810.64

The new sections are proposed under the Act, Texas Civil Statutes, Article 4413(51). Section 2(b) provides the council with the authority to adopt rules consistent with the Act and §8 provides the council with the authority to adopt rules concerning the registration requirements and procedures for sex offender treatment providers on the registry.

The proposed new sections affect Texas Civil Statutes, Article 4413(51).

#### §810.61. Introduction to Standards of Practice.

(a) The Council on Sex Offender Treatment (council) is dedicated to the prevention of sexual assault through effective treatment and management of sex offenders. The council identifies treatment providers who have the appropriate training and experience in the treatment of sex offenders, sponsors training seminars and conferences, and disseminates information about sex offender treatment.

The council publishes a registry of sex offender treatment providers which contains the names of persons who have satisfactorily completed council requirements for inclusion.

(b) Sexual deviance is a learned or acquired behavioral disorder but may also be influenced by biological factors. Treatment is focused on recognizing, changing and managing deviant behavior and the attitudes that promote it. Sexual deviance is not considered to be a disease that can be cured. The focus of contemporary treatment is on techniques designed to assist sex offenders in maintaining control throughout their lifetime. Therefore, treatment should include simple, practical techniques that can be used during and after formal therapy.

(c) Sex offender evaluation and treatment requires an approach unfamiliar to most mental health professionals. Treatment providers often exercise substantial control over the lives of their clients because of the concern for community protection. For this and other reasons, standards of practice specific to the treatment of sex offenders are necessary.

(d) This document was developed by the council to delineate appropriate evaluation and treatment procedures and policies. These standards were largely adapted from a publication of the Association for the Treatment of Sexual Abusers (ATSA) entitled, Ethical Standards and Principles for the Management of Sexual Abusers, Revised 1997. They are not intended to supplant the standards of the treatment provider's licensing/certifying board, but are intended to supplement them. These standards delineate professional expectations for the treatment of sex offenders.

§810.62. Council Assertions.

(a) Registrants shall:

- (1) be committed to community protection and safety;
- (2) not discriminate against clients with regard to race, religion, gender preference, or disability;
- (3) treat clients with dignity and respect, regardless of the nature of their crimes or conduct;
- (4) be knowledgeable of legal statutes and scientific data relevant to this area of specialized practice;
- (5) perform professional duties with the highest level of integrity, maintaining confidentiality within the scope of statutory responsibilities;
- (6) insure that the client fully understands the scope and limits of confidentiality in the context of his or her particular situation;
- (7) refrain from using professional relationships to further their personal, religious, political, or economic interest other than accepting customary professional fees;
- (8) not engage in sexual relationships with clients (sex between a mental health services provider and a client is a second degree felony in Texas);
- (9) fully inform clients in advance of fees for services;
- (10) refrain from knowingly providing treatment services to a client who is in treatment with another professional without initial consultation with the current registrant;
- (11) make appropriate referrals when the registrant is not qualified or is otherwise unable to offer services to a client;
- (12) insure that colleagues are qualified by training and experience before making a referral to them;

(13) when withdrawing services, minimize possible adverse effects on the client and the community by continuing treatment until the client has been admitted elsewhere;

(14) take into account the legal/civil rights of the clients, including the right to refuse treatment;

(15) make no claims regarding the efficacy of treatment that exceed what can be reasonable expected and supported by empirical literature;

(16) avoid drawing conclusions or rendering opinions that exceed the present level of knowledge in the field or the expertise of the evaluator;

(17) attempt to resolve with the clinician and/or report to the appropriate licensing or regulatory authority unethical, incompetent, and dishonorable treatment or evaluation practices; and

(18) display the address and telephone number of the council in all sites where sex offender treatment services are provided for the purpose of directing complaints to the council.

(b) Registrants assert that:

(1) community safety takes precedence over any conflicting consideration, and ultimately, is in the best interests of the offender and society;

(2) inappropriate or unethical treatment damages the credibility of all treatment and presents an unnecessary risk to the community;

(3) registrants shall have no history of criminal or sexually deviant acts;

(4) criminal investigation, prosecution, and court orders for treatment may be components of effective intervention;

(5) where practical, registrants should actively involve community supervision officers, child protective services workers, and victim therapists in case management;

(6) a voluntary client accepted for treatment should be held to the same standards of compliance as are mandated sex offenders;

(7) it is imprudent to release an untreated sex offender without providing offense-specific evaluation and treatment or specialized supervision;

(8) without external pressure many sex offenders will not follow through in treatment. Internal motivation improves the prognosis, but is not a guarantee of success;

(9) comprehensive assessment of the sex offender must precede treatment and includes issues addressed in §810.63 of this title (relating to Assessment and Evaluation Concerns);

(10) sex offenders require comprehensive, long term, offense-specific treatment. Currently, cognitive-behavioral approaches that utilize sex offender peer groups may be the most effective and best evaluated methods of treatment. Self-help groups, drug intervention, or time limited treatment should be used only as adjuncts to more comprehensive treatment. For some sex offenders, incarceration without treatment may increase the risk of recidivism;

(11) a written individualized treatment plan that identifies the issues, intervention strategies, and goals of treatment shall be prepared for each sex offender. Treatment plans should be reassessed periodically;

(12) the treatment plan may include behavioral contracts which outline specific expectations of the sex offender, his/her family, and the sex offender's support systems. These contracts should include provisions to avert high risk situations. These contracts should be reassessed periodically;

(13) progress, or lack thereof, should be clearly documented in treatment records. Specific achievements, failed assignments and rule violations should be recorded. This information should be provided to the appropriate supervising officer in the justice system;

(14) progress in treatment must be based on specific, measurable objectives, observable changes, and demonstrated ability to apply changes in relevant situations. For most sex offenders, progress requires changes in the sex offender's behavior, attitudes, social and sexual functioning, cognitive processes, and arousal patterns. These changes should demonstrate increased understanding by the offender of his own deviant behavior, sensitization to the effects on a victim, and ability to seek and apply help;

(15) when a sex offender has made the changes required in treatment, there should be a gradual and commensurate decline of intervention, support, and supervision following an offense-specific treatment program. Ongoing support to maintain changes made in treatment is necessary and aftercare and monitoring are desirable;

(16) there will be instances when the registrant should refuse to treat a sex offender because essential ancillary resources do not exist to provide the necessary levels of intervention or safeguards;

(17) the registrant has an ethical obligation to refer the client to a more comprehensive treatment program and/or to the judicial system, when the registrant determines that a sex offender is not making the changes necessary to reduce his/her risk to the community;

(18) failure on the part of clients to abide by their treatment plans and/or contracts should result in referral back to the supervising officer in the justice system;

(19) a registrant may decide to decline further involvement with a client who refuses to address any critical aspect of treatment;

(20) registrants need to immediately notify the appropriate authority when a client drops out of court-ordered treatment;

(21) most sex offenders enter the criminal justice system with varying degrees of denial regarding their behavior. Overcoming denial is a gradual process achieved in treatment. The existence of some degree of denial should not preclude an offender entering treatment, although the degree of denial should be a factor in identifying the most appropriate form and location of treatment;

(22) sex offender treatment is unlikely to be effective unless the sex offender admits his/her behavior. Community based treatment may not be appropriate for sex offenders who continue to demonstrate complete denial after a trial period of treatment;

(23) registrants should not rely exclusively on self report by the sex offender to assess progress or compliance with treatment requirements and/or probation or parole orders. Registrants should rely on multiple sources of information regarding the sex offender's behavior and when possible utilize physiological methods such as polygraphy, phallometric, and other research based physiological measurements;

(24) physiological measures should not replace other forms of monitoring but may improve accuracy when combined

with active surveillance, collateral verifications, and self-report. Phallometric assessment in Texas must be conducted by an order and under the supervision of a physician. Polygraph examinations should only be conducted by licensed examiners that meet the "Recommended Guidelines for the Clinical Polygraph Examinations of Sex Offenders" as developed by the Joint Polygraph Committee on Offender Testing (JPCOT);

(25) polygraphy can be effective in encouraging disclosure of prior events and adherence to rules. This procedure should never be the only method used to determine factual information;

(26) phallometric methods cannot be used to prove an individual did or did not, or will or will not commit a sexual offense. However, they can be useful in identifying sexual preferences and changes in preferences over time;

(27) informed, voluntary consent should always be obtained prior to engaging clients in aversive conditioning;

(28) if phallometric assessment or aversive therapies are used with persons 15 years of age or younger, consent for such assessment and therapy should be obtained from the juvenile sex offender and the sex offender's parents, and the procedures should be reviewed by a multi-disciplinary professional or institutional advisory group. This is intended to insure that individuals not intimately involved in the treatment of the patient have input regarding the appropriateness of such methods consistent with the developmental level of the child;

(29) individuals under age thirteen should not undergo phallometric assessment or aversive therapies except in rare cases which must be approved by a multi-disciplinary advisory group;

(30) in cases of intellectually handicapped sex offenders who are unable to give consent, an interdisciplinary review and parental consent are the ways to obtain permission to proceed with treatment;

(31) removal of an intrafamilial sex offender against children from a residence in which children reside (instead of the children) is the preferred option;

(32) treatment referrals should be offered to the non-offending spouse and children in cases where a parent has been removed and to the family where a juvenile sex offender has been removed;

(33) if the sex offender has a history of sexual arousal to or reported fantasies of sexual contact with children, he or she should be restricted from having access to children. Supervised visits may be considered if:

(A) it is determined that sufficient safeguards exist;

(B) the sex offender has demonstrated control over his or her deviant arousal;

(C) it does not impede the sex offender's progress in treatment; and

(D) court mandated conditions do not prohibit such contact;

(34) there is evidence to support family participation in the treatment of sex offender. Where feasible and appropriate, spouses and other family members should be included. Victims or vulnerable children should be excluded until such time as joint therapy is determined to be appropriate;

(35) the registrant should make every effort to collaborate with the victim's therapist in making decisions regarding communication, visits and reunification. Registrants should be supportive of the victim's wishes regarding contact with the offender. Contact should be arranged in a manner that places child/victim safety first. When assessing child safety, both psychological and physical well-being should be considered. The registrant shall insure that custodial parents or guardians of the children have been consulted prior to authorizing contact and that contact is in accordance with Court directives; and

(36) if reunification is deemed appropriate, the process should be closely supervised. There must be provisions for monitoring behavior and reporting rule violations. Victim comfort and safety should be assessed on a continuing basis. The registrant should recognize that supervision during visits with children is critical for those whose crimes are against children, or who have demonstrated the potential to abuse children. Caution should be taken when selecting and preparing visitation supervisors.

§810.63. Assessment and Evaluation Concerns.

(a) The evaluation focuses on both the risks and needs of the sex offender, as well as identifying factors from social and sexual history which may contribute to sexual deviance. Evaluations provide the basis for the development of comprehensive treatment plans and should provide recommendations regarding the intensity of intervention, specific treatment protocol needed, amenability to treatment, as well as the identified risk the sex offender presents to the community. There is no known set of personality characteristics that can differentiate the sex offender from the non-sex offender. Psychological profiles cannot be used to prove or disprove an individual's propensity to act in a sexually deviant manner.

(b) The following standards were largely adapted from a publication of the Association for the Treatment of Sexual Abusers entitled, Ethical Standards and Principles for the Management of Sexual Abusers, Revised 1997. Evaluations shall precede treatment. In preparing evaluations of sex offenders, registrants are expected to:

- (1) be fair and impartial, providing objective and accurate data;
- (2) respond only to referral questions that fall within the evaluator's expertise and present level of knowledge;
- (3) be respectful of the client's right to be informed of the reasons for the evaluation and the interpretation of data, as well as the basis for recommendations and conclusions;
- (4) be aware of the client's legal status;
- (5) be mindful of the limitations of client's self-report and make all possible efforts to verify the information provided by the client;
- (6) use evaluative procedures and techniques sufficient to respond to the presenting issues, as well as to provide appropriate substantiation for the resulting conclusions and recommendations;
- (7) acknowledge if an evaluation consisted of only a review of data, with no client contact, and clarify the impact that limited information has on the reliability and validity of the resulting report;
- (8) provide informed consent, releases and/or limit of confidentiality documents in written form and employ verbal explanations for non-readers;
- (9) if the client is a juvenile or incapable of giving consent for any other reason, obtain consent for testing, evaluation and

information exchange from the appropriate guardian. Assent from the individual being evaluated should be obtained whenever possible;

(10) thoroughly review written documentation and collateral interviews. This involves gathering and reviewing information from all available and relevant sources, including:

- (A) criminal investigation records;
- (B) child protection service investigations;
- (C) previous evaluations and treatment progress reports;
- (D) mental health records and assessments;
- (E) medical records;
- (F) correctional system reports;
- (G) probations/parole reports;
- (H) offense statements from sex offender; and
- (I) offense statements from victim;

(11) whenever possible, interview the client's significant other and/or family of origin;

(12) cautiously interpret evaluation conducted without collateral information;

(13) list and acknowledge in a written report evaluation procedure summaries, conclusions, recommendations, and all collateral reports and interviews;

(14) re-interviews of victims should not be used for the purpose of gathering information during the sex offender's evaluation; and

(15) keep the sex offender and victim interview and evaluation processes separate. If that is not possible, the evaluator must be extremely vigilant to avoid bias.

(c) The evaluation procedures may include:

- (1) clinical review;
- (2) paper/pencil testing;
- (3) intellectual assessment; and
- (4) physiological assessments.

(d) Information gathered in the evaluation process includes, but is not limited to:

- (1) intellectual and cognitive functioning;
- (2) mental status;
- (3) medical history of head injuries, physical abnormalities, enuresis, encopresis, current use of medication, allergies, accidents, operations, and major medical illnesses;
- (4) self-destructive behaviors, self mutilation and suicide attempts;
- (5) psychopathology and personality characteristics;
- (6) family history;
- (7) history of victimization; physical, emotional and/or sexual;
- (8) education and occupation history;
- (9) criminal history, both sexual and non-sexual;



(10) history of violence and aggression including use of weapons;

(11) interpersonal relationships, both past and current;

(12) cognitive distortions;

(13) social competence;

(14) impulse control;

(15) substance abuse;

(16) denial, minimization and inability to accept responsibility;

(17) sexual behavior, including sexual development, adolescent sexuality and experimentation, dating history, intimate sexual contacts, gender identity issues, adult sexual practices, masturbatory practices, sexual dysfunction, fantasy content, and sexual functioning; and

(18) sexually deviant behavior, including description of offense behaviors, number of victims, gender and age of victims, frequency and duration of abusive sexual contact, victim selection, access, and grooming behaviors, use of threats, coercion or bribes to maintain victim silence, degree of force used before, during and/or after offense, and sexual arousal patterns.

(e) Registrants will subscribe to the following tenets regarding client assessment.

(1) The comprehensive assessment of the client's sexually deviant behavior is specific to the evaluation of the sex offender.

(2) It is important to be sensitive to the individual's cognitive functioning, including reading and writing capabilities, prior to arranging the battery of testing instruments.

(3) If a client cannot read at the level necessary to comprehend the test questions, arrangements for using a standardized approved auditory (taped or read) version of the test instrument should be made.

(4) The clinical interview must incorporate sufficient discussion necessary to augment, clarify and explore the information obtained from the review of collateral materials (and interviews), as well as the other components of the evaluation (testing results, etc.).

(5) It is important to note the degree of similarity or disparity between the abuser and the victim's statements.

(6) The client's explanations for false allegations should be documented.

(7) Assessment of treatment needs should identify strengths and weaknesses in the individual's socio-sexual functioning for the purpose of directing treatment efforts to the appropriate areas.

(8) Both community safety and the degree to which a sex offender is capable and willing to manage risk should be considered when generating recommendations.

(9) A thorough evaluation should be completed prior to a sex offender being accepted into a community based treatment program.

(A) If a significant amount of time has lapsed between the completions of the evaluation and when the individual applies for acceptance into a treatment program, an evaluation update is required.

(B) The intent of the update should not be to duplicate the original evaluation, but to gather current data upon which the original treatment plan can either be confirmed or amended.

(10) A sex offender treatment provider should never recommend an inadequate treatment program or level of risk management because existing resources limit or preclude adequate or appropriate services.

#### §810.64. Issues To Be Addressed In Treatment.

(a) During the decade preceding 1995, the field of sex offender evaluation and treatment has undergone many changes. Research and clinical reports have begun to demonstrate that a number of treatment methods may be effective in reducing some forms of sexual deviance.

(b) Although existing data are inadequate to determine which type of treatment is the most effective for which type of sex offender, the following treatment methods generally are accepted as those most important to the effective treatment of sexual deviancy.

(1) Arousal Control. Control of deviant arousal, fantasies, and urges is a priority with most sex offenders. Fantasy and sexual arousal to fantasy are precursors to deviant sexual behavior. It should be assumed that most offenders have gained sexual pleasure from their specific form of deviance. Arousal control methods do not eliminate but only help control arousal. It is therefore necessary that clients learn to apply these techniques in everyday situations, without reliance on a special apparatus. Arousal control may require periodic "booster" sessions for the remainder of the client's life. Effective arousal control must also include methods to control spontaneous deviant fantasies and to minimize contact with stimulating objects or persons. Arousal control should proceed from the most effective methods for reducing arousal to less effective methods. To document changes in arousal control, physiological measurement is essential. Multiple measures over time are required to determine change reliability.

(2) Cognitive Therapy. Cognitive distortions are thoughts and attitudes that allow offenders to justify, rationalize, and minimize the impact of their deviant behavior. Cognitive distortions allow the offender to overcome prohibitions and progress from fantasy to behavior. These distorted thoughts provide the sex offender with an excuse to engage in deviant sexual behavior, and serve to reduce guilt and responsibility. Cognitive therapy strives to identify, assess, and modify cognition's that promote sexual deviance. Cognitive therapy is considered a vital component of treatment.

(3) Relapse Prevention. Current knowledge of deviant sexual behavior suggests that there is a series of behaviors, emotions, and cognition's that is identifiable and which precede deviant sexual behavior in a predictable manner. The ability to accurately identify these maladaptive behaviors is a primary goal for every offender in treatment. Autobiographies, offense reports, interviews and cognitive-behavioral chains are used to identify antecedents to offending. The ability to intervene can be enhanced by training primary partners and other support persons to recognize maladaptive behaviors and to encourage application of proper coping behaviors.

(4) Victim Empathy. Although there is no clear evidence to suggest that all sex offenders can gain true empathy for victims of abuse, a universal goal of treatment is to learn to understand and value others. Highlighting the consequences of victimization helps sensitize the offender to the harm he or she has done. The use of analogous experiences has been shown to be effective especially with adolescents.

(5) Biomedical Approaches. Intervention with psychopharmacological agents is useful in select cases. Antiandrogens such as depo-provera act by reducing testosterone and may be helpful in controlling arousal and libido when these factors are undermin-

ing progress in therapy or increasing the risk of re-offending before significant progress can be made in the cognitive aspects of therapy. Antidepressants and medications targeting obsessive compulsive symptoms are also useful in some individuals where those symptoms play a role in the overall psychodynamic picture. Likely candidates are those who are predatory, violent, have had prior treatment failures, and report an inability to control deviant sexual arousal. Use of these agents should never be the only method of treatment.

(6) Increasing Social Competence. Sex offenders often have deficits in basic social and interpersonal skills. They may lack the ability to develop and sustain reciprocal friendships. Many sex offenders are poor problem-solvers, lack assertiveness, and do not adequately manage anger or stress. One goal of treatment is to improve the offender's ability to deal effectively with social situations and develop meaningful relationships with others.

(7) Improving Primary Relationships. Failure to develop and maintain a reciprocal, living sexual relationship with an adult partner may lead one to seek out alternative sexual outlets. Identifying specific sexual dysfunctions, sex therapy, and training in dating skills and erotic techniques may be necessary to develop a functional lifestyle. Failure to involve the current partners in therapy often leads to the same stresses and failure in the relationship that precipitated the sexual deviancy.

(8) Couples/Family Therapy. To facilitate transition of the sex offender's partner into therapy a variety of treatment modalities are recommended. Individual therapy, non-offending spouses groups, and/or parents of victims groups prepare the partner for the issues and methods involved in sex offender treatment. Marital therapy or couples group therapy focused on sexual offending is essential in cases where a sex offender is to return home. If an offender is to eventually to live in a home where victims or children reside, a predetermined integration sequence should be followed which addresses role and boundary issues. This should include close supervision and a variety of safeguards for the protection of children.

(9) Support Systems. Involvement of close friends and family in therapy provides the offender with a milieu in which support is available. Part of the transition to follow-up is a reduction in group and individual therapy. To compensate for this loss of support and surveillance, the support system should assist the offender in avoiding and coping with antecedents to sexual deviance. The support system should include individuals from the offender's daily life (i.e., family, friends, co-workers, church members, and extended family).

(10) Comorbid Diagnosis. In some sex offenders there are sufficient signs and symptoms to merit an additional diagnosis by DSM IV criteria. These diagnoses can be anywhere in the entire spectrum of psychiatric disease. The most common are alcohol abuse, substance abuse and affective disorders. Treating an alcohol or substance problem should not be assumed to make sex offender treatment unnecessary. Occasionally, the delusions and hallucinations of schizophrenia will be associated with the individual committing sexual offenses. The comorbid diagnoses should be treated with the appropriate therapies concomitantly with the treatment for sex offending behavior except in the case of schizophrenia where the antipsychotic therapy would obviously take precedence.

(11) Follow-up Treatment. A therapeutic regime that includes follow-up significantly increases the likelihood that gains made during treatment will be maintained. In order for new habits and skills to be reinforced and to monitor compliance with treatment contracts, follow-up treatment should involve periodic "booster" sessions to reinforce and assess maintenance of positive gains made

during treatment. This can be facilitated by involving the support group, and using polygraphy and phallometric assessment. Input from support group members, polygraph examinations, and phallometric assessments may serve to deter future offenses or alert therapists to problems.

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

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Collier M. Cole, Ph.D.

Chairperson

Council on Sex Offender Treatment

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## Subchapter D. Code of Professional Ethics

### 22 TAC §§810.91-810.92

The new sections are proposed under the Act, Texas Civil Statutes, Article 4413(51). Section 2(b) provides the council with the authority to adopt rules consistent with the Act and §8 provides the council with the authority to adopt rules concerning the registration requirements and procedures for sex offender treatment providers on the registry.

The proposed new sections affect Texas Civil Statutes, Article 4413(51).

#### §810.91. Code of Professional Ethics.

Registrants are trained in dealing with the assessment and treatment of sex offenders. These registrants constitute a professional discipline which has a membership committed to establishing and maintaining the highest level of professional standards related to the assessment and treatment of sex offenders. As such, they are conscious of their special skills and aware of their professional boundaries. They perform their professional duties with the highest level of integrity and appropriate confidentiality, within the scope of their statutory responsibilities. They will not hesitate to seek assistance from other professional disciplines when circumstances dictate. They are committed to protect the public against and will not hesitate to expose unethical, incompetent, or dishonorable practices. In order to maintain the highest standard of service and consumer protection, they commit themselves to the following principles designed to earn the greatest level of public confidence.

#### §810.92. Code of Ethics.

##### (a) Professional Conduct.

(1) Each registrant will provide professional service to anyone, regardless of race, religion, sex, political affiliation, social or economic status, or choice of life style. A registrant will not allow personal feelings related to a client's alleged or actual crimes or behavior to interfere with professional judgment and objectivity. When a registrant cannot offer service to a client for any reason, he or she will make a proper referral. Registrants are encouraged to devote a portion of their time to work for which there is little or no financial return.

(2) Each registrant will refrain from using his or her professional relationship, related to the assessment or treatment of a client, to further personal, religious, political or economic interests, other than customary professional fees.

(3) The proper conduct of each registrant is a personal matter to the same degree as it is with any other individual, except when such conduct compromises the fulfillment of professional responsibilities or reduces the public trust in this specialty area. Consequently, registrants are sensitive to predominant community standards and the potential impact that either conformity to, or deviation from these standards can have on the perception of their own performance, as well as that of their colleagues.

(4) Each registrant has an obligation to engage in continuing education and professional growth including active participation in meetings and affairs or relevant professional affiliations.

(5) Each registrant will refrain from diagnosing, treating or advising on problems outside the recognized boundaries of his/her competence.

(b) Client Relationships.

(1) Each registrant, offers dignified and reasonable support to a client, and does not exaggerate the efficacy of his or her service.

(2) When engaged in private practice, each registrant recognizes the importance pertaining to financial matters with clientele. Arrangements for payments are to be settled at the beginning of an assessment or a therapeutic relationship.

(3) Each registrant will avoid dual relationships with clientele. These may impair professional judgment or pose a risk of exploiting the client. Examples of dual relationships include, but are not limited to, the following: treatment of family members, close friends, employees, supervisors, or supervisees.

(4) Sexual harassment or intimacy with clients is unethical. Sexual behavior between a registrant and a client constitutes a felony offense in Texas.

(5) A registrant shall not withdraw services to clients in a precipitous manner. Each member shall give careful consideration to all factors in the situation and take care to minimize possible adverse effects on the client.

(6) Each registrant who anticipates termination or disruption of service to clients shall notify the clients promptly and provide for transfer, referral, or continuation of service in keeping with the client's needs and preferences.

(7) Each registrant who serves the clients of a colleague during a temporary absence or emergency will serve those clients with the same consideration of that afforded any client.

(8) In their professional role, registrants will avoid any action which will violate or diminish the legal and civil rights of clients or others who may be affected by their actions.

(c) Confidentiality.

(1) Registrants will keep records on each client, storing them in such a way as to ensure their safety and confidentiality in accordance with the highest professional and legal standards.

(2) Each registrant is responsible for informing clients of the limits of confidentiality. Clients should be informed of any circumstances which may trigger an exception to the agreed upon confidentiality.

(3) Registrants in criminal justice settings, or elsewhere, should inform all parties with whom they are working of the level of confidentiality which applies. They should clarify any circumstances which would constitute exceptions to confidentiality, in advance of

the service being rendered. Each registrant should make clear to the client any "conflict of interests" or dual-client relationships which affect his/her current relationship with a client.

(4) Written permission and informed consent shall be granted by the client before any data may be divulged to other parties.

(5) When responding to an inquiry for information and when a written release by the client is obtained, written and oral reports should present data germane to the purpose of the inquiry. Every effort should be made to avoid undue invasion of privacy for the client or other related person.

(6) As noted above, information is not communicated to others without the consent of the client unless the following circumstances occur.

(A) There exists a clear and immediate danger to the person from the client.

(B) There is an obligation to comply with specific statutes requiring reports of suspected abuse to authorities. Each registrant is responsible for becoming fully aware of all statutes which pertain to the conduct of his or her professional practice.

(d) Assessments.

(1) Registrants make every effort possible to promote the client's non-offending behavior while at the same time, acting in the best interest of the client, so long as others are not placed at identifiable risk. They guard against the misuse of assessment data. They respect their client's rights to know the results, the interpretations made, and the basis for the conclusions and recommendations drawn from such assessments. They endeavor to ensure that the assessment and reports they provide are used appropriately by others as well. Reports are written in such a way to communicate clearly to the recipient of the report.

(2) Unless the client agrees to an exception in advance, each registrant respects the right of the client to have a complete explanation, in language which the client is able to understand, of the nature and purpose of the methodologies, and any foreseeable (side) effects of the assessment.

(3) Each registrant will obtain voluntary informed consent, in written form, from a client prior to conducting a physiological assessment or engaging in treatment. In cases where a question exists regarding the appropriateness of administering a test to a particular client, the registrant shall seek expert guidance from a competent medical and/or psychological authority prior to testing.

(4) In court-ordered evaluations, the client should be informed of his rights as a client, including his rights of confidentiality.

(5) The responsible use of assessment measures is of paramount concern and a serious responsibility of each registrant. Assessments regarding a person's degree of sexual dangerousness, suitability for treatment, or other forensic referral questions shall not be determined solely on the basis of a phallometric assessment. Rather, such data must be properly integrated within a comprehensive assessment, the components of which are determined by a person who has specific training and expertise in making such assessments.

(6) An assessment should not be used to confirm or deny whether an event or crime has taken place.

(7) In reporting assessment results, registrants indicate any reservations that might exist regarding validity or reliability because of the circumstances of the assessment or the absence of comparative norms for the person being tested. Each registrant

endeavors to ensure that assessment results and interpretations are not misunderstood or misused by others. Proper qualifications will be made with regard to prediction and "generalizability of data" issues, in order to not mislead the consumer of the report.

(8) Since it is not within the professional competence of registrants to offer conclusions on matters of law, unless they are trained to do so, they should resist pressure to offer such conclusions (e.g., while it would be appropriate to address an issue regarding the probability of a client committing certain criminal acts within a certain period of time, it would be inappropriate to state that "an individual is too dangerous to be released").

(9) Each registrant should be very cautious in offering predictions of criminal behavior for use in imprisoning or releasing individuals. If a registrant decided that it is appropriate, on the basis of a thorough evaluation in a given case, to offer a prediction of criminal behavior, he or she should specify clearly:

(A) the acts being predicted;

(B) the estimated probability that these acts will occur during a given period of time; and

(C) the facts and data on which these predictive judgments are based.

(10) Each registrant should be thoroughly familiar with the assessment or treatment procedures and data used by another registrant before providing any public comment or testimony pertaining to the validity, reliability, or accuracy of such information.

(11) Each registrant will safeguard sexual arousal assessment testing and treatment materials. Each registrant will recognize the sensitivity of this material and use it only for the purpose for which it is intended in a controlled phallometric laboratory assessment. Registrants will not make such materials available to persons who lack proper training and credentials, or who would misinterpret or improperly use such stimulus materials.

(e) Professional Relationships.

(1) Each registrant will refrain from knowingly offering services to a client who is in treatment with another professional without initially consulting with the professionals involved.

(2) Each registrant will act with proper regard for the needs, special competencies, and perspectives of not only colleagues who treat sex offenders but other professionals as well.

(3) Each registrant is encouraged to affiliate with professional groups, clinics, or agencies operating in the assessment and treatment of sex offenders. Similarly, interdisciplinary contact and cooperation is encouraged.

(f) Research and Publications.

(1) Each registrant is obligated to protect the welfare of his or her research subjects. Provisions of the "human subjects experimental policy" shall prevail as specified by the United States Department of Health, Education and Welfare guidelines.

(2) Each registrant will carefully evaluate the ethical implications of possible research and has full responsibility to ensure that ethical practices are enforced in conducting such research.

(3) The practice of informed consent prevails. The research participant shall have full freedom to decline to participate in or withdraw from the research at any time without any prejudicial consequences.

(4) The research subject shall be protected from physical and mental discomfort, harm, and danger that may result from research procedures to the greatest degree possible.

(5) Publication credit is assigned to those who have contributed to a publication in proportion to their contribution, and in accordance with customary publication practices.

(g) Public Information and Advertising. All professional presentations to the public will be governed by the following standards on public information and advertising.

(1) General Principles: The practice of assessment and treatment of the sex offender exists for the public welfare. Therefore, it is appropriate for registrants to inform the public of the availability of services. However, much needs to be done to educate the public as to the services available from qualified persons who engage in the assessment and treatment of sex offenders. Therefore, registrants have a responsibility to the public to engage in appropriate informational activities and avoid misrepresentation or misleading statements in keeping with the following general principles and specific regulations: selection of a registrant by a prospective client should be made on an informed basis. Advice and recommendations of third parties, such as community corrections officers, attorneys, physicians, other professionals, relatives or friends, as well as responses to restrained publicity, may be helpful. Advertisements and public communications, whether in directories, announcement cards, newspapers or on radio or television, should be formulated to convey accurate information which is necessary to make an appropriate selection. Self-praising and testimonials should be avoided. Information that may be helpful in some situations would include the following:

(A) office information such as name, including a group name and names of professional associates, address, telephone number, credit card acceptability, languages spoken and written, and office hours;

(B) earned degrees, state licensure and/or other certification, professional certification or affiliation;

(C) description of practice, including the statement that a practice is limited to the assessment or treatment of sex offenders (if appropriate); and

(D) professional fee information.

(2) The proper motivation for community publicity by members who are engaged in the assessment and treatment of sex offenders lies in the need to inform the public of the availability of competent professionals. The public benefit derived from advertising depends upon the usefulness and accuracy of the information provided to the community to which it is directed.

(3) The regulation of public statements by registrants is rooted in the public interest. Public statements through which a registrant seeks business by use of extravagant or brash statements or appeals to fears could mislead or harm the lay person. Furthermore, public communications that would produce unrealistic expectations in particular cases and would bring about a lack of confidence in the profession, would be harmful to the community. The therapist-client relationship is personal and unique and should not be established as the result of pressures, deception or exploitation of the vulnerability of clients.

(4) The name under which a registrant conducts his or her practice may be a factor in the selection process. Use of a name or credentials which could mislead referral sources or lay persons is improper. Likewise, a registrant should not hold oneself out as

being a partner or associate of any agency or firm if he is, in fact, not acting in that capacity (e.g., a person engaged in private practice who is also employed at a state hospital should make it clear to a prospective client in private practice that he is not acting on behalf of a state hospital).

(5) In order to avoid the possibility of misleading persons with whom he or she deals, a registrant should be scrupulous in the representation of his or her professional background, training and status. Each registrant must indicate, if it is accurate, any limitations in his or her practice (e.g., an ASOTP should specify that he/she must operate under the supervision of a RSOTP).

(6) Registrants shall not represent their affiliation with any organization or agency in a manner which falsely implies sponsorship or certification by that organization.

(7) Registrants shall not knowingly make a representation about his or her ability, background, or experience, or about that of a partner or associate, or about a fee or any other aspect of a proposed professional engagement that is false, fraudulent, misleading, or deceptive. A false, fraudulent, misleading, or deceptive statement or claim is defined as a statement or claim which:

(A) contains a material misrepresentation of fact;

(B) omits any material or statement of fact which is necessary to make the statement, in light of all circumstances, not misleading; or

(C) is intended or likely to create an unjustified expectation concerning the registrant, or services.

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

Filed with the Office of the Secretary of State on April 27, 1998.  
TRD-9805880

Collier M. Cole, Ph.D.  
Chairperson

Council on Sex Offender Treatment

Earliest possible date of adoption: June 7, 1998

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



## **TITLE 30. ENVIRONMENTAL QUALITY**

### **Part I. Texas Natural Resource Conservation Commission**

#### **Chapter 90. Regulatory Flexibility**

The Texas Natural Resource Conservation Commission (TNRCC or commission) proposes new §§90.1, 90.2, 90.10, 90.12, 90.14, 90.16, 90.18, and 90.20, concerning Regulatory Flexibility.

EXPLANATION OF PROPOSED RULES Senate Bill (SB) 1591, 75th Legislature, 1997, provides the commission with the authority to exempt an applicant from a requirement of a statute or commission rule related to the control or abatement of pollution if the applicant applies an alternative method or standard that is at least as protective of the environment and is not inconsistent with federal law. This provides for the use of innovative methods of compliance that could potentially result in greater environmental performance. SB 1591 further directs

the commission to specify by rule the procedure for obtaining an exemption, which must include public notice and public participation provisions.

The purpose of this rulemaking is to comply with the requirements of SB 1591 by establishing Regulatory Flexibility Order application requirements and provisions for public notice/public participation.

Section 90.1, concerning Purpose, states the purpose of the new chapter, which is to provide regulatory flexibility to an applicant who proposes an alternative method or alternative standard to control or abate pollution. This section clearly identifies the objective of the proposed chapter and the authority under which the commission is proposing the new chapter.

Section 90.2, concerning Applicability and Eligibility, establishes that the proposed chapter applies to anyone subject to an environmental statute or commission rule. This section also establishes that persons referred to the attorney general and who incur a judgment, and persons convicted of an environmental crime are ineligible for three years. The program is a voluntary program meant for those persons who have demonstrated a willingness to comply with environmental requirements. The eligibility requirements were therefore written to allow persons with a less than perfect compliance history to remain eligible, while specifically excluding persons who are guilty of major or willful infractions.

Section 90.10, concerning Application for a Regulatory Flexibility Order, specifies the procedures for applying for a Regulatory Flexibility Order, establishes minimum requirements for the application, and establishes a \$250 application fee. Minimum requirements were developed to ensure consistency in applications received by the commission, to ensure consistency in the review of those applications, and to minimize the amount of time spent requesting additional information from the applicant.

Section 90.12, concerning Additional Fees; Cost Recovery, establishes conditions under which additional fees may be assessed for regulatory flexibility applications. Additional fees may be assessed in two situations: first, if the application requires an amendment or modification to an existing permit, the executive director may require the applicant to pay a fee equal to the application fee for such permit amendment or modification; and second, if the executive director determines that the application is significant and complex, he may require the applicant to enter into a cost recovery agreement in order for the commission to recover all costs associated with the review and approval of the application. This provision provides for consistent assessment of fees associated with permit amendments and modifications. In addition, it allows the commission to recover costs associated with the review and approval of applications, particularly those that require extensive staff time and commission resources.

Section 90.14, concerning Commission Action on Application, establishes that the commission will act on the application consistent with its procedural rules found in 30 TAC §50.17. In addition, this section establishes that the commission will consider, during review of the application, the applicant's compliance history and efforts made to achieve local community participation and support. This provision was included to clearly indicate how the application will be processed and to ensure that potential applicants understand that their compliance history and efforts to involve the local community will be a factor in consideration of the proposal. Compliance history is important

because it gives an indication of the applicant's ability or willingness to comply with a Regulatory Flexibility Order. Local community participation is important because it identifies the preferences of the community relative to the proposal, exposes issues of importance to those in the locality, and provides the applicant with the information needed to address any potential community concerns prior to entering the application process.

Section 90.16, concerning Public Notice, Comment, and Hearing, establishes public notice and participation requirements. Public notice is divided into three segments: the first provides that applicants must comply with public notice requirements associated with the statute or commission rule for which they are seeking an exemption; the second establishes public notice requirements if the statute or commission rule for which an applicant is requesting an exemption does not require public notice; and the third allows for the use of alternative public notice provided the alternative is reasonably likely to provide greater public notice and opportunity for participation. In addition, this section establishes minimum requirements for public notice. The public notice provision was divided into three segments because it is meant to provide for the greatest or most effective means of public notice. In addition, in light of the fact that the proposed rule is meant to provide flexibility, the alternative notice provision is meant to allow for the use of an alternative, provided that the alternative is likely to be more effective.

Section 90.18, concerning Amendment/Renewal, establishes the procedures for amending or renewing a Regulatory Flexibility Order. This section specifies that an application for amendment or renewal may be filed in the same manner as a new application. In addition, this section provides that if an application for renewal is submitted at least 180 days prior to the expiration date of the current Regulatory Flexibility Order, the applicant can continue to operate under the existing order until such time as a decision is made on the renewal application. This provision clarifies the procedures for amending or renewing a Regulatory Flexibility Order, and in the event a Regulatory Flexibility Order expires, provides that the applicant can continue to operate under that order provided the renewal application is submitted within the specified time frame. This minimizes the chance of the applicant being penalized because the commission does not act on the renewal application prior to expiration of the order.

Section 90.20, concerning Termination, details termination procedures by the recipient and the executive director. This section provides that if the Regulatory Flexibility Order is terminated by the recipient, then the recipient must be in compliance with all existing statutes or commission rules at the time of termination. Termination language was included to allow the recipient to terminate the order in the event the alternative does not result in an environmental or economic benefit. The recipient is required to immediately be in full compliance with existing statutes or commission rules because it could operate under the Regulatory Flexibility Order until such time as it is able to operate in full compliance with existing statutes or commission rules.

The commission may terminate the order if it finds the recipient is not in compliance with the order or if the alternative is not or ceases to be at least as protective of the environment or public health, or becomes inconsistent with federal requirements. This section provides that the commission may grant a reasonable grace period to allow the recipient to come into full compliance with all existing statutes or commission rules. Otherwise, the recipient would be in immediate noncompliance upon termination.

**FISCAL NOTE** Stephen Minick, Strategic Planning and Appropriations Division, has determined that for the first five-year period the sections as proposed are in effect, there will be fiscal implications as a result of administration or enforcement of the sections. The effect on state government will be an increase in costs associated with the review and approval of applications for regulatory flexibility orders. This increase will be similar to a modest increase in the level of permit modification or amendment activity agency-wide. The actual costs of processing the applications will depend on both the number and type of projects for which application is made, and the opportunity to make such application is voluntary. No estimates of the actual costs of processing applications under these proposed sections has been made; however, the total cost impact is not anticipated to be significant on an agency-wide basis. These sections also provide for the recovery of costs through nominal application fees and specific cost recovery provisions for more complex projects. Although total costs are not anticipated to be significant on an agency-wide basis, these costs will be potentially offset by the provision for recovery of costs from applicants. There are no costs imposed on units of local government. A unit of local government operating regulated facilities that would be eligible to participate as a party to a regulatory flexibility order would be affected in the same manner as any other facility owner or operator. The costs of participation imposed under these sections are the costs of preparation of an application meeting the requirements proposed under these sections and the payment of any fees for the recovery of processing costs.

**PUBLIC BENEFIT** Mr. Minick has also determined that for each year of the first five years the sections as proposed are in effect, the public benefit anticipated as a result of enforcement of and compliance with the sections will be more cost-effective compliance with existing statutory and regulatory requirements for the protection of environmental quality and human health and safety. The proposed sections have an effect on eligible owners or operators on a strictly voluntary basis and no required economic costs are imposed on any person, including small businesses, complying with the sections as proposed. Owners or operators electing to seek an order for regulatory flexibility under these sections will realize costs attributable to the preparation of an application and justification that the proposal is consistent with the proposed requirements and statutory provisions. In addition, costs will be imposed as a result of payment of an application fee for all applicants and the payment of specific recoverable costs for some applicants. The proposed \$250 application fee is not anticipated to represent a significant economic cost to most applicants. The number of total applications that may be anticipated is not known; however, it is not expected that a significant number of applicants will meet the requirements of a complex application that calls for the imposition of an agreement for recovery of costs. In no instance are the potential costs to an applicant anticipated to exceed the actual economic benefits that should accrue as a result of operating a facility under the flexible permitting authority conveyed by an order issued under these rules.

**REGULATORY IMPACT ANALYSIS** The commission has reviewed the proposed rulemaking in light of the regulatory analysis requirements of Texas Government Code (the Code), §2001.0225, and has determined that the rulemaking is not subject to §2001.0225 because it does not meet the definition of a "major environmental rule" as defined in the Code, and it does not meet any of the four applicability requirements listed in §2001.0225(a).

The goal of this proposal is to provide flexibility from existing statutes and commission rules, provided the proposed alternative is at least as protective as the statute or commission rule it replaces. This proposal does not create or impose any additional burdens on the regulated community.

This proposal will not adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, or the public health and safety. On the contrary, this proposal is expected to have a positive affect on the economy and the environment.

This proposal will not exceed any state or federal requirement or a requirement of a delegation agreement or contract between the state and an agency or representative of the federal government.

Regulatory Flexibility Orders (RFOs) issued under this proposal may create additional requirements for applicants, such as reporting or record keeping, beyond those already contained in the TNRCC's rules. However, since the program is voluntary, no additional requirements will be imposed on the regulated community at large. RFOs may be surrendered at any time, without penalty, provided all existing requirements are met.

**TAKINGS IMPACT STATEMENT** The commission has prepared a takings impact assessment for these proposed rules under Texas Government Code, §2007.043. The following is a summary of that assessment. The specific purpose of the rules is to implement the commission's authority under Texas Water Code, §5.123, to provide regulatory flexibility to an applicant who proposes an alternative method or standard to control or abate pollution. The rules will substantially advance this specific purpose by establishing application and public notice/public participation procedures as required by Senate Bill 1591, 75th Legislature, 1997 (the legislation authorizing and requiring the commission to develop a regulatory flexibility program). Promulgation and enforcement of these rules will not affect private real property which is the subject of the rules because the Regulatory Flexibility Program is strictly voluntary, and therefore does not impose any burden. Applicants should be fully aware of any additional burdens as a result of program participation, and have the opportunity to withdraw at any time.

**COASTAL MANAGEMENT PROGRAM CONSISTENCY REVIEW** The commission has reviewed the proposed rulemaking and found that the proposal is a rulemaking identified in Coastal Coordination Act Implementation Rules, 31 TAC §505.11, relating to Actions and Rules Subject to the Coastal Management Program (CMP), and will affect an action/authorization identified in Coastal Coordination Act Implementation Rules, 31 TAC §505.11, and will, therefore, require that applicable goals and policies of the CMP be considered during the rulemaking process.

The commission has prepared a consistency determination for the proposed rules under 31 TAC §505.22 and has found the proposed rulemaking is consistent with the applicable CMP goals and policies. The following is a summary of that determination. CMP goals applicable to the proposed rule include: 1) protecting, preserving, restoring, and enhancing the diversity, quality, quantity, functions, and values of coastal natural resource areas (CNRAs); 2) ensuring sound management of all coastal resources by allowing for compatible economic development and multiple human uses of the coastal zone; 3) balancing the benefits from economic development and multiple human uses of the coastal zone, the benefits from protect-

ing, preserving, restoring, and enhancing CNRAs, the benefits from minimizing loss of human life and property, and the benefits from public access to and enjoyment of the coastal zone; 4) coordinating agency and subdivision decision-making affecting CNRAs by establishing clear, objective policies for the management of CNRAs; 5) making agency and subdivision decision-making affecting CNRAs efficient by identifying and addressing duplication and conflicts among local, state, and federal regulatory and other programs for the management of CNRAs; and 6) making coastal management processes visible, coherent, accessible, and accountable to the people of Texas by providing for public participation in the ongoing development and implementation of the Texas CMP.

CMP policies applicable to the proposed rules include the policies in the following policy categories: Category 3-Discharges of Wastewater and Disposal of Waste from Oil and Gas Exploration and Production Activities; Category 4-Construction and Operation of Solid Waste Treatment, Storage, and Disposal Facilities; Category 6-Discharge of Municipal and Industrial Wastewater to Coastal Waters; Category 7-Nonpoint-source Water Pollution; Category 8-Development in Critical Areas; Category 10-Dredging and Dredged Material Disposal and Placement; Category 13-Development Within Coastal Barrier Resource System Units and Otherwise Protected Areas on Coastal Barriers; Category 17-Emission of Air Pollutants; Category 18-Appropriations of Water; Category 19-Levee and Flood Control Projects; Category 20-Policy for Major Actions; and Category 21-Administrative Policies.

Promulgation and enforcement of these rules will not violate any standards identified in the applicable CMP goals and policies because the proposed rules are by definition consistent with the goals and policies of the CMP because any alternative must be shown to be consistent with federal law and to be at least as protective of human health and the environment as the rule for which an alternative is requested; and procedures are established for public notice, comment, and hearing.

The commission seeks public comment on the consistency of the proposed rules.

**PUBLIC HEARING** A public hearing on the proposal will be held June 2, 1998, at 2:00 p.m. in Room 2210 of TNRCC Building F, located at 12100 Park 35 Circle, Austin. The hearing is structured for the receipt of oral or written comments by interested persons. Individuals may present oral statements when called upon in order of registration. Open discussion will not occur during the hearing; however, an agency staff member will be available to discuss the proposal 30 minutes prior to the hearing and answer questions before and after the hearing.

**SUBMITTAL OF COMMENTS** Comments may be submitted to Lisa Martin, TNRCC Office of Policy and Regulatory Development, MC 205, P.O. Box 13087, Austin, Texas 78711-3087, or faxed to (512) 239-4808. Comments must be received by 5:00 p.m., June 8, 1998, and should reference Rule Log Number 97166-090-AD. For further information, please contact Sherman Krause, Office of Pollution Prevention and Recycling, (512) 239-4746, or Jim Dodds, Office of Policy and Regulatory Development, (512) 239-1119.

Persons with disabilities who have special communication or other accommodation needs who are planning to attend the hearings should contact the agency at (512) 239-4900. Requests should be made as far in advance as possible.

## Subchapter A. Purpose, Applicability, and Eligibility

### 30 TAC §90.1, §90.2

STATUTORY AUTHORITY The new sections are proposed under Texas Water Code, §5.123, which authorizes the commission to exempt an applicant from a requirement of a statute or commission rule regarding the control or abatement of pollution if the applicant proposes to control or abate pollution by an alternative method or by applying an alternative standard that is at least as protective of the environment and the public health and is not inconsistent with federal law. Texas Water Code, §5.123, requires the commission to adopt rules specifying the procedure for obtaining an exemption and requires that the rules provide for public notice and public participation.

The proposed new sections implement Texas Water Code, §5.123.

#### §90.1. Purpose.

The purpose of this chapter is to implement the commission's authority under Texas Water Code, §5.123, to provide regulatory flexibility to an applicant who proposes an alternative method or alternative standard to control or abate pollution.

#### §90.2. Applicability and Eligibility.

(a) This chapter applies to any statute or commission rule regarding the control or abatement of pollution, except that it does not apply to requirements for storing, handling, processing, or disposing of low-level radioactive materials.

(b) Any person subject to any statute or commission rule regarding the control or abatement of pollution may be eligible to receive a Regulatory Flexibility Order, except that:

(1) a person who has been referred to the Texas or United States Attorney General, and has incurred a judgment, is ineligible for a period of three years from the date the judgment was final;

(2) a person who has been convicted of an environmental crime in this state or any other state is ineligible for a period of three years from the date of the conviction.

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

Filed with the Office of the Secretary of State on April 24, 1998.

TRD-9805741

Kevin McCalla

Director, Legal Division

Texas Natural Resource Conservation Commission

Proposed date of adoption: August 26, 1998

For further information, please call: (512) 239-1966



## Subchapter B. General Provisions

### 30 TAC §§91.10, 90.12, 90.14, 90.16, 90.18, 90.20

STATUTORY AUTHORITY The new sections are proposed under Texas Water Code, §5.123, which authorizes the commission to exempt an applicant from a requirement of a statute or commission rule regarding the control or abatement of pollution if the applicant proposes to control or abate pollution by an alternative method or by applying an alternative standard that is at least as protective of the environment and the public health

and is not inconsistent with federal law. Texas Water Code, §5.123, requires the commission to adopt rules specifying the procedure for obtaining an exemption and requires that the rules provide for public notice and public participation.

The proposed new sections implement Texas Water Code, §5.123.

#### §90.10. Application for a Regulatory Flexibility Order.

(a) An application for a Regulatory Flexibility Order (RFO) must be submitted to the executive director.

(b) The application must, at a minimum, include:

(1) a narrative summary of the proposal, including the specific statutes or commission rules for which an exemption is being sought;

(2) a detailed explanation, including a demonstration as appropriate, that the proposed alternative is:

(A) at least as protective of the environment and the public health as the method or standard prescribed by the statute or commission rule that would otherwise apply; and

(B) not inconsistent with federal law, including any requirement for a federally approved or authorized program;

(3) an implementation schedule which includes proposed monitoring and reporting of environmental performance and compliance under the RFO;

(4) an identification, if applicable, of any proposed transfers of pollutants between media;

(5) a description of efforts made or proposed to involve the local community and to achieve local community support;

(6) an application fee of \$250; and

(7) any other information requested from the applicant by the executive director during the application review period.

(c) The application must be signed by the applicant or its duly authorized agent and must certify that all information is true, accurate, and complete.

(d) The applicant shall submit an original and two copies of the signed application to the executive director for review, and shall send one additional copy to the TNRCC regional office for the region in which the facility is located.

#### §90.12. Additional Fees; Cost Recovery.

(a) If the executive director determines that a Regulatory Flexibility Order (RFO) would constitute an amendment or modification to one or more existing permits, the executive director may require the applicant to pay a fee equal to the application fee for such permit amendment or modification.

(b) The executive director may determine that the application for an RFO constitutes a significant and complex application for which the recovery of all reasonable costs for review and approval by the commission is appropriate. Upon notice to the applicant of such finding, the applicant shall execute a cost recovery agreement in a form approved by the executive director.

(c) Final consideration of an application by the commission is contingent on the applicant's agreement to pay the reasonable costs of review, as determined by the executive director.

(d) If an application is withdrawn prior to the commission's consideration of the application, the executive director may void the cost recovery agreement and retain the initial application fee.



(e) The executive director shall determine the commission's costs to administer this chapter, establish rates to recover those costs, and publish the rates in the *Texas Register*. The rates established under this section shall not exceed the rates established by the commission under Health and Safety Code, §361.613 or Chapter 333 of this title (relating to Voluntary Cleanup Programs).

§90.14. Commission Action on Application.

(a) Commission action on an application under this Part shall be consistent with the procedures set forth in §50.17 of this title (relating to Commission Actions).

(b) The commission may consider in its decision, among other factors, the applicant's compliance history and efforts made to involve the local community and achieve local community support.

§90.16. Public Notice, Comment, and Hearing.

(a) The applicant shall comply with all public notice, comment, and hearing requirements associated with the statute or commission rule for which the applicant is seeking an exemption, except as provided in subsection (b) or (c) of this section.

(b) If the statute or commission rule for which an applicant is seeking flexibility does not require public notice, or an opportunity for comment or hearing, the following requirements shall apply.

(1) The applicant shall publish notice at least once in the newspaper of largest general circulation in the county in which the facility is located or proposed to be located. The notice shall be published within 30 days after submittal of the application. Notice under this section shall not be smaller than that normally used in the newspaper's classified advertising section.

(2) The commission shall accept public comment consistent with Chapter 55 of this title (relating to Request for Contested Case Hearings; Public Comment).

(3) The public comment period shall end 30 days after the last publication of the notice of application.

(c) Alternative public notice.

(1) An applicant may request to provide public notice and an opportunity for comment or hearing in an alternative manner to the requirements of subsection (a) or (b) of this section.

(2) The executive director, in his sole discretion, may authorize alternative public notice and participation opportunities if he determines that the alternative is reasonably likely to provide greater public notice and opportunity for participation than subsection (a) or (b) of this section.

(d) Notice under this section shall, at a minimum, include:

(1) a brief description of the proposal and of the business conducted at the facility or activity described in the application;

(2) the name and address of the applicant and, if different, the location of the facility for which regulatory flexibility is sought;

(3) the name and address of the commission;

(4) the name, address, and telephone number of a commission contact person from whom interested persons may obtain further information;

(5) a brief description of the public comment procedures, and the time and place of any public meeting or public hearing; and

(6) the date by which comments or requests for hearing must be received by the commission.

§90.18. Amendment/Renewal.

(a) An application for amendment or renewal of a Regulatory Flexibility Order (RFO) may be filed in the same manner as an original application under this subchapter.

(b) If renewal procedures have been initiated at least 180 days prior to the RFO expiration date, the existing RFO will remain in effect, and will not expire until commission action on the application for renewal is final.

§90.20. Termination.

(a) By the recipient.

(1) A recipient of a Regulatory Flexibility Order (RFO) may terminate the RFO at any time by sending a notice of termination to the executive director by certified mail.

(2) The recipient must be in compliance with all existing statutes or commission rules at the time of termination.

(b) By the commission.

(1) An RFO may be terminated by the commission at any time it determines that this subchapter or the terms of the RFO have been violated, or that the RFO no longer conforms to §90.10(b)(2) of this title (relating to Application for a Regulatory Flexibility Order).

(2) The commission shall notify the recipient of the RFO, in writing, of the decision to terminate the RFO.

(3) The commission may specify an appropriate and reasonable transition period to allow the recipient to come into full compliance with all existing agency requirements, including time to apply for any necessary agency permits or other authorizations.

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

Filed with the Office of the Secretary of State on April 24, 1998.

TRD-9805742

Kevin McCalla

Director, Legal Division

Texas Natural Resource Conservation Commission

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For further information, please call: (512) 239-1966



## Chapter 113. Control of Air Pollution From Toxic Materials

### Subchapter D. Designated Facilities and Pollutants

#### 30 TAC §§113.2060, 113.2061, 113.2067, 113.2069

The Texas Natural Resource Conservation Commission (commission) proposes new Subchapter D, concerning Designated Facilities and Pollutants, and new §§113.2060, 113.2061, 113.2067, and 113.2069, concerning Municipal Solid Waste (MSW) Landfills. The commission also proposes to add emission standards for non-methane organic compounds (NMOC) and control plan requirements to the Texas Air Control Board Plan for the Control of Sulfuric Acid Mist, Total Reduced Sulfur, and Fluoride Emissions from Existing Facilities. This plan would also be renamed to the Texas State Plan for the Control of Designated Facilities and Pollutants. The proposed new sections and state plan revisions are based on emission guidelines published by the United States Environmental

Protection Agency (EPA) on March 12, 1996, 7 and amended on \_\_\_\_\_ under the authority of §111(d) of the Federal Clean Air Act (FCAA). A copy of the emission guidelines is available either through EPA or through the commission. The EPA went through litigation with the National Solid Wastes Management Association after adoption of the MSW landfill rules. A litigation agreement was reached in November 1997 and signed during the week of March 16, 1998. The amendment date that resulted from that litigation will be incorporated into this proposal once the amendments have been published by EPA. Title 40 Code of Federal Regulations (CFR) Part 60, §60.23(a) requires that within nine months after notice of the availability of a final emission guideline document is published for a designated facility, as defined in 40 CFR Part 60, §60.21(b), each state must adopt and submit to the EPA a plan for the control of the designated pollutant to which the emission guideline document applies. The executive director requested and received a one-year extension to this requirement, until December 31, 1997, in order to fully address concerns regarding the regulation by this rule of closed landfills. On December 9, 1997, EPA also extended the deadline for Texas to submit a rule under §111(d) until July 31, 1998.

**EXPLANATION OF PROPOSED RULES** Proposed new §113.2060, concerning Definitions, defines terms used in the new subchapter that are either previously undefined or are used differently by the federal rule that is the basis for the proposed rule. Definitions for the terms "construction" and "modification" were taken from 40 CFR Part 60, §60.2, concerning Definitions. Definitions for the terms "reconstruction" and "fixed capital cost," were taken from 40 CFR Part 60, §60.15, concerning Reconstruction. The definition for the term "existing municipal solid waste landfill" was taken from 40 CFR Part 60, §60.33(c), concerning Emission Guidelines for Municipal Solid Waste Landfills with additional clarifications. The definitions for "modification," "reconstruction" and "existing municipal solid waste landfill" were augmented with language from 40 CFR Part 60, §60.32(c), concerning Designated Facilities, to make the definitions specific to this proposed rule.

The definition of "existing municipal solid waste landfill" was further modified with regard to the closed landfills that will be affected by the proposed rules. The EPA defined existing municipal solid waste landfill as any that has accepted waste at any time since November 8, 1987. The commission has determined that MSW landfills which closed prior to October 9, 1993 did so because those facilities were economically unable to comply with 40 CFR Part 258 (popularly known as the "Subtitle D" requirements). Requiring these facilities to comply with new standards more than four years after they closed for economic reasons would be unreasonable. MSW landfills that were closed prior to October 9, 1993, have been excluded from this rule requirements in accordance with 40 CFR §60.24(f), which allows the state rule to be less stringent for a particular designated class of facilities provided that the state can show that factors exist specific to the class of facilities that make application of a less stringent standard significantly more reasonable.

Proposed new §113.2061, concerning Standards for Air Emissions, provides the air quality standards for existing MSW landfills. Proposed §113.2061(a) requires that owners or operators of an existing MSW landfill comply with the provisions of the New Source Performance Standard for MSW landfills. This is consistent with federal requirements (40 CFR Part 60,

§60.24(c)), which specify that the emission standards be no less stringent than the corresponding emission guidelines. The emission guidelines require existing landfills with a design capacity greater than or equal to 2.5 million (M) megagrams (Mg) (approximately 2.75 M tons) or 2.5 M cubic meters to annually calculate estimated non-methane organic compound (NMOC) emissions from the landfill. When the estimated annual NMOC emission rate reaches 50 Mg per year, the landfill owner or operator must install a gas collection system and route the gas to a control device, for example a flare, an energy recovery device such as a gas turbine or internal combustion engine), or a gas recovery system. Once the gas collection system is operating, the owner or operator must monitor the landfill surface quarterly for organic compound leaks.

Proposed §113.2061(b) provides that gas collection and control systems that were approved by the commission for installation at a landfill in compliance with 30 TAC §§115.152-115.159, concerning Municipal Solid Waste Landfills, are in compliance with the proposed design standards with no further review. This provision is included to prevent landfill owners/operators in the Dallas/Fort Worth and El Paso ozone nonattainment areas from being subjected to the requirements of two different state rules. The commission seeks comment on other provisions which may be necessary to coordinate the transition from regulation under 30 TAC §§115.152-115.159 to regulation under the proposed rule.

Proposed new §113.2067, concerning Exemptions, provides the criteria by which operators of an MSW landfill or class of landfills may apply for an exemption to the proposed rule on a case-by-case basis. These criteria are consistent with the federal regulations (40 CFR Part 60, §60.24(f)), which list the criteria under which exemptions will be considered by the EPA. The commission seeks comment on what landfills or classes of landfills might be candidates for exemptions under this proposed section.

Proposed new §113.2069, concerning Compliance Schedule, provides the schedule for the initial reports that are required by the rule. Owners and operators of all affected landfills must file an initial design capacity report within 90 days of the date that the commission publishes notification in the *Texas Register* that EPA has approved this rule. By the same date, owners and operators of those affected landfills with a design capacity greater than or equal to 2.5 M Mg or 2.5 M cubic meters must file an initial NMOC emission rate report. All other compliance times are specified in the referenced federal rule relative to the filing deadline for these two reports.

**FISCAL NOTE** Stephen Minick, Strategic Planning and Appropriations Division, has determined that for the first five-year period the proposed rules are in effect, there will be fiscal cost implications for state and local governments. Affected landfill owners and/or operators would have to spend approximately \$10,000 to \$12,000 per acre to implement the requirements of the proposed rules. Any cost beyond the five-year period would be limited to ongoing operation and maintenance of the gas collection and control systems. The cost effectiveness of these rules is estimated at \$1,100 per ton of NMOC reduced. Based on EPA's estimate, the annual cost of waste acceptance may increase by \$2.50 to \$5.00 per year per household. However, landfills that elect to use energy recovery systems may be able to significantly offset the cost of implementing the proposed rules. EPA also estimates that 5% of the total number of landfills nationwide would be required to implement controls.

**PUBLIC BENEFIT** Mr. Minick also has determined that for each year of the first five years the proposed rules are in effect, the public benefit anticipated as a result of enforcement of and compliance with the proposed rules will be satisfaction of a federal requirement as well as methane and NMOC emission reductions which are beneficial for attaining the ozone standard in ozone nonattainment areas, controlling odor nuisance, and reducing the danger of fire or explosion hazards. There are no fiscal implications for persons or small businesses affected by the proposed rules.

**REGULATORY IMPACT ANALYSIS** The commission has reviewed the proposed sections as required by regulatory analysis provisions of Texas Government Code (the Code), §2001.0225, and has determined that the rulemaking is not subject to §2001.0225. While this action is a major environmental rule which will cause estimated expenditures of up to \$12,000 per acre for affected landfills it does not meet any of the applicability requirements of §2001.0225(a). This proposal does not exceed standards or requirements set by either federal or state law and is being proposed under requirements of §111(d) of the FCAA.

**TAKINGS IMPACT ASSESSMENT** The commission has prepared a Takings Impact Assessment for these rules pursuant to Texas Government Code Annotated, §2007.043. The following is a summary of that assessment. The specific purpose of the rules is to control air contaminants from MSW landfills. The rules will substantially advance this specific purpose by requiring some MSW landfills to install gas collection and control systems and monitor surface emissions. Promulgation and enforcement of these rules could burden private real property which is the subject of the rules.

These rules fulfill a requirement of federal law and are proposed to prevent public nuisances and do not require a full takings evaluation.

**COASTAL MANAGEMENT PROGRAM CONSISTENCY REVIEW** The commission has determined that the proposed rulemaking relates to an action or actions subject to the Texas Coastal Management Program (CMP) in accordance with the Coastal Coordination Act of 1991, as amended (Texas Natural Resources Code §33.201 et. seq.), and the commission's rules at 30 TAC Chapter 281, Subchapter B, Consistency with the Texas Coastal Management Program. As required by 31 TAC §505.11(b)(2) and 30 TAC §281.45(a)(3) relating to actions and rules subject to the CMP, commission rules governing air pollutant emissions must be consistent with the applicable goals and policies of the CMP. The commission has reviewed this proposed action for consistency with the CMP goals and policies in accordance with the regulations of the Coastal Coordination Council. For the proposed action in 30 TAC §§113.2060, 113.2061, 113.2067, and 113.2069, the commission has determined that the rules are consistent with the applicable CMP goals and policies. The purpose of 30 TAC §§113.2060, 113.2061, 113.2067, and 113.2069 is to control air contaminants from MSW landfills. The sections are in compliance with the regulations adopted under Title 40, Code of Federal Regulations adopted under the Clean Air Act, 42 United States Code Annotated, §7401, et. seq. to protect and enhance air quality in the coastal area so as to protect coastal natural resource areas (CNRAs) and promote the public health, safety and welfare. Interested persons may submit comments on the consistency of the proposed rule with the CMP during the public comment period.

**PUBLIC HEARINGS** Public hearings on this proposal will be held in Irving on May 29, 1998 at 2:00 p.m. at the City of Irving Central Library Auditorium, 801 West Irving Boulevard; in Austin on June 1, 1998 at 2:00 p.m. at the Texas Natural Resource Conservation Commission, Building F, Room 5108, 12100 Park 35 Circle; and in Houston on June 4, 1998 at 7:00 p.m. at the City of Houston Pollution Control Building Auditorium. Individuals may present oral statements when called upon in order of registration. Open discussion will not occur during the hearings; however, a staff member will be available to discuss the proposal one hour prior to each hearing and will answer questions before and after the hearings.

**SUBMITTAL OF COMMENTS** Written comments may be mailed to Heather Evans, Office of Policy and Regulatory Development, MC 205, P.O. Box 13087, Austin, Texas 78711-3087 or faxed to (512) 239-4808. All comments should reference Rule Log Number 96135-113-AI. Comments must be received by 5:00 p.m., June 8, 1998. For further information or questions concerning this proposal, contact David C. Schanbacher of the Office of Air Quality, (512) 239-1228, Susan Janek of the Office of Waste Management, (512) 239-6784, or Beecher Cameron of the Office of Policy and Regulatory Development, (512) 239-1495.

Persons with disabilities who have special communication or other accommodation needs who are planning to attend the hearings should contact the agency at (512) 239-4900. Requests should be made as far in advance as possible.

**STATUTORY AUTHORITY** The new subchapter and sections are proposed under the Texas Clean Air Act (TCAA), Texas Health and Safety Code, §382.011, which provides the commission authority to control the quality of the state's air; §382.012, which gives the commission authority to develop a comprehensive plan for control of the state's air; and §382.017, which provides the commission with the authority to adopt rules consistent with the policy and purposes of the TCAA and to specify control methods when required by federal law.

The proposed new subchapter and sections implement the FCAA, §111(d) and TCAA §§382.011, 382.012, and 382.017.

§113.2060. Definitions.

Unless specifically defined in the Texas Clean Air Act (TCAA) or in the rules of the Texas Natural Resource Conservation Commission (commission), the terms used in this division have the meanings commonly ascribed to them in the field of air pollution control. In addition to the terms which are defined in the TCAA, and in §101.1 of this title (relating to Definitions), the following words and terms, when used in this division shall have the following meanings, unless the context clearly indicates otherwise.

(1) Construction - Fabrication, erection, or installation of an affected municipal solid waste landfill (MSWLF).

(2) Existing municipal solid waste landfill - An MSWLF meeting the following conditions:

(A) The MSWLF has accepted waste at any time since October 9, 1993, or has additional design capacity available for future waste deposition, regardless of whether that MSWLF is currently open or closed; and

(B) Construction, reconstruction, or modification of the MSWLF was commenced before May 30, 1991 (i.e., the MSWLF is not subject to the requirements of 40 Code of Federal Regulations (CFR) Part 60, Subpart WWW).

(3) Fixed capital cost - The capital needed to provide all the depreciable components.

(4) Modification - Any physical change in, or change in the method of operation of, an existing MSWLF which increases the amount of any air pollutant (to which a standard applies) emitted into the atmosphere by that MSWLF or which results in the emission of any air pollutant (to which a standard applies) into the atmosphere not previously emitted. For MSWLFs, the only physical or operational change that results in increased landfill emissions is an increase in the landfill design capacity. Design capacity of a landfill is increased only with the addition of new disposal areas. New disposal areas can result by increasing the depth of refuse deposition, increasing refuse compaction, or by constructing additional disposal cells. Physical or operational changes made to an existing MSWLF solely to comply with this subchapter are not considered a modification and would not subject an existing MSWLF to the requirements of 40 CFR Part 60, Subpart WWW.

(5) Reconstruction - The replacement of components of an existing MSWLF to such an extent that the fixed capital cost of the new components exceeds 50% of the fixed capital cost that would be required to construct a comparable entirely new MSWLF, and it is technologically and economically feasible to meet the applicable standards set forth in this division. Physical or operational changes made to an existing MSWLF solely to comply with this subchapter are not considered reconstruction and would not subject an existing MSWLF to the requirements of 40 CFR Part 60, Subpart WWW.

§113.2061. Standards for Air Emissions.

(a) An owner or operator of an existing municipal solid waste landfill (MSWLF) shall comply with all provisions specified in 40 Code of Federal Regulations (CFR) Part 60, §§60.751 through 60.759 as promulgated on March 12, 1996, and amended on \_\_\_\_\_. For purposes of this rule, the term "Administrator" wherever it appears in 40 CFR Part 60, §§60.751 through 60.759 shall refer to the commission.

(b) Gas collection and control systems approved by the commission and installed at an MSWLF in compliance with §115.152 of this title (relating to Control Requirements) satisfy the gas collection and control system design requirements of this section.

§113.2067. Exemptions.

A municipal solid waste landfill (MSWLF) may apply for less stringent emission standards or longer compliance schedules than those otherwise required by this division, provided that the owner or operator demonstrates to the executive director the following:

(1) unreasonable cost of control resulting from MSWLF age, location, or basic MSWLF design;

(2) physical impossibility of installing necessary control equipment; or

(3) other factors specific to the MSWLF that make application of a less stringent standard or final compliance time significantly more reasonable.

§113.2069. Compliance Schedule.

(a) An owner or operator subject to the requirements of this undesignated head shall submit the initial design capacity report in accordance with 40 Code of Federal Regulations (CFR) Part 60, §60.757(a)(2) to the executive director within 90 days from the date the commission publishes notification in the *Texas Register* that the United States Environmental Protection Agency (EPA) has approved this rule.

(b) An owner or operator of a municipal solid waste landfill with a design capacity equal to or greater than 2.5 million megagrams or 2.5 million cubic meters and subject to the requirements of this division shall also submit the initial non-methane organic compound emission rate report in accordance with 40 CFR §60.757(b)(2) to the executive director within 90 days from the date the commission publishes notification in the *Texas Register* that EPA has approved this rule.

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

Filed with the Office of the Secretary of State on April 27, 1998.

TRD-9805854

Kevin McCalla

Director, Legal Division

Texas Natural Resource Conservation Commission

Proposed date of adoption: July 29, 1998

For further information, please call: (512) 239-1970

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**TITLE 37. PUBLIC SAFETY AND CORRECTIONS**

**Part III. Texas Youth Commission**

**Chapter 85. Admission and Placement**

**Subchapter B. Placement Planning**

**37 TAC §§85.21, 85.23, 85.25**

The Texas Youth Commission (TYC) proposes an amendment to §§85.21, 85.23, and 85.25, concerning the program assignment system, classification, and minimum length of stay. These amendments will reinstate the classification of Violator of Conduct Indicating a Need for Supervision (CINS) Probation. The amendments to §85.21 and §85.25 will clarify that violators of CINS probation will be assigned no minimum length of stay. The amendment to §85.23, adds seven (7) Penal Code offenses to the TYC type B violent offender classification. The effect of the amendment is an extended length of stay for youth classified as type B violent offenders.

Terry Graham, Assistant Deputy Executive Director for Finance, has determined that for the first five-year period the section is in effect there will be fiscal implications for state government as a result of enforcing or administering the section. The estimated additional cost to the state is based on an increased average daily population in TYC institutional programs late in the biennium. This increase is expected to be reflected in future Criminal Justice Policy Council projections. The additional costs are expected to total: \$232,505 in FY 1999; \$963,235 in FY 2000 and FY 2001; and \$996,450 in FY 2002 and FY 2003. There will be no fiscal implications for local government as a result of enforcing or administering the section.

Mr. Graham also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be greater public protection. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the section as proposed. No private real property rights are affected by adoption of this rule.

Comments on the proposal may be submitted to Gail Graham, Policy and Manuals Coordinator, Texas Youth Commission, 4900 North Lamar, P.O. Box 4260, Austin, Texas 78765.

The amendment is proposed under the Human Resources Code, §61.075 determination of treatment, which provides the Texas Youth Commission with the authority to order the child's confinement under conditions it believes best designed for the child's welfare and the interests of the public.

The proposed rule implements the Human Resource Code, §61.034.

*§85.21. Program Assignment System.*

(a) Purpose. The purpose of this rule is to establish an objective, equitable system of program assignment for each youth in TYC care. Based on each youth's offense(s), and risk level, TYC has predetermined the most appropriate level of restriction and minimum length of stay requirement for public protection and for promotion of rehabilitation. Youth in coeducational facilities have equal access to agency programs and activities.

(b) Applicability.

(1) For specifics regarding classification, see (GAP) §85.23 of this title (relating to Classification).

(2) For specifics regarding minimum length of stay, see (GAP) §85.25 of this title (relating to Minimum Length of Stay).

(3) For specifics regarding restriction levels, see (GAP) §85.27 of this title (relating to Program Restriction Levels).

(4) For specifics regarding completion of program and movement to another program, and for specifics on movement of sentenced offender options, see (GAP) §85.29 of this title (relating to Program Completion and Movement).

(c) Placement System Factors. The program placement system shall incorporate the following factors.

(1) Classification shall be determined by the classifying offense and a finding regarding extenuating circumstances.

(2) The minimum length of stay shall be designated by the classification.

(3) Risk shall be assessed and used as a guideline in designating restriction level.

(4) Placements shall be made according to restriction and needs.

(A) Initial placements will always be to residential programs, except for some youth classified as violators of CINS probation.

(B) A youth's assessed service needs will be considered in the selection of a placement within the required level of restriction.

(d) System Description. The determining factors result in the following placement and length of stay determinations for all TYC youth on initial commitment, for youth recommitted for the commission of a felony or high risk offense, and for youth found at an administrative level I hearing to have committed a felony or high risk offense.

(1) A sentenced offender shall be sentenced by the court and, regardless of risk level, assigned to a program of high restriction with a fenced perimeter.

(2) A type A violent offender shall be assigned a minimum length of stay of 24 months, and with any risk level, assigned to a program of high restriction with a fenced perimeter.

(3) A type B violent offender shall be assigned a minimum length of stay of 12 months, and with any risk level, assigned to a program of high restriction.

(4) A chronic serious offender, controlled substances dealer, or firearms offender classified on or after January 1, 1996, shall be assigned a minimum length of stay of twelve months and with any risk level, assigned to a program of high restriction. The minimum length of stay for these youth classified before January 1, 1996, is nine months.

(5) A general offender classified:

(A) on or after January 1, 1996, shall be assigned a minimum length of stay of nine months, and with a:

(i) high risk level, assigned to a program of high restriction;

(ii) low or medium risk level, assigned to a program of medium restriction.

(B) before January 1, 1996, shall be assigned a minimum length of stay of six months, and with a:

(i) high risk level, assigned to a program of high restriction;

(ii) low or medium risk level, assigned to a program of medium restriction.

(6) A Violator of Conduct Indicating a Need for Supervision (CINS) Probation shall be assigned no minimum length of stay.

(e) Program Placement Responsibility. The centralized placement unit shall be responsible for all specific program placement selections/assignments.

(f) Waivers and Exceptions. Waivers and exceptions may be granted under special circumstances.

(1) A restriction level designation, except that of sentenced offender or type A violent offender, may be waived by the director of centralized placement unit or designee when a youth is qualified. A designated restriction may be waived in order to provide specialized treatment not available in the designated restriction when it is determined that a youth is physically/mentally handicapped, has a special medical condition, or is emotionally disturbed, if such condition would prevent the youth from functioning in the designated restriction level.

(2) Any placement designation except those of sentenced offenders and type A violent offenders may be waived by the director of the centralized placement unit or designee when population is at or above established capacity.

(3) For waiver of classification, see (GAP) §85.23 of this title (relating to Classification).

(4) For movement for population control see (GAP) §85.29 of this title (relating to Program Completion and Movement).

(g) Parent Notification. Parents/guardians shall be notified of all placements.

*§85.23. Classification.*

(a) Purpose. The purpose of this rule is to establish a system for classifying each youth admitted to TYC which can be consistently applied and ensures consistent management of each youth.

(b) Explanation of Terms Used.

(1) Classification - the designation assigned each youth based on the youth's offense history, the classifying offense, and a finding regarding extenuating circumstances incident to the classifying offense. A youth who commits an offense while in TYC custody may be administratively reclassified through a Level I hearing.

(2) Classifying Offense - the offense on which classification is based. It is the most serious of the relevant offenses documented in the youth's record. Relevant offenses are:

(A) on commitment, the committing offense and any offense(s) for which the youth was on probation at the time of the committing offense; or

(B) following a level I hearing, the offense(s) found at the hearing.

(3) Committing Offense - the most serious of the offenses found at the youth's most recent judicial proceeding.

(4) Most Serious Offense - the offense having the most severe consequences attached. The most serious offense is determined according to the following hierarchy, with each subsequent factor being considered only if two or more relevant offenses yield the same result under the preceding factor. If two or more offenses yield the same results through all steps of the hierarchy, determination of the most serious offense is left to the discretion of the staff assigning classification. The most serious offense is:

(A) an offense which carries determinate sentence;

(B) the offense for which the designated minimum length of stay will produce the longest time in the physical custody of TYC;

(C) the offense which requires the highest level of restriction in placement;

(D) the offense which carries the most severe criminal penalty; and

(E) the most recently adjudicated offense.

(5) Federal Offenses - youth who have committed federal offenses and are sent to TYC by Federal courts. If a committing and/or classifying offense is a violation of a federal statute, the offense will be treated as a violation of a state statute which prohibits the same conduct as the relevant federal statute. Federal violations will be identified by the code number assigned to the corresponding substantive state statute preceded by an "F".

(c) Classification assignment is based on the policy in effect at the time a youth is classified or is reclassified as appropriate. Classification of youth currently classified shall not change when the criteria for classification changes.

(d) Classifications.

(1) Sentenced Offender. A sentenced offender is a youth committed to TYC pursuant to section 54.04(d)(3) or 54.05(f) Family Code for offenses committed:

(A) prior to January 1, 1996, for:

(i) murder, 19.02, all

(ii) capital murder, 19.03, all

(iii) aggravated kidnapping, 20.04, all

(iv) aggravated sexual assault, 22.021, all

(v) deadly assault on a law enforcement officer, corrections officer, or court participant, 22.03, all

(vi) criminal attempt, 15.01, only if the offense attempted was Capital Murder (Sec.19.03)

(B) on or after January 1, 1996, for an offense listed in subsection (d)(1)(A) of this section or:

(i) sexual assault, 22.011, all

(ii) aggravated assault, 22.02, all

(iii) aggravated robbery, 29.03, all

(iv) injury to a child, elderly individual, or disabled individual, 22.04, first, second or third degree felony only

(v) deadly conduct, 22.05, felony only

(vi) aggravated or first degree controlled substances felony subchapter D, Chapter 481 Health and Safety Code aggravated or first degree felony only

(vii) criminal solicitation, 15.03, all

(viii) indecency with a child, 21.11, second degree felony only

(ix) criminal solicitation of a minor, 15.031, all

(x) criminal attempt, 15.01, only if offense attempted was a murder (sec. 19.02), indecency with a child (sec. 21.11(a)(1)), aggravated kidnapping (sec. 20.04), sexual assault 22.011(a)(2) upon a child only, aggravated sexual assault (sec. 22.021), aggravated robbery (sec. 29.03), or repeat conviction under Health and Safety Code 481.134(c), (d), (e), or (f).

(xi) habitual felony conduct, as defined in Juvenile Justice Code, 51.031

(C) on or after September 1, 1997, for an offense listed in subsection (d)(1)(A) or (d)(1)(B) of this section or: arson, 28.02, first degree felony only

(2) Type A - Violent Offender. A type A violent offender is a youth whose classifying offense is the commission, attempted commission, conspiracy to commit, solicitation, solicitation of a minor to commit, or engaging in organized criminal activity to commit one of the offenses listed in this paragraph and who has not been sentenced to commitment in TYC. TYC adopts the Texas Penal Code definition (Title 5) for each offense in its entirety except where TYC policy limits the applicability to the specific subsections or under the conditions named.

(A) murder, 19.02, all

(B) capital murder, 19.03, all

(C) sexual assault, 22.011, all

(D) aggravated sexual assault, 22.021, all

(3) Type B - Violent Offender. A type B violent offender is a youth whose classifying offense is the commission, attempted commission, conspiracy to commit, solicitation, solicitation of a minor to commit, or engaging in organized criminal activity to commit one of the offenses listed in this paragraph and who has not been sentenced to commitment in TYC. TYC adopts the Texas Penal Code definition for each offense listed in (A- U [Ø]) of this subsection in its entirety except where TYC policy limits the applicability to specific subsections or under the conditions named.

(A) manslaughter, 19.04, all

- (B) criminally negligent homicide, 19.05, all
- (C) unlawful restraint, 20.02, felony only
- (D) [~~B~~] kidnapping, 20.03, all
- (E) [~~C~~] aggravated kidnapping, 20.04, all
- (F) assault, 22.01, felony only
- (G) [~~D~~] indecency with a child, 21.11, all [second degree felony only]
- (H) [~~E~~] sexual assault, 22.011, all(only for youth classified before July 1, 1996)
- (I) [~~F~~] aggravated assault, 22.02, all
- (J) [~~G~~] aggravated sexual assault, 22.021, all (only for youth classified before July 1, 1996)
- (K) [~~H~~] injury to child, elderly or disabled individual, 22.04, all [first, second or third degree felony only]
- (L) abandoning or endangering a child, 22.041, all
- (M) [~~I~~] deadly conduct, 22.05, felony only
- (N) terroristic threat, 22.07, felony only
- (O) aiding suicide, 22.08, felony only
- (P) [~~K~~] tampering with a consumer product, 22.09, all [first or second degree felony only ]
- (Q) [~~L~~] arson, 28.02, all
- (R) robbery, 29.02, all
- (S) [~~M~~] aggravated robbery, 29.03, all
- (T) [~~N~~] burglary, 30.02, only with intent to commit any other type A or type B violent offense
- (U) intoxication assault, 49.07, all
- (V) [~~O~~] intoxication manslaughter, 49.08, all
- (W) [~~P~~] intentionally participating with six or more persons in conduct at a TYC facility that endangers persons or property and substantially obstructs the performance of facility operations.
- (X) [~~Q~~] intentionally, knowingly, or recklessly causing bodily injury to a:
  - (i) TYC employee;
  - (ii) contract program employee;
  - (iii) volunteer; or
  - (iv) person who is providing contract services at a contract program or TYC operated facility.

(4) Chronic Serious Offender. A chronic serious offender is a youth whose classifying offense is a felony and who has been found to have committed at least one felony in each of at least three separate and distinct due process hearings, where the second felony was committed after the disposition of the first felony and the third felony was committed after the disposition of the second felony.

(5) Controlled Substances Dealer. A controlled substances dealer is a youth whose classifying offense is any felony grade offense defined as a manufacture or delivery offense under the Texas Controlled Substances Act, Chapter 481, Health and Safety Code.

(6) Firearms Offender. A firearms offender is a youth whose classifying offense involved a finding by the court or TYC hearings examiner that the youth possessed a firearm during the offense. Classifying offenses for this classification are not limited to offenses specified in Chapter 46 of the Texas Penal Code.

(7) Violator of CINS Probation. [~~Commitments were allowed prior to January 1, 1996.~~] A violator of CINS probation is a youth who:

(A) is committed for violating terms of probation by an act which would not be punishable by imprisonment or confinement in jail if committed by an adult; and

(B) was on probation at the time of the probation revocation for no act more serious than Conduct Indicating a Need for Supervision (CINS) as defined in the Texas Family Code, Title 3.

(8) General Offender. A general offender is a youth who is not eligible for any other classification.

(e) Extenuating Circumstances.

(1) A designated classification except sentenced offender may be waived and a less restrictive classification assigned by a TYC hearings examiner at a TYC Level I due process hearing when the hearings examiner finds extenuating circumstances.

(2) Extenuating circumstances incident to a violent offense are those facts which indicate that the youth is not a significant danger to the physical or emotional well-being of another. Examples of such facts include, but are not limited to:

(A) the youth was an indirect or passive participant in a violent act;

(B) the youth set fire to an abandoned vehicle;

(C) the youth engaged in consensual sexual intercourse with someone who was capable of appraising the nature of that act and of resisting it.

(3) Extenuating circumstances incident to offenses other than violent offenses are those facts which explain a youth's conduct but do not constitute a legally-recognized defense to the conduct. Examples of such facts include, but are not limited to acts in which:

(A) the only property involved in the offense was of minimal value and was returned undamaged to its owner;

(B) the only bodily injury intended or inflicted by the youth consisted of brief or minor discomfort;

(C) the youth's conduct was an impulsive response to perceived provocation and posed no threat to persons or property;

(D) the youth was persuaded to participate in the offense by a parent or other authority figure.

(4) When extenuating circumstances incident to the classifying offense are found, the designated classification may be waived.

§85.25. *Minimum Length of Stay.*

(a) Purpose. The purpose of this rule is to establish by policy, a minimum period of time a youth will spend in residential placements (high or medium restriction) having reduced access to the public and which is based on the most serious offense the youth committed. The maximum period of time a youth may spend in residential placement is the total time until he/she reaches age 21. Release from residential placement anytime prior to age 21 is based

on the youth's successful completion of release criteria, one of which is the minimum length of time set by the agency.

(b) Applicability.

(1) Except where specifically named, requirements herein do not apply to sentenced offenders. See (GAP) §85.37 of this title (relating to Sentenced Offender Disposition) for additional information. The Texas Youth Commission (TYC) complies with orders of the committing court regarding sentences for youth sentenced to commitment to TYC.

(2) A disciplinary assigned length of stay of up to six months may be assigned in accordance with (GAP) §95.11 of this title (relating to Disciplinary Transfer/Assigned Minimum Length of Stay Consequences).

(c) Explanation of Terms Used.

(1) Minimum length of stay (MLS) - the factor in the placement and movement system which is the predetermined minimum period of time a youth will be assigned to live in a residential placement. TYC has established two types of minimum lengths of stay requirements for TYC youth, classification MLS and assigned disciplinary MLS. This rule primarily addresses classification MLS.

(2) Minimum period of confinement - the period of time established by law that a youth sentenced to commitment in TYC for offenses occurring on or after January 1, 1996, shall be confined in a TYC residential placement. The minimum period of confinement is the earliest of:

(A) completion of the sentence, or

(B) 10 years for youth sentenced for capital murder; three years for youth sentenced for an aggravated controlled substance felony or a felony of the first degree; two years for a felony of the second degree; and one year for a felony of the third degree.

(3) Classification MLS - a minimum length of stay directly associated with each classification established on initial commitment, for youth recommitted for the commission of a felony or high-risk offense, and for youth found at an administrative level I hearing to have committed a felony or high-risk offense. Classification minimum lengths of stay of youth classified before January 1, 1996, may include creditable time for events occurring prior to commitment.

(4) Assigned disciplinary MLS - the minimum length of stay assigned to a youth as a disciplinary consequence for behavior which may occur anytime a youth is in a residential setting.

(d) Minimum Length of Stay.

(1) Sentenced offenders shall serve the time assessed by the juvenile court, until the earliest of:

(A) release approved by the committing court;

(B) completion of the sentence; or

(C) completion of the minimum period of confinement (for youth committed for acts occurring on or after January 1, 1996 only).

(2) Type A violent offenders must complete a minimum of 24 months.

(3) Type B violent offenders must complete a minimum length of stay of 12 months.

(4) Chronic serious offenders, controlled substances dealers, and firearms offenders must complete a minimum length of

stay of 12 months if classified on or after January 1, 1996 or nine months if classified before that date.

(5) General offenders must complete a minimum length of stay of nine months if classified on or after January 1, 1996, or six months if classified before that date.

(6) A Violator of Conduct Indicating a Need for Supervision (CINS) Probation has no minimum length of stay.

(e) Creditable Time.

(1) On initial classification, the minimum length of stay shall be counted from the first day a youth reaches any TYC operated or assigned facility.

(2) On recommitment, the minimum length of stay shall be counted from the first day a youth reaches any TYC operated or assigned facility, and any incomplete MLS at the time of recommitment is eliminated; unless:

(A) a youth is recommitted for the same conduct following an appeal of the original commitment, in which case the youth shall be given credit toward completion of the new MLS for any time spent in TYC custody as a result of the original commitment; or

(B) a youth is recommitted for the same conduct for which a level I or II hearing has already been held, in which case the youth shall be given credit toward completion of the new MLS for the time already served as a result of that level I or II hearing.

(3) On TYC reclassification, if previous classification MLS:

(A) has been completed, the new classification minimum length of stay shall be counted from the date of the most recent due process hearing.

(B) has not yet been completed, the new classification minimum length of stay shall be counted from the completion of the previous MLS.

(4) After the count begins, all time spent in program, on furlough or in detention or jail (except as a disposition in a criminal case) will be counted toward meeting a minimum length of stay requirement.

(5) Time spent as an escapee from a TYC placement or time spent in jail or a court ordered placement in an adult correctional residential program as disposition in a criminal case shall not be counted toward meeting the minimum length of stay requirement.

(f) Creditable Time for Sentenced Offenders.

(1) On initial classification, the minimum period of confinement shall be counted from the first day a youth reaches any TYC operated or assigned facility. Only time spent in a TYC assigned facility shall be credited toward completion of minimum period of confinement.

(2) Sentenced offenders will be credited with days, as assessed by the court, detained in connection with the classifying offense. Time will be credited at the end of the total sentence.

(g) Restrictions.

(1) All minimum lengths of stay will run consecutively except when a youth is recommitted.

(2) Classification MLSs must be completed before any assigned disciplinary MLS begins.



(3) Youth may be eligible for transition to medium restriction to complete the minimum length of stay requirement in accordance with (GAP) §85.29 of this title (relating to Program Completion and Movement).

(h) Waivers and Reductions.

(1) The classification minimum length of stay requirement may be reduced by the deputy executive director in extenuating circumstances when it is documented that the minimum length of stay is not justified because of the nature of the youth's classifying offense and offense history.

(2) The disciplinary assigned MLS may be reduced in accordance with (GAP) §95.11 of this title (relating to Disciplinary Transfer/Assigned Minimum Length of Stay Consequences).

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

Filed with the Office of the Secretary of State on April 27, 1998.

TRD-9805829

Steve Robinson

Executive Director

Texas Youth Commission

Earliest possible date of adoption: June 7, 1998

For further information, please call: (512) 424-6244



## Chapter 95. Youth Discipline

### Subchapter A. Disciplinary Practices

#### 37 TAC §95.9

The Texas Youth Commission (TYC) proposes an amendment to §95.9, concerning, parole revocation consequence. The amendment will reinstate the classification of Violator of Conduct Indicating a Need for Supervision (CINS) Probation.

Terry Graham, Assistant Deputy Executive Director for Finance, has determined that for the first five-year period the section is in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the section.

Mr. Graham also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be greater protection for the public. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the section as proposed. No private real property rights are affected by adoption of this rule.

Comments on the proposal may be submitted to Gail Graham, Policy and Manuals Coordinator, Texas Youth Commission, 4900 North Lamar, P.O. Box 4260, Austin, Texas 78765.

The amendment is proposed under the Human Resources Code, §61.075 determination of treatment, which provides the Texas Youth Commission with the authority to order the child's confinement under conditions it believes best designed to the child's welfare and the interests of the public.

The proposed rule implements the Human Resource Code, §61.034.

§95.9. *Parole Revocation Consequence.*

(a) Purpose. The purpose of this rule is to provide for the revocation of parole status as a disciplinary consequence for behavior that presents an unacceptable risk to the safety of persons and property. Parole revocation is considered a major consequence.

(b) Applicability.

(1) The due process necessary to effect this rule is found in (GAP) §95.51 of this title (relating to Level I Hearing Procedure).

(2) Additional procedures and restrictions are applied prior to any movement of a sentenced offender youth. See (GAP) §85.29 of this title (relating to Program Completion and Movement). Also see (GAP) §85.37 of this title (relating to Sentenced Offender Disposition).

(c) Explanation of Terms Used. A high risk offense - is any major rule violation which may result in a classification other than general offender or violator of CINS probation.

(d) Criteria and Disposition.

(1) Parole will be revoked if it is found at a level I hearing that a youth has:

(A) committed a high risk offense;

(B) committed a felony; or

(C) committed any major rule violation and has previously been classified for a high-risk offense.

(2) Parole of a general offender or a violator of CINS probation is revoked if it is found at a level I hearing that the youth [general offender] has committed a major rule violation; and

(A) the violation was committed, in whole or in part, within 90 days of imposition of a less severe disciplinary consequence; or

(B) the youth is a threat to the safety of persons or property.

(3) If extenuating circumstances are found incident to a high risk offense, parole is revoked, but the high risk classification may be waived pursuant to (GAP) §85.23 of this title (relating to Classification).

(4) If extenuating circumstances are found incident to any violation other than a high risk offense, parole is not revoked. See extenuating circumstances discussed in (GAP) §85.23 of this title (relating to Classification).

(5) If criteria for revocation are not established at a level I hearing, the youth's parole is not revoked, but lesser disciplinary consequences may be imposed for any rule violation(s) proved at the hearing.

(e) Restrictions.

(1) A level I hearing is required in order to revoke a youth's parole status.

(2) Unless otherwise requested in writing by local authorities, a level I hearing may be held even if TYC staff receive information that criminal or delinquent proceedings against the youth are planned or anticipated by local authorities.

(3) If a youth is on parole from another state and is being supervised by Texas Youth Commission (TYC) under agreement with the other state, a parole revocation hearing is held by TYC and the youth returned to the sending state, coordinated by the interstate compact administrator and general counsel.

(4) If a TYC parolee commits an offense in another state, the return of such youth is coordinated by the interstate compact administrator and the general counsel. A parole revocation hearing is coordinated by and held at the request of the assigned parole officer.

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

Filed with the Office of the Secretary of State on April 27, 1998.

TRD-9805828

Steve Robinson

Executive Director

Texas Youth Commission

Earliest possible date of adoption: June 7, 1998

For further information, please call: (512) 424-6244

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## TITLE 40. SOCIAL SERVICES AND ASSISTANCE

### Part I. Texas Department of Human Services

#### Chapter 12. Special Nutrition Programs

##### Subchapter A. Child and Adult Care Food Program

###### 40 TAC §12.14

The Texas Department of Human Services (DHS) proposes an amendment to §12.14, concerning meal requirements, in its Special Nutrition Programs chapter. The purpose of the proposal is to establish that meals served to eligible program participants during field trips are eligible for reimbursement provided that all Child and Adult Care Food Program requirements are met, and the field trip complies with the applicable standards for such activities as established by the licensing/approval authority for the child or adult care facility.

Eric M. Bost, commissioner, has determined that for the first five-year period the proposed section will be in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the section.

Mr. Bost also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be to ensure that child and adult care providers are able to include a nutritious meal service as an element of field trips taken to enhance their child and adult care services. There will be no effect on small businesses because the rule formalizes current policies related to claiming reimbursement for meals served during field trips. There is no anticipated economic cost to persons who are required to comply with the proposed section.

Questions about the content of the proposal may be directed to Keith N. Churchill at (512) 467-5837 in DHS's Special Nutrition Programs. Written comments on the proposal may be submitted to Supervisor, Rules and Handbooks Unit-254, Texas Department of Human Services E-205, P.O. Box 149030, Austin, Texas 78714-9030, within 30 days of publication in the *Texas Register*.

The amendment is proposed under the Human Resources Code, Title 2, Chapters 22 and 33, which provides the department with the authority to administer public and nutritional assistance programs.

The amendment implements §§22.001-22.030 and 33.001-33.024 of the Human Resources Code.

###### §12.14. Meal Requirements.

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

(d) Meals served to eligible program participants during field trips are eligible for reimbursement provided that all Child and Adult Care Food Program requirements are met, and the field trip complies with the applicable standards for such activities as established by the licensing/approval authority for the child or adult care facility.

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

Filed with the Office of the Secretary of State on April 24, 1998.

TRD-9805743

Glenn Scott

General Counsel, Legal Services

Texas Department of Human Services

Proposed date of adoption: July 15, 1998

For further information, please call: (512) 438-3765

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## Chapter 52. Emergency Response Services

The Texas Department of Human Services (DHS) proposes amendments to §§52.301, 52.401, 52.402, and 52.503, concerning provider staff requirements, initiation and referral for services, service delivery, and documentation errors, in its Emergency Response Services chapter. The purpose of the amendments is to clarify how provider agencies must comply with contract/program service control and fiscal monitoring requirements.

Eric M. Bost, commissioner, has determined that for the first five-year period the proposed sections will be in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the sections.

Mr. Bost also has determined that for each year of the first five years the sections are in effect the public benefit anticipated as a result of enforcing the sections will be to ensure that quality services are provided to clients and to ensure accurate billing for services. There will be no effect on small businesses because most of the changes are already program requirements. There is no anticipated economic cost to persons who are required to comply with the proposed sections.

Questions about the content of the proposal may be directed to Frances Barraza at (512) 438-3216 in DHS's Community Care Section. Written comments on the proposal may be submitted to Supervisor, Rules and Handbooks Unit-170, Texas Department of Human Services E-205, P.O. Box 149030, Austin, Texas 78714-9030, within 30 days of publication in the *Texas Register*.

### Subchapter C. Provider Agency Staff Requirements

#### 40 TAC §52.301

The amendment is proposed under the Human Resources Code, Title 2, Chapters 22 and 32, which provides the department with the authority to administer public and medical assistance programs and under Texas Government Code §531.021, which provides the Health and Human Services Commission with the authority to administer federal medical assistance funds.

The amendment implements §§22.001-22.030 and 32.001-32.042 of the Human Resources Code.

§52.301. *Provider Staff Requirements.*

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

(g) The provider agency must give each responder (other than emergency medical service, sheriff, fire, or police department personnel) on or before the date services are initiated or the responder is replaced, written procedures that explain the responder's role and responsibilities. ~~[service. The procedures must identify the responder's roles and responsibilities in delivering services.]~~ A copy of the procedures must be signed by the responder and ~~[given to the responder to sign, and a copy must be]~~ kept in the provider agency's files. ~~[The responder must receive the written procedures on or before the services are initiated.]~~

(h) (No change.)

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

Filed with the Office of the Secretary of State on April 24, 1998.

TRD-9805788

Glenn Scott

General Counsel, Legal Services

Texas Department of Human Services

Proposed date of adoption: July 1, 1998

For further information, please call: (512) 438-3765



## Subchapter D. Service Delivery Requirements

### 40 TAC §52.401, §52.402

The amendments are proposed under the Human Resources Code, Title 2, Chapters 22 and 32, which provides the department with the authority to administer public and medical assistance programs and under Texas Government Code §531.021, which provides the Health and Human Services Commission with the authority to administer federal medical assistance funds.

The amendments implement §§22.001-22.030 and 32.001-32.042 of the Human Resources Code.

§52.401. *Initiation of and Referral for Services.*

(a) The provider agency must begin services within 14 days from the service effective date on the approval for Community Care for Aged and Disabled (CCAD) services - referral response form (for CCAD clients) or notification of Community-Based Alternatives (CBA) Services form (for CBA clients) unless the referral is verbal. For verbal referrals, the provider agency must begin services on the date verbally negotiated with the caseworker.

(b) If the client is not in the home during the first 14 days from the service effective date on the approval for CCAD services - referral response form or notification of Community-Based

Alternatives services form, the provider agency begins services as soon as possible after the client returns home.

(c) If services cannot be initiated within 14 days or [do not begin] on the date verbally negotiated with the caseworker, the coordinator telephones the caseworker on or before the day services were scheduled to begin and explains why services were not begun. Notification must be followed up in writing on the Texas Department of Human Services' (DHS's) case information form within seven days after the verbal notification. The provider agency must document the reason for the delay and the date services are scheduled to begin.

(d) (No change.)

(e) The provider agency must:

(1) secure two responders for each client on or before the date services begin unless the provider agency is able to document that the client has no available responders and that only one source is available that can respond to emergencies. A current list of responders must be kept by the provider agency at all times;

(2) notify the caseworker on DHS's case information form of the reason only one responder is available, if the provider agency is unable to secure two responders;

(3) obtain approval from the caseworker's supervisor if public service personnel are to be designated as a client's sole responder. Approval must be obtained on DHS's case information form; and

(4) secure a replacement responder when a client's responder is no longer able to participate. A client that has only one responder must not be without a responder for more than 24 hours from the provider agency's awareness that the client's responder is no longer able to participate. The provider agency must replace the second responder within seven days from awareness that the client's responder is no longer able to participate. The provider agency must record the date the provider agency became aware of the responder quitting and the date this responder was replaced.

~~[(e) The provider agency must secure two responders for each client on or before the date services begin, unless the provider agency is able to document that the client has no available responders and that only one resource is available that can respond to emergencies.]~~

(f) To initiate services, the provider agency must conduct a home visit. During the home visit, the installer:

(1) installs and makes an initial test of the emergency response equipment;

(2) explains to the client how to use the equipment; and

(3) provides a written copy and explanation to the client of the complaint procedures. ~~[; and]~~

~~[(4) has the client sign a statement that allows the responder to enter the client's home, by force if necessary, in an emergency. The installer may not install the equipment if the client refuses to sign the home entry release statement. In this case, the installer must inform the coordinator. The coordinator contacts the caseworker within two DHS workdays of the home visit and explains the client's refusal to sign the required release statement.]~~

(g) (No change.)

(h) The provider agency must notify the caseworker in writing of the status of all referrals within 21 days from the referral date, if services are initiated on time. If services are not initiated

on time, the provider agency must meet the timeframes specified in subsection (c) of this section.

(i)-(j) (No change.)

§52.402. *Service Delivery.*

(a) The provider agency must respond to all alarm calls within one minute of the alarm, 24 hours a day, seven days a week. The provider agency must record time in seconds. [~~Failure to respond may result in contract termination.~~]

(b) The monitor documents alarm calls as they are received and resolved. The documentation includes:

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

(3) the time the alarm call was returned to determine if an emergency existed;

(4) [~~(3)~~] the name of the contacted responder(s); and

(5) [~~(4)~~] a brief description of the incident and a statement of how the incident was resolved. [ ~~; and~~]

[(5) the date the caseworker was notified.]

(c) The provider agency must verbally notify the caseworker of any client emergency alarm calls [~~client emergency that it responds to~~] by the end of the Texas Department of Human Services' (DHS's) [DHS] workday following the incident. Notification must be followed up in writing on DHS's case information form within seven days after the occurrence.

(d) The provider agency must conduct a monthly systems check for each client or make a minimum of three attempts to reach the client on three different days during the month. The provider agency must document monthly systems checks and/or attempts to contact the client if the client was not home or not available. The attempts to contact the client must be documented on DHS's case information form and the form must be sent to the caseworker.

(e)-(f) (No change.)

(g) The provider agency must visit the client's home to check equipment that has registered five or more "low battery" signals within a 72-hour period. The visit must be conducted within five days of the fifth "low battery" signal.

(h) [~~(g)~~] The provider agency must respond to all complaints in a reasonable and prompt manner. The provider agency must investigate and respond in writing to all written complaints received from DHS staff within 14 days of receipt. The provider agency must date stamp all written complaints and maintain accessible and available records of the complaint and its resolution.

(i) [~~(h)~~] If the client's condition changes significantly, the provider agency must report it to the caseworker within seven days of awareness.

(j) [~~(i)~~] If the coordinator, provider agency address, or telephone number changes, the provider agency must notify the regional contract manager in writing.

(k) [~~(j)~~] The provider agency must ensure that service is not interrupted because of a change.

(l) [~~(k)~~] The provider agency must test the equipment when the equipment is removed from the client's home, unless a monthly systems check has been conducted during the same calendar month or the provider agency is unable to test the equipment because:

(1) the client's telephone was disconnected;

(2) the client damaged his home unit; [~~or~~]

(3) the equipment was picked up at a location other than the client's home; or [~~-~~]

(4) the client moved without allowing the agency to remove the home unit.

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

Filed with the Office of the Secretary of State on April 24, 1998.

TRD-9805789

Glenn Scott

General Counsel, Legal Services

Texas Department of Human Services

Proposed date of adoption: July 1, 1998

For further information, please call: (512) 438-3765



## Subchapter E. Claims

### 40 TAC §52.503

The amendment is proposed under the Human Resources Code, Title 2, Chapters 22 and 32, which provides the department with the authority to administer public and medical assistance programs and under Texas Government Code §531.021, which provides the Health and Human Services Commission with the authority to administer federal medical assistance funds.

The amendment implements §§22.001-22.030 and 32.001-32.042 of the Human Resources Code.

#### §52.503. *Documentation Errors.*

In the absence of acceptable secondary documentation, financial errors include, but are not limited to, the following.

(1) The provider agency bills the department and fails to follow procedures specified in §52.402(d) of this title (relating to Service Delivery) [~~conduct a monthly systems check according to department rules~~]. The department applies the error to the unit of service claim for the month(s) during which the monthly systems check is not conducted according to department rules.

(2) The provider agency bills the department for the month in which the home unit is removed from the client's home but fails to follow procedures specified in §52.402(l) of this title. [~~test the home unit at the time it is removed, or fails to document the reason(s) why the home unit cannot be tested.~~] The department applies the error to the unit of service claimed for the month during which the home unit is removed from the client's home.

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

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Glenn Scott

General Counsel, Legal Services

Texas Department of Human Services

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For further information, please call: (512) 438-3765



## Chapter 69. Contracted Services

### Subchapter L. Contract Administration

#### 40 TAC §69.202, §69.208

The Texas Department of Human Services (DHS) proposes amendments to §69.202, concerning procurement, and §69.208, concerning methods for auditing contracts, in its Contracted Services chapter. The purpose of the amendments is to comply with a recommendation issued by the Governor's Advisory Task Force on Faith-Based Community Service Groups that legal provisions guaranteeing religious liberty be enacted to assure faith-based, would-be service providers that their distinct religious character and beliefs would not be surrendered or secularized when providing services for the state.

Eric M. Bost, commissioner, has determined that for the first five-year period the sections are in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the sections.

Mr. Bost also has determined that for each year of the first five years the sections are in effect the public benefit anticipated as a result of enforcing the sections will be to encourage more faith-based providers to contract with DHS. The proposed sections will have no adverse economic effect on small businesses. The faith-based organizations at which DHS is directing these amendments do not generally qualify as small businesses; they are not formed for the purpose of making a profit. Further, by encouraging faith-based organizations to become service providers, DHS is not discouraging small business providers from providing services.

Questions about the content of this proposal may be directed to Peggy Roll at (512) 438-3812 in DHS's Legal Services division. Written comments on the proposal may be submitted to Supervisor, Rules and Handbooks Unit-260, Texas Department of Human Services E-205, P.O. Box 149030, Austin, Texas 78714-9030, within 30 days of publication in the Texas Register.

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

The amendments implement the Human Resources Code, §§22.001- 22.033.

#### §69.202. Procurement.

##### (a) Extent of Competition.

###### (1) (No change.)

(2) Service requirements should not unduly restrict competition by eliminating or limiting potential contractors' participation. DHS acts affirmatively to ensure that small and historically underutilized businesses (HUBs) have an equal opportunity to compete for and/or to be selected for the award of contracts and subcontracts. DHS also acts affirmatively to ensure that charitable and religious organizations have an equal opportunity to contract with DHS. Religious organizations that contract with DHS shall retain their independence from the state, including their control over the definition, development, practice, and expression of religious beliefs. Furthermore, DHS shall not require religious organizations to alter their form of internal governance or remove religious art, icons, scripture, or other symbols.

###### (b) (No change.)

#### §69.208. Methods for Auditing Contracts.

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

(c) If the contractor segregates the funds received through DHS into separate accounts, then only the financial assistance provided with these funds and accounted for by the contractor shall be the subject of audit; however, the audit may include an assessment of the internal controls used by the contractor.

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

Filed with the Office of the Secretary of State on April 24, 1998.

TRD-9805744

Glenn Scott

General Counsel, Legal Services

Texas Department of Human Services

Proposed date of adoption: August 1, 1998

For further information, please call: (512) 438-3765



## Part II. Texas Rehabilitation Commission

### Chapter 101. General Rules

The Texas Rehabilitation Commission proposes amendments to §§101.1, 101.2, 101.8, 101.9, 101.10, 101.13 and the repeal of §101.6 and §101.7, concerning general rules. In accordance with the Appropriations Act, §167, the Commission has reviewed these sections and has determined that they should be readopted with changes.

The sections are being amended and repealed in order to conform to the language of the Rehabilitation Act Amendments of 1994.

Charles E. Harrison, Jr., Deputy Commissioner for Financial Services, has determined that for the first five-year period the sections are in effect, there will be no fiscal implications for state or local government.

Mr. Harrison also has determined that for each year of the first five years the sections are in effect the public benefit anticipated as a result of enforcing the sections will be conformance with the language of the Rehabilitation Act Amendments of 1994. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the sections as proposed.

Comments on the proposal may be submitted to Roger Darley, Assistant General Counsel, Texas Rehabilitation Commission, 4900 North Lamar Boulevard, Suite 7300, Austin, Texas 78751.  
**40 TAC §§101.1, 101.2, 101.8, 101.9, 101.10, 101.13**

The amendments are proposed under the Texas Human Resources Code, Title 7, Chapter 111, §111.018 and §111.023, House Bill Number 1, Article IX, §167, which provides the Texas Rehabilitation Commission with the authority to promulgate rules consistent with Title 7, Texas Human Resources Code.

No other statute, article, or code is affected by this proposal.

#### §101.1. Definitions.

Words and terms are used as defined in the Rehabilitation Act of 1973, as amended, and implemented by 34 Code of Federal Regulations and the Human Resources Code, Title 7, unless the context clearly

indicates another meaning. Words and terms defined in such federal and state laws and regulations are applicable to this part.

(1) Applicant-An individual who applies to the Texas Rehabilitation Commission for vocational rehabilitation services, extended rehabilitation services, or independent living services.

(2) Board-Board of the Texas Rehabilitation Commission appointed under the provision of the Human Resources Code, Title 7.

(3) Client-An individual who is determined eligible by the Texas Rehabilitation Commission for vocational rehabilitation services or other commission ~~[extended rehabilitation]~~ services.

(4) Commission-The Texas Rehabilitation Commission.

(5) Counselor-An employee of the commission who is trained to provide vocational guidance and counseling and meets the designated in a functional ~~[his]~~ job description as a counselor.

(6) Sheltered workshop-An occupation-oriented facility operated by a not-for-profit agency, public or private, which, except for its staff, employs only individuals with mental or physical disabilities ~~[mentally or physically handicapped persons]~~.

(7) State plan-The plan for vocational rehabilitation services submitted by this commission ~~[state]~~ in compliance with the Rehabilitation Act of 1973, as amended, Title I.

#### §101.2. Declaration of Purpose and Policy.

(a) The commission is the principal authority in the state on matters relating to rehabilitation of individuals with disabilities ~~[handicapped and disabled individuals]~~, except for those matters relating to individuals whose ~~[handicap or]~~ disabilities are of a visual nature. All other state agencies engaged in rehabilitation activities and related services to individuals whose ~~[handicaps or]~~ disabilities are not of a visual nature shall coordinate those activities and services with the commission.

(b) It is the policy of the State of Texas to provide rehabilitation and related services to eligible ~~[handicapped]~~ individuals with disabilities so that they may prepare for and engage in a gainful occupation or achieve maximum personal independence for the individual.

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

(e) Any person who believes that he or she is eligible for rehabilitation services may contact any commission office or employee for assistance.

#### §101.8. [Facilities and] Services for Groups of Individuals With Disabilities ~~[Handicapped Individuals]~~.

The commission provides for ~~[facilities and]~~ services which may be expected to contribute substantially to the rehabilitation of a group of individuals, but which are not related directly to the individualized rehabilitation program of any one ~~[handicapped]~~ individual with a disability. The commission establishes in writing and maintains policies for the provision of such ~~[facilities and]~~ services.

#### §101.9. Standards for Facilities and Providers of Services.

(a) Facilities and providers of services used by the commission in providing vocational rehabilitation services are required to satisfy the following minimum standards.

~~[(1) The organizational and administrative structure of the facility shall contribute effectively to the achievement of its goals.]~~

(1) [(2) Staff providing services ~~[The staff of the facility]~~ shall be competent, professionally ethical, and qualified for positions

held. Qualifications of staff shall meet all requirements established by recognized professional groups and/or state certification regulations. ~~[The governing body shall develop minimum qualifications for all staff positions not covered by licensure or certification requirements.]~~ The facility or provider shall assure that all staff meet minimum qualifications; staff credentials supporting those qualifications shall be on file at the time of hire; and staff credentials shall be made available to ~~[the survey committee for inspection]~~ any commission monitors.

(2) The facility shall include among the staff, or shall obtain the services of, individuals able to communicate in the native language of applicants and clients who have limited English speaking ability; and ensure that appropriate modes of communication are used for all applicants and clients.

(3) Providers of vocational rehabilitation services shall take affirmative action to employ and advance in employment qualified individuals with disabilities.

~~[(3) The program of services offered shall be planned and operated in relation to present and future needs of its clientele. These services shall be of such a quality and so applied that they constitute an effective program which achieves the objectives of rehabilitation for the individual client. It is essential that case-staffing be an integral part of any service.]~~

(4) The facility shall provide for such fiscal control and fund accounting as ~~[and]~~ may be necessary to assure proper disbursement ~~[of]~~ and accounting of ~~[for]~~ funds provided by the commission and in accordance to program policy.

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

(7) Any facility in which services are provided must be:

(A) such that the safety and health of the staff and clients are protected;

(B) accessible to individuals receiving services and must comply with the requirements of the Architectural Barriers Act of 1968, the Uniform Accessibility Standards and the Americans with Disabilities Act of 1990 and Section 504 of the Rehabilitation Act.

~~[(7) The facility shall endeavor to gain community understanding, approval, and continued support of its goals, services, and needs through a consciously structured community public relations program designed to sharpen and enhance public understanding of the agency's purposes and achievements.]~~

~~[(8) The physical plant of the facility and its environment shall be such that the safety and health of the staff and clients are protected.]~~

(b) The commission does not operate, license, certify, or register facilities or providers under the Human Resource Code, §48.036, but does assure that services provided ~~[facility programs]~~ comply with standards set by the commission.

(c) Any additional standards the commission publishes for facilities and providers will be made available to the public.

(d) All services provided to clients of the commission are monitored by the agency.

#### §101.10. Confidentiality.

(a) Client records.

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

(3) Information is not to be disclosed directly or indirectly, other than in the administration of the rehabilitation programs,

unless the consent of the client has been obtained in writing, in compliance with a court order, or in accordance with a federal or state law or regulation. Information containing identifiable personal information may not be shared with advisory or other bodies that do not have official responsibilities for administration of the program.

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

(b) (No change.)

§101.13. Comparable [~~Similar~~] Services and Benefits.

In providing rehabilitation services, the commission considers any comparable [~~similar~~] services and benefit available to a client under any other program.

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

Filed with the Office of the Secretary of State on April 27, 1998.

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Charles Schiesser

Chief of Staff

Texas Rehabilitation Commission

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For further information, please call: (512) 424-4050



**40 TAC §101.6, §101.7**

*(Editor's note: The text of the following sections proposed for repeal will not be published. The sections may be examined in the offices of the Texas Rehabilitation Commission or in the Texas Register office, Room 245, James Earl Rudder Building, 1019 Brazos Street, Austin.)*

The repeals are proposed under the Texas Human Resources Code, Title 7, Chapter 111, §111.018 and §111.023, House Bill Number 1, Article IX, §167, which provides the Texas Rehabilitation Commission with the authority to promulgate rules consistent with Title 7, Texas Human Resources Code.

No other statute, article, or code is affected by this proposal.

§101.6. Construction of Rehabilitation Facilities.

§101.7. Establishment of Rehabilitation Facilities.

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

Filed with the Office of the Secretary of State on April 27, 1998.

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Chief of Staff

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**Chapter 103. Vocational Rehabilitation Services Program**

The Texas Rehabilitation Commission proposes amendments to §§103.1, 103.4, 103.9, 103.11-103.13, 103.15-103.17, 103.19, 103.21, 103.31, 103.32, 103.41, 103.42, 103.44, and 103.51-103.55, concerning vocational rehabilitation services program. In accordance with the Appropriations Act, §167, the Commis-

sion has reviewed these sections and has determined that they should be readopted with changes.

Sections 103.1, 103.4, 103.9, 103.13, 103.15-103.17, 103.19, 103.21, 103.31, 103.32, 103.41, 103.42, 103.44, and 103.51-103.55 are being amended to make the rules consistent with Federal Regulations.

Section 103.11 and §103.12 are being amended in order to conform to the language of the Rehabilitation Act Amendments of 1994.

Charles E. Harrison, Jr., Deputy Commissioner for Financial Services, has determined that for the first five-year period the sections are in effect, there will be no fiscal implications for state or local government.

Mr. Harrison also has determined that for each year of the first five years the sections are in effect the public benefit anticipated as a result of enforcing the sections will be conformance with the language of the Rehabilitation Act Amendments of 1994 and rule consistency with Federal Regulations. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the sections as proposed.

Comments on the proposal may be submitted to Roger Darley, Assistant General Counsel, Texas Rehabilitation Commission, 4900 North Lamar Boulevard, Suite 7300, Austin, Texas 78751.

**Subchapter A. Provision of Vocational Rehabilitation Services**

**40 TAC §§103.1, 103.4, 103.9, 103.11-103.13, 103.15-103.17, 103.19**

The amendments are proposed under the Texas Human Resources Code, Title 7, Chapter 111, §111.018 and §111.023, House Bill Number 1, Article IX, §167, which provides the Texas Rehabilitation Commission with the authority to promulgate rules consistent with Title 7, Texas Human Resources Code.

No other statute, article, or code is affected by this proposal.

§103.1. Basic Criteria.

The Vocational Rehabilitation Services Program is a joint state-federal funded program. The commission cooperates with the federal government in carrying out the rehabilitation of individuals with disabilities [~~the handicapped~~] under state and federal law and to this end adopts such methods of administration as are found by the federal government to be necessary and not contrary to existing state laws for the proper and efficient operation of such rehabilitation program. The commission complies with such requirements as may be necessary to obtain federal funds in the maximum amount and most advantageous proportion authorized.

§103.4. Preliminary and Comprehensive Assessment [~~Evaluation of Rehabilitation Potential~~].

(a) Preliminary assessment [~~diagnostic study~~]. To determine whether an individual is eligible for vocational rehabilitation services, the commission conducts a preliminary assessment [~~diagnostic study~~] sufficient to determine:

(1) whether the individual has a physical or mental impairment; [~~disability~~]

(2) whether the physical or mental impairment [~~which for such individual~~] constitutes or results in a substantial impediment [~~handicap~~] to employment for the individual; [~~and~~]

(3) ~~[(2)] whether the individual can benefit in terms of achieving an employment outcome, after receiving vocational rehabilitation services [can reasonably be expected to benefit the individual in terms of employability, or whether an extended evaluation of rehabilitation potential is necessary to make such a determination. ] ; and~~

(4) ~~whether the individual requires VR services to prepare for, enter into, engage in, or retain gainful employment consistent with the individual's strengths, resources, priorities, concerns, abilities, capabilities and informed choice.~~

(b) ~~Comprehensive assessment [Thorough diagnostic study]. The commission, as appropriate in each case, shall conduct a comprehensive assessment of the unique strengths, resources, priorities, concerns, abilities, capabilities, interests, and needs, including the need for supported employment services, of an eligible individual, in the most integrated setting possible, consistent with the informed choice of the individual. The comprehensive assessment is limited to information that is necessary to identify the rehabilitation needs of the individual and develop the IWRP and may, to the extent needed, include:~~

(1) ~~[The commission provides, as appropriate in each case, a thorough diagnostic study to determine the nature and scope of services needed by the individual. This study consists of] an analysis [a comprehensive evaluation] of pertinent medical, psychological, vocational, educational, and other related factors which bear on the individual's impediment [handicap] to employment and rehabilitation needs. Additional examinations are authorized after services are initiated when conditions arise that jeopardize the individual's written rehabilitation program ; [-]~~

(2) ~~an analysis of the individual's personality, career interest, interpersonal skills, intelligence and related functional capacities, educational achievement work experience, vocational aptitudes, personal and social adjustments, and employment opportunities; [and psychological functioning of the applicant is a significant area that is investigated in the evaluation of an individual's vocational potential. When observed problems of the applicant indicate, an educational achievement test is administered.]~~

(3) ~~an appraisal of the individual's patterns of work behavior and services needed to acquire occupational skills and to develop work attitudes, work habits, work tolerance, and social and behavioral patterns suitable for successful job performance; and~~

(4) ~~an assessment, through provision of rehabilitation technology services, of the individual's capacities to perform in a work environment, including in an integrated setting, to the maximum extent feasible and consistent with the individual's informed choice.~~

(c) ~~Existing information. The commission shall use, to the maximum extent possible and appropriate and in accordance with confidentiality requirements, existing information, including information that is provided by the individual, the family of the individual, and education agencies. [Application forms. Applicants for vocational rehabilitation services must sign prescribed application and release of information forms prior to receiving services].~~

#### §103.9. Maintenance.

~~[(a)] The commission may pay maintenance to a client. Maintenance is a cash payment to an applicant or client made during any stage of the rehabilitation process to cover basic living expenses, such as food, shelter, clothing, and other subsistence expenses that are in excess of the normal expenses of the client, and are necessary to derive the full benefit of other vocational rehabilitation services.~~

~~[(b) The client, or, as appropriate, the parent, guardian, or other representative, must sign a prescribed agreement form prior to, or simultaneous with, the completion of the maintenance requisition.]~~

#### §103.11. Interpreter Services for the Deaf.

(a) The commission may provide interpreter services for [deaf] clients who are deaf when such services will assist in the attainment of the rehabilitation objective.

(b) The commission may provide telecommunications, sensory, and other technological aids and devices to facilitate training, employability, and job opportunities for [the] persons with severe disabilities [severely disabled], particularly [deaf] persons who are deaf and individuals with profound hearing or speech impairments.

#### §103.12. Job Placement [in Suitable Employment].

(a) The principal objective [of the] is a competitive employment outcome [e]mission is suitable employment ] for each client which is consistent with the individual's strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice.

(b) Gainful [Suitable] employment outcomes includes entering or retaining employment [consistent with the client's capacities and abilities] in the competitive labor market; the practice of a profession; self-employment; homemaking; farm or family work; sheltered employment; homebound employment; or other gainful work.

#### §103.13. Postemployment Services.

(a) The commission may provide postemployment services to clients who have been determined rehabilitated in order to maintain or strengthen the client's employment [employability].

(b) Postemployment services are those services which are necessary for the individual to maintain, regain or advance in an employment outcome which is consistent with the individual's strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice [intended to overcome regressive, emergent, or latent problems after the case is closed and to supplement the substantial service which justified the closing as rehabilitated].

#### §103.15. Extended Evaluation [to Determine Rehabilitation Potential].

(a) Extended evaluation is used only to determine whether an applicant with a severe disability is capable of achieving an employment outcome. [The commission provides vocational rehabilitation services under extended evaluation to determine rehabilitation potential based upon: ]

~~[(1) the presence of a physical or mental disability which for the individual constitutes or results in a substantial handicap to employment; and]~~

~~[(2) an inability to make a determination that vocational rehabilitation services might benefit the individual in terms of employability unless there is an extended evaluation to determine rehabilitation potential.]~~

(b) The commission provides only those [may provide] vocational rehabilitation services necessary to determine the nature and scope of services required to achieve a gainful employment outcome [for the determination of rehabilitation potential, including those provided within a thorough diagnostic study,] for a total period not in excess of 18 months. Services are provided in the most integrated setting possible, consistent with the informed choice of the individual.

(c) The commission may terminate extended evaluation services at any time prior to the expiration of the 18-month [extended



evaluation] period [the extended evaluation for the determination of rehabilitation potential] when:

(1) there is sufficient evidence to conclude that the individual can achieve an employment outcome; or [the individual is found eligible for vocational rehabilitation services upon a determination of a reasonable assurance that he can be expected to benefit in terms of employability from vocational rehabilitation services; or]

(2) the individual is found ineligible for any additional vocational rehabilitation services on the basis of clear and convincing evidence that the individual[he] cannot be expected to benefit in terms of an employment outcome [employability ] from vocational rehabilitation services;[-]

(3) the individual is unavailable for services.

*§103.16. Individualized Written Rehabilitation Program.*

(a) The commission initiates and continuously develops an individualized written rehabilitation program for each individual eligible for vocational rehabilitation services[;] and for each individual being provided such services in [under an] extended evaluation [to determine vocational rehabilitation potential].

(b) The counselor and client or, as appropriate, the client's parent, guardian, or other representative [commission ] use information obtained during the assessment process to determine vocational rehabilitation needs, long term vocational goal, intermediate rehabilitation objectives, and the nature and scope of vocational rehabilitation services to be included in the IWRP. [provides vocational rehabilitation services in accordance with the written program.]

(c) The counselor and the client or, as appropriate, the client's [his] parent, guardian, or other representative develop jointly the individualized written rehabilitation program, which is consistent with the individual's unique strengths, priorities, concerns, abilities, capabilities, career interests, and informed choice. [ and a] A copy of such program and any amendments thereto are provided to the client or, as appropriate, the client's [ his] parent, guardian, or other representative.

(d) The counselor considers the individualized education program of a student with a disability who is receiving special education services in the development of the IWRP.

(e) [(e)] The counselor shall advise the client of the client's [his] rights and the means by which the client [he] may express and seek remedy for [his] dissatisfaction with the program, including the opportunity for an administrative review of commission action and a fair hearing in accordance with the Administrative Procedure and Texas Register Act, §13 and §14.

(f) [(d)] The counselor reviews the individualized written rehabilitation program as often as necessary, but at least on an annual basis, at which time each client, or as appropriate, the client's [his] parent, guardian, or other representative, are afforded an opportunity to review such program and, if necessary, jointly redevelop its terms.

(g) [(e)] Where an individual is determined ineligible for vocational rehabilitation services after extended evaluation, the commission conducts a periodic review at least annually of the ineligibility decision in which the individual is afforded a clear opportunity for full consultation in the reconsideration of such decision. A periodic review is not required when the individual has refused services, has refused a periodic review, is no longer present in the state, the individual's [ his] whereabouts unknown, or the [his] medical condition is rapidly progressive or terminal.

(h) [(f)] The individualized written rehabilitation program is a joint commitment which generally must be signed by both the counselor and the individual.

(i) [(g)] The commission may provide only those [other] goods and services which can reasonably be expected to benefit an individual with a disability [a handicapped individual] in terms of employability.

*§103.17. Cooperative Programs Utilizing Third-Party Funds.*

When the commission enters into a third-party cooperative arrangement for providing or administering vocational rehabilitation services with another state agency or a local public agency that is furnishing part or all of the non-federal share, the state plan will assure that:

(1) the services provided by the cooperating agency are not the customary or typical services provided by that agency but are new services that have a vocational rehabilitation focus or existing services that have been modified, adapted, expanded or reconfigured to have a vocational rehabilitation focus;

(2) the services provided by the cooperating agency are only available to applicants for, or recipients of, services from the commission;

(3) program expenditures and staff providing services under the cooperative arrangement are under the administrative supervision of the commission; and

(4) all state plan requirements, including the Order of Selection, will apply to all services provided under the cooperative program. [state's share of the cost of a cooperative program for providing vocational rehabilitation services or for engaging in administrative activities of the commission is furnished in whole or in part by a state or local public agency other than the commission; each such cooperative program will be based on a written agreement which meets the requirements of federal regulations.]

*§103.19. Consultation Regarding the Administration of the State Plan [with Recipients and Providers of Vocational Rehabilitation Services].*

(a) The state plan must assure that, in connection with matters of general policy development and implementation arising in the administration of the state plan, the commission seeks and takes into account the views of:

(1) individuals who receive vocational rehabilitation services or, as appropriate, the individuals' representatives;

(2) personnel working in the field of vocational rehabilitation;

(3) providers of vocational rehabilitation services;

(4) the CAP director; and

(5) the State Rehabilitation Advisory Council, if the state has a council.

(b) The state plan must specifically describe the manner in which the state unit will take into account the views regarding state policy and administration of the state plan that are expressed in the consumer satisfaction surveys conducted by the State Rehabilitation Advisory Council under 34 CFR §361.17(h)(3) or by the state agency if it is an independent commission in accordance with the requirements of 34 CFR §361.16(a)(1).

[(a)] A consumer advisory committee will be appointed to make recommendations for consideration by the commission concerning any matter the committee believes to be pertinent to the interest of persons with disabilities.]

{(b) The commission shall adopt rules providing for the appointment of the consumer advisory committee and establishing for the committee the number of members, geographical representation, duties, powers, procedures, and times and manner of making recommendations to the board. The rules shall provide for an equitable representation of the major disability groups served by the commission.}

{(c) The consumer advisory committee shall meet as provided by the rules of the commission and on call of the commissioner.}

{(d) The members of the consumer advisory committee are entitled to compensatory per diem authorized by the General Appropriations Act for each day engaged in the performance of their duties as directed by the commission and to reimbursement for actual and necessary expenses incurred in attending the official meetings of the consumer advisory committee.}

{(e) A member of the consumer advisory committee who is disabled and who, because of the disability, requires special aids or travel attendants is entitled to reimbursement for the cost of the special aids or travel attendants.}

{(f) To be eligible for appointment to the consumer advisory committee, a person must have demonstrated an active and constructive interest in the rehabilitation of handicapped people.}

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

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Charles Schiesser

Chief of Staff

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## Subchapter B. Client Participation

### 40 TAC §103.21

The amendment is proposed under the Texas Human Resources Code, Title 7, Chapter 111, §111.018 and §111.023, House Bill Number 1, Article IX, §167, which provides the Texas Rehabilitation Commission with the authority to promulgate rules consistent with Title 7, Texas Human Resources Code.

No other statute, article, or code is affected by this proposal.

#### §103.21. Basic Living Requirements (BLR).

(a) (No change.)

(b) All services are subject to required client participation except for the following:

(1) services paid for, or reimbursed by, a source other than the commission;

(2) counseling, guidance, and referral provided by TRC staff;

(3) placement services;

(4) assessment [diagnostic] services, including diagnostic maintenance and transportation, in any status;

(5) interpreter services; and/or

(6) translator [halfway house] services.

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

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## Subchapter C. Comparable [Similar] Benefits

### 40 TAC §103.31, §103.32

The amendments are proposed under the Texas Human Resources Code, Title 7, Chapter 111, §111.018 and §111.023, House Bill Number 1, Article IX, §167, which provides the Texas Rehabilitation Commission with the authority to promulgate rules consistent with Title 7, Texas Human Resources Code.

No other statute, article, or code is affected by this proposal.

#### §103.31. Comparable Services and [Basic Consideration for Similar] Benefits.

If comparable services or benefits exist under any other program and are available to the eligible individual at the time needed to achieve the rehabilitation objective in the individual's IWRP, the commission shall use those comparable services or benefits to meet, in whole or in part, the cost of vocational rehabilitation services. [The commission fully considers any similar benefits available to the client under any other program or law to meet, in whole or in part, the cost of any vocational rehabilitation services provided to the client].

#### §103.32. Availability of Comparable Services and Benefits [Delay Caused By and Adequacy of Similar Benefits].

The commission determines whether comparable services or benefits are [considers similar benefits] available under any other program or law to the client to meet, in whole or in part, the cost of any VR services. The Commission shall use all available comparable services or benefits to meet, in whole or in part, the cost of vocational rehabilitation services. The commission will not make this determination in cases where:

(1) the determination of the availability of comparable services and benefits under any other program would delay the provision of vocational rehabilitation services to any individual who is determined to be at extreme medical risk, based on medical evidence provided by an appropriate qualified medical professional; or

(2) an immediate job placement would be lost due to a delay in the provision of comparable services and benefits. [physical and mental restoration services and maintenance provided to the client, except where such consideration would significantly delay the provision of services to the client or interfere with achieving the client's rehabilitation objective.]

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

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Subchapter D. Eligibility, Ineligibility, and Certification

**40 TAC §§103.41, 103.42, 103.44**

The amendments are proposed under the Texas Human Resources Code, Title 7, Chapter 111, §111.018 and §111.023, House Bill Number 1, Article IX, §167, which provides the Texas Rehabilitation Commission with the authority to promulgate rules consistent with Title 7, Texas Human Resources Code.

No other statute, article, or code is affected by this proposal.

*§103.41. Basic Requirements for Eligibility.*

[(a)] The commission bases eligibility for vocational rehabilitation services on the following requirements only:

(1) the individual must have [~~presence of~~] a physical or mental impairment;

(2) the individual must have a physical or mental impairment which [~~disability which for the individual~~] constitutes or results in a substantial impediment [~~handicap~~] to employment for the individual; [~~and~~]

(3) [(2)] the individual must be capable of achieving an employment outcome, after receiving VR services; and [~~a reasonable expectation that vocational rehabilitation services may benefit the individual in terms of employability.~~]

(4) the individual must require VR services to prepare for, enter, engage in, or retain gainful employment consistent with the applicant's strengths, resources, priorities, concerns, abilities, capabilities and informed choice.

[(b)] The term "employability" means a determination that the provision of vocational rehabilitation services is likely to enable an individual to enter or retain employment consistent with his capabilities and abilities in the competitive labor market; the practice of a profession; self-employment; homemaking; farm or family work (including work for which payment is in kind rather than in cash); sheltered employment; homebound employment; or other gainful work.]

*§103.42. Factors Disregarded in Determining Eligibility.*

The commission determines eligibility of applicants without regard to:

(1) sex, race, age, creed, [~~religion,~~] color, [~~or~~] national origin;

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

*§103.44. Determination [Certification] of Ineligibility.*

[(a)] When an applicant is determined ineligible for vocational rehabilitation services[, or an individual receiving services under an IWRP is no longer eligible for services, the commission shall:

(1) make the determination only after providing an opportunity for full consultation with the individual or, as appropriate, the individual's representative;

(2) inform the individual in writing, supplemented as necessary by other appropriate modes of communication consistent with the informed choice of the individual, of the ineligibility determination, including the reasons for that determination and the means by which the individual may express and seek remedy for any dissatisfaction, including the procedures for review of a determination by the rehabilitation counselor or coordinator;

(3) provide the individual with a description of services available from a client assistance program established under 34 CFR Part 370 and information on how to contact that program; and

(4) review within 12 months and annually thereafter, if requested by the individual or, if appropriate, by the individual's representative any ineligibility determination that is based on a finding that the individual is incapable of achieving an employment outcome. This review need not be conducted in situations where the individual has refused it, the individual is no longer present in the state, the individual's whereabouts are unknown, or the individual's medical condition is rapidly progressive. [or the counselor shall prepare a signed and dated certification to this effect. Such certification of ineligibility is prepared only after consultation with the applicant, or, as appropriate, his parent, guardian, or other representative, or after affording a clear opportunity for such consultation. ]

[(b)] When an applicant is determined ineligible for vocational rehabilitation services, the counselor shall notify the applicant in writing of the determination of ineligibility and shall inform the applicant of the commission procedures for administrative review and fair hearing in accordance with the Administrative Procedure and Texas Register Act, §13 and §14.]

[(c)] When the applicant is determined ineligible for vocational rehabilitation services based upon clear evidence that the applicant cannot achieve a vocational rehabilitation goal, such determination of ineligibility is reviewed not later than 12 months after it is made.]

[(d)] When the counselor is unable to make a determination that vocational rehabilitation services will benefit the applicant in terms of employability unless there is an extended evaluation to determine rehabilitation potential, he shall, prior to or simultaneous with the acceptance of an applicant as a client, make a signed and dated certification of such inability to make a determination.]

[(e)] If, after extended evaluation, the individual is determined to be ineligible for vocational rehabilitation services, the counselor shall take action of consultation and notice as described in subsection (a) and subsection (b) of this section.]

[(f)] The requirements for consultation, notice, and review in cases of ineligibility do not apply where the applicant, client, or representative refuses consultation after a fair opportunity; the individual is no longer present in the state or his whereabouts is unknown; or his medical condition is rapidly progressive or terminal.]

[(g)] The commission periodically reviews the effectiveness of the criteria employed with respect to those individuals who have applied for vocational rehabilitation services and have been found to be ineligible for such services.]

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

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TRD-9805863  
Charles Schiesser

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Subchapter E. Methods of Administration of Vocational Rehabilitation

40 TAC §§103.51-103.55

The amendments are proposed under the Texas Human Resources Code, Title 7, Chapter 111, §111.018 and §111.023, House Bill Number 1, Article IX, §167, which provides the Texas Rehabilitation Commission with the authority to promulgate rules consistent with Title 7, Texas Human Resources Code.

No other statute, article, or code is affected by this proposal.

§103.51. *Statewide Studies and Program Evaluation.*

(a) The commission conducts continuing statewide studies of the needs of handicapped individuals with disabilities within the state; ~~the state's need for rehabilitation facilities;~~ and the methods by which these needs may be most effectively met.

(b) Such studies are directed toward:

(1) assessment of the rehabilitation needs of individuals with severe disabilities who reside in the state ~~[determining the relative needs for vocational rehabilitation services on the part of different segments of the handicapped population, particularly the need for expansion of services to the most severely handicapped];~~

(2) review of the effectiveness of outreach procedures used to identify and serve individuals with disabilities who are minorities and individuals with disabilities who are unserved and underserved by the vocational rehabilitation system; and [determining the means and methods by which vocational rehabilitation services, particularly to the most severely handicapped, will be provided, expanded, and improved, after full consideration and study of a broad variety of means and methods;]

(3) reviewing of a broad variety of methods to provide, expand, and improve vocational rehabilitation services to individuals with the most severe disabilities, including individuals receiving supported employment services;

(4) ~~[(3)]~~ ensuring the orderly and effective development of vocational rehabilitation services ~~[and rehabilitation facilities];~~ and

(5) ~~[(4)]~~ reviewing the efficacy of the criteria employed by the commission in making ineligibility decisions with respect to applicants for vocational rehabilitation services. Reports of such studies are available to the public for review.

§103.52. *Annual Evaluation.*

(a) The commission conducts an annual comprehensive evaluation of the effectiveness of the state's vocational rehabilitation program in achieving :

(1) service goals and priorities~~[-]~~ established in the state plan and annual amendments to the state plan; and

(2) compliance with the evaluation standards and performance indicators established by the Act.

(b) The evaluation measures the adequacy of commission performance in providing vocational rehabilitation services, especially to those individuals with the most severe disabilities ~~[severely~~

~~handicapped]~~, in the light of the state's vocational rehabilitation program financial resources. The evaluation has the following minimum objectives:

(1) (No change.)

(2) to insure that clients are placed in gainful employment [activities] suitable to their capabilities, interest, and informed choice ;

(3)-(9) (No change.)

§103.53. *Order of Selection and Outcomes and Service Goals.*

~~[(a)]~~ An order of selection established for allocation of vocational rehabilitation services when such services cannot be provided to all who apply and are eligible is as follows:

(1) first priority to eligible individuals with the most severe disabilities ~~[the severely handicapped];~~

(2) second priority to eligible individuals with other severe disabilities ~~[clients not severely handicapped who can be served without expenditure of commission funds];~~ ~~[and]~~

(3) third priority to [all other] eligible individuals with non-severe disabilities that result in permanent functional limitations; ~~[clients not severely handicapped in the order in which client services were requisitioned.];~~

(4) fourth priority to eligible individuals with non-severe disabilities that do not result in permanent functional limitations.

~~[(b)]~~ General outcomes and service goals to be achieved in each priority category are:

~~[(1)]~~ first priority will contain 60% severely handicapped in the active caseload with statuses of 10-24;

~~[(2)]~~ second priority eligible clients not severely handicapped served without expenditure of commission funds will comprise 10% of the active caseload with statuses of 10-24;

~~[(3)]~~ third priority eligible clients not severely handicapped in the order of date client services were requisitioned will comprise 30% of the active caseload with statuses of 10-24;

§103.54. *Periodic Reevaluation of Extended Employment* ~~[# Rehabilitation Facilities].~~

(a) The commission reviews and reevaluates annually, or more often if required, the status of each individual determined by the state unit to have achieved an employment outcome in an extended employment setting in a community rehabilitation program or other employment setting in which the individual is compensated in accordance with the Fair Labor Standards Act, §14(c). This review or reevaluation must include input from the individual or in an appropriate case, the individual's representative to determine the interests, priorities, and needs of the individual for employment in an integrated setting in the labor market.

(b) The commission makes maximum effort, including the identification of vocational rehabilitation services, reasonable accommodations, and other support services, to enable the eligible individual to benefit from training in, or to be placed in employment in, an integrated setting.

(c) The commission provides services designed to promote movement from extended employment to integrated employment, including supported employment, independent living, and community participation. ~~[clients or former clients who have been placed by the commission in extended employment in rehabilitation facilities (including workshops) to determine the feasibility of their employment;~~

or training for employment, in the competitive labor market. The commission makes a maximum effort to place such individuals in competitive employment, or training for such employment, whenever feasible.]

*§103.55. Individuals Determined to be Rehabilitated.*

(a) The commission determines a client to be rehabilitated when the following requirements are met [such client]:

(1) the provision of services under the individual's IWRP has contributed to the achievement of the employment outcome;

(2) ~~[(1)]~~ the employment outcome is consistent with the individual's strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice [is provided appropriate vocational rehabilitation services in accordance with the individualized written rehabilitation program]; and

(3) the employment outcome is in the most integrated setting possible, consistent with the individual's informed choice;

(4) ~~[(2)]~~ the individual has maintained the employment outcome for a period of at least 90 days; and [is determined to have achieved a suitable employment objective which has been maintained for a period of time not less than 60 days.]

(5) the individual and the rehabilitation counselor consider the employment outcome to be satisfactory and agree that the individual is performing well on the job.

(b) After a client has been determined to be rehabilitated, the commission may provide [~~provides~~] postemployment services as required to maintain or regain suitable employment.

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

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TRD-9805864

Charles Schiesser  
Chief of Staff

Texas Rehabilitation Commission

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For further information, please call: (512) 424-4050



## Chapter 105. Extended Rehabilitation Services Program

The Texas Rehabilitation Commission proposes amendments to §§105.1, 105.3-105.5 and the repeal of §105.6, concerning extended rehabilitation services program. In accordance with the Appropriations Act, §167, the Commission has reviewed these sections and has determined that they should be readopted with changes.

The sections are being amended and repealed in order to conform to the language of the Rehabilitation Act Amendments of 1994.

Charles E. Harrison, Jr., Deputy Commissioner for Financial Services, has determined that for the first five-year period the sections are in effect, there will be no fiscal implications for state or local government.

Mr. Harrison also has determined that for each year of the first five years the sections are in effect the public benefit anticipated as a result of enforcing the sections will be conformance with the

language of the Rehabilitation Act Amendments of 1994. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the sections as proposed.

Comments on the proposal may be submitted to Roger Darley, Assistant General Counsel, Texas Rehabilitation Commission, 4900 North Lamar Boulevard, Suite 7300, Austin, Texas 78751.  
**40 TAC §§105.1, 105.3-105.5**

The amendments are proposed under the Texas Human Resources Code, Title 7, Chapter 111, §111.018 and §111.023, House Bill Number 1, Article IX, §167, which provides the Texas Rehabilitation Commission with the authority to promulgate rules consistent with Title 7, Texas Human Resources Code.

No other statute, article, or code is affected by this proposal.

*§105.1. Purpose.*

(a) The purpose of the Extended Rehabilitation Services Program is to provide an array of employment support [rehabilitation ] services to [severely handicapped] individuals with severe disabilities who, require intensive on-going support in order to be employed [on entering the program, are not capable of entering the competitive labor market but who may achieve maximum personal independence through the provisions of rehabilitation services].

(b) The state funded Extended Rehabilitation Services Program differs from the joint state/federal funded Vocational Rehabilitation Services Program in that an objective of the Extended Rehabilitation Services Program is to provide the job supports necessary to achieve gainful employment and maximum personal independence for [severely handicapped ] individuals with severe disabilities.

*§105.3. Basic Requirements for Eligibility.*

To be eligible for Extended Rehabilitation Services, the applicant must have a severe physical or mental disability that is an impediment to employment without on-going support. The disability and the following criteria listed in paragraphs (1)-(4) of this section must be determined for ERS services. There must be a reasonable expectation that ERS services will result in the individual being able to sustain employment with on-going support. The individual with a severe disability must be:

(1) capable of achieving an employment outcome;

(2) of legal working age, for the type of employment, at the time of the IWRP;

(3) a legal resident of Texas; and

(4) able to sustain wage earnings of not less than 15% of minimum wage.

~~[(a) An individual meets the basic requirement for eligibility if he is a severely handicapped individual and meets the criteria of §105.1(a) of this title (relating to Purpose).]~~

~~[(b) Basic living requirements may be considered as a requirement for eligibility.]~~

*§105.4. Ineligibility.*

An individual becomes ineligible for extended rehabilitation services when the provision of such programmed services would be ineffective in achieving their purpose of personal independence. When an individual becomes capable of entering the competitive labor market, the individual may either continue in the Extended Rehabilitation Services Program until closure in competitive employment or[;] be referred to the Vocational Rehabilitation Program for services~~;~~ ~~or~~

be provided services as a client of both programs, as appears in the best interests of the individual]. An applicant may be determined ineligible due to any of the following reasons listed in paragraphs (1)-(5) of this section:

- (1) failure to cooperate;
- (2) refused services;
- (3) transferred to another agency or TRC program;
- (4) failure to achieve 15% of minimum wage during the 18-month evaluation period; or
- (5) other reasons.

§105.5. *Services Provided.*

(a) Extended Rehabilitation Services include Employment Support Services and External Support Services. Employment Support Services help a client develop and maintain skills necessary to enter the labor market, are usually provided at the job site, and may not exceed \$3,600 per year per client. Employment Support Services may include:

- (1) individual assessment;
- (2) on-the-job training in work and work related skills required to perform the job; and
- (3) on-going support and monitoring of the client's performance on the job.

(b) External Support Services help individuals acquire, retain, and improve self-help, socialization, and adaptive skills necessary to maintain employment; are usually provided away from the job site; and may not exceed \$3,600 per year per client. External Support Services may include the following:

- (1) money management;
- (2) mobility training; and
- (3) self-care and personal hygiene training.

~~[(a) The provision of extended rehabilitation services includes:]~~

~~[(1) group living arrangements for room, board, clothing, evening and nighttime supervision, recreational activities, and transportation to and from work;]~~

~~[(2) employment in sheltered workshops; and]~~

~~[(3) assistance in obtaining employment in the open or customary labor market within the client's capabilities.]~~

~~[(b) In providing extended rehabilitation services, the commission considers similar benefits from other programs or sources available to the client.]~~

~~[(c) Services may be provided by contract with a public or private agency.]~~

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

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Charles Schiesser

Chief of Staff

Texas Rehabilitation Commission

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For further information, please call: (512) 424-4050

◆ ◆ ◆  
**40 TAC §105.6**

*(Editor's note: The text of the following section proposed for repeal will not be published. The section may be examined in the offices of the Texas Rehabilitation Commission or in the Texas Register office, Room 245, James Earl Rudder Building, 1019 Brazos Street, Austin.)*

The repeal is proposed under the Texas Human Resources Code, Title 7, Chapter 111, §111.018 and §111.023, House Bill Number 1, Article IX, §167, which provides the Texas Rehabilitation Commission with the authority to promulgate rules consistent with Title 7, Texas Human Resources Code.

No other statute, article, or code is affected by this proposal.

§105.6. *Client Contributions.*

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

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Charles Schiesser

Chief of Staff

Texas Rehabilitation Commission

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◆ ◆ ◆  
**Chapter 107. Independent Living Services Program**

**40 TAC §§107.1, 107.2, 107.5**

The Texas Rehabilitation Commission proposes amendments to §§107.1, 107.2, and 107.5, concerning independent living services program. In accordance with the Appropriations Act, §167, the Commission has reviewed these sections and has determined that they should be readopted with changes.

Section 107.1 and §107.2 are being amended in order to conform to the language of the Rehabilitation Act Amendments of 1994.

Section 107.5 is being amended to give a more detailed explanation of the availability of independent living services.

Charles E. Harrison, Jr., Deputy Commissioner for Financial Services, has determined that for the first five-year period the sections are in effect, there will be no fiscal implications for state or local government.

Mr. Harrison also has determined that for each year of the first five years the sections are in effect the public benefit anticipated as a result of enforcing the sections will be conformance with the language of the Rehabilitation Act Amendments of 1994 and a more detailed explanation of the availability of independent living services. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the sections as proposed.

Comments on the proposal may be submitted to Roger Darley, Assistant General Counsel, Texas Rehabilitation Commission, 4900 North Lamar Boulevard, Suite 7300, Austin, Texas 78751.

The amendments are proposed under the Texas Human Resources Code, Title 7, Chapter 111, §111.018 and §111.023,

House Bill Number 1, Article IX, §167, which provides the Texas Rehabilitation Commission with the authority to promulgate rules consistent with Title 7, Texas Human Resources Code.

No other statute, article, or code is affected by this proposal.

*§107.1. Purpose.*

(a) The purpose of the Independent Living Services Program is to provide rehabilitation services to individuals with severe or catastrophic disabilities [~~the severely or catastrophically disabled;~~] in order that such persons may achieve a greater level of self-care and independent living.

(b) The Independent Living Services Program is a [state funded program, but may be either state funded or a] joint state-federal program. [In the event that federal funds are available at a future date, all] All federal laws and regulations required by the acceptance of these funds by the state are applicable to these rules.

*§107.2. Basic Requirements for Eligibility.*

An individual meets the basic requirements for eligibility if he is a person with a severe [severely] or catastrophic [catastrophically] disability [disabled] under current published commission regulations and there is:

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

*§107.5. Availability of Services.*

Independent living services are provided on a first come first served basis. When the Commissioner deems necessary, expenditures of IL funds may be authorized for persons outside the stated service areas [ may not be available to all applicants or on a statewide basis].

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

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**Chapter 111. Medicaid Waiver Program for People Who Are [with] Deaf-Blind [~~Deaf-Blindness~~] with [and] Multiple Disabilities**

**40 TAC §§111.1-111.4**

The Texas Rehabilitation Commission proposes amendments to §§111.1-111.4, concerning Medicaid waiver program for people who are deaf-blind with multiple disabilities. In accordance with the Appropriations Act, §167, the Commission has reviewed these sections and has determined that they should be read-opted with changes.

The sections are being amended in order to conform to the language of the Rehabilitation Act Amendments of 1994.

Charles E. Harrison, Jr., Deputy Commissioner for Financial Services, has determined that for the first five-year period the sections are in effect, there will be no fiscal implications for state or local government.

Mr. Harrison also has determined that for each year of the first five years the sections are in effect the public benefit anticipated as a result of enforcing the sections will be conformance with the language of the Rehabilitation Act Amendments of 1994. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the sections as proposed.

Comments on the proposal may be submitted to Roger Darley, Assistant General Counsel, Texas Rehabilitation Commission, 4900 North Lamar Boulevard, Suite 7300, Austin, Texas 78751.

The amendments are proposed under the Texas Human Resources Code, Title 7, Chapter 111, §111.018 and §111.023, House Bill Number 1, Article IX, §167, which provides the Texas Rehabilitation Commission with the authority to promulgate rules consistent with Title 7, Texas Human Resources Code.

No other statute, article, or code is affected by this proposal.

*§111.1. Purpose.*

The purpose of the Medicaid Waiver Program for People [with] who are Deaf-Blind with [Deaf-Blindness and] Multiple Disabilities is to provide residential support to people who are deaf-blind with multiple disabilities by helping them attain self-sufficiency and independent living. The Texas Rehabilitation Commission also operates a parent training and summer outdoor training program which are not Medicaid programs.

*§111.2. Programs.*

Programs to serve people who are deaf-blind with multiple disabilities include the following:

- (1) (No change.)

(2) a program of [~~parental~~] counseling for the [~~parents~~] families of individuals who are deaf-blind [~~individuals~~]; and

(3) a summer outdoor training program for individuals who are deaf-blind [~~individuals~~].

*§111.3. Introduction.*

Enrollment and provider payments for home and community-based services for people [with] who are deaf-blind [~~deaf-blindness and~~] with multiple disabilities are contingent upon approval by the Health Care Financing Administration.

*§111.4. Definitions.*

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

(1) A person [with] who is deaf-blind [~~deaf-blindness and~~] with multiple disabilities must [have]:

(A) [~~the presence of a deaf-blind multiple disability that~~] be deaf and legally blind and have another disability; these disabilities must constitute or result [~~constitutes or results~~] in a substantial impediment to the individual's ability to function independently in the family and community; and

(B) have a reasonable expectation that services will benefit the individual by improving his ability to function independently in the family and community; and

(C) [~~the individual must~~] not be eligible for vocational rehabilitation (VR) services through the Texas Commission for the Blind (i.e., level of severity must be such that VR services will not result in employment) or TRC.

(2) Deaf-blind—Any individual who:

(A) has a central visual acuity of 20/200 or less in the better eye with corrective lenses, or a field defect such that the peripheral diameter of visual field subtends an angular distance no greater than 20 degrees, or a progressive visual loss having a prognosis leading to one or both of these conditions; and

(B) has a chronic hearing impairment so severe that most speech cannot be understood with optimum amplification, or a progressive hearing loss having a prognosis leading to this condition. (An exception to this definition may be made for an individual with significant auditory and visual impairment with a poor prognosis, or for an individual whose ability to use hearing and/or vision is so limited, as a result of protracted inadequate use of either or both of these senses, that the individual functions as a deaf-blind person.)

(3) Participant—A person who receives home and community based support through the Medicaid Waiver Program for Persons with Deaf-Blindness and Multiple Disabilities (DB-MD).

(4) Waiver program—A Medicaid program that provides home and community-based services to persons with related conditions as an alternative to institutional care in accordance with waiver provisions of the Social Security Act, §1915(c) (42 United States Code §1396n).

(5) Waiver program services—Services provided under waiver provisions of the Social Security Act, §1915(c) (42 United States Code §1396n).

(6) With multiple disabilities—In addition to deafness and blindness, the individual has one or more disabilities [~~other disabling conditions~~] which results in impairment to independent functioning. The combination of impairments must result in the same level of care criteria established by the State of Texas to certify individuals eligible for ICF-MR/RC VIII Services under the Title XIX State Plan.

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

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Charles Schiesser

Chief of Staff

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### Chapter 113. Comprehensive Rehabilitation Services

#### 40 TAC §§113.1, 113.2, 113.4, 113.5

The Texas Rehabilitation Commission proposes amendments to §§113.1, 113.2, 113.4, and 113.5, concerning comprehensive rehabilitation services. In accordance with the Appropriations Act, §167, the Commission has reviewed these sections and has determined that they should be readopted with changes.

The sections are being amended to more closely align the language of these rules with the current Rehabilitation Services Manual.

Charles E. Harrison, Jr., Deputy Commissioner for Financial Services, has determined that for the first five-year period the

sections are in effect, there will be no fiscal implications for state or local government.

Mr. Harrison also has determined that for each year of the first five years the sections are in effect the public benefit anticipated as a result of enforcing the sections will be more closely aligned language to the current Rehabilitation Services Manual. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the sections as proposed.

Comments on the proposal may be submitted to Roger Darley, Assistant General Counsel, Texas Rehabilitation Commission, 4900 North Lamar Boulevard, Suite 7300, Austin, Texas 78751.

The amendments are proposed under the Texas Human Resources Code, Title 7, Chapter 111, §111.018 and §111.023, House Bill Number 1, Article IX, §167, which provides the Texas Rehabilitation Commission with the authority to promulgate rules consistent with Title 7, Texas Human Resources Code.

No other statute, article, or code is affected by this proposal.

#### §113.1. Purpose.

(a) The purpose of this program is to provide payment for an initial period of comprehensive medical rehabilitation services for individuals [~~persons~~] with traumatic spinal cord injuries and/or traumatic brain injuries; outpatient services for individuals [~~persons~~] with traumatic spinal cord injuries and/or traumatic brain injuries; and post-acute services for persons with traumatic brain injury. The purpose is to enhance the quality of life of these individuals from the perspective of mobility, self-care, and the ability to function as independently as possible within the family and community.

(b) (No change.)

#### §113.2. Basic Requirements for Eligibility.

Basic criteria for eligibility include:

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

(3) individual must be at least 16 years of age by the time the IWRP is completed;

(4) individual must be a citizen or immigrant alien of the United States and a resident of Texas for at least six months, or have a family member living in the state for at least six months;

(5) individual must not currently be eligible for another [~~the Vocational Rehabilitation~~] Texas Rehabilitation Commission Program; [~~and~~]

(6) individual must be willing to accept treatment ; and [~~participate~~];

(7) individual must be sufficiently medically stable to actively participate in a program of services.

#### §113.4. Services Provided.

(a) (No change.)

(b) Outpatient services. Services may include:

(1)-(7) (No change.)

~~{(8) behavioral therapy;}~~

(8) ~~{(9)}~~ clinic follow-up visits;

(9) ~~{(40)}~~ orthotic and prosthetic devices;

(10) ~~{(41)}~~ communication devices; and



(11) [(42)] drugs and medical supplies.

(c) Post-acute services (residential or nonresidential—limited to individuals with traumatic brain injury). Services may include:

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

[(5) biofeedback; and]

(5) [(6)] traditional therapies.

(6) orthotic and prosthetic devices;

(7) clinic follow-up visits; and

(8) drugs and medical supplies.

*§113.5. Limitations of Services.*

The following limitations apply to the Comprehensive Rehabilitation Services (CRS) Program.

(1) (No change.)

(2) Outpatient services:

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

(D) services can be provided in any combination of those listed in this section [above], but the total number of hours of physical therapy, occupational therapy, and speech therapy [services] paid with CRS funds will not exceed 120 hours.

(3) (No change.)

(4) At the time of discharge from services, [ When] prescribed[?] drugs and medical supplies may not exceed a 30-day supply.

(5) If, during the course of [~~comprehensive medical rehabilitation service,~~] services, the individual is not making the expected progress, the case will be re-evaluated to determine whether continued sponsorship is appropriate.

(6) If, during the course of [~~comprehensive medical rehabilitation~~] services, the individual becomes eligible for another of the commission's programs (independent living services, extended rehabilitation services, vocational rehabilitation, etc.), sponsorship of comprehensive medical rehabilitation services will be shifted to that program immediately after eligibility determination.

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

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Charles Schiesser

Chief of Staff

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## Chapter 115. Memoranda of Understanding with Other State Agencies

The Texas Rehabilitation Commission proposes the repeal of §115.6 and an amendment to §115.8, concerning memoranda of understanding with other state agencies. In accordance with the Appropriations Act, §167, the Commission has reviewed these sections and has determined that they should be readopted with changes.

Section 115.8 is being amended to reflect changes in the names of various state agencies.

Charles E. Harrison, Jr., Deputy Commissioner for Financial Services, has determined that for the first five-year period the sections are in effect, there will be no fiscal implications for state or local government.

Mr. Harrison also has determined that for each year of the first five years the sections are in effect the public benefit anticipated as a result of enforcing the sections will be an updated rule which reflects the changes in the names of various state agencies. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the sections as proposed.

Comments on the proposal may be submitted to Roger Darley, Assistant General Counsel, Texas Rehabilitation Commission, 4900 North Lamar Boulevard, Suite 7300, Austin, Texas 78751.

### 40 TAC §115.6

*(Editor's note: The text of the following section proposed for repeal will not be published. The section may be examined in the offices of the Texas Rehabilitation Commission or in the Texas Register office, Room 245, James Earl Rudder Building, 1019 Brazos Street, Austin.)*

The repeal is proposed under the Texas Human Resources Code, Title 7, Chapter 111, §111.018 and §111.023, House Bill Number 1, Article IX, §167, which provides the Texas Rehabilitation Commission with the authority to promulgate rules consistent with Title 7, Texas Human Resources Code.

No other statute, article, or code is affected by this proposal.

### §115.6. Investigation of Abuse, Neglect, or Exploitation.

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

Filed with the Office of the Secretary of State on April 27, 1998.

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Charles Schiesser

Chief of Staff

Texas Rehabilitation Commission

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### 40 TAC §115.8

The amendment is proposed under the Texas Human Resources Code, Title 7, Chapter 111, §111.018 and §111.023, House Bill Number 1, Article IX, §167, which provides the Texas Rehabilitation Commission with the authority to promulgate rules consistent with Title 7, Texas Human Resources Code.

No other statute, article, or code is affected by this proposal.

*§115.8. To Define the Role of the Texas Rehabilitation Commission for the Provision of Services Needed To Prepare Students Enrolled in Special Education to Transition from Public School to Adult Life.*

(a) The Texas Rehabilitation Commission adopts by reference a joint memorandum of understanding with the Texas Commission for the Blind (TCB), the Texas Workforce [Employment] Commission (TWC) [(TEC)], the Texas Department of Human Services (TDHS), the Texas Department of Mental Health and Mental Retardation (TDMHMR), Texas Protective and Regulatory Services

(TPRS) and the Texas Education Agency (TEA). The purpose of the memorandum of understanding is to establish the respective responsibility of each agency for the provision of the services necessary to prepare students enrolled in special education for a successful transition to life outside the public school system.

(b) (No change.)

(c) Charles E. Harrison, Jr., executive assistant commissioner for financial and planning services, has determined that [~~for the first five-year period the proposed section will be in effect,~~] there will be fiscal implications for state and local governments as a result of enforcing or administering the section. The impact on the Texas Rehabilitation Commission results from the cost of providing individual transitional planning and services to appropriate students enrolled in special education. The yearly operating funds available for fiscal year 1998 [1994] are a total of \$407,000. [~~\$900,000 (staff costs are estimated at \$500,000 and additional services at \$400,000). Funds will be requested to implement increased statewide coverage in fiscal year 1992 and fiscal year 1993 (\$3.6 million and \$7.4 million, respectively), but such funding is subject to legislative approval.]~~]

(d) (No change.)

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Charles Schiesser

Chief of Staff

Texas Rehabilitation Commission

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## Chapter 116. Advisory Committees/Councils

The Texas Rehabilitation Commission proposes an amendment to §116.5 and the repeal of §116.6 and §116.7, concerning advisory committees/councils. In accordance with the Appropriations Act, §167, the Commission has reviewed these sections and has determined that they should be readopted with changes.

The sections are being amended and repealed to reflect the language of TRC's Administrative Policy and Procedures Manual.

Charles E. Harrison, Jr., Deputy Commissioner for Financial Services, has determined that for the first five-year period the sections are in effect, there will be no fiscal implications for state or local government.

Mr. Harrison also has determined that for each year of the first five years the sections are in effect the public benefit anticipated as a result of enforcing the sections will be updated regulations to reflect the language of TRC's Administrative Policy and Procedures Manual. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the sections as proposed.

Comments on the proposal may be submitted to Roger Darley, Assistant General Counsel, Texas Rehabilitation Commission, 4900 North Lamar Boulevard, Suite 7300, Austin, Texas 78751.

### 40 TAC §116.5

The amendment is proposed under the Texas Human Resources Code, Title 7, Chapter 111, §111.018 and §111.023, House Bill Number 1, Article IX, §167, which provides the Texas Rehabilitation Commission with the authority to promul-

gate rules consistent with Title 7, Texas Human Resources Code.

No other statute, article, or code is affected by this proposal.

§116.5. *Community Rehabilitation Programs Advisory Committee.*

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

(c) Tasks. The committee advises the commission regarding:

(1) development and maintenance of standards for service providers in the areas of:

(A) accessibility;

(B) administration;

(C) staff qualifications; and

(D) service outcomes;

(2) the process for monitoring the effectiveness of CRPs and similar service providers;

(3) the training needs of CRP and other service provider personnel; and

(4) other matters related to CRPs and other similar service providers.

~~{(1) utilization of community rehabilitation programs to the maximum extent feasible;}~~

~~{(2) establishing and monitoring of standards for the services provided by community rehabilitation programs; and}~~

~~{(3) assessing the capacity and effectiveness of community rehabilitation programs.}~~

(d) Reports. The committee provides recommendations to the commission [~~in periodic reports to the deputy commissioner for rehabilitation services] by means of the minutes of the committee's meetings.~~

(e) (No change.)

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

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Charles Schiesser

Chief of Staff

Texas Rehabilitation Commission

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### 40 TAC §116.6, §116.7

*(Editor's note: The text of the following sections proposed for repeal will not be published. The sections may be examined in the offices of the Texas Rehabilitation Commission or in the Texas Register office, Room 245, James Earl Rudder Building, 1019 Brazos Street, Austin.)*

The repeals are proposed under the Texas Human Resources Code, Title 7, Chapter 111, §111.018 and §111.023, House Bill Number 1, Article IX, §167, which provides the Texas Rehabilitation Commission with the authority to promulgate rules consistent with Title 7, Texas Human Resources Code.

No other statute, article, or code is affected by this proposal.

§116.6. *Increased Client Choice Advisory Committee.*

§116.7. *Regional Consumer Advisory Committee.*

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

Filed with the Office of the Secretary of State on April 27, 1998.

TRD-9805873

Charles Schiesser

Chief of Staff

Texas Rehabilitation Commission

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For further information, please call: (512) 424-4050



## Part XVI. Council on Sex Offender

### Chapter 510. Sex Offender Treatment Provider Registry

#### 40 TAC §§510.1–510.9

*(Editor's note: The text of the following sections proposed for repeal will not be published. The sections may be examined in the offices of the Council on Sex Offender or in the Texas Register office, Room 245, James Earl Rudder Building, 1019 Brazos Street, Austin.)*

The Council on Sex Offender Treatment (council) proposes the repeal of §§510.1-510.9, concerning the sex offender treatment provider registry. Specifically, the sections cover definitions; registry criteria; registry renewal; fees; application availability; documentation of experience and training; revoke, refuse, or refuse to renew a registry listing; judicial review of exclusion from registry; and registry inclusion based on pre-existing status.

House Bill (HB) 2699, 75th Legislature, 1997, transferred the administration and enforcement required by the council (Texas Civil Statutes, Article 4413(51)), to the Texas Department of Health (department) effective September 1, 1997. Section 17 of this bill transfers all funds, property, records, and employees to the department as of September 1, 1997. The rules being repealed in 40 Texas Administrative Code (TAC) Chapter 510 are hereby proposed in 22 TAC Chapter 810, §§810.1-810.9. The rules are proposed in 22 TAC Chapter 810 in order to be regrouped with other boards administratively attached to the department and are renumbered under one chapter instead of four chapters. A copy of the conversion chart showing the repealed rules and new rules is located in the "In Addition" section of this issue.

Ms. Donna Flippin, Acting Executive Director, has determined that for the first five-year period the sections are in effect, there will be no fiscal implications for state or local government as a result of the repeal.

Ms. Flippin has also determined that for each of the first five years the sections are in effect, the public benefits anticipated are compliance with HB 2699, 75th Legislature, 1997, and continuation of the registration of sex offender treatment providers. There are no anticipated economic costs to small or large businesses or to persons who will be affected by the repeal. No effect on local employment is anticipated.

Comments on the proposed repeal may be submitted to Ms. Donna Flippin, Professional Licensing & Certification Division,

Texas Department of Health, 1100 West 49th Street, Austin, Texas 78756-3183, (512) 834-4530. Comments will be accepted for 30 days following the date of publication of the proposed repeal in the *Texas Register*. A public hearing has been scheduled for 5:30 p.m., Tuesday, May 26, 1998, in Conference Room S-402, Texas Department of Health, located at the Exchange Building, 8407 Wall Street, Austin, Texas 78754.

The repeals are proposed under the Act, Texas Civil Statutes, Article 4413(51). Section 2(b) provides the council with the authority to adopt rules consistent with the Act and §8 provides the council with the authority to adopt rules concerning the registration requirements and procedures for sex offender treatment providers on the registry.

The proposed repeal affects Texas Civil Statutes, Article 4413(51).

§510.1. *Definitions.*

§510.2. *Registry Criteria.*

§510.3. *Registry Renewal.*

§510.4. *Fees.*

§510.5. *Application Availability*

§510.6. *Documentation of Experience and Training*

§510.7. *Revoke, Refuse, or Refuse to Renew*

§510.8. *Judicial Review of Exclusion from Registry*

§510.9. *Registry Inclusion Based on Pre-existing Status*

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

Filed with the Office of the Secretary of State on April 27, 1998.

TRD-9805876

Collier M. Cole, Ph.D.

Chairperson

Council of Sex Offender

Earliest possible date of adoption: June 7, 1998

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



### Chapter 511. Criminal Background Check Security

#### 40 TAC §§511.1–511.4

*(Editor's note: The text of the following sections proposed for repeal will not be published. The sections may be examined in the offices of the Council on Sex Offender or in the Texas Register office, Room 245, James Earl Rudder Building, 1019 Brazos Street, Austin.)*

The Council on Sex Offender Treatment (council) proposes the repeals of §§511.1-511.4, concerning the criminal background check security. Specifically, the sections cover access to criminal history records; destruction of criminal history records; records of the council; and frequency of criminal background checks.

House Bill (HB) 2699, 75th Legislature, 1997, transferred the administration and enforcement required by the council (Texas Civil Statutes, Article 4413(51)), to the Texas Department of Health (department) effective September 1, 1997. Section 17 of this bill transfers all funds, property, records, and employees

to the department as of September 1, 1997. The rules being repealed in 40 Texas Administrative Code (TAC) Chapter 511 are hereby proposed in 22 TAC Chapter 810, §§810.31-810.34. The rules are proposed in 22 TAC Chapter 810 in order to be regrouped with other boards administratively attached to the department and are renumbered under one chapter instead of four chapters. A copy of the conversion chart showing the repealed rules and new rules is located in the "In Addition" section of this issue.

Ms. Donna Flippin, Acting Executive Director, has determined that for the first five-year period the sections are in effect, there will be no fiscal implications for state or local government as a result of the repeal.

Ms. Flippin has also determined that for each of the first five years the sections are in effect, the public benefits anticipated are compliance with HB 2699, 75th Legislature, 1997, and continuation of the registration of sex offender treatment providers. There are no anticipated economic costs to small or large businesses or to persons who will be affected by the repeal. No effect on local employment is anticipated.

Comments on the proposed repeal may be submitted to Ms. Donna Flippin, Professional Licensing & Certification Division, Texas Department of Health, 1100 West 49th Street, Austin, Texas 78756-3183, (512) 834-4530. Comments will be accepted for 30 days following the date of publication of the proposed repeal in the *Texas Register*. A public hearing has been scheduled for 5:30 p.m., Tuesday, May 26, 1998, in Conference Room S-402, Texas Department of Health, located at the Exchange Building, 8407 Wall Street, Austin, Texas 78754.

The repeals are proposed under the Act, Texas Civil Statutes, Article 4413(51). Section 2(b) provides the council with the authority to adopt rules consistent with the Act and §16(f) provides the council with the authority to adopt rules to collect and destroy information concerning criminal backgrounds.

The proposed repeal affects Texas Civil Statutes, Article 4413(51).

§511.1. *Access to Criminal History Records.*

§511.2. *Records.*

§511.3. *Destruction of Criminal History Records.*

§511.4. *Frequency of Criminal Background Check.*

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

Filed with the Office of the Secretary of State on April 27, 1998.

TRD-9805877

Collier M. Cole, Ph.D.

Chairperson

Council of Sex Offender

Earliest possible date of adoption: June 7, 1998

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



## Chapter 512. Standards of Practice

### 40 TAC §§512.1-512.3

*(Editor's note: The text of the following sections proposed for repeal will not be published. The sections may be examined in the offices of the Council on Sex Offender or in the Texas Register office, Room 245, James Earl Rudder Building, 1019 Brazos Street, Austin.)*

The Council on Sex Offender Treatment (council) proposes the repeals of §§512.1-512.3, concerning the standards of practice. Specifically, the sections cover the purpose of the council; council's assertions; and issues to be addressed in treatment.

House Bill (HB) 2699, 75th Legislature, 1997, transferred the administration and enforcement required by the council (Texas Civil Statutes, Article 4413(51)), to the Texas Department of Health (department) effective September 1, 1997. Section 17 of this bill transfers all funds, property, records, and employees to the department as of September 1, 1997. The rules being repealed in 40 Texas Administrative Code (TAC) Chapter 512 are hereby proposed in 22 TAC Chapter 810, §§810.61-810.63. The rules are proposed in 22 TAC Chapter 810 in order to be regrouped with other boards administratively attached to the department and are renumbered under one chapter instead of four chapters. A copy of the conversion chart showing the repealed rules and new rules is located in the "In Addition" section of this issue.

Ms. Donna Flippin, Acting Executive Director, has determined that for the first five-year period the sections are in effect, there will be no fiscal implications for state or local government as a result of the repeal.

Ms. Flippin has also determined that for each of the first five years the sections are in effect, the public benefits anticipated are compliance with HB 2699, 75th Legislature, 1997, and continuation of the registration of sex offender treatment providers. There are no anticipated economic costs to small or large businesses or to persons who will be affected by the repeal. No effect on local employment is anticipated.

Comments on the proposed repeal may be submitted to Ms. Donna Flippin, Professional Licensing & Certification Division, Texas Department of Health, 1100 West 49th Street, Austin, Texas 78756-3183, (512) 834-4530. Comments will be accepted for 30 days following the date of publication of the proposed repeal in the *Texas Register*. A public hearing has been scheduled for 5:30 p.m., Tuesday, May 26, 1998, in Conference Room S-402, Texas Department of Health, located at the Exchange Building, 8407 Wall Street, Austin, Texas 78754.

The repeals are proposed under the Act, Texas Civil Statutes, Article 4413(51). Section 2(b) provides the council with the authority to adopt rules consistent with the Act.

The proposed repeal affects Texas Civil Statutes, Article 4413(51).

§512.1. *Introduction.*

§512.2. *CSOT Assertions.*

§512.3. *Issues To Be Addressed in Treatment.*

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

Filed with the Office of the Secretary of State on April 27, 1998.

TRD-9805878

Collier M. Cole, Ph.D.

Chairperson

Council of Sex Offender

Earliest possible date of adoption: June 7, 1998

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



## Chapter 513. Code of Professional Ethics

#### 40 TAC §§513.1-513.2

*(Editor's note: The text of the following sections proposed for repeal will not be published. The sections may be examined in the offices of the Council on Sex Offender or in the Texas Register office, Room 245, James Earl Rudder Building, 1019 Brazos Street, Austin.)*

The Council on Sex Offender Treatment (council) proposes the repeals of §§513.1-513.2, concerning the professional code of ethics. Specifically, the sections require that the providers will establish and maintain the highest level of professional standards related to the assessment and treatment of sex offenders.

House Bill (HB) 2699, 75th Legislature, 1997, transferred the administration and enforcement required by the council (Texas Civil Statutes, Article 4413(51)), to the Texas Department of Health (department) effective September 1, 1997. Section 17 of this bill transfers all funds, property, records, and employees to the department as of September 1, 1997. The rules being repealed in 40 Texas Administrative Code (TAC) Chapter 513 are hereby proposed in 22 TAC Chapter 810, §§810.91-810.92. The rules are proposed in 22 TAC Chapter 810 in order to be regrouped with other boards administratively attached to the department and are renumbered under one chapter instead of four chapters. A copy of the conversion chart showing the repealed rules and new rules is located in the "In Addition" section of this issue.

Ms. Donna Flippin, Acting Executive Director, has determined that for the first five-year period the sections are in effect, there will be no fiscal implications for state or local government as a result of the repeal.

Ms. Flippin has also determined that for each of the first five years the sections are in effect, the public benefits anticipated are compliance with HB 2699, 75th Legislature, 1997, and continuation of the registration of sex offender treatment providers. There are no anticipated economic costs to small or large businesses or to persons who will be affected by the repeal. No effect on local employment is anticipated.

Comments on the proposed repeal may be submitted to Ms. Donna Flippin, Professional Licensing & Certification Division, Texas Department of Health, 1100 West 49th Street, Austin, Texas 78756-3183, (512) 834-4530. Comments will be accepted for 30 days following the date of publication of the proposed repeal in the *Texas Register*. A public hearing has been scheduled for 5:30 p.m., Tuesday, May 26, 1998, in Conference Room S-402, Texas Department of Health, located at the Exchange Building, 8407 Wall Street, Austin, Texas 78754.

The repeals are proposed under the Act, Texas Civil Statutes, Article 4413(51). Section 2(b) provides the council with the authority to adopt rules consistent with the Act.

The proposed repeal affects Texas Civil Statutes, Article 4413(51).

§513.1. *Code of Professional Ethics.*

§513.2. *Code of Ethics.*

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

Filed with the Office of the Secretary of State on April 27, 1998.

TRD-9805879

Collier M. Cole, Ph.D.

Chairperson

Council of Sex Offender

Earliest possible date of adoption: June 7, 1998

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



## Part XIX. Texas Department of Protective and Regulatory Services

### Chapter 710. Protection of Clients and Staff

#### Subchapter B. Client Abuse and Neglect in Community Mental Health and Mental Retardation Centers

#### 40 TAC §§710.41-710.50

*(Editor's note: The text of the following sections proposed for repeal will not be published. The sections may be examined in the offices of the Texas Department of Protective and Regulatory Services or in the Texas Register office, Room 245, James Earl Rudder Building, 1019 Brazos Street, Austin.)*

The Texas Department of Protective and Regulatory Services (TDPRS) proposes the repeal of §§710.41-710.50, concerning purpose, application, definitions, client abuse and neglect defined, administrative enforcement, responsibilities of the office of facility investigation, appeals process, training in prevention of client abuse and/or neglect, references, and distribution; and proposes new §§710.41-710.55, concerning purpose, application, definitions, abuse, neglect, and exploitation of an adult defined, abuse, neglect, and exploitation of a child defined, responsibilities of community centers, adult protective services investigator, completion of investigation, center contractors and independent school district employees, functions of office of adult protective services, request for review of finding; request for appeal, confidentiality of investigative process and report, retention of investigative reports, references, and distribution, in its Protection of Clients and Staff chapter. The purpose of the repeals and new sections is to update the rules regarding investigations of abuse, neglect, and exploitation of persons served by community mental health and mental retardation centers. TDPRS is also changing the title of Subchapter B to be Abuse, Neglect, and Exploitation of Persons Served by Community Mental Health and Mental Retardation Centers.

Cindy Brown, Budget and Analysis Division Director, has determined that for the first five-year period the proposed sections will be in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the sections.

Ms. Brown also has determined that for each year of the first five years the sections are in effect the public benefit anticipated as a result of enforcing the sections will be more efficient procedures for the investigation of abuse, neglect, and exploitation in community mental health and mental retardation centers. There will be no effect on small or large businesses because the sections only apply to mental health and mental retardation community centers, which are governmental entities. There is no anticipated economic cost to persons who are required to comply with the proposed sections.

Questions about the content of the proposal may be directed to Marc Mullins at (512) 438-5505 in TDPRS's Adult Protective Services section. Written comments on the proposal may be submitted to Supervisor, Rules and Handbooks Unit-212, Texas Department of Protective and Regulatory Services E-205, P.O. Box 149030, Austin, Texas 78714-9030, within 30 days of publication in the *Texas Register*.

The repeals are proposed under the Human Resources Code, Title 2, Chapter 48, which provides the department with the right to investigate reports of abuse, exploitation, or neglect of an elderly or disabled person.

The repeals implement §48.081(c) of the Human Resources Code, which gives TDPRS the authority to investigate in community mental health and mental retardation centers.

§710.41. *Purpose.*

§710.42. *Application.*

§710.43. *Definitions.*

§710.44. *Client Abuse and Neglect Defined.*

§710.45. *Administrative Enforcement.*

§710.46. *Responsibilities of the Office of Facility Investigation.*

§710.47. *Appeals Process.*

§710.48. *Training in Prevention of Client Abuse and/or Neglect.*

§710.49. *References.*

§710.50. *Distribution.*

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

Filed with the Office of the Secretary of State on April 24, 1998.

TRD-9805793

C. Ed Davis

Deputy Director, Legal Services

Texas Department of Protective and Regulatory Services

Earliest possible date of adoption: June 7, 1998

For further information, please call: (512) 438-3765



#### 40 TAC §§710.41-710.55

The new sections are proposed under the Human Resources Code, Title 2, Chapter 48, which provides the department with the right to investigate reports of abuse, exploitation, or neglect of an elderly or disabled person.

The new sections implement §48.081(c) of the Human Resources Code, which gives TDPRS the authority to investigate in community mental health and mental retardation centers.

§710.41. *Purpose.*

The purpose of this subchapter is to define abuse, neglect, and exploitation of a person receiving services from a community mental health and mental retardation center and to describe procedures for its report and investigation.

§710.42. *Application.*

The provisions of this subchapter shall apply to adult protective services investigations of abuse, neglect, and exploitation of persons served by community centers, their agents, and contractors, including adults and children, unless another investigative branch of the Texas

Department of Protective and Regulatory Services or another state agency has responsibility for the investigation.

§710.43. *Definitions.*

The following words and terms, when used in this subchapter, shall have the following meanings, unless the context clearly indicates otherwise:

(1) Adult - A person 18 years of age or older.

(2) Adult Protective Services (APS) investigator - An employee of the Texas Department of Protective and Regulatory Services with expertise and demonstrated competence in conducting investigations.

(3) Agent - An individual who is not an employee, but who is working under the auspices of the community center, such as a consultant, volunteer, or student.

(4) Allegation - A report by a person believing or having knowledge that a person served has been or is in a state of abuse, exploitation, or neglect as defined in this subchapter.

(5) Chief executive officer (CEO) - The head of any organization or entity associated by contract in a working alliance with a community center to provide community-based services.

(6) Child - A person under 18 years of age who is not and has not been married and who has not had the disabilities of minority removed for general purposes.

(7) Clinical practice - Relates to issues of potentially or allegedly unsafe nursing, dental, or medical practice or violations of the Nursing Practice Act, Licensed Vocational Nurse Title Act, Dental Practice Act, or Medical Practice Act. These include acts or omissions of the physician, dentist, or nurse which result from a lack of competence in his/her profession, impaired status, or failure to provide adequate medical, dental, or nursing care to a person served.

(8) Community center - A community MHMR center established under the Texas Health and Safety Code, Title 7, Chapter 534, Subchapter A.

(9) Confirmed - Term used to describe an allegation which is supported by the preponderance of evidence.

(10) Contractor - Any organization or entity associated by contract in a working alliance with a community center to provide community-based services.

(11) Department - The Texas Department of Protective and Regulatory Services.

(12) Employee - Any person employed by a community center for a specific job position or to be part of a "pool" for specific job positions; expected to work on a continuous basis, seasonally, or to perform work of a transitory nature or foreseeable end and meet certain minimum performance and time-on-job expectations; and paid from a budgeted position in the salary schedule and through a payroll process. A person receiving payment as a "vocational trainee" in a properly authorized vocational training program is not considered an employee.

(13) Executive director - The head of a community center or a staff member temporarily or permanently appointed to assume the designated responsibilities of the executive director.

(14) Incitement - To spur to action or instigate into activity; implies responsibility for initiating the actions of another.

(15) Inconclusive - Term used to describe an allegation leading to no conclusion or definite result due to lack of witnesses or other relevant evidence.

(16) Mental health service provider - Pursuant to §81.001 of the Texas Civil Practices and Remedies Code, an individual, licensed or unlicensed, who performs or purports to perform mental health services, including a:

(A) licensed social worker as defined by §50.001, Human Resources Code;

(B) chemical dependency counselor as defined by §1, Chapter 635, Acts of the 72nd Legislature, Regular Session, 1991 (Article 4512o, Vernon's Texas Civil Statutes);

(C) licensed professional counselor as defined by §2, Licensed Professional Counselor Act (Article 4512g, Vernon's Texas Civil Statutes);

(D) licensed marriage and family therapist as defined by §2, Licensed Marriage and Family Therapist Act (Article 4512c-1, Vernon's Texas Civil Statutes);

(E) member of the clergy;

(F) physician who is "practicing medicine" as defined by §1.03, Medical Practice Act (Article 4495b, Vernon's Texas Civil Statutes);

(G) psychologist offering "psychological services" as defined by §2, Psychologists' Certification and Licensing Act (Article 4512c, Vernon's Texas Civil Statutes); or

(H) registered nurse or licensed vocational nurse as defined by law.

(17) Non-serious physical injury - Any injury determined not to be serious by the appropriate medical personnel who examined the person served. Examples of non-serious physical injuries include, but are not limited to, the following: superficial laceration, contusion, or abrasion.

(18) Perpetrator - The person who has committed an act of abuse, neglect, or exploitation.

(19) Perpetrator unknown - Term used to describe instances in which abuse or neglect is evident but positive identification of the responsible person(s) cannot be made, and in which self-injury has been eliminated as the cause.

(20) Person served - Any person registered or assigned in the Client Assignment and Registration (CARE) system.

(21) Preponderance of evidence - The greater weight of evidence, or evidence which is more credible and convincing to the mind.

(22) Prevention and Management of Aggressive Behavior (PMAB) - The Texas Department of Mental Health and Mental Retardation's proprietary risk management program which uses the least intrusive, most effective options to reduce the risk of injury for persons served and for staff from acts or potential acts of aggression.

(23) Reporter - The person filing a report of alleged abuse, neglect, or exploitation.

(24) Serious physical injury - Any injury determined to be serious by the appropriate medical personnel who examined the person served. Examples of serious physical injuries include, but are not limited to, the following: dislocation of any joint; internal injury;

nonsuperficial contusion; concussion; first, second, or third degree burn; or any laceration requiring sutures.

(25) Sexual abuse - Any sexual activity involving an employee, agent, or contractor and a person served. Sexual activity includes but is not limited to:

(A) kissing with sexual intent;

(B) hugging with sexual intent;

(C) stroking with sexual intent;

(D) fondling with sexual intent;

(E) oral sex or sexual intercourse;

(F) request or suggestion or encouragement for the performance of sex;

(G) sexual exploitation as defined in this section; and

(H) sexual assault as defined in §22.011 of the Texas Penal Code.

(26) Sexual exploitation - A coercive, manipulative, or otherwise exploitative pattern, practice, or scheme of conduct, which may include sexual contact, that can be reasonably construed as being for the purposes of sexual arousal or gratification or sexual abuse of any person. The term does not include obtaining information about a patient's sexual history within standard accepted practice.

(27) Unconfirmed - Term used to describe an allegation in which a preponderance of evidence exists to prove that abuse, neglect, or exploitation did not occur.

(28) Unfounded - Term used to describe an allegation that is spurious or patently without factual basis.

(29) Victim - A person who is reported to have been abused, neglected, or exploited.

*§710.44. Abuse, Neglect, and Exploitation of an Adult Defined.*

(a) For the purposes of this subchapter, abuse, neglect, and exploitation of an adult are defined as follows when the alleged perpetrator is an employee, agent, contractor, or is unknown.

(1) Abuse includes:

(A) any act or failure to act performed knowingly, recklessly, or intentionally, including incitement to act, which caused or may have caused physical injury or death to a person served;

(B) any act of inappropriate or excessive force or corporal punishment, regardless of whether the act results in an injury to a person served;

(C) any use of chemical or bodily restraints not in compliance with federal and state laws and regulations;

(D) sexual abuse; or

(E) any act or use of verbal or other communication (including gestures) to:

(i) curse, vilify, or degrade a person served; or

(ii) threaten a person served with physical or emotional harm;

(2) Neglect means a negligent act or omission by any individual responsible for providing services to a person served, which caused or may have caused physical or emotional injury or death to a person served, or which placed a person served at risk of physical

or emotional injury or death. Neglect includes, but is not limited to the failure to:

(A) establish or carry out an appropriate individual program plan or treatment plan for a person served;

(B) provide adequate nutrition, clothing, or health care to a person served in an in-patient or residential program; or

(C) provide a safe environment for a person served, including the failure to maintain adequate numbers of appropriately trained staff.

(3) Exploitation means the illegal or improper act or process of using a person served or the resources of a person served for monetary or personal benefit, profit, or gain.

(b) Abuse, neglect, or exploitation does not include:

(1) the proper use of restraints or seclusion, including prevention and management of aggressive behavior (PMAB), and the approved application of behavior modification techniques, or other actions taken in accordance with the written policies and procedures of the center;

(2) actions an employee, agent, or contractor may reasonably believe to be immediately necessary to avoid imminent harm to self, persons served, or other individuals, if such actions are limited only to those actions reasonably believed to be necessary under the existing circumstances. Such actions do not include acts of unnecessary force; or

(3) general complaints (for example, regarding rights violations, theft of property, the daily administrative operations, the failure to carry out individual program/treatment plans, or the failure to maintain adequate numbers of appropriately trained staff) that do not relate to a specific incident or allegation involving a specific person served. (Within 24 hours of receipt of such a complaint, the adult protective services (APS) investigator refers the complaint to the executive director, using the Adult Protective Services Referral form, who shall ensure the complaint is investigated administratively.)

§710.45. Abuse, Neglect, and Exploitation of a Child Defined.

(a) For the purposes of this subchapter, abuse, neglect, and exploitation of a child are defined as follows when the alleged perpetrator is an employee, agent, contractor, or is unknown.

(1) Abuse of a child includes the following acts or omissions:

(A) mental or emotional injury to a child that results in an observable and material impairment in the child's growth, development, or psychological functioning;

(B) causing or permitting the child to be in a situation in which the child sustains a mental or emotional injury that results in an observable and material impairment in the child's growth, development, or psychological functioning;

(C) physical injury that results in substantial harm to the child, or the genuine threat of substantial harm from physical injury to the child, including an injury that is at variance with the history or explanation given and excluding an accident or reasonable discipline by a parent, guardian, or managing or possessory conservator that does not expose the child to a substantial risk of harm;

(D) failure to make a reasonable effort to prevent an action by another person that results in physical injury that results in substantial harm to the child;

(E) sexual conduct harmful to a child's mental, emotional, or physical welfare;

(F) failure to make a reasonable effort to prevent sexual conduct harmful to a child;

(G) compelling or encouraging the child to engage in sexual conduct as defined by §43.01, Penal Code;

(H) causing, permitting, encouraging, engaging in, or allowing the photographing, filming, or depicting of the child if the person knew or should have known that the resulting photograph, film, or depiction of the child is obscene as defined by §43.21, Penal Code, or pornographic;

(I) the current use by a person of a controlled substance as defined by Chapter 481, Health and Safety Code, in a manner or to the extent that the use results in physical, mental, or emotional injury to a child; or

(J) causing, expressly permitting, or encouraging a child to use a controlled substance as defined by Chapter 481, Health and Safety Code.

(2) Neglect of a child includes:

(A) leaving a child in a situation where the child would be exposed to a substantial risk of physical or emotional harm, without arranging for necessary care for the child, and a demonstration of an intent not to return by a parent, guardian, or managing or possessory conservator of the child;

(B) the following acts or omissions:

(i) placing the child in or failing to remove the child from a situation that a reasonable person would realize requires judgment or actions beyond the child's level of maturity, physical condition, or mental abilities and that results in bodily injury or a substantial risk of immediate harm to the child; or

(ii) the failure to seek, obtain, or follow through with medical care for the child, with the failure resulting in or presenting a substantial risk of death, disfigurement, or bodily injury or with the failure resulting in an observable and material impairment to the growth, development, or functioning of the child; or

(iii) the failure to provide a child with food, clothing, or shelter necessary to sustain the life or health of the child, excluding failure caused primarily by financial inability unless relief services had been offered and refused; or

(iv) placing a child in or failing to remove the child from a situation in which the child would be exposed to a substantial risk of sexual conduct harmful to the child; or

(v) the failure by the person responsible for a child's care, custody, or welfare to permit the child to return to the child's home without arranging for the necessary care for the child after the child has been absent from the home for any reason, including having been in residential placement or having run away.

(3) Exploitation means the illegal or improper act or process of using a person served or the resources of a person served for monetary or personal benefit, profit, or gain.

(b) Abuse does not include:

(1) the proper use of restraints or seclusion, including prevention and management of aggressive behavior (PMAB), and the approved application of behavior modification techniques, or other actions taken in accordance with the written policies and procedures of the center;



(2) actions an employee, agent, or contractor may reasonably believe to be immediately necessary to avoid imminent harm to self, persons served, or other individuals if such actions are limited only to those actions reasonably believed to be necessary under the existing circumstances. Such actions do not include acts of unnecessary force; or

(3) general complaints (for example, regarding rights violations, theft of property, the daily administrative operations, the failure to carry out individual program/treatment plans, or the failure to maintain adequate numbers of appropriately trained staff) that do not relate to a specific incident or allegation involving a specific person served. (Within 24 hours of receipt of such a complaint, the adult protective services (APS) investigator refers the complaint to the executive director, using the Adult Protective Services Referral form, who shall ensure the complaint is investigated administratively.)

§710.46. Responsibilities of Community Centers.

(a) Each community center shall require that its employees, agents, and contractors who suspect or have knowledge of abuse, neglect, or exploitation of a person served make a verbal report to the Texas Department of Protective and Regulatory Services (TDPRS) immediately, if possible, but in no case more than one hour after suspicion or after learning of the incident, by calling 1-800-647-7418, unless jurisdiction to investigate rests with another investigative branch of TDPRS or with another state agency.

(b) Each community center shall require that any evidence related to an allegation is appropriately preserved and protected in accordance with instructions from TDPRS.

§710.47. Adult Protective Services (APS) Investigator.

(a) APS investigator. An APS investigator will conduct all investigations of abuse, neglect, and exploitation, unless another investigative branch of the department or another state agency has responsibility for the investigation.

(b) Training. APS investigators will receive appropriate training in issues related to the efficient and effective investigation of allegations of abuse, neglect, and exploitation. Investigators will be oriented to issues pertaining to individuals with disabilities and how to communicate effectively with them in the community.

(c) Notifications. Upon receiving an allegation, the person receiving the intake or the APS investigator will:

(1) immediately notify the executive director of the allegation without revealing the identity of the reporter. Pursuant to Chapter 81 of the Texas Civil Practices and Remedies Code, if the allegation involves sexual exploitation of a person served by a mental health services provider, the name of the reporter shall be released to the executive director;

(2) immediately notify the executive director as to whether the allegation will be reported to a law enforcement agency;

(3) immediately, if possible, but in no case more than one hour later, report allegations involving serious physical injury, sexual abuse, or death of an adult person served to the appropriate local or state law enforcement agency. Allegations involving non-serious physical injury or exploitation shall be reported as soon as possible, but no later than three days after receiving the intake; and

(4) immediately, if possible, but in no case more than one hour later, report all allegations of abuse or neglect of a child to the appropriate local or state law enforcement agency.

(d) Responsibilities.

(1) The APS investigator shall fully investigate alleged incidents of abuse, neglect, or exploitation as follows.

(A) Investigations shall be initiated within 24 hours of receipt of a report by the Texas Department of Protective and Regulatory Services (TDPRS). Initiation is defined as an interview with the alleged victim or an individual who has current knowledge of the safety and welfare of the alleged victim.

(B) Investigations shall be conducted in accordance with the following priority system:

(i) Priority I reports are those in which the alleged incident occurred seven calendar days or less prior to the date the report was received by TDPRS. Face-to-face contact with the alleged victim is required within 24 hours of receipt of the report by TDPRS.

(ii) Priority II reports are those in which the alleged incident occurred more than seven but less than 90 calendar days prior to the date the report was received by TDPRS. Face-to-face contact with the alleged victim is required within two calendar days of receipt of the report by TDPRS.

(iii) Priority III reports are those in which the alleged incident occurred 90 calendar days or more prior to the date of the report to TDPRS. Face-to-face contact with the alleged victim is required within five calendar days of receipt of the report by TDPRS.

(C) Allegations by an anonymous reporter will be accepted and investigated following the same procedures that are used when the reporter's identity is known.

(D) If the allegation involves the actions of a physician, dentist, registered nurse, or licensed vocational nurse, the APS investigator, in coordination with the executive director and the medical or nursing director, as appropriate to the discipline involved (if such a position exists), will determine whether the allegation involves the clinical practice of the physician, dentist, registered nurse, or licensed vocational nurse. If the abuse or neglect allegation does not involve clinical practice, the APS investigator will pursue an investigation. If it is determined that the allegation involves the clinical practice of a physician, dentist, registered nurse, or licensed vocational nurse, and the community center has an established professional review process, the APS investigator shall refer the allegation in writing to the executive director for professional review. If the community center does not have an established professional review process, the APS investigator shall refer the allegation to the appropriate licensing authority.

(E) If the allegation involves a licensed professional, other than a physician, dentist, or nurse, and the action is related to the professional's profession, then the APS investigator shall refer the allegation to the executive director for professional review. If the community center does not have an established professional review process, then the APS investigator shall refer the professional's action to the appropriate licensing authority.

(2) If at any point during the course of the investigation it becomes apparent (via written witness statements and other evidence gathered) that the allegation is spurious or patently without factual basis, the investigation may be closed as unfounded. The reason for this determination, based on specific evidence, shall be included in the report.

(3) If there is not a preponderance of evidence to indicate that an allegation should or should not be confirmed, due to lack of witnesses or other evidence, a finding of inconclusive may be made.

(4) A designation of perpetrator unknown may be used:

(A) at the time of intake to indicate that the identity of an alleged perpetrator is unknown; and

(B) at the conclusion of an investigation to describe instances in which positive identification of the responsible person(s) cannot be made, and in which self-injury has been eliminated as the cause.

§710.48. Completion of Investigation.

(a) The adult protective services (APS) investigator shall complete investigations within established timeframes as follows:

(1) Priority I and II investigations in residential programs shall be completed within 14 calendar days of receipt of the report by the Texas Department of Protective and Regulatory Services (TDPRS). If the 14th day falls on a weekend or holiday, the report shall be completed by the next business day.

(2) Priority I and II investigations in non-residential programs shall be completed within 21 calendar days of receipt of the report by TDPRS. If the 21st day falls on a weekend or holiday, the report shall be completed by the next business day.

(3) Priority III investigations in both residential and non-residential programs shall be completed within 21 calendar days of receipt of the report by TDPRS. If the 21st day falls on a weekend or holiday, the report shall be completed by the next business day.

(b) Upon completion of an investigation, the APS investigator shall submit to the executive director, a copy of:

(1) the investigative report, with any information that would reveal the identity of the reporter concealed, including:

(A) a statement of the allegation(s);

(B) a summary of the investigation;

(C) an analysis of the evidence;

(D) the investigator's finding that the allegation is confirmed, unconfirmed, inconclusive, or unfounded;

(E) recommendations resulting from the investigation;

(F) an opinion as to how the allegation(s) might be classified in accordance with Title 25, Part II, TAC, Chapter 404, Subchapter B, Exhibit B; and

(G) a determination as to how the incident should be classified in accordance with §261.001, of the Texas Family Code, if the incident involves a child;

(2) photographs relevant to the investigation, including photographs depicting the existence of injuries, or the non-existence of injuries, when appropriate;

(3) all witness statements and supporting documents; and

(4) a TDPRS "Client Abuse/Neglect Report" (AN-1-A), reflecting the finding of the investigation.

(c) Pursuant to Chapter 81 of the Texas Civil Practices and Remedies Code, if the incident involves sexual exploitation of a person served by a mental health services provider, the name of the reporter shall not be concealed in the report provided to the executive director.

(d) If additional time is required to complete the investigation, the APS investigator may request an extension by submitting a TDPRS Extension Request form to the regional APS program administrator. An extension from one to 14 days may be granted depending

on the needs of the case. The executive director shall be notified of all extensions.

(e) In cases of abuse, neglect, or exploitation previously reported to a law enforcement agency, the APS investigator shall submit a copy of investigative reports involving confirmed cases to the appropriate law enforcement agency.

(f) If an allegation is confirmed and the perpetrator is a physician, dentist, registered nurse, or licensed vocational nurse, the APS investigator shall forward a copy of the completed investigative report to the State Office of Adult Protective Services. Such reports will then be forwarded to the licensing authority for the discipline under review, as required by law.

(g) The investigator will notify the reporter in writing of the outcome of the investigation and the method of appealing the outcome of the investigation.

(h) The executive director is responsible for notifying the:

(1) APS investigator in writing within 14 calendar days as to whether the executive director is in agreement with the finding of the investigation;

(2) (alleged) victim and guardian, and anyone else who was previously informed of the allegation, of the finding of the investigation and of the method of appealing the finding; and

(3) (alleged) perpetrator of the finding of the investigation.

(i) Upon request, the APS investigator will attend and participate in a community center grievance hearing related to an investigation the APS investigator conducted.

§710.49. Community Center Contractors.

(a) For purposes of reporting and investigating abuse, neglect, and exploitation by contractors, the procedures outlined in this subchapter shall be followed.

(1) An allegation against a contractor or an employee of a contractor shall be reported to the Texas Department of Protective and Regulatory Services (TDPRS) in accordance with §710.46 of this title (relating to Responsibilities of Community Centers).

(2) Upon notification of an allegation, the adult protective services (APS) investigator shall immediately notify the contractor chief executive officer (CEO) and the executive director of the community center. If the contractor CEO is the alleged perpetrator, the APS investigator only notifies the executive director of the community center.

(3) Upon completion of the investigation the APS investigator shall submit a copy of the investigative report and supporting documents to the contractor CEO and the executive director of the community center. If the contractor CEO is the alleged perpetrator, the APS investigator only submits a copy of the report to the executive director of the community center.

(4) If there is disagreement with the finding or methodology of the investigation, the contractor CEO may, within 14 calendar days, request in writing a review of the finding, by forwarding a TDPRS Request for Review of Finding form, along with a copy of the investigative report, to the Director of Adult Protective Services, Texas Department of Protective and Regulatory Services, P.O. Box 149030, E-561, Austin, Texas, 78714-9030. If the contractor CEO is the alleged perpetrator, only the executive director of the community center may request a review of the finding.

(b) Allegations in which the alleged perpetrator is an employee of an ISD and the ISD is a contractor of the community center shall be investigated by the APS investigator in accordance with the procedures outlined in this subchapter. The APS investigator shall notify the superintendent of the ISD, the executive director of the community center, and the appropriate local or state law enforcement agency of such allegations.

(1) develop policy related to investigations in community centers;

(2) monitor and evaluate for quality assurance and compliance with adult protective services (APS) program standards;

(3) provide consultation and technical assistance to APS regional staff; and

(4) coordinate with the Texas Department of Protective and Regulatory Services' (TDPRS's) professional development division in the development of training curricula.

§710.51. Request for Review of Finding; Request for Appeal.

(a) If the executive director believes the methodology used in conducting an investigation was flawed or disagrees with the finding of the investigation, the executive director may request in writing a review of the case by filing a Texas Department of Protective and Regulatory Services (TDPRS) Request for Review of Finding form within 14 calendar days after receiving the report from TDPRS.

(1) A request related to methodology is forwarded by the executive director, along with a copy of the investigative report, to the regional adult protective services (APS) program administrator. A review will be completed within 14 calendar days. The regional APS program administrator will notify the executive director in writing of the results of the review.

(2) A request related to the finding of an investigation, or to a methodological concern that was unable to be resolved at the regional level, is forwarded by the executive director, along with a copy of the investigative report, to the Director of Adult Protective Services, Texas Department of Protective and Regulatory Services, P.O. Box 149030, E-561, Austin, Texas, 78714-9030. The review will be completed within 14 calendar days.

(b) The reporter, (alleged) victim, or legal guardian of the (alleged) victim may request an appeal of the finding of an investigation conducted by APS within 30 days of notification of the finding. An appeal may be requested in writing to the Director of Adult Protective Services, State Office, Mail Code E-561, P.O. Box 149030, Austin, Texas, 78714-9030, or by calling 1-888-778-4766.

(1) The appeal shall be completed within 30 calendar days from the date of the request unless a review of the finding has been requested by the executive director or contractor chief executive officer (CEO). The appeal process will be postponed until the request for review has been completed, at which point it will be completed within 30 calendar days.

(2) The appeal process will include an analysis of the investigative report and all supporting documents and records.

(3) The reviewer makes a decision to sustain, alter, or reverse the original finding of the APS investigator based on the same criteria used by APS investigators to conduct investigations and reach conclusions, or to re-open the investigation.

(4) Within 30 calendar days after the appeal process is completed, the reviewer shall document the appeal decision and notify the person who requested the appeal, and the (alleged) victim or legal guardian of the (alleged) victim, of the decision in writing.

(5) A copy of the appeal decision shall be sent to the APS investigator to be filed with the original investigative report.

(6) A copy of the appeal decision shall be sent to the executive director and/or the contractor CEO, as appropriate.

(7) If the person who requested an appeal of the finding is not satisfied with the appeal decision, or wishes to file a complaint of a different nature, the person may contact the Ombudsman Office of the Texas Department of Protective and Regulatory Services by calling 1- 800-720-7777, or by writing to Ombudsman Office, Mail Code Y-946, P.O. Box 149030, Austin, Texas, 78714-9030.

§710.52. Confidentiality of Investigative Process and Report.

(a) The reports, records, and working papers used by or developed in the investigative process and the resulting final report regarding abuse, neglect, and exploitation are confidential and may be disclosed only as provided in §§40.005, 48.081, and 48.101 of the Human Resources Code, §261.201 of the Texas Family Code, and other rules of this agency in the Texas Administrative Code.

(b) Pursuant to Chapter 81 of the Texas Civil Practices and Remedies Code, if the incident involves sexual exploitation of a person served by a mental health services provider, a copy of the investigative report and all supporting documents, in which the identity of the reporter has not been concealed, shall be released to the executive director.

(c) Upon request, the executive director may release a copy of the investigative report, with any information that might reveal the identity of the reporter and other persons served concealed, to the:

(1) (alleged) victim served, legal guardian, or parent (if the (alleged) victim is a child); and

(2) (alleged) perpetrator.

§710.53. Retention of Investigative Reports.

Investigative reports shall be retained by the Texas Department of Protective and Regulatory Services for five years after the investigation is closed. Reports may be sent to the Records Storage Center for storage three years after the case is closed.

§710.54. References.

Reference is made to the following statutes and rules:

(1) Texas Family Code, Chapter 261;

(2) Texas Penal Code, §22.011, §43.01, and §43.21;

(3) Human Resources Code, Chapters 40 and 48, and §50.001;

(4) Texas Civil Practices and Remedies Code, Chapter 81;

(5) Texas Health and Safety Code, Chapter 481;

(6) Texas Health and Safety Code, Title 7, Chapter 534, Subchapter A;

(7) 25 TAC, Chapter 404, Subchapter B;

(8) Section 1, Chapter 635, Acts of the 72nd Legislature, Regular Session, 1991 (Article 4512o, Texas Civil Statutes);

(9) Section 2, Licensed Professional Counselor Act (Article 4512g, Texas Civil Statutes);

(10) Section 2, Licensed Marriage and Family Therapist Act (Article 4512c-1, Texas Civil Statutes);

(11) Section 1.03, Medical Practice Act (Article 4495b, Texas Civil Statutes); and

(12) Section 2, Psychologists' Certification and Licensing Act (Article 4512c, Texas Civil Statutes).

§710.55. Distribution.

(a) This subchapter shall be distributed to:

(1) members of the Texas Board of Protective and Regulatory Services;

(2) the Texas Department of Protective and Regulatory Services (TDPRS) executive, management, and program staff;

(3) chairpersons of boards and executive directors of community centers;

(4) interested advocacy organizations;

(5) the Texas Board of Medical Examiners;

(6) the Texas Board of Nurse Examiners; and

(7) the Texas Board of Licensed Vocational Nurse Examiners.

(b) The executive director of each community center shall be responsible for disseminating copies of this subchapter to:

(1) appropriate staff;

(2) agents;

(3) contractors;

(4) advocacy organizations; and

(5) any person served, employee, or other person desiring a copy.

(c) The executive director of the community center shall be responsible for ensuring that copies of this subchapter are prominently displayed in center programs.

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

Filed with the Office of the Secretary of State on April 24, 1998.

TRD-9805794

C. Ed Davis

Deputy Director, Legal Services

Texas Department of Protective and Regulatory Services

Earliest possible date of adoption: June 7, 1998

For further information, please call: (512) 438-3765



## Subchapter U. Day Care Licensing Procedures

### 40 TAC §725.2048

The Texas Department of Protective and Regulatory Services (TDPRS) proposes new §725.2048, concerning administrative penalties, in its General Licensing Procedures chapter. The purpose of the new section is to outline the conditions under which an administrative penalty will be assessed. This is a new enforcement tool in §42.078 of the Human Resources Code (Administrative Penalty). All other regulations in that section remain the same.

Cindy Brown, Budget and Analysis Division Director, has determined that for the first five-year period the proposed section will be in effect there will be fiscal implications for state or local government as a result of enforcing or administering the section. The amount cannot be determined at this time.

The cost to state government will depend upon the number of violations for which penalties are assessed, and the number of those which are appealed. The revenues to state government from the penalties should affect the cost.

Ms. Brown also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be in the form of increased compliance with child care regulations, and therefore increased protection for children in out-of-home care. There will not be a disproportionate adverse economic effect on small businesses. There is a maximum amount of fines stipulated in the statute based upon number of children in care. Larger businesses will be penalized more because fines will be assessed based upon the number of children in care. Thus the fines will have a greater impact on facilities that have more children in care. There is an anticipated economic cost to persons who are required to comply with the proposed section. Maximum fine amounts are stipulated in law. Estimated costs cannot be determined at this time. Costs to facilities and family homes would depend on the number of days of violations according to the schedule of penalties in these sections.

Questions about the content of the proposal may be directed to Mary Panella at (512) 438-3246 in TDPRS's Licensing Division. Written comments on the proposal may be submitted to Supervisor, Rules and Handbooks Unit-230, Texas Department of Protective and Regulatory Services E-205, P.O. Box 149030, Austin, Texas 78714-9030, within 30 days of publication in the *Texas Register*.

The new section is proposed under the Human Resources Code, Title 2, Chapter 42, which authorizes the department to administer general child-placing and child care licensing programs and specifically §42.078 HRC which mandates rules for administrative penalties.

The new section implements the HRC, §42.078.

#### §725.2048. Administrative Penalties.

(a) Administrative penalties are fines imposed against a facility or family home, licensed or registered, when that facility or family home violates Chapter 42 of the Human Resources Code (HRC) or a rule or order adopted under that chapter. Nonmonetary, administrative penalties or remedies including, but not limited to, corrective action plans, probation, and evaluation periods shall be imposed, when appropriate, before monetary penalties. The Texas Department of Protective and Regulatory Services (TDPRS) may proceed to suspension, probation or revocation without imposing administrative penalties in any instance in which, in TDPRS's opinion, the violation is serious enough to warrant such action.

(1) Fines may be assessed for repeated, but less serious, violations, within a three- month period, of those standards identified in §725.4020 (d) and (e) of this title (relating to Judicial Review) which pose a risk to the health and safety of children when violated, but where the violations were not serious enough to warrant more severe nonmonetary sanctions.

(2) Fines may be assessed for failure to comply with any corrective action plan after time limits for correction have expired.

(b) Penalty assessment shall be based on the day the facility/ family home is notified that a repeated violation has been cited or any corrective action plan has not been implemented. The ending period for the fine shall be the date the facility notifies TDPRS the violation has been corrected, unless a subsequent site visit determines no proper correction has been made.

(c) When notified of the penalty, it shall be the responsibility of the facility/family home to notify TDPRS when the violation is corrected. If necessary, a site visit by TDPRS staff may be made within seven calendar days to confirm that the violation has been corrected.

(d) Each day a violation continues or occurs is a separate violation for purposes of imposing a penalty. The penalty for a violation may be in an amount not to exceed the following limits, based on the number of children receiving care at the facility or family home at the time of the violation: See Figure for §725.2048(d)

(e) The amount of the penalty shall be based on:

(1) the seriousness of the violation, including the nature, circumstances, extent, and gravity of any prohibited acts and the hazard or potential hazard created to the health, safety, or economic welfare of the public;

(2) the history of previous violations;

(3) the amount necessary to deter future violations; and

(4) efforts to correct the violation.

(f) In determining the amount of the penalty, the primary consideration shall always be the actual or potential harm posed to children in care by the violation, and the number of children exposed to that actual or potential harm.

(g) Monetary penalties shall not be assessed for violations of clerical errors or standards which do not clearly apprise the facility or family home of the action required by the standard.

(h) Upon determination that a violation has occurred, the executive director may issue a recommendation on the imposition of a penalty, including a recommendation on the amount of the penalty.

(i) Within 14 days after the date the recommendation is issued, the executive director shall give written notice of the recommendation to the person owning or operating the facility. The notice may be given by certified mail. The notice must include a brief summary of the alleged violation and a statement of the amount of the recommended penalty and must inform the person that the person has a right to a hearing on the occurrence of the violation, the amount of the penalty, or both the occurrence of the violation and the amount of the penalty.

(j) Within 20 days after the date the person receives the notice, the person in writing may accept the determination and recommended penalty of the executive director, or may make a written request for a hearing on the occurrence of the violation, the amount of the penalty, or both the occurrence of the violation and the amount of the penalty.

(k) If the person accepts the determination and recommended penalty of the executive director or fails to respond to the notice in a timely manner, the executive director shall issue an order and impose the recommended penalty.

(l) If the person requests a hearing, the executive director shall set a hearing and give notice of the hearing to the person. The hearing shall be held by an administrative law judge of the State Office of Administrative Hearings. The administrative law judge shall make findings of fact and conclusions of law and issue a final decision finding that a violation has occurred and imposing a penalty or finding that no violation occurred.

(m) The notice of the administrative law judge's order given to the person under Chapter 2001, Government Code, must include a statement of the right of the person to judicial review of the order.

(n) Within 30 days after the date the administrative law judge's order becomes final as provided by §2001.144, Government Code, the person shall:

(1) pay the amount of the penalty;

(2) pay the amount of the penalty and file a petition for judicial review contesting the occurrence of the violation, the amount of the penalty, or both the occurrence of the violation and the amount of the penalty; or

(3) without paying the amount of the penalty, file a petition for judicial review contesting the occurrence of the violation, the amount of the penalty, or both the occurrence of the violation and the amount of the penalty.

(o) Within the 30-day period, a person who acts under subsection (n)(3) of this section may:

(1) stay enforcement of the penalty by:

(A) paying the amount of the penalty to the court for placement in an escrow account; or

(B) giving to the court a supersedeas bond that is approved by the court for the amount of the penalty and that is effective until all judicial review of the order is final; or

(2) request the court to stay enforcement of the penalty by:

(A) filing with the court a sworn affidavit of the person stating that the person is financially unable to pay the amount of the penalty and is financially unable to give the supersedeas bond; and

(B) giving a copy of the affidavit to the executive director by certified mail.

(p) On receipt of a copy of an affidavit under subsection (o)(2) of this section, the executive director may file with the county, within five days after the date the copy is received, a contest to the affidavit. The court shall hold a hearing on the facts alleged in the affidavit as soon as practicable and shall stay the enforcement of the penalty on finding that the alleged facts are true. The person who files an affidavit has the burden of proving that the person is financially unable to pay the amount of the penalty and to give a supersedeas bond.

(q) If the person does not pay the amount of the penalty and the enforcement of the penalty is not stayed, the executive director may refer the matter to the attorney general for collection of the amount of the penalty.

(r) Judicial review of the order:

(1) is instituted by filing a petition as provided by Subchapter G, Chapter 2001, Government Code; and

(2) is under the substantial evidence rule.

(s) If the court sustains the occurrence of the violation, the court may uphold or reduce the amount of the penalty and order the person to pay the full or reduced amount of the penalty. If the court does not sustain the occurrence of the violation, the court shall order that no penalty is owed.

(t) When the judgment of the court becomes final, the court shall proceed under this subsection. If the person paid the amount of the penalty and if that amount is reduced or is not upheld by the court, the court shall order that the appropriate amount plus accrued interest be remitted to the person. The rate of the interest is the rate charged on loans to depository institutions by the New York Federal

Reserve Bank, and the interest shall be paid for the period beginning on the date the penalty was paid and ending on the date the penalty is remitted. If the person gave a supersedeas bond and if the amount of the penalty is reduced, the court shall order the release of the bond after the person pays the amount .

(u) A penalty collected under this section shall be sent to the comptroller for deposit in the general revenue fund.

(v) All proceedings under this section are subject to Chapter 2001, Government Code.

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

Filed with the Office of the Secretary of State, on April 27, 1998.

TRD-9805835

C. Ed Davis

Deputy Director, Legal Services

Texas Department of Protective and Regulatory Services

Proposed date of adoption: August 1, 1998

For further information, please call: (512) 438-3765



# ADOPTED RULES

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

If an agency adopts the section without any changes to the proposed text, only the preamble of the notice and statement of legal authority will be published. If an agency adopts the section with changes to the proposed text, the proposal will be republished with the changes.

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## TITLE 1. ADMINISTRATION

### Part IV. Office of the Secretary of State

#### Chapter 81. Elections

##### Subchapter E. Miscellaneous

###### 1 TAC §81.73

The Office of the Secretary of State, Elections Division, adopts new §81.73, concerning when the early voting ballot board must convene to count late ballots cast in general primary and runoff primary elections from outside the country and placed in delivery by 7:00 p.m. on election day, without changes to the proposed text as published in the October 24, 1997, issue of the *Texas Register* (22 TexReg 10483.).

This rule is being adopted to set a time frame within which the early voting ballot board must convene and count late early ballots cast from outside the country so that the county executive committee can timely convene not later than 1:00 p.m. on the Friday after the general primary or runoff primary elections, in accordance with §172.116(b) of the Texas Election Code ("Code")

No comments were received regarding adoption of the new rule.

The new section is necessary for the administration of §§67.003(2), 86.007(d)(3)(B), and 172.116(b) of the Code.

The rule is adopted under the Code, Chapter 31, Subchapter A, §31.003, which provides the Secretary of State with authority to promulgate rules to obtain uniformity in the interpretation and application of the Code.

The Texas Election Code, Chapter 67, §67.002, Chapter 86, §86.007(d)(3)(B), and Chapter 172, Subchapter E, §172.116(b), are affected by this rule.

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

Filed with the Office of the Secretary of State on April 21, 1998.

TRD-9805608

Clark Kent Ervin

Assistant Secretary of State  
Office of the Secretary of State

Effective date: May 11, 1998

Proposal publication date: October 24, 1997

For further information, please call: (512) 463-5650

### Part V. General Services Commission

#### Chapter 113. Central Purchasing Division

##### Subchapter A. Purchasing

###### 1 TAC §§113.2, 113.7, 113.11

The General Services Commission adopts amendments to Sections 113.2 and 113.11 concerning purchasing, and new §113.7 concerning competitive sealed proposals, without changes to the proposed text as published in the March 20, 1998, issue of the *Texas Register* (23 TexReg 2923).

The adoption of sections 113.2 and 113.11 and new §113.7 amends language to be consistent with the Texas Government Code, Title 10, Subtitle D, Chapter 2156.

The amendments to sections 113.2 and 113.11 adds the definition "agency", clarifies language for the competitive sealed proposal purchasing method to be consistent with the Texas Government Code, Title 10, Subtitle D, Chapter 2156, clarifies the dollar amount threshold for service contract reviews, establishes a formal policy for granting specific delegated authority to state agencies administratively. New §113.7 authorizes the Director of the Purchasing Division to promulgate and issue guidelines for the conduct and review of competitive sealed proposals.

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

The amendments and new section are adopted under the Texas Government Code, §2155.132 and §2156.126.

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

Filed with the Office of the Secretary of State on April 22, 1998.

TRD-9805627

Judy Ponder

General Counsel

General Services Commission

Effective date: May 12, 1998

Proposal publication date: March 20, 1998

For further information, please call: (512) 463-3960

###### 1 TAC §113.7



The General Services Commission adopts the repeal of §113.7 concerning competitive sealed proposals, without changes to the proposed repeal as published in the March 20, 1998, issue of the *Texas Register* (23 TexReg 2926).

Section 113.7 is repealed to allow for the adoption of new §113.7 concerning competitive sealed proposals.

The adoption of the repeal of §113.7 will allow for the adoption of new §113.7 that streamlines language on competitive sealed proposals to conform with the Texas Government Code, Title 10, Subtitle D, Chapter 2156.

No comments were received regarding adoption of the repeal.

The repeal is adopted under the Texas Government Code, Title 10, Subtitle D, §2156.126

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

Filed with the Office of the Secretary of State on April 22, 1998.

TRD-9805628

Judy Ponder

General Counsel

General Services Commission

Effective date: May 12, 1998

Proposal publication date: March 20, 1998

For further information, please call: (512) 463-3960

## TITLE 4. AGRICULTURE

### Part I. Texas Department of Agriculture

#### Chapter 3. Boll Weevil Eradication Program

##### Subchapter E. Creation of Eradication Zones

###### 4 TAC §3.113

The Texas Department of Agriculture (the department) adopts new §3.113, concerning the creation of a nonstatutory boll weevil eradication zone, without changes to the proposal published in the March 13, 1998, issue of the *Texas Register* (23 TexReg 2644). The new section is adopted to establish a new nonstatutory boll weevil eradication zone consisting of counties currently located in a statutory zone created under the Texas Agriculture Code, Chapter 74, Subchapter D, in order to allow cotton producers in the proposed area an opportunity to establish a more manageable, efficient eradication program that better meets the local needs of producers. New §3.113 establishes the North-west Plains Boll Weevil Eradication Zone consisting of all of Bailey, Castro, Deaf Smith, Lamb and Parmer counties. A grower referendum will be conducted to determine whether or not a boll weevil eradication program and assessment will be approved for that zone.

Written comments generally in support of the proposal were received from the Plains Cotton Growers, Inc. Plains Cotton Growers also stressed the need for a smaller zone made up of the proposed counties due to the lower weevil pressures in that area, and the need for expeditious action in designating the proposed zone. In addition to these written comments, oral comments were also received at a public hearing conducted by the department on April 2, 1998, in Earth, Texas. Approximately

90 individuals attended the public hearing, with 18 providing oral comments

Comments in favor of the creation of the proposed zone by splitting the larger Northern High Plains zone expressed a need for a smaller, more manageable zone to allow cotton growers to address their unique agronomic practices and boll weevil pressure on a more local level, with more local input and in a more cost-efficient manner. More specifically, comments noted that a smaller zone made up of the proposed area would allow for more cooperative and timely decision-making; that the farming techniques in the proposed area are similar as compared to those of areas to the east and west of the proposed area; that the proposed area has uniform climate, crop methods (mostly irrigated), uniform crop planting dates and growing season and the lightest boll weevil pressure of any other area in the Northern High Plains zone; that because of the low weevil pressure in the proposed area, the program could be implemented at a lower cost than if a larger area with more infestation were included; that the counties in the proposed area have a history of cooperation in boll weevil control efforts; and that interest among producers in the proposed area is high and in support of establishment of a program.

Comments also supported the need for an immediate, comprehensive boll weevil eradication program. More specifically, comments noted that while the boll weevil is still at low levels in the proposed zone area, that situation could change due to the overwintering of weevils and a mild winter, and establishment of a program is needed as a preventive measure; that the boll weevil is a threat to cotton production in the proposed area and cotton is the crop of choice due to the decrease in water supply for that area; that a cooperative effort with surrounding areas will also be needed to get an effective program established; and that growers cannot afford to wait for technological solutions to the boll weevil problem because those new methods may not be forthcoming in the near future, may not be effective in all cases, and may be cost-prohibitive to the regular producer.

Comments received from two individual producers did not support the new proposed zone and/or the establishment of a boll weevil eradication program. One individual stated that the cost of an eradication program would be too expensive. The department believes that, as noted by other comments, that a cost-efficient program can be established by growers; however, any assessment will be based on input from growers and the final determination will be at the grower level through a referendum. Another individual questioned the viability of a program that involves treatment of less than all cotton acreage in the state, and suggested that boll weevil control efforts should be left to technology currently under development. This individual also noted that another bureaucracy is not needed to tell farmers how to farm and that elimination of the weevil would increase cotton yields and bring down the price of cotton. The department disagrees with these comments and believes that an effective, viable eradication program can be developed for the proposed area without having every acre of cotton sprayed throughout the state, although a goal would be to have all surrounding areas involved in an eradication effort, and ultimately include all cotton-producing areas in the state. Further, the department agrees with other comments that the cotton producer cannot afford to wait for technological solutions, which may be costly, ineffective, or long in coming.

The department agrees with the comments received in support of the designation of the proposed zone and believes that

enough grower support and justification has been demonstrated to adopt the designation of a Northwest Plains Zone and provide the opportunity for growers to express their support by passing or defeating a referendum to establish a zone eradication program.

The new section is adopted under the Texas Agriculture Code, §74.120, which provides the commissioner of agriculture with the authority to adopt rules to carry out the purposes of Chapter 74; §74.1042, which provides the commissioner of agriculture with the authority, by rule, to designate an area of the state as a proposed boll weevil eradication zone; and Senate Bill 1814, 75th Legislature, 1997, §1.27(d), which provides the commissioner of agriculture with the authority to by rule divide a statutory zone.

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

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TRD-9805834

Dolores Alvarado Hibbs  
Deputy General Counsel  
Texas Department of Agriculture  
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For further information, please call: (512) 463-7541



## TITLE 7. BANKING AND SECURITIES

### Part I. Finance Commission of Texas

#### Chapter 1. Consumer Credit Commissioner

##### Subchapter A. Regulated Loan Licenses

##### Division 2. Application for License and Transfer of License

##### 7 TAC §§1.30-1.34, 1.36-1.40

The Finance Commission of Texas (the commission) adopts new §§1.30-1.34 and §§1.36-1.40, concerning the procedures for filing an application for and issuance of a consumer (regulated) loan license under Chapter 3A (Texas Civil Statutes, Art. 5069-3A.101 *et seq.*), procedures for the transfer of a consumer loan license, processing procedures and time frames for applications, procedures for changes in business form or proportionate ownership, procedures for amendments to pending applications, procedures for the relocation of licensed offices, procedures for designating licenses in an active or inactive status, and the fees associated with licensing activities without changes to the text as proposed in the March 13, 1998, issue of the *Texas Register* (23 TexReg 2645).

The new sections set out detailed procedures related to applications for licenses under Chapter 3A.

Section 1.30 defines particular terms.

Section 1.31 describes the procedure for filing a new application for a consumer loan license, including instructions regarding what form to use and what information is necessary on the application and what information must be filed with the application.

Section 1.32 describes the procedure for filing an application for transfer of a consumer loan license, including the filing requirements.

Section 1.33 describes how an application for a consumer loan license is processed, including a description of when an application is complete as well as an explanation of what may occur if an applicant fails to complete an application. In addition, this section describes the hearings process that occurs if the applicant contests the denial of its application.

Section 1.34 describes what action the licensee must take when it changes the proportion of ownership in or the form of the licensed entity and lists the time frame within which the licensee must notify the commissioner.

Section 1.36 requires each applicant, upon discovery of new or changed information, to supplement its application within 10 days of discovery of the new or changed information.

Section 1.37 describes the procedures for relocating a licensed office, including deadlines for notification thereof.

Section 1.38 describes how a licensee may change its license from active to inactive status and how a license may activate an inactive license.

Section 1.39 sets out the fees for new licenses, license transfers, fingerprint checks, license amendment, license duplication, and costs of hearings.

Section 1.40 states that, upon filing with the Office of Consumer Credit Commissioner, an application for consumer loan license or notice becomes a state record and public information subject to the Public Information Act (formerly the Open Records Act.)

Most of these procedures were currently in place as a part of the licensing process under the former Chapter 3. These rules clarify and streamline some of the filing procedures. The rules are necessary to provide consistent treatment of license applications and amendments, as well as providing adequate notice to applicants and licensees of the procedural requirements of license issuance under Article 5069, Chapter 3A, Subchapter C.

No comments were received regarding adoption of the new sections.

The new sections are adopted under Texas Civil Statutes, Article 5069-3A.901, which authorizes the Finance Commission to adopt rules to enforce new Chapter 3A.

Texas Civil Statutes, Art. 5069-3A, Subchapter C is affected by these new sections.

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

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TRD-9805820

Leslie L. Pettijohn  
Commissioner  
Finance Commission of Texas  
Effective date: May 17, 1998

Proposal publication date: March 13, 1998

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##### 7 TAC §§1.31-1.34, 1.36-1.40

The Finance Commission of Texas (the commission) adopts the repeal of §§1.31-1.34 and §§1.36-1.40, part of the rules which implemented Chapter 3, Texas Civil Statutes, Article 5069-3.01 *et seq.*, without changes to the proposal as published in the March 13, 1998, issue of the *Texas Register* (23 TexReg 2650).

The repeals are necessary as the sections which are repealed relate to licensing procedures under Chapter 3, Texas Civil Statutes, Article 5069-3.01 *et seq.*, which was repealed by the 75th Legislature. Moreover, they are being replaced by a new set of rules for Chapter 3A, a new chapter of the Credit Title which encompasses old Chapters 3 through 5.

No comments were received regarding adoption of the repeals.

The repeals are adopted under Texas Civil Statutes, Article 5069-3A.901, which authorizes the Finance Commission to adopt rules to enforce new Chapter 3A. The repeals will not be adopted until the proposed replacement sections are adopted.

The statutory provisions (as currently in effect) affected by the adopted repeals are Texas Civil Statutes, Articles 5069, Chapter 3A, Subchapter C.

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

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TRD-9805821

Leslie L. Pettijohn

Commissioner

Finance Commission of Texas

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## Chapter 4. Currency Exchange

### 7 TAC §4.6

The Finance Commission of Texas (the commission) adopts an amendment to §4.6, concerning currency exchange and transmission license exemptions. The amendment is adopted without changes to the proposed text as published in the March 6, 1998, issue of the *Texas Register* (23 TexReg 2205), and the text will not be republished.

Section 4.6(e)(1) as amended clarifies that check sellers who also engage in currency exchange or transmission transactions are exempt from the licensing requirements of Finance Code, Chapter 153, if licensed under Finance Code, Chapter 152. However, these check sellers are required to comply with other provisions of Finance Code, Chapter 153, with respect to their currency exchange or currency transmission transactions.

Section 4.6(e)(2) as amended clarifies that exempt check sellers, licensed under Finance Code, Chapter 152, engaging in currency exchange or currency transmission, must comply with the net worth and bonding requirements under Finance Code, Chapter 153.

The commission received no comments regarding the proposal.

The amendment is adopted pursuant to the Finance Code, §153.002, which authorizes the commission to adopt rules "necessary to implement this chapter," and pursuant to the Finance Code, §153.109(b), which provides that, "the Commissioner

shall determine the amount of the bond or letter of credit based on the dollar volume of the license holder's currency exchange, transportation, or transmission business and the number of locations from which the license holder operates."

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

Filed with the Office of the Secretary of State on April 24, 1998.

TRD-9805759

Everette D. Jobe

Certifying Official

Finance Commission of Texas

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For further information, please call: (512) 475-1300

## Part II. Texas Department of Banking

### Chapter 17. Trust Company Regulation

#### Subchapter B. Examination and Call Reports

##### 7 TAC §17.23

The Finance Commission of Texas (the commission) adopts new §17.23, concerning reports of financial condition and results of operations, more commonly referred to as "call reports," by trust companies subject to regulation by the Banking Commissioner of Texas (banking commissioner). The section is adopted with changes to the proposed text published in the March 6, 1998, issue of the *Texas Register* (23 TexReg 2206).

The adopted section requires all trust companies to file four call reports annually with the banking commissioner by certain due dates in the form and manner specified by the banking commissioner. Special call reports may be requested by the banking commissioner to permit discharge of the banking commissioner's duties to monitor the safety and soundness of the trust company. All call reports and special call reports contain certain declarations and attestations, and call reports (but not special call reports) must be posted in the lobby of the trust company at a location accessible to the public. The section further specifies that the public portion of call reports filed with the banking commissioner are public information. Special call reports and the non-public portions of all other call reports are confidential. Finally, corrected call reports must be if significant errors are discovered, and specified penalties will apply to late filings, failures to file, and false or misleading filings.

The commission received no comments regarding the proposal. However, subsection (b) has been revised to be more compatible with §3.21(c) (relating to Bank Call Reports) and to delete an erroneous statement regarding applicability of the rule.

The new section is adopted under Texas Civil Statutes, Article 342a-2.003(b), which authorizes the commission to adopt rules to specify the form of the statement of condition and income, including specified confidential and public information to be in the statement; require public information in the statement to be published at the times and in the publications and locations the finance commission determines; and require the statement to be filed with the banking commissioner at the intervals the finance commission determines. The new section

is also adopted under Texas Civil Statutes, Article 342a-3.011(e) which authorizes the commission to adopt rules establishing procedures and requirements for obtaining, maintaining, or revoking an exemption. The new section is also adopted under Texas Civil Statutes, Article 342-1.003(a), which authorizes the commission to adopt rules necessary or reasonable to implement and clarify the law and to preserve the safety and soundness of trust companies.

§17.23. *Call Reports.*

(a) Call report. As used in this section, the term "call report" means a statement of condition and income and results of operations of a trust company as mandated by the banking commissioner pursuant to Texas Civil Statutes, Article 342a-2.003.

(b) Reporting requirements of trust companies. Each trust company shall file four call reports annually with the banking commissioner. Such call reports must be filed with the banking commissioner no later than April 30, July 31, and October 31 of each year, and by January 31 of the subsequent year. The call report forms, the instructions for completing the reports and the accompanying materials will be furnished by the banking commissioner to all trust companies subject to this subsection, or may be obtained upon request from the Texas Department of Banking, 2601 North Lamar Boulevard, Austin, Texas 78705-4294. The banking commissioner may make such modifications and additions to call report form and contents under this subsection as considered necessary in the discretionary discharge of the banking commissioner's duties. A trust company must submit all information requested on the call report form.

(c) Special call reports. In addition to the requirements of subsections (b) of this section, the banking commissioner may require a trust company to file and submit a special call report, in such form and manner and containing such information as may be requested, on dates fixed, whenever in the banking commissioner's discretion the special call report is necessary in the performance of the banking commissioner's supervisory duties related to the safety and soundness of the trust company. Special call reports must contain only such information as is specifically requested by the banking commissioner.

(d) Call report declarations and attestations. Each call report or special call report required to be filed under subsections (b) and (c) of this section must contain a declaration by an executive officer, or by another officer designated by the board of directors of the trust company to make such declaration, that the report is true and correct to the best of such individual's knowledge and belief. The correctness of the call report or special call report must also be attested by the signatures of at least two of the directors of the trust company other than the officer making the declaration. The declaration of the directors must state that the call report or special call report has been examined by them and is true and correct to the best of their knowledge and belief.

(e) Lobby notice and publication. The latest call report filed with the banking commissioner pursuant to subsection (b) of this subsection or a Notice of Call Report Availability must be posted in the lobby of each trust company that transacts business with the public at a point accessible to the public. A trust company is not required to publish its call report in a newspaper or other media unless specifically directed to do so by the banking commissioner. A trust company required to publish its call report by the banking commissioner shall publish the report in a newspaper or other medium of general circulation as directed by the banking commissioner.

(f) Confidentiality. Pursuant to Texas Civil Statutes, Article 342a-2.101, call reports filed under subsection (b) of this section are public information to the extent that such reports are considered

public records, and may be published or otherwise disclosed to the public. Special call reports filed pursuant to subsection (c) of this section and non-public portions of call reports filed pursuant to subsection (b) of this section are confidential, subject only to such disclosure as may be permitted by Texas Civil Statutes, Article 342a-2.101 et seq, or by §3.111 of this title (relating to Confidential Information).

(g) Reports containing significant errors and penalties for failure to file or for filing a report with false or misleading information. A trust company that transacts business with the public which fails to make, file, or submit a call report or a special call report or fails to timely file a call report or special call report as required by this section is subject to a penalty not exceeding \$500 a day to be collected by the attorney general on behalf of the banking commissioner. Failure of a trust company that does not transact business with the public to make, file, or submit a call report or a special call report or fails to timely file a call report or special call report as required by this section is grounds for revocation of its exempt status. Any trust company which makes, files, submits or publishes a call report or special call report which contains a significant error, shall file a corrected call report within 20 days from the date of request. For purposes of this subsection, a significant error refers to any difference in the report of condition and/or supporting schedules equating to 5.0% or more of total assets, provided the amount is greater than \$50,000, or any difference in the report of income and/or supporting schedules equating to 5.0% or more of total operating income, provided the amount is greater than \$5,000. Any trust company which makes, files, submits or publishes a false or misleading call report or special call report is subject to an enforcement action pursuant to Texas Civil Statutes, Article 342a-6.001 et seq.

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

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Everette D. Jobe

General Counsel

Texas Department of Banking

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For further information, please call: (512) 475-1300



## Chapter 21. Trust Company Corporate Activities

The Finance Commission of Texas (the commission) adopts new §§21.4-21.8, regarding corporate application filings by trust companies, and §21.23, regarding withholding the identity of prospective officers. The sections are adopted without changes to the proposed text as published in the March 6, 1998, issue of the *Texas Register* (23 TexReg 2208), and the text will not be published.

New §21.4 pertains to information required for consideration of corporate filings made with the Texas Department of Banking, including time limits and abandoned filings.

New §21.5 pertains to publication of public notices required for certain corporate filings by trust companies.

New §21.6 concerns applications for trust company charters, including the contents of notices to applicants, application processing times, and appeals.

New §21.7 permits the filing of reproductions of original documents by trust companies in lieu of original documents, provides for their treatment as original, and establishes limits regarding reproductions filed by telephonic document transmission.

New §21.8 specifies which corporate forms are to be filed with the banking commissioner and with the secretary of state, permits the utilization of modified versions of forms promulgated by the secretary of state if the banking commissioner has not promulgated forms, and specifies which corporate forms, inapplicable to trust companies, do not need to be filed with either the banking commissioner or the secretary of state.

New §21.23 permits applicants for trust company charters to withhold the identity of prospective officers until the banking commissioner issues a final order on the application, at which time the prospective officers' resumes must be submitted to the department for investigation.

The commission received no comments regarding the proposal.

## Subchapter A. Fees and Other Provisions of General Applicability

### 7 TAC §§21.4–21.8

The new sections are adopted under Texas Civil Statutes, Article 342a-1.003(a)(1), which authorize the commission to adopt rules to implement and clarify Texas Civil Statutes, Articles 342a-1.001 et seq.

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

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Everette D. Jobe

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For further information, please call: (512) 475–1300



## Subchapter B. Trust Company Chartering and Powers

### 7 TAC §21.23

The new section is adopted under Texas Civil Statutes, Articles 342a-1.003(a), which authorize the commission to adopt rules to implement and clarify Texas Civil Statutes, Articles 342a-1.001 et seq.

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

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For further information, please call: (512) 475–1300



## Part IV. Texas Savings and Loan Department

### Chapter 79. Miscellaneous

#### Subchapter F. Fees and Charges

##### 7 TAC §79.109, §79.110

The Finance Commission of Texas adopts new §79.109 and §79.110 regarding filing fees for applications received by the Department relating to charter, branch, merger, change of control, subsidiary corporations and other activities and investments requiring approval by the Savings and Loan Commissioner without changes to the proposed text as published in the March 6, 1998, issue of the *Texas Register* (23 TexReg 2211).

New §79.109 establishes a fee for protest of an application received by the Department. Administrative costs to process an application increase dramatically when a protest is filed. In such cases, a hearing is required to provide the protestant with the opportunity to present testimony supporting the protest. Costs are incurred by the Department such as administrative law judge fees and other administrative costs that would be unnecessary absent the protest. While the provisions of 7 TAC §9.15 authorize the administrative law judge to allocate hearing costs among the parties in a contested case, protestants are frequently beyond the jurisdiction of the Department and recovery of these funds without litigation can be difficult. This fee amount is identical to that charged by the Department of Banking and provides greater assurance of collection of these costs from the protestant.

Under the new rule, a member of the general public who is not considered a party may be allowed to testify without paying the protest fee.

New §79.110 concerns the nonrefundability of filing fees and discretion of the Commissioner to waive or reduce such fees. This rule is also identical to a Department of Banking rule on filing fees. It codifies Department policy on the nonrefundability of filing fees but also introduces some flexibility in applying filing fees in a way that fits the circumstances. For example, some transactions trigger multiple applications under the Department's rules. Such multiple applications may be combined at the Commissioner's discretion into a single application for simplicity and ease of processing. In such cases, information otherwise required for separate applications can be combined and requires less analytical work and processing time by Department staff. This often occurs in applications for merger or consolidation when multi-level mergers are required, in tax free reorganizations to form a holding company, for multi-tiered subsidiary acquisitions involving formation of a shell subsidiary corporation to acquire and own a joint venture, trust or limited partnership, etc. Current rules would require a separate fee for each element of an application of this type.

The new rule permits discretion to the Commissioner to waive or reduce a filing fee if he finds appropriate justification.

No comments were received regarding the new sections.

The sections are amended under Finance Code, §11.302, which requires the commission to adopt rules regarding enforcement and implementation of Subtitle C of the Finance Code.

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

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TRD-9805751

James L. Pledger

Commissioner

Texas Savings and Loan Department

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For further information, please call: (512) 475-1350



## Part VI. Credit Union Department

### Chapter 91. Chartering, Operations, Mergers, Liquidations

#### Subchapter A. General Rules

##### 7 TAC §91.103

The Texas Credit Union Commission adopts new §91.103 concerning the public notice of the Department's activities, without changes to the proposed text as published in the February 13, 1998, issue of the *Texas Register* (23 TexReg 1248).

The new rule is necessary to comply with new statutory requirements enacted in the 75th Legislative Session. Senate Bill 358, effective September 1, 1997, 75th Legislature, Chapter 338, 1997 Texas Session Law (to be codified at Texas Finance Code Annotated Section 15.402), requires the Commission to adopt rules relating to providing the public with notice of department activities. The rule requires the Department to publish in the *Texas Register* and the department newsletter actions taken on certain applications and requests submitted for approval that have become final.

No comments were received regarding adoption of the new rule.

The new rule is adopted under the provisions of the Texas Finance Code, Section 15.402, which authorizes the commission to adopt reasonable rules, and Section 10 of the Senate Bill 358, 75th Legislature, Chapter 338, 1997 Texas Session Law (to be codified at Texas Finance Code Annotated Section 15.402), which requires the Commission to provide public notice of Department activities.

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

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TRD-9805560

Harold E. Feeney

Commissioner

Credit Union Department

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Proposal publication date: February 13, 1998

For further information, please call: (512) 837-9236



##### 7 TAC §91.104

The Texas Credit Union Commission adopts new §91.104 concerning the public notice of certain requests for approval by the commissioner, without changes to the proposed text as published in the February 13, 1998, issue of the *Texas Register* (23 TexReg 1249).

The new rule is necessary to comply with new statutory requirements enacted in the 75th Legislative Session. Section 17 of Senate Bill 358, effective September 1, 1997, 75th Legislature, Chapter 338, 1997 Texas Session Law (to be codified at Texas Finance Code Annotated Section 122.005), requires the commissioner to submit to the secretary of state for publication in the *Texas Register* notice of requests for approval by the commissioner of applications for incorporation, amendments to credit union's articles of incorporation, including amendments to expand field of membership, and mergers/consolidations. The rule requires the department to publish in the *Texas Register* and the department newsletter notice of such requests received by the Department at least 30 days prior to any action being taken on them.

No comments were received regarding adoption of the new rule.

The new rule is adopted under the provisions of the Texas Finance Code, Section 15.402, which authorizes the commission to adopt reasonable rules, and Section 17 of the Senate Bill 358, 75th Legislature, Chapter 338, 1997 Texas Session Law (to be codified at Texas Finance Code Annotated Section 122.005), which requires the Commission to provide public notice of certain requests for approval.

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

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TRD-9805559

Harold E. Feeney

Commissioner

Credit Union Department

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For further information, please call: (512) 837-9236



#### Subchapter G. Loans

##### 7 TAC §91.701

The Texas Credit Union Commission adopts an amendment to §91.701 concerning loans and extensions of credit that a credit union may make, without changes to the proposed text as published in the February 13, 1998, issue of the *Texas Register* (23 TexReg 1249).

The amendments of §91.701(c)(3), (4), and (5) provide specific authorization for a credit union to engage in home equity lending and reverse mortgage lending, as allowed by Section 50, Article XVI, Texas Constitution, although the Commission already determined that state chartered credit unions have the authority to offer home equity loans and reverse mortgages to

their members. An amendment is also adopted to ensure compliance with provisions of Section 50, Article XVI, Texas Constitution, pertaining to home improvement loans. These amendments also will allow effective enforcement of the Constitutional requirements. The amendment to §91.701(c)(1)(C), concerning loans secured by real estate, authorizes a practical procedure regarding the validity of title in connection with home equity loans of less than \$25,000, which is justified under current economic conditions. The amendments to §91.701(c)(1)(G) and §91.701(c)(2)(F), concerning loans secured by real estate, raise the appraisal requirement threshold from \$50,000 to \$100,000, the level established for federally chartered credit unions, to make this requirement for state-chartered credit unions equivalent to the corresponding requirement for federally chartered credit unions.

Comments in general support of the adoption of the rule were received from the Texas Credit Union League. The Texas Credit Union League raised the issue that the National Credit Union Administration, the federal credit union regulator, allows a federal credit union the option of using either state licensed or state certified appraisers as long as the credit union complies with the requirements set forth in the Financial Institutions Reform, Recovery and Enforcement Act of 1989. Currently, §91.701 requires the use of a state certified appraiser. The Texas Credit Union League wanted to bring this difference to the commission's attention in the event that the commission would like to harmonize the state appraisal requirements with those of the federal regulator. At the present time, the commission is taking this matter under advisement. If it is determined that harmonizing the appraiser qualification requirement is in the best interest of state-chartered credit unions and their members, an amendment to the rule will be subsequently proposed.

The amendment is adopted under Texas Finance Code, Section 15.402, which provides the Credit Union Commission with the authority to adopt reasonable rules; and under Texas Finance Code, Section 124.001, which authorizes the Credit Union Commission to adopt rules relating to a credit union's ability to make loans to its members.

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

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TRD-9805558

Harold E. Feeney

Commissioner

Credit Union Department

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For further information, please call: (512) 837-9236



## Subchapter J. Changes in Corporate Status

### 7 TAC §91.1003

The Texas Credit Union Commission adopts new §91.1003 concerning mergers/consolidations of credit unions, without changes to the proposed text as published in the February 13, 1998, issue of the *Texas Register* (23 TexReg 1250).

The new rule is being adopted in order to comply with Section 3 of Senate Bill 358 (75th Legislature) which requires the

commission, by rule, to establish appropriate criteria that the commissioner must consider in determining whether to approve or disapprove a merger/consolidation request. The rule formalizes documentation requirements and merger procedures currently utilized by the Credit Union Department, as well as identifies grounds for the commissioner's disapproval of a merger/consolidation request.

No comments were received regarding adoption of the new rule.

The new rule is adopted under the provisions of the Texas Finance Code, Section 15.402, which authorizes the commission to adopt reasonable rules, and Section 3 of Senate Bill 358, 75th Legislature, Chapter 338, 1997 Texas Session Law (codified at Texas Finance Code Annotated Section 122.153).

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

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TRD-9805567

Harold E. Feeney

Commissioner

Credit Union Department

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For further information, please call: (512) 837-9236



## Subchapter L. Submission of Comments by Interested Parties

### 7 TAC §91.3001, §91.3002

The Texas Credit Union Commission adopts new sections §91.3001 and §91.3002 concerning the opportunity for interested parties to be heard on certain applications, without changes to the proposed text as published in the February 13, 1998, issue of the *Texas Register* (23 TexReg 1252).

The new rules are being adopted in accordance with Section 17 of Senate Bill 358, (75th Legislature) which provides that the commission may establish reasonable rules governing the circumstances and conduct of informal meetings. The rules formalizes requirements and procedures to be utilized by the Credit Union Department.

No comments were received regarding adoption of the new rules.

The new rules are adopted under the provisions of the Texas Finance Code, Section 15.402, which authorizes the commission to adopt reasonable rules, and Section 17 of Senate Bill 358, 75th Legislature, Chapter 338, 1997 Texas Session Law (to be codified at Texas Finance Code Annotated Section 122.005), which provides the Credit Union Commission with the authority to establish, by rule, appropriate criteria governing the circumstances and conduct of informal meetings.

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

Filed with the Office of the Secretary of State on April 20, 1998.

TRD-9805557

Harold E. Feeney

Commissioner  
Credit Union Department  
Effective date: May 10, 1998  
Proposal publication date: February 13, 1998  
For further information, please call: (512) 837-9236

◆ ◆ ◆  
Chapter 97. Commission Policies and Administrative Rules

Subchapter B. Fees

7 TAC §97.113

The Texas Credit Union Commission adopts an amendment to §97.113 concerning operating fees, without changes to the proposed text as published in the February 13, 1998, issue of the *Texas Register* (23 TexReg 1253).

One amendment will modify the amount of operating fees a state-chartered credit union must pay to the Department annually. This amendment to update the operating fee schedule is the result of the Department's analysis of its current operating costs, the operating assessment schedule imposed on federally chartered credit unions and credit unions chartered by other states, and the structure of the state credit union industry as it exists today. The operating fee schedule currently in effect was adopted in September of 1991.

The commission is adopting an amendment to allow for the collection of \$200 per foreign branch office operated in the state of Texas by an out-of-state credit union. As the rule now reads, an out-of-state credit union with branches operating in Texas is only required to remit \$200 per year to the Department, regardless of the number of actual foreign branch operations in existence. Therefore, an out-of-state credit union with four branches would pay the same annual fee as another out-of-state credit union with only one branch. Amending the rule to allow for a fee to be collected for each branch office will result in a more equitable system.

The commission is adopting the addition of a new subsection addressing the collection of operating fees from a state chartered credit union that assumes the assets and liabilities of another state chartered credit union through a merger or consolidation between June 30 and September 1. This will allow the department to collect operating fees normally lost as a result of the timing difference between the date upon which the fees are assessed and the remittance date.

No comments were received regarding adoption of the amendment.

The amendment is adopted under the provisions of the Texas Finance Code, §15.402, which provide the Credit Union Commission with the authority to set, by rule, reasonable supervision fees, charges, and revenues required to be paid by credit unions authorized to do business under the Texas Finance Code.

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

Filed with the Office of the Secretary of State on April 20, 1998.

TRD-9805556  
Harold E. Feeney  
Commissioner

Credit Union Department  
Effective date: May 10, 1998  
Proposal publication date: February 13, 1998  
For further information, please call: (512) 837-9236

◆ ◆ ◆  
**TITLE 16. ECONOMIC REGULATION**

Part II. Public Utility Commission of Texas

Chapter 26. Substantive Rules Applicable to Telecommunications Service Providers

Subchapter L. Wholesale Market Provisions

16 TAC §26.283

The Public Utility Commission of Texas (PUC) adopts new §26.283, relating to Infrastructure Sharing, with changes to the proposed text published in the February 20, 1998 issue of the *Texas Register* (23 TexReg 1465). The new section will implement the Public Utility Regulatory Act, Texas Utilities Code Annotated §60.163 (Vernon 1998) (PURA), which requires the commission to adopt rules requiring a local exchange company to share public switched network infrastructure and technology with another local exchange company under certain conditions.

The commission received written comments on the proposed amendments from AT & T Communications of the Southwest, Inc. (AT & T), Southwestern Bell Telephone Company (SWBT), and the Texas Telephone Association (TTA).

AT & T suggests that the commission should address the issue of intellectual property rights in the context of infrastructure sharing. AT & T notes that in earlier pre-publication comments on this matter, SWBT suggested that intellectual property rights be handled in this proceeding as they were handled by the commission in the "mega-arbitration" proceeding. According to AT & T, the result would be that a local exchange company (LEC) seeking to share SWBT's infrastructure would be compelled to directly negotiate with SWBT's equipment vendors for any licenses necessary to permit it to use SWBT's infrastructure. AT & T asserts that this would impede infrastructure sharing. Further, AT & T notes that the Federal Communications Commission (FCC) order implementing the infrastructure sharing provisions of the federal Telecommunications Act of 1996 (FTA96) placed the burden on the providing incumbent LEC to ensure that a requesting carrier receives the benefits to which the requesting LEC is entitled under FTA96 §259. Specifically, a providing incumbent LEC is required to directly negotiate any necessary licensing agreements with its suppliers on behalf of a requesting carrier.

The commission declines to add a provision to the text of the section comparable to the affirmative obligation imposed on a sharing LEC by the FCC. However, the commission does find that failure of a sharing LEC to assist a requesting LEC in the acquisition of any necessary licensing arrangements could be construed, depending upon the factual circumstances, as evidence of anticompetitive behavior.

SWBT seeks a modification of the timing provisions for filing of an amendment. Proposed subsection (c)(3) would require the filing of a joint agreement by a requesting LEC and a sharing



LEC within 60 days of the filing of a request for sharing. SWBT's suggested modification would allow a requesting LEC and a sharing LEC to agree to an extension of that time.

The commission agrees that SWBT's suggested modification is appropriate and changes subsection (c)(3) accordingly.

TTA comments that the definition of "requesting carrier" in proposed subsection (a)(3) should be amended to specify that a requesting carrier must be the sole carrier of last resort for the specific geographic area requested. TTA suggests that the amendment is required for the section to comply with PURA §60.163(a).

The commission disagrees with TTA's interpretation of PURA. While PURA §60.163(a) requires the commission to adopt rules for infrastructure sharing with companies that are the sole provider of last resort, PURA does not restrict the commission from requiring infrastructure sharing with companies that are not the sole providers of last resort. Proposed subsection (b)(2) requires the commission to consider whether the requesting carrier is a sole provider of last resort in making its determination as to whether infrastructure sharing is required. Therefore, the commission does not make the change requested by TTA.

The section is adopted under PURA §14.002, which provides the Public Utility Commission of Texas with the authority to make and enforce rules reasonably required in the exercise of its powers and jurisdiction, and PURA §60.163, which requires the commission to adopt rules requiring a local exchange company to share public switched network infrastructure and technology with another local exchange company under certain conditions.

Cross Reference to Statutes: Public Utility Regulatory Act §14.002 and §60.163.

§26.283. *Infrastructure Sharing.*

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

(1) Local exchange company (LEC) - As defined in the Public Utility Regulatory Act, Texas Utilities Code §51.002(4) (Vernon 1998) (PURA).

(2) Public switched network infrastructure and technology - Includes, but is not limited to:

(A) Basic public switched network infrastructure and technology - The physical plant and corresponding functionalities that provide basic network services such as those listed in PURA §58.051.

(B) Advanced public switched network infrastructure and technology - The physical plant and corresponding functionalities that provide integrated services digital network (ISDN) services as set forth in PURA §58.203(c), optical fiber or equivalent facilities, and Common Channel Signaling System 7.

(3) Requesting local exchange company (LEC) - A LEC that requests another LEC to share public switched network infrastructure and technology.

(4) Sharing local exchange company (LEC) - A LEC that has been requested by another LEC to share public switched network infrastructure and technology.

(5) Sole carrier of last resort - The LEC holding a certificate of convenience and necessity, as to the geographic area covered by such certificate.

(b) Requirement to share. The commission may require any LEC to share public switched network infrastructure and technology with any other LEC that requests such sharing. In determining whether a LEC is required to share public switched network infrastructure and technology, the commission will consider such matters as:

(1) whether the requesting LEC lacks economies of scale or scope that would prohibit the requesting LEC from offering a particular telecommunications service in an economically efficient manner in a specific geographic area;

(2) whether the requesting LEC is the sole carrier of last resort in the specific geographic area involved;

(3) whether requiring a LEC to share its public switched network infrastructure and technology would be economically efficient for the sharing LEC, or, if not, whether terms and conditions can and should be imposed that would make such sharing economically efficient; and

(4) whether requiring a LEC to share its public switched network infrastructure and technology is in the public interest.

(c) Procedure to request sharing.

(1) A LEC requesting that another LEC share public switched network infrastructure and technology shall make its request to the sharing LEC in writing.

(2) The requesting LEC and the sharing LEC shall negotiate terms and conditions of the sharing arrangement. The terms and conditions may include, but are not required to include, joint ownership and/or operation of public switched network infrastructure and services by the LECs.

(3) Within 60 days after a LEC has received a request for sharing, the sharing and requesting LECs shall jointly file an agreement setting forth the terms and conditions of the sharing arrangement, unless the requesting LEC and the sharing LEC agree to an extension of time. If the parties cannot reach agreement on the appropriate terms and conditions, the requesting party shall instead file a petition to resolve issues related to infrastructure sharing. A petition to resolve issues related to infrastructure sharing shall be filed not later than the 60th day after the sharing LEC's receipt of the request for sharing, or such later time as the requesting LEC and the sharing LEC agree. The petition shall set forth, as appropriate, the terms and conditions on which agreement has been reached, the specific issues the commission is being asked to resolve, the requesting LEC's suggested resolution of such issues in terms that could be inserted into an agreement, and a suggested procedural schedule for resolution of the issues. The petition shall also address the factors that the commission must consider under subsection (b) of this section. If a petition is filed in lieu of an agreement, the sharing LEC must file a response within 10 days of the filing of the petition. The sharing LEC's response must address, in like manner, each item required by this subsection to be included in the petition.

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

Filed with the Office of the Secretary of State on April 23, 1998.

TRD-9805695

Rhonda Dempsey

Rules Coordinator

Public Utility Commission of Texas

Effective date: May 13, 1998

◆ ◆ ◆  
**TITLE 34. PUBLIC FINANCE**

**Part IV. Employees Retirement System**

**Chapter 85. Flexible Benefits**

**34 TAC §§85.1, 85.3, 85.7, 85.9**

The Employees Retirement System of Texas adopts amendments to §§85.1, 85.3, 85.7, and 85.9, relating to the Flexible Benefits Program, with a technical change to the proposed text of §85.7(c)(1)(A), as published in the March 13, 1998, issue of the *Texas Register* (23 TexReg 2746).

The amendments are being made to provide more meaningful benefits to state employees.

The amendments allow participants more opportunities to make mid-term changes to their flexible benefits elections and to acknowledge the role of the Family and Medical Leave Act.

No comments were received regarding adoption of these amendments.

The amendments are adopted under the Insurance Code, Article 3.50-2, §4A, which provides the Board of Trustees with the authority to promulgate rules consistent with the Code.

**§85.7. Enrollment.**

(a) Election of Benefits

(1)-(3) (No change)

(4) An election to participate in a reimbursement plan must be for a specified dollar amount plus the administrative fee and for eligible terminated employees an additional 2% service charge on the elected amount for continuation coverage authorized under the Public Health Service Act.

(5) (No change)

(b) (No change)

(c) Benefit election irrevocable except for change in family status.

(1) An election to participate shall be irrevocable for the plan year unless an eligible change in family status occurs. The allowable change in election must be consistent with the change in family status event. Documentation, as prescribed by the plan administrator, must be submitted in support of the change in family status.

(A) Health care reimbursement plan. A change in family status includes marriage; birth; adoption; placement for adoption; acquisition of UGIP eligible dependent; gaining legal custody of a child; spouse terminates employment or goes from full-time to part-time employment status; or spouse or dependent has a significant decrease or loss of coverage imposed by a third party provider. An eligible change in family status permits a participant to elect to participate or increase election amounts consistent with the change in family status event.

(B) Dependent care reimbursement plan. A change in family status includes marriage; divorce; annulment; death of spouse or dependent; dependent loses eligibility for UGIP; loss of legal custody of child; birth, adoption, placement for adoption;

acquisition of UGIP eligible dependent; gaining legal custody of a child; termination or gaining of employment by a spouse; change from full-time to part-time or part-time to full-time employment status by employee or spouse; workshift change by employee or spouse; spouse goes on or returns from leave without pay; and a significant cost change imposed by a third party provider. An eligible change in family status permits a participant to change the election or to increase or decrease the election amount consistent with the change in family status event.

(2) A request to change election may not be made following a pay increase or decrease, pay shortage, paid leave, transfer to new agency, institution, or location within the same plan year, return to state or institution employment from leave with or without pay within the same plan year, financial hardship, loss of eligibility for health coverage by a health maintenance organization, or change in day care provider, unless imposed by a third party provider.

(3) Changes will apply prospectively for the remainder of the plan year unless a subsequent family status change occurs during the plan year.

(4) (No change)

(d) Payment of flexible benefit dollars.

(1) Flexible benefit dollars from an active duty participant shall be recovered by the State of Texas or institution of higher education through payroll withholding at least monthly during the plan year and remitted by the State of Texas or institution of higher education to the Employees Retirement System of Texas for the purpose of purchasing benefits. For the health care reimbursement account only, flexible benefit dollars from employees on leave without pay status or who have insufficient funds for any month shall be recovered through direct after-tax payment from the participant or upon the return of the employee to active duty status from payroll withholding, for the total amount due. Terminated or leave without pay employees with health care reimbursement account continuation coverage shall remit after-tax dollars, on a monthly basis, directly to the Employees Retirement System of Texas for the plan year, except as described in §85.3(b)(3)(D) of this title (relating to Eligibility and Participation).

(2)-(3) (No change)

(e)-(f) (No change)

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

Filed with the Office of the Secretary of State on April 20, 1998.

TRD-9805537

Shelia W. Beckett

Executive Director

Employees Retirement System of Texas

Effective date: September 1, 1998

Proposal publication date: March 13, 1998

For further information, please call: (512) 867-3125

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

**Part I. Texas Department of Human Services**

## Chapter 19. Nursing Facility Requirements for Licensure and Medicaid Certification

### Subchapter J. Quality of Care

#### 40 TAC §19.901

The Texas Department of Human Services (DHS) adopts an amendment to §19.901, concerning Quality of Care, without changes to the proposed text as published in the February 13, 1998, issue of the *Texas Register* (23 TexReg 1268). The text will not be republished.

Justification of the amendment is that medically fragile children in nursing facilities will receive closer supervision and care.

The amendment will function by ensuring that nursing facilities that admit children with special needs provide adequate staffing for their care. The amendment targets children with respiratory care needs and those with daily tracheostomy care.

The department received no comments regarding the proposal.

The amendment is adopted under the Health and Safety Code, Chapter 242, and under the Human Resources Code, Title 2, Chapter 22, which authorizes the department to administer public assistance programs.

The amendment implements the Health and Safety Code, §242.037, and the Human Resources Code, §§22.001-22.030.

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

Filed with the Office of the Secretary of State on April 24, 1998.

TRD-9805745

Glenn Scott

General Counsel, Legal Services

Texas Department of Human Services

Effective date: May 15, 1998

Proposal publication date: February 13, 1998

For further information, please call: (512) 438-3765



## Part XIX. Texas Department of Protective and Regulatory Services

### Chapter 715. Day Care Licensing

The Texas Department of Protective and Regulatory Services (TDPRS) adopts the repeal of §§715.231, 715.330, 715.433, and 715.501- 715.507, without changes to the proposed text published in the March 13, 1998, issue of the *Texas Register* (23 TexReg 2775).

The justification for the repeals is to delete rules that are out of date and that are substantively covered by other rules. For waivers and variances, §725.2023 (relating to Requesting the Waiver/Variance) covers the topic for all standards, regardless of the setting. Sections 715.501-715.507, standards for registered family homes, should have been deleted when the more recent rules became effective January 30, 1990. TDPRS is therefore adopting the repeal of Subchapter F, Standards for Registered Family Homes, at this time.

The repeals will function by having current rules that will be clearer for the general public, as well as for those operators in child care who must comply with the rules.

No comments were received regarding adoption of the repeals.

### Subchapter C. Standard for Kindergartens and Nursery Schools

#### 40 TAC §715.231

The repeal is adopted under the Human Resources Code (HRC), Chapters 40 and 42, which describe the department's regulatory and rulemaking authority.

The repeal implements the HRC, Chapters 40 and 42.

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

Filed with the Office of the Secretary of State on April 24, 1998.

TRD-9805795

C. Ed Davis

Deputy Director, Legal Services

Texas Department of Protective and Regulatory Services

Effective date: June 1, 1998

Proposal publication date: March 13, 1998

For further information, please call: (512) 438-3765



### Subchapter D. Standards for Schools: Grades Kingergarten and Above

#### 40 TAC §715.330

The repeal is adopted under the Human Resources Code (HRC), Chapters 40 and 42, which describe the department's regulatory and rulemaking authority.

The repeal implements the HRC, Chapters 40 and 42.

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

Filed with the Office of the Secretary of State on April 24, 1998.

TRD-9805799

C. Ed Davis

Deputy Director, Legal Services

Texas Department of Protective and Regulatory Services

Effective date: June 1, 1998

Proposal publication date: March 13, 1998

For further information, please call: (512) 438-3765



### Subchapter E. Minimum Standards for Day Care Centers

#### 40 TAC §715.433

The repeal is adopted under the Human Resources Code (HRC), Chapters 40 and 42, which describe the department's regulatory and rulemaking authority.

The repeal implements the HRC, Chapters 40 and 42.

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

Filed with the Office of the Secretary of State on April 24, 1998.

TRD-9805800

C. Ed Davis

Deputy Director, Legal Services

Texas Department of Protective and Regulatory Services

Effective date: June 1, 1998

Proposal publication date: March 13, 1998

For further information, please call: (512) 438-3765



## Subchapter F. Standards for Registered Family Homes

### 40 TAC §§715.501-715.507

The repeals are adopted under the Human Resources Code (HRC), Chapters 40 and 42, which describe the department's regulatory and rulemaking authority.

The repeals implement the HRC, Chapters 40 and 42.

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

Filed with the Office of the Secretary of State on April 24, 1998.

TRD-9805801

C. Ed Davis

Deputy Director, Legal Services

Texas Department of Protective and Regulatory Services

Effective date: June 1, 1998

Proposal publication date: March 13, 1998

For further information, please call: (512) 438-3765



## Chapter 725. General Licensing Procedures

The Texas Department of Protective and Regulatory Services (TDPRS) adopts amendments to §§725.1001, 725.1403, 725.1804, 725.2002, 725.2018, 725.2020, 725.2023, 725.2024, 725.2028, 725.2030, 725.2033, 725.2046, 725.4052, and 725.7001; and adopts the repeal of §§725.2025 and 725.2031, without changes to the proposed text published in the March 13, 1998, issue of the *Texas Register* (23 TexReg 2776).

The justification for the proposal is to bring TDPRS rules into compliance with current legislation and to ensure consistency in the rules. The amendments to §§725.2023 and 725.2024 add a time limit for requests for administrative reviews. The amendment to §725.2033 deletes the procedure for issuing temporary registration to ensure that registration, as licenses and certificates, are not issued unless all standards, rules, and statute requirements are in compliance. The amendment to §725.7001 deletes the reference to harassment, which is covered by the right of the facility/family home to an administrative review anytime there is a question about TDPRS's right to access information that is believed to be outside TDPRS's authority.

The proposal will function by providing public access to clarified rules for operators of child care who must comply with these rules.

No comments were received regarding adoption of the proposal.

## Subchapter A. Definitions

### 40 TAC §725.1001

The amendment is adopted under the Human Resources Code, Title 2, Chapter 42, which authorizes the department to administer general child-placing and child care licensing programs.

The amendment implements the Human Resources Code, §§42.001-42.077.

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

Filed with the Office of the Secretary of State on April 24, 1998.

TRD-9805803

C. Ed Davis

Deputy Director, Legal Services

Texas Department of Protective and Regulatory Services

Effective date: June 1, 1998

Proposal publication date: March 13, 1998

For further information, please call: (512) 438-3765



## Subchapter O. Exemptions from Licensing

### 40 TAC §725.1403

The amendment is adopted under the Human Resources Code, Title 2, Chapter 42, which authorizes the department to administer general child-placing and child care licensing programs.

The amendment implements the Human Resources Code, §§42.001- 42.077.

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

Filed with the Office of the Secretary of State on April 24, 1998.

TRD-9805805

C. Ed Davis

Deputy Director, Legal Services

Texas Department of Protective and Regulatory Services

Effective date: June 1, 1998

Proposal publication date: March 13, 1998

For further information, please call: (512) 438-3765



## Subchapter S. Administrative Procedures

### 40 TAC §725.1804

The amendment is adopted under the Human Resources Code, Title 2, Chapter 42, which authorizes the department to administer general child-placing and child care licensing programs.

The amendment implements the Human Resources Code, §§42.001-42.077.

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

Filed with the Office of the Secretary of State on April 24, 1998.

TRD-9805806

C. Ed Davis

Deputy Director, Legal Services

Texas Department of Protective and Regulatory Services

Effective date: June 1, 1998

Proposal publication date: March 13, 1998

For further information, please call: (512) 438-3765



### Subchapter U. Day Care Licensing Procedures

**40 TAC §§725.2002, 725.2018, 725.2020, 725.2023, 725.2024, 725.2028, 725.2030, 725.2033, 725.2046**

The amendments are adopted under the Human Resources Code, Title 2, Chapter 42, which authorizes the department to administer general child-placing and child care licensing programs.

The amendments implement the Human Resources Code, §§42.001-42.077.

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

Filed with the Office of the Secretary of State on April 24, 1998.

TRD-9805807

C. Ed Davis

Deputy Director, Legal Services

Texas Department of Protective and Regulatory Services

Effective date: June 1, 1998

Proposal publication date: March 13, 1998

For further information, please call: (512) 438-3765



**40 TAC §725.2025, §725.2031**

The repeals are adopted under the Human Resources Code, Title 2, Chapter 42, which authorizes the department to administer general child-placing and child care licensing programs.

The repeals implement the Human Resources Code, §§42.001-42.077.

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

Filed with the Office of the Secretary of State on April 24, 1998.

TRD-9805808

C. Ed Davis

Deputy Director, Legal Services

Texas Department of Protective and Regulatory Services

Effective date: June 1, 1998

Proposal publication date: March 13, 1998

For further information, please call: (512) 438-3765



### Subchapter PP. Release Hearings

**40 TAC §725.4052**

The amendment is adopted under the Human Resources Code, Title 2, Chapter 42, which authorizes the department to administer general child-placing and child care licensing programs.

The amendment implements the Human Resources Code, §§42.001-42.077.

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

Filed with the Office of the Secretary of State on April 24, 1998.

TRD-9805809

C. Ed Davis

Deputy Director, Legal Services

Texas Department of Protective and Regulatory Services

Effective date: June 1, 1998

Proposal publication date: March 13, 1998

For further information, please call: (512) 438-3765



### Subchapter NNN. Abuse/Neglect Investigations in Child Care Facilities

**40 TAC §725.7001**

The amendment is adopted under the Human Resources Code, Title 2, Chapter 42, which authorizes the department to administer general child-placing and child care licensing programs.

The amendment implements the Human Resources Code, §§42.001-42.077.

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

Filed with the Office of the Secretary of State on April 24, 1998.

TRD-9805810

C. Ed Davis

Deputy Director, Legal Services

Texas Department of Protective and Regulatory Services

Effective date: June 1, 1998

Proposal publication date: March 13, 1998

For further information, please call: (512) 438-3765



# == REVIEW OF AGENCY RULES ==

This Section contains notices of state agency rules review as directed by the 75th Legislature, Regular Session, House Bill 1 (General Appropriations Act) Art. IX, Section 167. Included here are: (1) notices of *plan to review*; (2) notices of *intention to review*, which invite public comment to specified rules; and (3) notices of *readoption*, which summarize public comment to specified rules. The complete text of an agency's *plan to review* is available after it is filed with the Secretary of State on the Secretary of State's web site (<http://www.sos.state.tx.us/texreg>). The complete text of an agency's rule being reviewed and considered for *readoption* is available in the ***Texas Administrative Code*** on the web site (<http://www.sos.state.tx.us/tac>).

For questions about the content and subject matter of rules, please contact the state agency that is reviewing the rules. Questions about the web site and printed copies of these notices may be directed to the ***Texas Register*** office.

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<b>Proposed Rule Reviews</b>	§103.12
Texas Board of Chiropractic Examiners	§103.13
The Texas Board of Chiropractic Examiners proposed to readopt Chapter 71. Texas Board of Chiropractic Examiners in accordance with the Appropriations Act, section 167. The agency's reason for adopting the rules contained in this chapter continues to exist.	§103.15
Comments on the proposals may be submitted to Joyce Kershner, Director of Licensure, Texas Board of Chiropractic Examiners, 333 Guadalupe, Tower III, Suite 825, Austin, Texas 78701, (512) 305-6709.	§103.16
TRD-9805889	§103.17
Gary K. Cain, Ed.D.	§103.19
Executive Director	§103.21
Texas Board of Chiropractic Examiners	§103.31
Filed: April 27, 1998	§103.32
◆ ◆ ◆	§103.41
Texas Rehabilitation Commission	§103.42
The Texas Rehabilitation Commission proposes to review the following sections from Chapters 101, 102, 103, 105, 106, 107, 111, 113, 115, and 116, pursuant to the Appropriations Act of 1997, HB 1, Article IX, Section 167. As part of the review process, the Texas Rehabilitation Commission is proposing to amend and continue to adopt the following sections in this issue of the Texas Register:	§103.44
§101.1	§103.51
§101.2	§103.52
§101.8	§103.53
§101.9	§103.54
§101.10	§103.55
§101.13	§105.1
§103.1	§105.3
§103.4	§105.4
§103.9	§105.5
§103.11	§107.1
	§107.2
	§107.5
	§111.1
	§111.2
	§111.3
	§111.4

§113.1	§106.10
§113.2	§106.11
§113.4	§106.12
§113.5	§106.13
§115.8	§106.14
§116.5	§106.15
Also, during the review process, the Texas Rehabilitation Commission is proposing the repeal of the following sections:	§106.16
	§106.17
§101.6	§106.18
§101.7	§106.19
§105.6	§106.20
§115.6	§106.21
§116.6	§106.22
§116.7	§106.23
The commission is proposing to readopt the following sections without changes:	§106.24
	§106.25
§101.12	§106.26
§102.1	§106.27
§102.2	§106.28
§102.3	§106.29
§102.4	§106.30
§102.5	§106.31
§103.2	§106.32
§103.3	§106.33
§103.5	§106.34
§103.6	§107.3
§103.7	§107.4
§103.8	§111.5
§103.10	§111.6
§103.14	§111.7
§103.18	§111.8
§103.22	§111.9
§103.33	§111.10
§103.43	§111.11
§105.2	§111.12
§106.1	§111.13
§106.2	§111.14
§106.4	§113.3
§106.5	§115.1
§106.6	§115.3
§106.7	§115.4
§106.8	§115.5
§106.9	§115.7



§115.9  
§115.10  
§116.1  
§116.2  
§116.3  
§116.8  
§116.9  
§116.10

Comments on these proposed rules may be submitted to Roger Darley, Assistant General Counsel, Office of the General Counsel, Texas Rehabilitation Commission, Austin, Texas 78751.

TRD-9805857  
Charles Schiesser  
Chief of Staff  
Texas Rehabilitation Commission  
Filed: April 27, 1998

◆ ◆ ◆

The Commission's reason for adopting these sections continues to exist.

# TABLES & GRAPHICS

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Graphic material from the emergency, proposed, and adopted sections is published separately in this tables and graphics section. Graphic material is arranged in this section in the following order: Title Number, Part Number, Chapter Number and Section Number.

Graphic material is indicated in the text of the emergency, proposed, and adopted rules by the following tag: the word "Figure" followed by the TAC citation, rule number, and the appropriate subsection, paragraph, subparagraph, and so on. Multiple graphics in a rule are designated as "Figure 1" followed by the TAC citation, "Figure 2" followed by the TAC citation.

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## SITE PREPARATION NOTICE

**FAILURE TO PROPERLY PREPARE THE SITE MAY INVALIDATE YOUR WARRANTIES.** Unless the home is installed in a rental community, you, the purchaser or homeowner, are responsible for the proper preparation of the site where your manufactured home is to be installed.

All debris, sod, tree stumps and other organic materials from all areas where foundation footings are to be located must be removed. In areas where footings are not to be located, all debris, sod, tree stumps or other organic materials must be trimmed, cut, or removed down to a maximum height of 8 inches above the ground or to a lower level if needed to install the vapor retarder material.

The exterior grade must slope away from the home or other approved means must be provided to prohibit surface runoff from draining under the home. Drainage prevents water build-up under the home. Water build-up may cause shifting or settling of the foundation, dampness in the home, damage to siding and bottom board, buckling of walls and floors, delamination of floor decking and problems with the operation of windows and doors.

If the retailer or installer furnishes the materials for skirting to enclose the crawl space under the home or contracts for the installation of skirting, the retailer or installer must provide and install a ground vapor retarder and provide for proper cross ventilation of the crawl space. Otherwise, you are responsible for the ground vapor retarder and the cross ventilation. If you contract with someone other than the retailer or installer, ask your skirting contractor for details of these requirements.

By your signature(s), you acknowledge that you understand the content of this notice and that you have received a copy and further that this notice was given to you on the date shown and prior to the signing of any binding sales or installation agreement.

\_\_\_\_\_  
purchaser/homeowner signature

\_\_\_\_\_  
purchaser/homeowner signature

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type or print name

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date

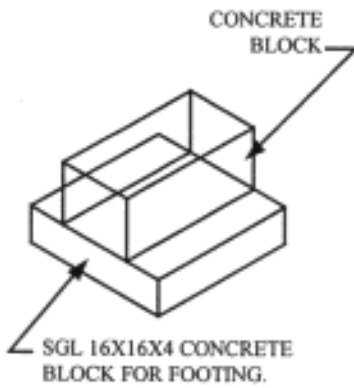
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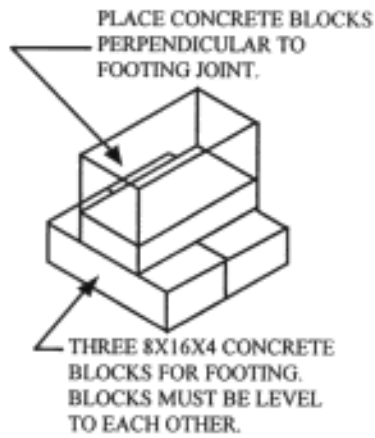
Figure 2: 10 TAC §80.54(d)(3)

FOOTER CONFIGURATIONS

**SINGLE 16x16x4**



**DOUBLE 8x16x4**



**DOUBLE 16x16x4**

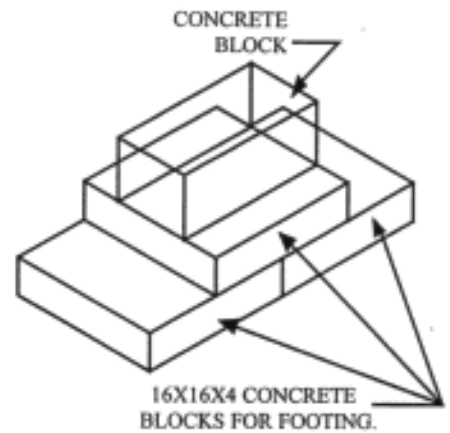


Figure 3: 10 TAC §80.54(d)(4)

**TABLE 3A: FOOTER CAPACITIES (LBS)**

-----Soil Bearing Capacity-----							
Footer size/sq.in.	1000psf	1500psf	2000psf	2500psf	3000psf	3500psf	4000psf
16x16x4/256	1700	2700	3500	4400	5300	6100	7000
20x20x4/400	2700	4100	5500	6900	8300	9400	11000
16x32x4/512	3500	5200	6800	8600	10400	12000	14000
24x24x4/576	4000	6000	8000	10000	12000	14000	16000

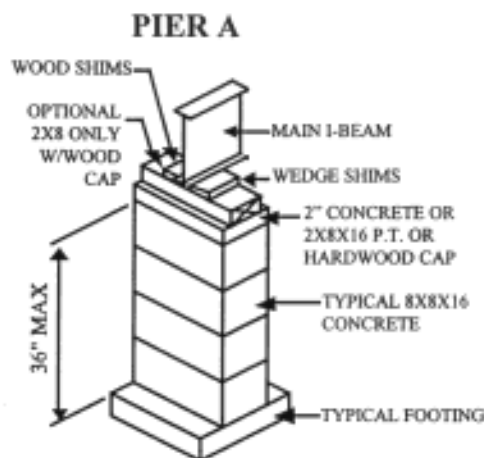
Notes:

- 1) 8x16x4 footers may be used for perimeter and/or exterior door supports. Capacity is half that of the tabulated values for a 16x16x4 footer. For double 8x16x4 footers use the 16x16x4 row.
- 2) Footers of material other than concrete may be used if approved by the department and the listed capacity and area is equal to or greater than the footer it replaces. Concrete footers of sizes not listed may be used as long as their size is equal to or greater than the size listed.
- 3) Footers with loads greater than 10,000 lbs. require a double stacked pier.
- 4) All poured concrete is minimum 2500 psi at 28 days.

Figure 4: 10 TAC §80.54(d)(6)

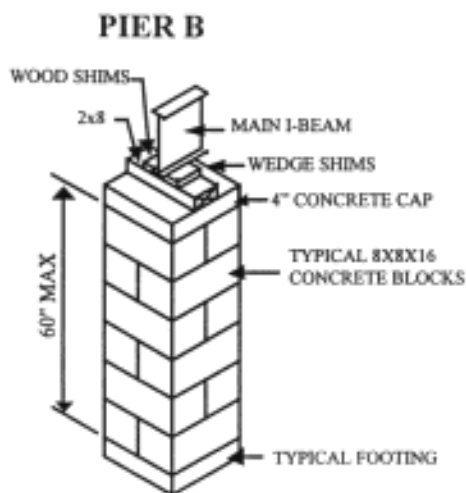
**PIER DESIGN (SINGLE & MULTI-SECTION STACK)**

**Pier A**



Pier A: Single stack of open cell, 8x8x16 concrete blocks. Maximum height is 36 inches as measured from the top of the footer to the top of the last concrete block. Concrete blocks are installed with their width perpendicular to the main I-Beam. Open cells must be vertical and in alignment.

**Pier B**



Pier B: Interlocked double stack of open cell 8x8x16 concrete blocks. The maximum height is 60 inches as measured from the top of the footer to the top of the last concrete block. The pier is capped with a minimum 16x16x4 concrete cap. Open cells must be vertical and in alignment. Each course of open cell blocks must be perpendicular to the previous course.

**Note:**

- 1) Open cell concrete blocks shall meet ASTM-C90-85, Grade N.
- 2) Solid concrete blocks shall meet ASTM C145-85, Grade N.
- 3) Either wood caps or shims must be used between I-Beam and concrete.

Figure 5: 10 TAC §80.54(d)(6)(B)

**TABLE 3B: PIER LOADS (LBS) AT TABULATED SPACINGS  
(WITHOUT PERIMETER SUPPORTS)**

Unit Width(ft)	----- maximum pier spacing -----				
	4 ft o.c.	5 ft o.c.	6 ft o.c.	7 ft o.c.	8 ft o.c.
<b>12 Wide</b>	1725	2150	2600	3000	3400
<b>14 wide</b>	2000	2500	3000	3500	4000
<b>16 Wide</b>	2350	2900	3500	4100	4700

**Note:** 18 ft. wides require perimeter blocking per table 3C.

**Example:** Determine maximum pier spacing for a 16 ft. wide x 76 ft. long single section with a soil bearing capacity of 1500 psf. Footer size to be used is a single 16x16x4 precast concrete footer.

**Step 1:** In table 3A look up the maximum load for a single 16x16x4 pad set on 1500 psf soil.  
Answer = 2700 psf

**Step 2:** In table 3B in the column for 16 ft. wide, find the on-center spacing (o.c.) load equal to or less than the footer capacity of 2700 lbs found in table 3A.  
The 4ft column shows minimum capacity of 2350 lbs.

**Answer:** Therefore, for a 16 ft. wide and a soil bearing capacity of 1500 psf using 16x16x4 footers the maximum pier spacing is 4 ft. o.c.

Figure 6: 10 TAC §80.54(d)(6)(C)

**TABLE 3C: PIER LOADS (LBS) AT TABULATED SPACINGS  
(WITH PERIMETER SUPPORTS)**

----- maximum I-Beam pier spacing -----

Unit width (ft)	4 ft o.c.	6 ft o.c.	8 ft o.c.	10 ft o.c.	12 ft o.c.
12 Wide	750	1150	1500	1900	2300
14 Wide	1050	1600	2100	2600	3100
16 Wide	1200	1800	2400	3000	3600
18 Wide	1450	2150	2850	3600	4300

Note: Maximum I-Beam pier spacing is 8 ft. o.c. for 8" I-Beam, 10 ft. o.c. for 10" I-Beam and 12 ft. o.c. for 12" I-Beam or the resultant maximum spacing based on soil bearing and footer size per Table 3A, whichever is less.

----- maximum perimeter pier spacing -----

Unit width (ft)	4 ft o.c.	5 ft o.c.	6 ft o.c.	7 ft o.c.	8 ft o.c.
12 Wide	1000	1200	1500	1700	1900
14 Wide	1100	1400	1650	1900	2200
16 Wide	1300	1600	1900	2250	2500
18 Wide	1600	2000	2300	2700	3000

**Example:** Determine maximum I-Beam pier spacing for a 16 ft. wide with 12" I-Beam, perimeter blocking and 1500 psf soil bearing capacity.

**Step 1:** From Table 3A, the maximum load for a 16x16x4 at 1500 psf soil is 2700 lbs.

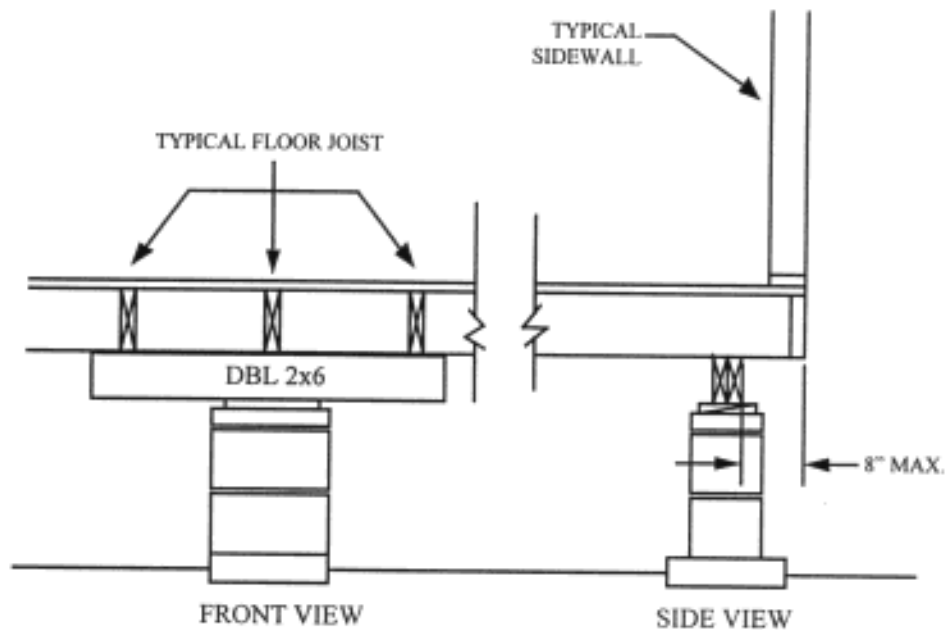
**Step 2:** From Table 3C, the I-Beam pier load @ 10 ft. o.c. is 3000 lbs ==> no good  
the I-Beam pier load @ 8 ft. o.c. is 2400 lbs ==> ok  
I-Beam pier spacing is at 8 ft. o.c.

**Step 3:** The perimeter pier load @ 8ft. o.c. is 2500 lbs ==> ok  
Perimeter pier spacing is at 8 ft. o.c.



Figure 7: 10 TAC §80.54(d)(6)(C)

**FIGURE 3C: PERIMETER PIER FRONT & SIDE VIEW**



**Notes:**

- 1) Perimeter pier may be inset from edge of floor up to 8".
- 2) Dbl 2x6 are min. #3 Yellow Pine or pressure treated Spruce-Pine, nailed together with min. 16d nails 2-rows at maximum 8" o.c.
- 3) 2x6 brace must span at least two (2) but not more than three (3) floor joists.

Figure 8: 10 TAC §80.54(d)(7)

**TYPICAL MULTI-SECTION PIER LAYOUT**

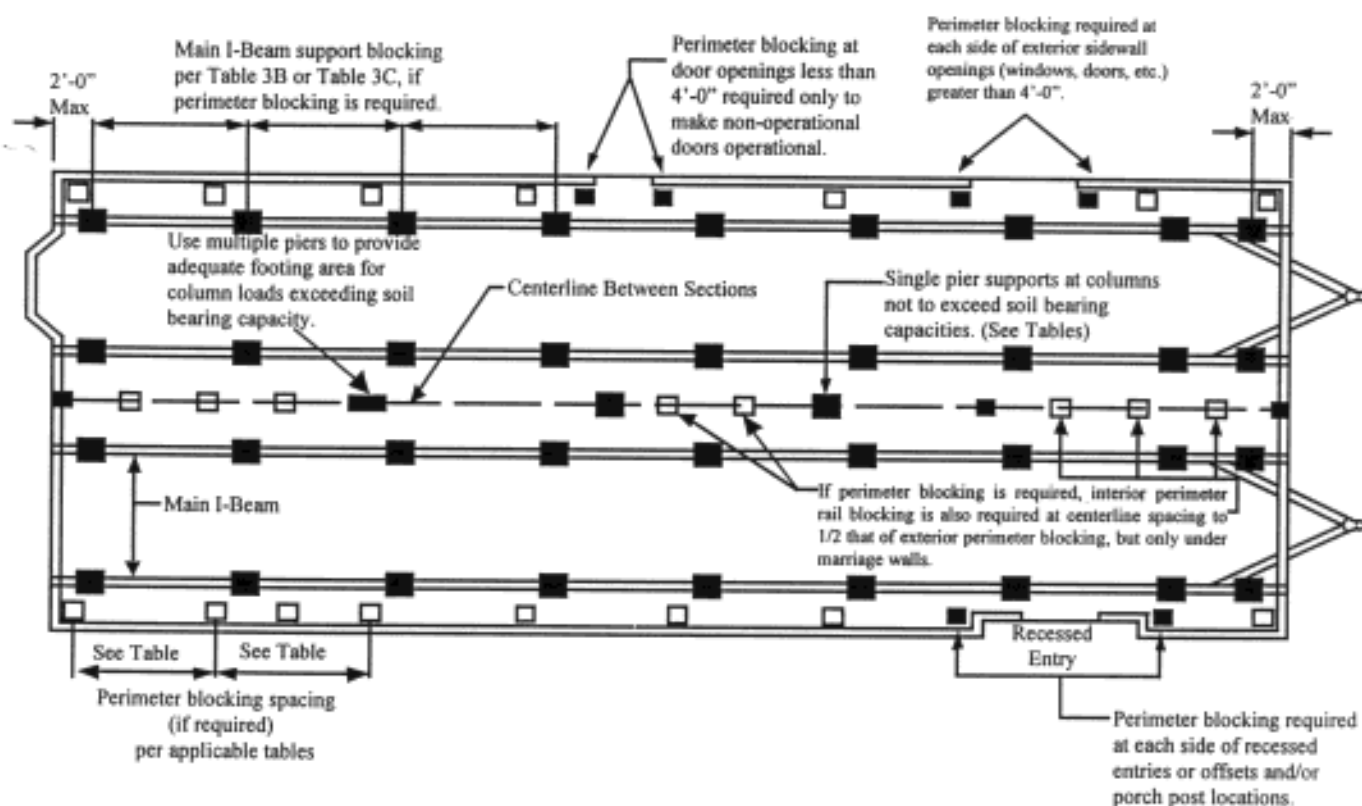


Figure 9: 10 TAC §80.54(d)(8)

TYPICAL SINGLE SECTION PIER LAYOUT

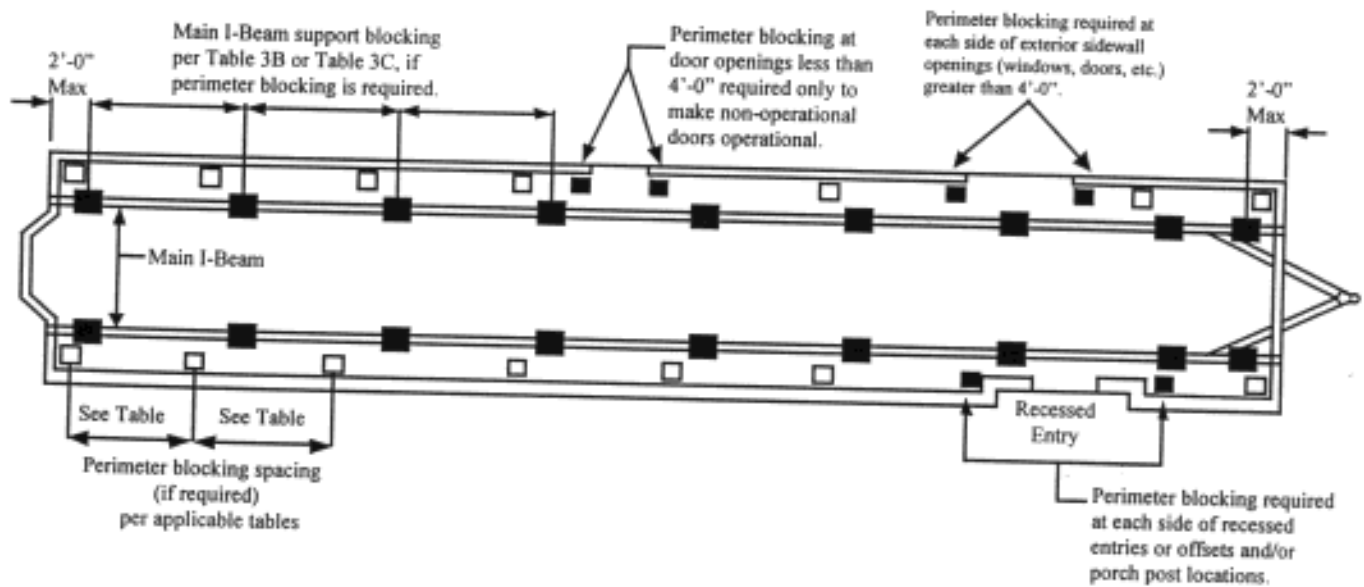


Figure 10: 10 TAC §80.54(d)(9)(A)

### DETERMINING COLUMN LOAD

To determine the column load for Column #1 at the endwall look up Span "A" in Table 3D. To determine the column load for Column #2, look up the combined distance of both Span "A" and Span "B".

To determine the column load for Column #3 look up Span "B" in the table.  
(NOTE: Mating line walls not supporting the beam must be included in the span distance.)

To determine the loads for Columns #4 and #5 look up Span "C". For Columns #6 and #7 look up load for span "D".

### MARRIAGE LINE ELEVATION

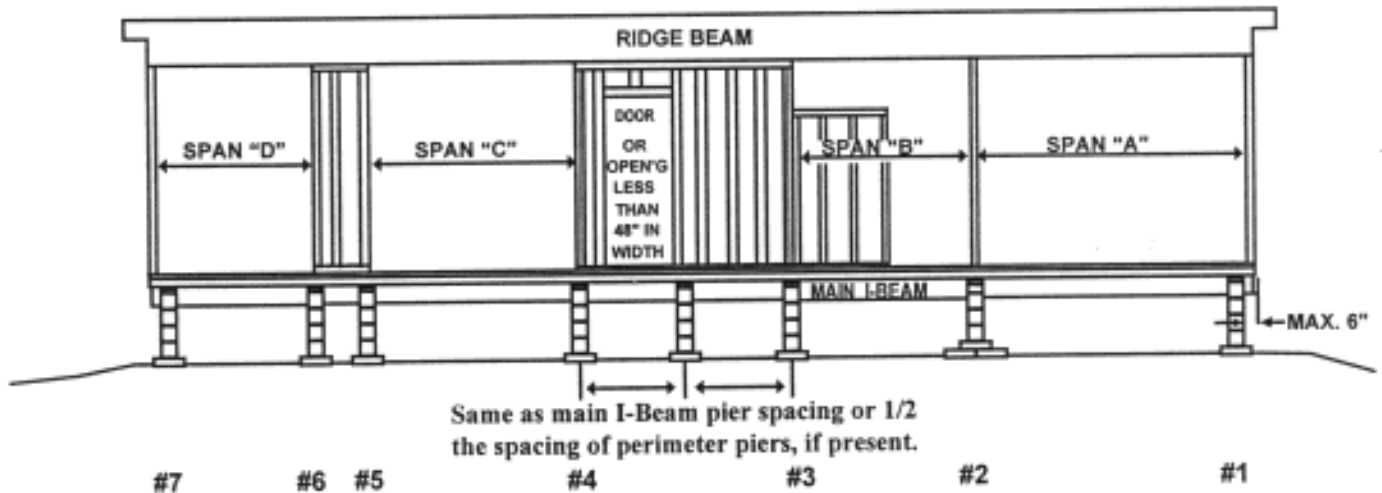


Figure 11: 10 TAC §80.54(d)(9)(D)

**TABLE 3D: MATING LINE COLUMN LOADS (LBS)**

Span in feet	-----Unit width in feet (nominal)-----		
	12 Wide	14 Wide	16 Wide
4	720	840	960
6	1080	1260	1440
8	1440	1680	1920
10	1800	2100	2400
12	2160	2520	2880
14	2520	2940	3360
16	2880	3360	3840
18	3240	3780	4320
20	3600	4200	4800
22	3960	4620	5280
24	4320	5040	5760
26	4680	5460	6240
28	5040	5880	6720
30	5400	6300	7200
32	5760	6720	7680
34	6120	7140	8160
36	6480	7560	8640

Note: If actual span is not shown use next higher tabulated span.

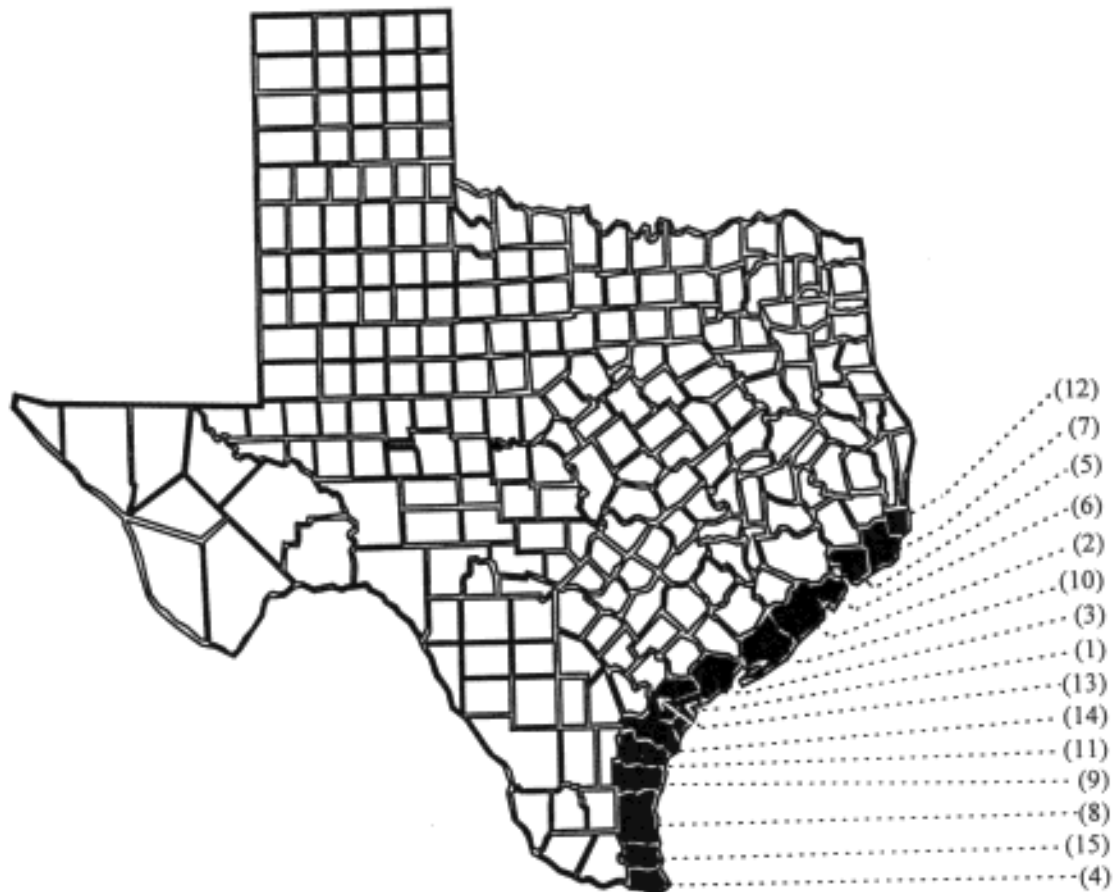
Figure 1: 10 TAC §80.55(a)

## Counties Located in Wind Zone II

The following counties in Texas are considered to be in Wind Zone II (100 mph):

- |               |                   |
|---------------|-------------------|
| (1) Aransas   | (9) Kleberg       |
| (2) Brazoria  | (10) Matagorda    |
| (3) Calhoun   | (11) Nueces       |
| (4) Cameron   | (12) Orange       |
| (5) Chambers  | (13) Refugio      |
| (6) Galveston | (14) San Patricio |
| (7) Jefferson | (15) Willacy      |
| (8) Kenedy    |                   |

All other counties are in Wind Zone I.



**Figure 2: 10 TAC §80.55(c)(1)**

**ANCHOR INSTALLATION**

**Notes:**

- 1) Anchor head must be not more than 1 inch from the ground at insertion point.
- 2) Anchor head may be inset a maximum of 6 inches from the vertical outer edge of the floor framing to allow for skirting installation.

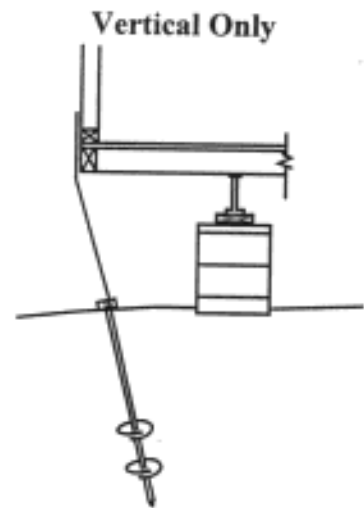
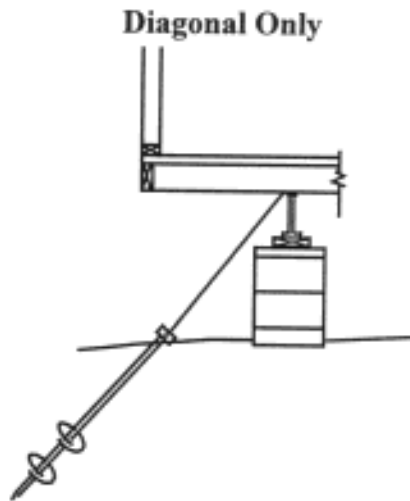
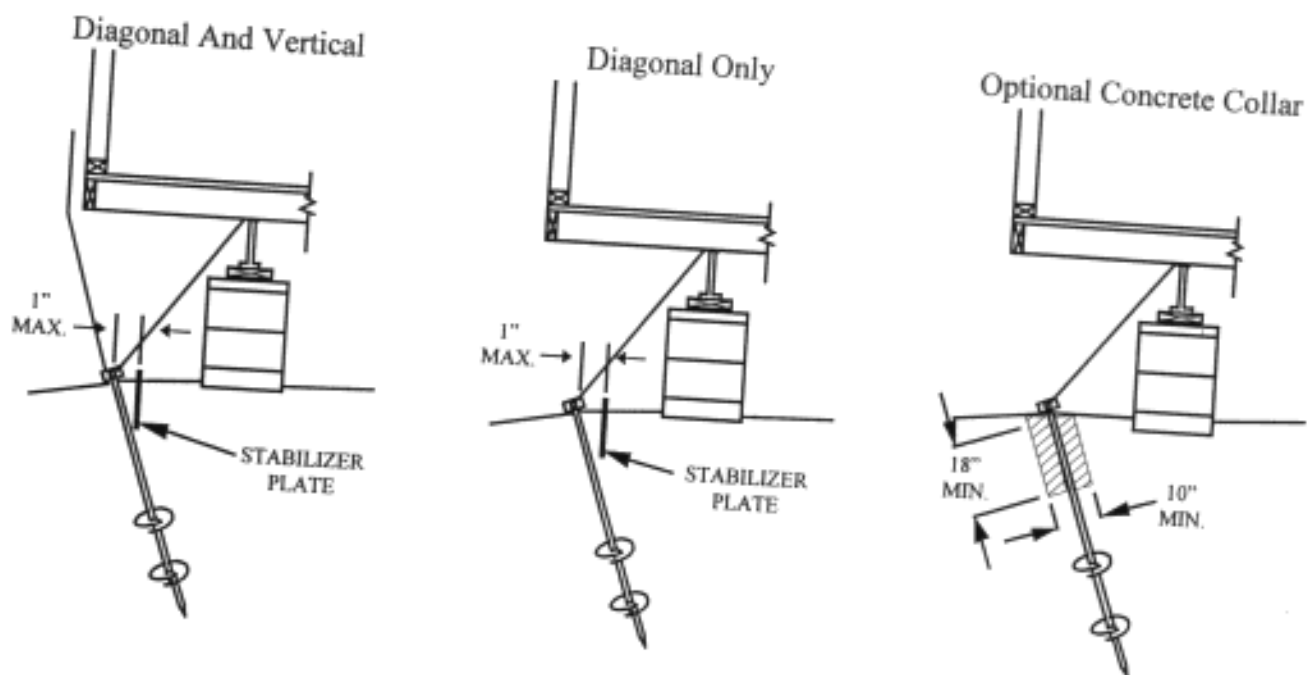


Figure 3: 10 TAC §80.55(c)(2)

PLACEMENT OF STABILIZING PLATES



**Notes:**

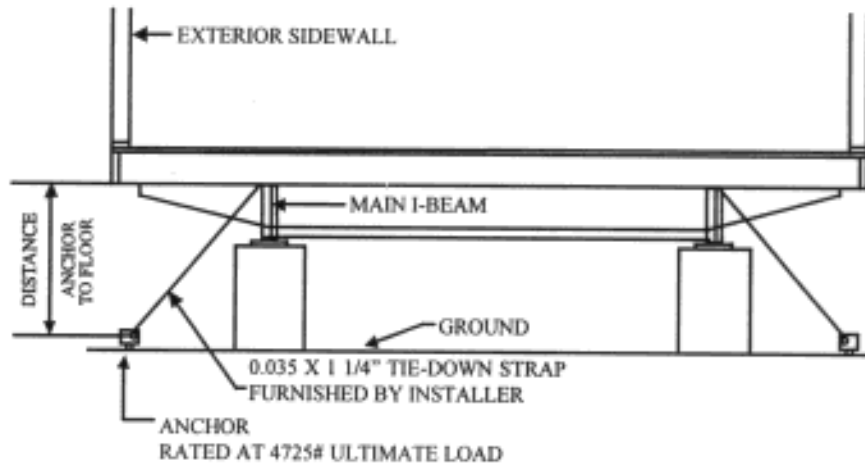
- 1) Stabilizer plate may be replaced with concrete collar.
- 2) Diagonal tie must depart from the top of the I-Beam as shown.
- 3) The top of the stabilizer plate must be within 1 inch of the anchor shaft.
- 4) Stabilizer plates must be installed in accordance with the plate manufacturer's instructions.



Figure 4: 10 TAC §80.55(d)(1)

**WIND ZONE I - SINGLE/MULTI-SECTION INSTALLATION**  
(Refer to other figures for depictions of proper anchor and stabilizer device installation.)

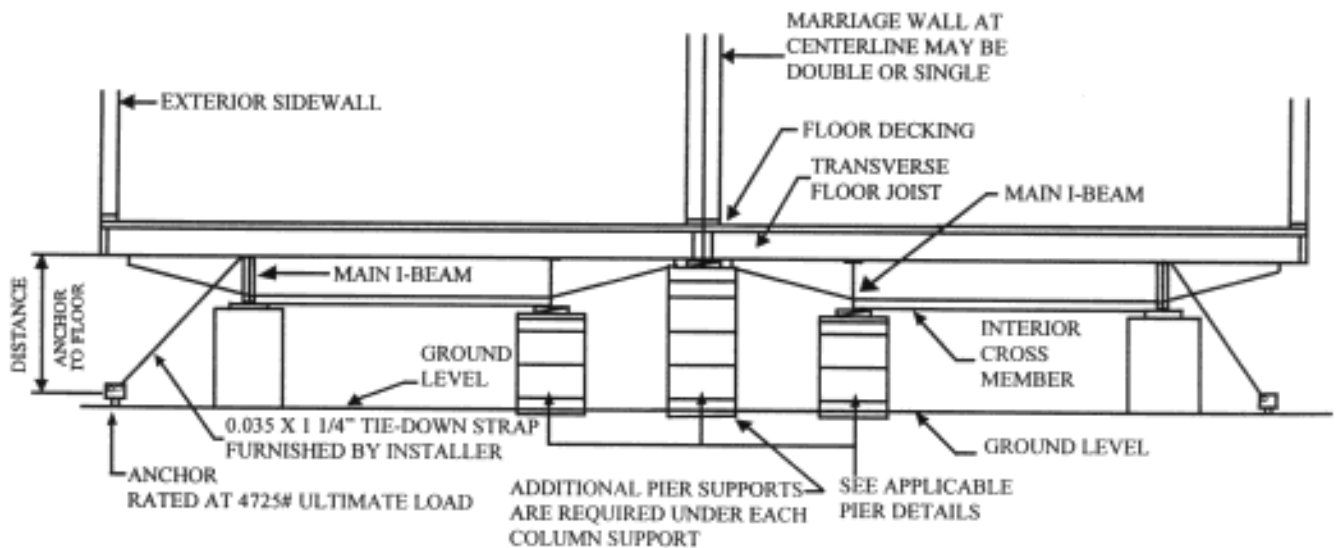
Figure 1: Single Section



**Notes:**

- 1) Single section units require diagonal ties to be directly opposite each other.
- 2) All existing vertical ties must be connected to a ground anchor.
- 3) Diagonal tie spacing per Table 4A. Vertical distance in this table refers to the distance of the anchor head to the underside of the floor joists as shown above.
- 4) Diagonal tie must depart from the top of the I-Beam as shown.

Figure 2: Multi-Section



**Notes:**

- 1) Multi-section units require diagonal ties on the outer main I-Beams only.
- 2) Diagonal ties need not be directly opposite each other.
- 3) Diagonal tie spacing per Table 4A. Vertical distance in this table refers to the distance of the anchor head to the underside of the floor joists as shown above.
- 4) Existing vertical ties must be connected to a ground anchor.
- 5) Diagonal tie must depart from the top of the I-Beam as shown.

Figure 5: 10 TAC §80.55(d)(2)

**TABLE 4A: MAXIMUM DIAGONAL TIE SPACING**  
**WIND ZONE I ONLY!**

vertical distance	-----Nominal width single/double-----			
	12/24 wide	14/28 wide	16/32 wide	18/36 wide
20" to 24"	11 ft	14 ft	15 ft	16 ft
25" to 29"	9 ft	12 ft	14 ft	15 ft
30" to 40"	8 ft	10 ft	12 ft	14 ft
41" to 48"	7 ft	9 ft	11 ft	13 ft
49" to 60"	6 ft	8 ft	10 ft	12 ft

**Notes:**

- 1) This chart applies to single and multi-section floor plans.
- 2) Longitudinal ties not required.
- 3) Anchor components are rated at 4725 lbs. ultimate load.
- 4) Single section units shall have diagonal ties directly opposite each other along the two main I-Beams. Multi-section units need diagonal ties on the outer-most main I-Beams only.
- 5) Ties installed at each end shall be within 24 inches of each end.
- 6) The distance between any two ties may be exceeded to avoid an obstruction as long as the total number of ties remains the same and no two anchors shall be within 4 ft of each other. See table 4B.
- 7) Any vertical ties present on homes must be attached to a ground anchor. Both vertical and diagonal ties may be connected to a single double headed anchor when the anchor is approved for the combined loading.
- 8) The vertical distance is measured from the anchor head to the underside of the floor joists.
- 9) No two anchors shall be within 48 inches of each other.

Figure 6: 10 TAC §80.55(d)(3)

**TABLE 4B: MINIMUM NUMBER OF DIAGONAL TIES**

**WIND ZONE I ONLY**

unit length (ft)	o.c. spacing (ft)												
	4	5	6	7	8	9	10	11	12	13	14	15	16
40	10	8	7	6	6	5	5	4	4	4	4	3	3
42	11	9	7	6	6	5	5	5	4	4	4	4	3
44	11	9	8	7	6	5	5	5	4	4	4	4	4
46	12	9	8	7	6	5	5	5	5	4	4	4	4
48	12	10	8	7	7	6	5	5	5	4	4	4	4
50	13	10	9	8	7	6	6	5	5	5	4	4	4
52	13	11	9	8	7	6	6	5	5	5	4	4	4
54	14	11	9	8	7	7	6	6	5	5	5	4	4
56	14	11	10	8	8	7	6	6	5	5	5	4	4
58	15	12	10	9	8	7	6	6	6	5	5	5	4
60	15	12	10	9	8	7	7	6	6	5	5	5	5
62	16	13	11	9	8	7	7	6	6	5	5	5	5
64	16	13	11	10	9	8	7	6	6	6	5	5	5
66	17	13	11	10	9	8	7	7	6	6	5	5	5
68	17	14	12	10	9	8	7	7	6	6	6	5	5
70	18	14	12	10	9	8	8	7	7	6	6	5	5
72	18	15	12	11	10	9	8	7	7	6	6	6	5
74	19	15	13	11	10	9	8	7	7	6	6	6	5
76	19	15	13	11	10	9	8	8	7	7	6	6	6

Note: If unit length is not listed use next higher tabulated length.

Figure 7: 10 TAC §80.55(e)(1)

**TABLE 5A: MAXIMUM SPACING FOR DIAGONAL TIES  
PER SIDE OF THE ASSEMBLED UNIT**

vertical distance	Nominal width single/double			
	12/24 wide	14/28 wide	16/32 wide	18/36 wide
20" to 24"	7 ft	8 ft	8 ft	8 ft
25" to 29"	6 ft	7 ft	8 ft	8 ft
30" to 40"	5 ft	6 ft	7 ft	8 ft
41" to 48"	4 ft	5 ft	6 ft	7 ft
49" to 60"	n/a	4 ft	5 ft	6 ft

**Notes:**

- 1) This chart applies to single and multi-section floor plans.
- 2) Longitudinal ties shall be required at each end of each section.
- 3) Anchor components are rated at 4725 lbs. ultimate load.
- 4) Single section units shall have diagonal ties directly opposite each other along the two main I-Beams. Multi-section units need diagonal ties on the outer-most main I-Beams only.
- 5) Diagonal ties installed at each end shall be within 24 inches of each end.
- 6) The distance between any two ties may be exceeded to avoid an obstruction as long as the total number of ties remains the same and no two anchors shall be within 4 ft of each other. See Table 4B.
- 7) Any vertical ties present on homes MUST be attached to a ground anchor. Both vertical and diagonal ties may be connected to a single, double headed anchor, when the anchor is approved for the combined loading.
- 8) The vertical distance is measured from the anchor head to the underside of the floor joists.
- 9) Longitudinal ties installed at each end do not count as sidewall ties.
- 10) No two anchors shall be within 48 inches of each other.

Figure 8: 10 TAC §80.55(e)(2)(E)

**DIAGONAL STRAP PLACEMENT FOR PIERS EXCEEDING 36 INCHES IN HEIGHT**  
*(Refer to other figures for depiction of proper anchor and stabilizer device installation.)*

Figure 1

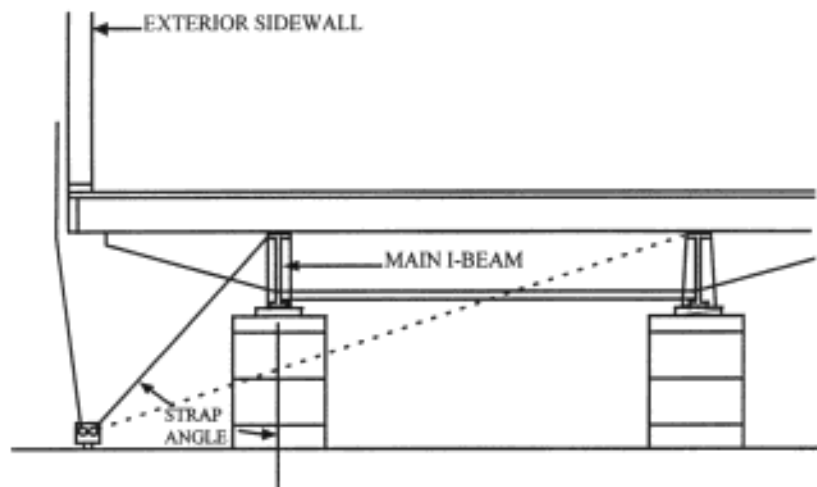


Figure 9: 10 TAC §80.55(e)(2)(F)

**DIAGONAL AND VERTICAL TIES**

*(Refer to other figures for depiction of proper anchor and stabilizer device installation.)*

Figure 2

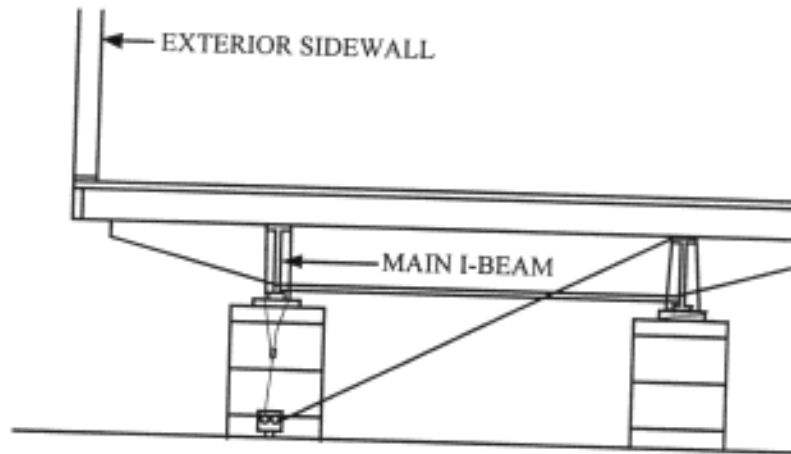


Figure 10: 10 TAC §80.55(f)(1)

**TABLE 5B: MAXIMUM CENTERLINE WALL OPENING  
FOR COLUMN UPLIFT BRACKETS**  
(See figure 5B for typical installation details)

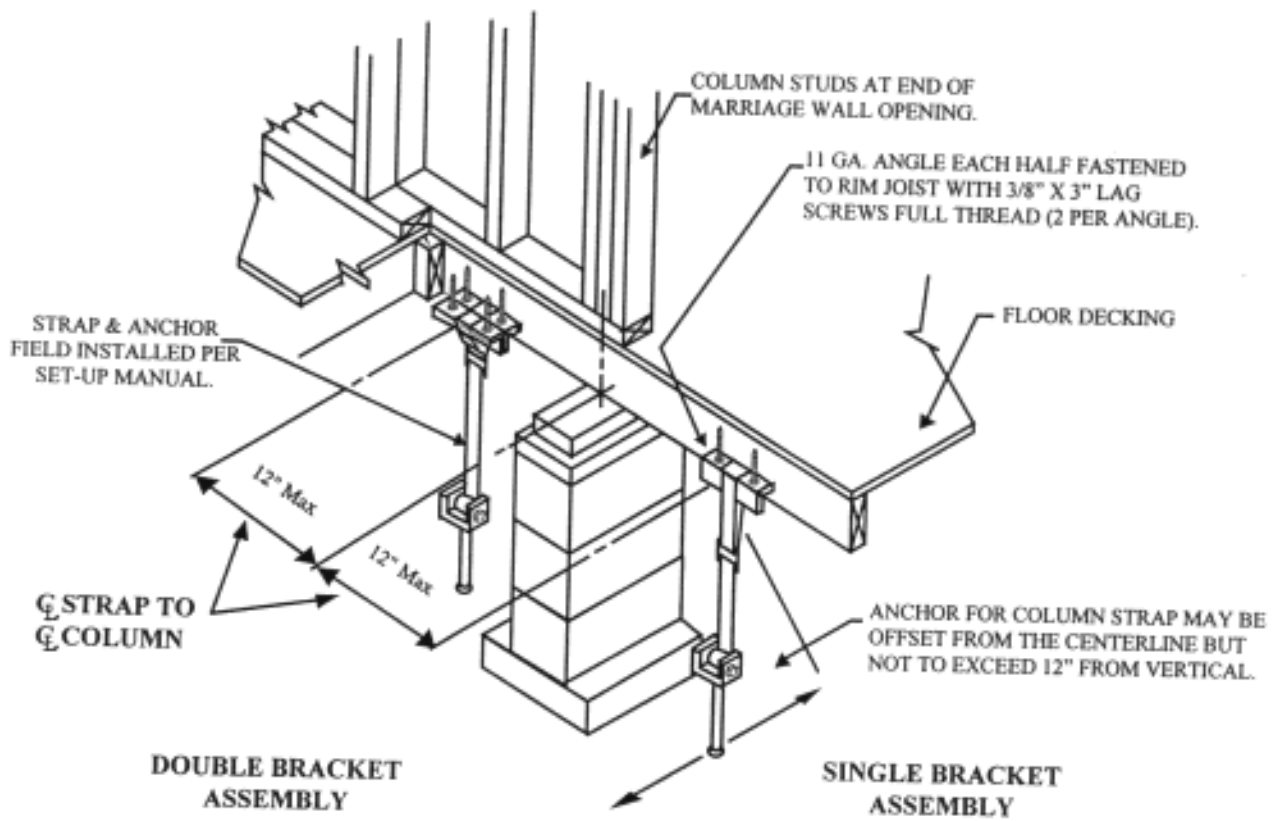
----- Maximum opening based on floor widths -----

	12 Wide (140" max)	14 Wide (164" max.)	16 Wide (186" max.)	18 Wide (210" max.)
One Single Bracket (2-lags) either side of column.	17'-6"	15'-0"	13'-3"	11'-9"
Two Single Brackets (2-lags each), one each side of column.	35'-0"	30'-0"	26'-6"	23'-6"
One Double Bracket (4-lags) either side of column. Spans are on both sections, opposite each other.	31'-9"	27'-2"	23'-11"	21'-2"
*Two Double Brackets (4-lags) either side of column. Spans are on both sections, opposite each other.	40'-0"	40'-0"	40'-0"	40'-0"
* For openings larger than 40'-0", consult a local licensed professional engineer or architect.				

Figure 11: 10 TAC §80.55(f)(4)

TYPICAL INSTALLATION DETAILS

Figure 5B



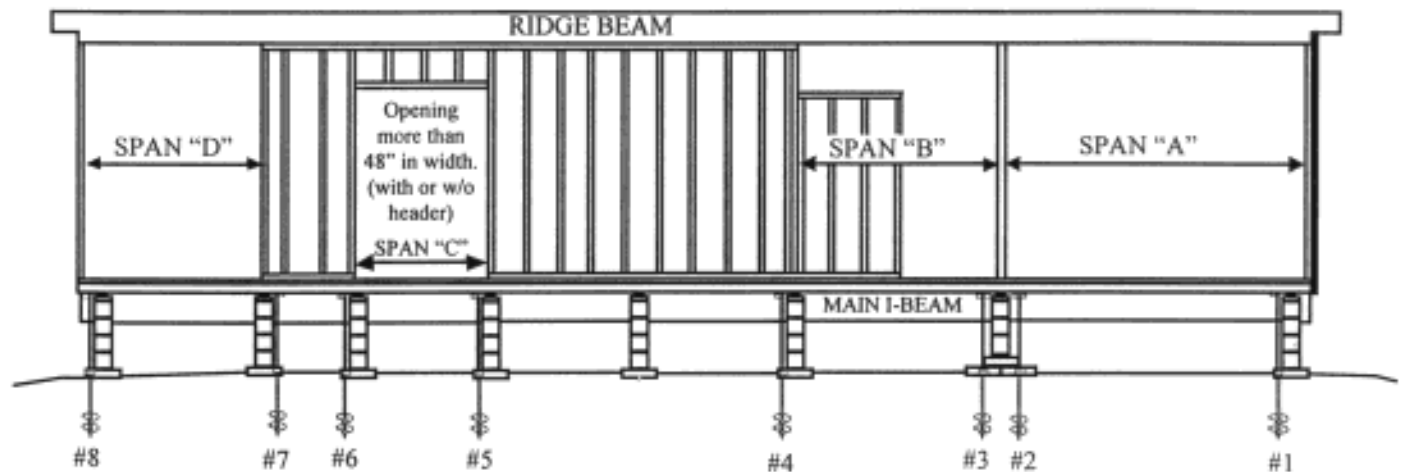
Note: Anchors, straps, buckles and crimps shown are for illustration purposes only. All components used must be approved by the department.



Figure 12: 10 TAC §80.55(f)(5)

### ANCHOR SPAN

Figure 5C



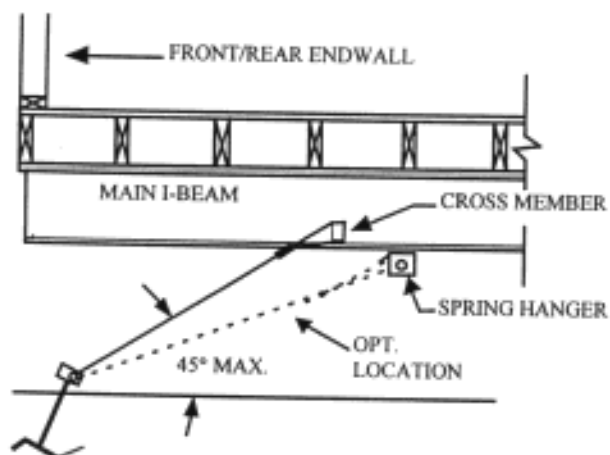
Determine type and number of brackets needed at each opening.

- Anchor #1:** From Table 5B, row 3 in the 14 ft. wide column, the maximum span for this condition is 27'-2". Actual span is 18'-0" =====> one double bracket is ok.
- Anchor #2 & #3:** Since the wall between spans "A" and "B" is less than 16 inches in width the two spans must be added together to determine number and type of brackets.  
Span "A" (18'-0") + Span "B" (14'-8") = 32'-8"  
From table 5B, row 3 in the 14 ft. wide column, the maximum span for one double bracket is 27'-2". Actual span is 32'-8" =====> two double brackets required.
- Anchor #4:** Span "B" is on both sections @ 14'-8". From table 5B, row 3 in the 14 ft. wide column, the maximum span for one double bracket is 27'-2" =====> ok
- Anchor #5:** Same as anchor # 4, except for 6'-8" span.
- Anchor #6 & #7:** This span is on one section only. Therefore a single bracket may be used. From table 5B, row 1 in the 14 ft. wide column, the maximum span for a single bracket is 15'-0". Actual span is 13'-8" =====> single bracket is ok.

Figure 13: 10 TAC §80.55(f)(6)(D)

LONGITUDINAL TIES

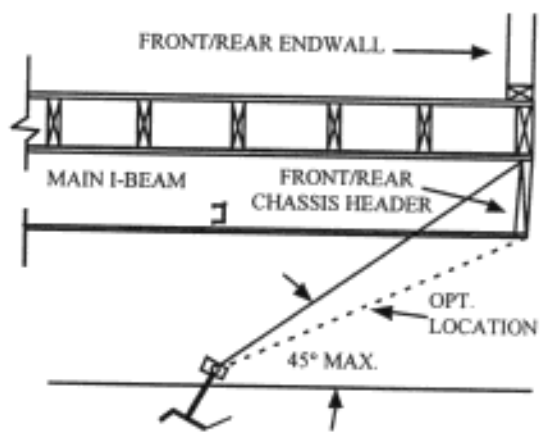
Figure 1



**Connection to cross member or spring hanger**

*Note: Strap must be within 3 inches of where the cross member attaches to the main I-Beam.*

Figure 2



**Connection to front/rear chassis header**

*Note: Strap must be within 12 inches of where the header member connects to the main I-Beam.*

**Figure 1: 10 TAC §80.56(a)(3)**

**MATING LINE SURFACES**

**Figure 56(a)**

Mating line surfaces are along the floor, up the front and rear endwalls and along the ceiling line.

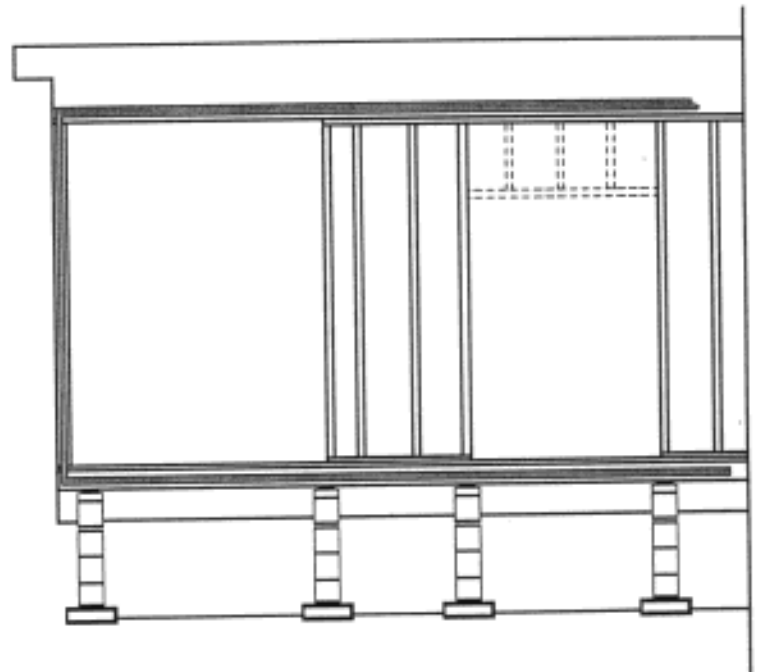


Figure 2: 10 TAC §80.56(b)(5)

**TABLE 6A: FLOOR CONNECTIONS - WIND ZONE I AND II**

	min 5/16 lag screw	# 10 wood screw
Wind Zone I	max. 36"	max. 24"
Wind Zone II	max. 24"	max. 12"

**FLOOR CONNECTIONS**

Figure 6A

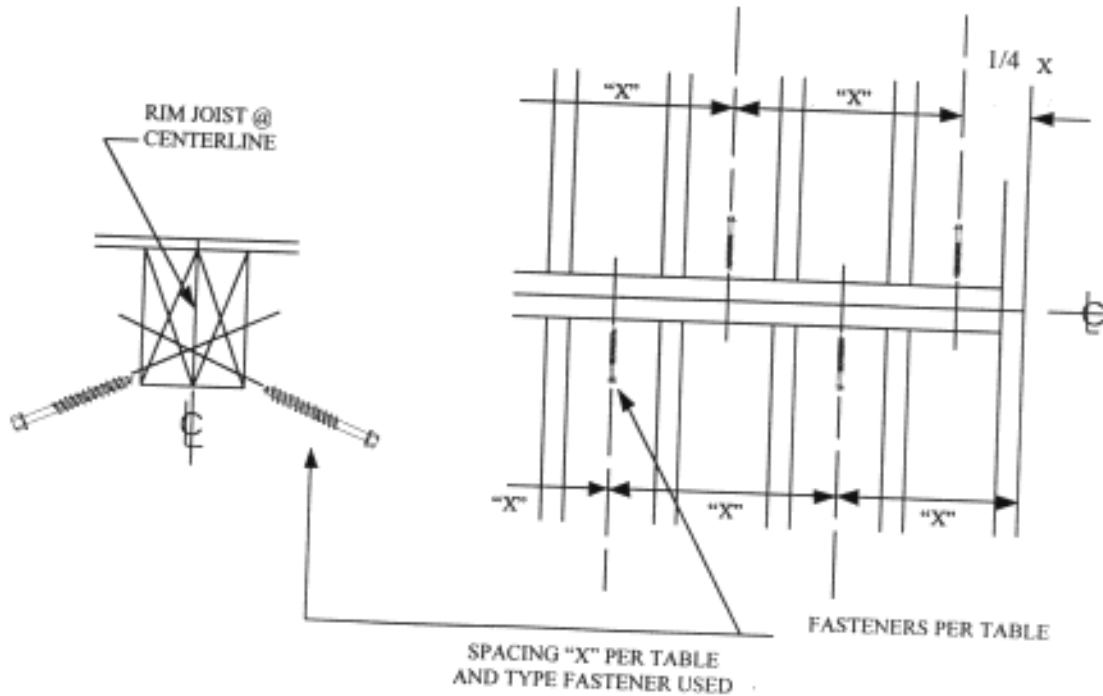


Figure 3: 10 TAC §80.56(c)(2)

**ENDWALL CONNECTIONS**

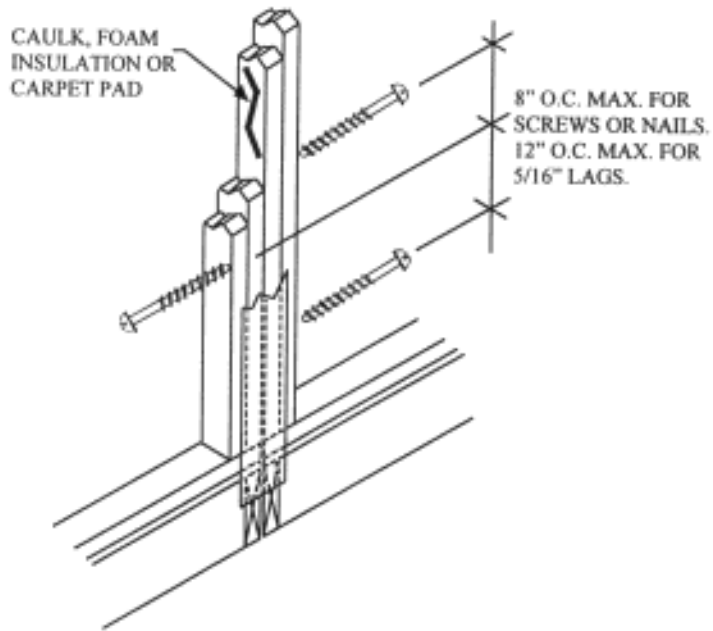


Figure 4: 10 TAC §80.56(d)(3)

TABLE 56(d)(3): ROOF CONNECTION - FASTENER TYPE AND SPACING

	----- maximum o.c. spacing (in) -----		
	3/8 Lag	1/4 Lag	#10 wood screw
Wind Zone I	36"	24"	24"
Wind Zone II	20"	16"	12"

Figure 5: 10 TAC §80.56(d)(4)

ROOF CONNECTION

Figure 56(6)(c)

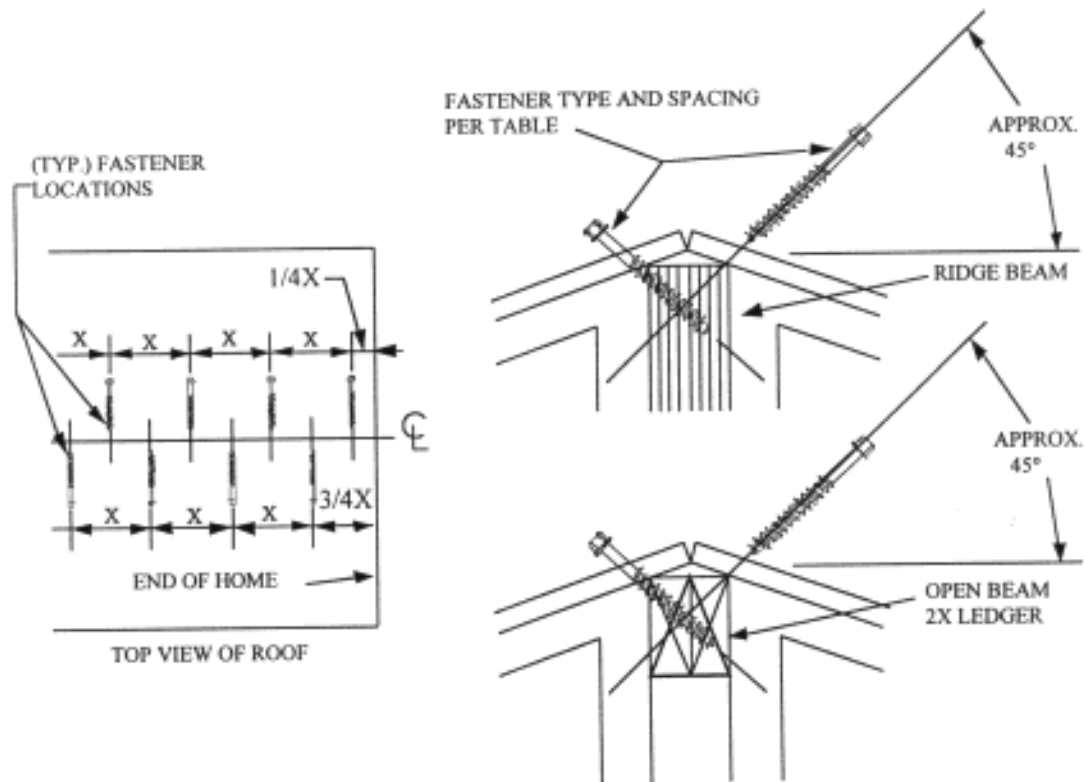


Figure 6: 10 TAC §80.56(e)(6)

**EXTERIOR ROOF CLOSE UP**

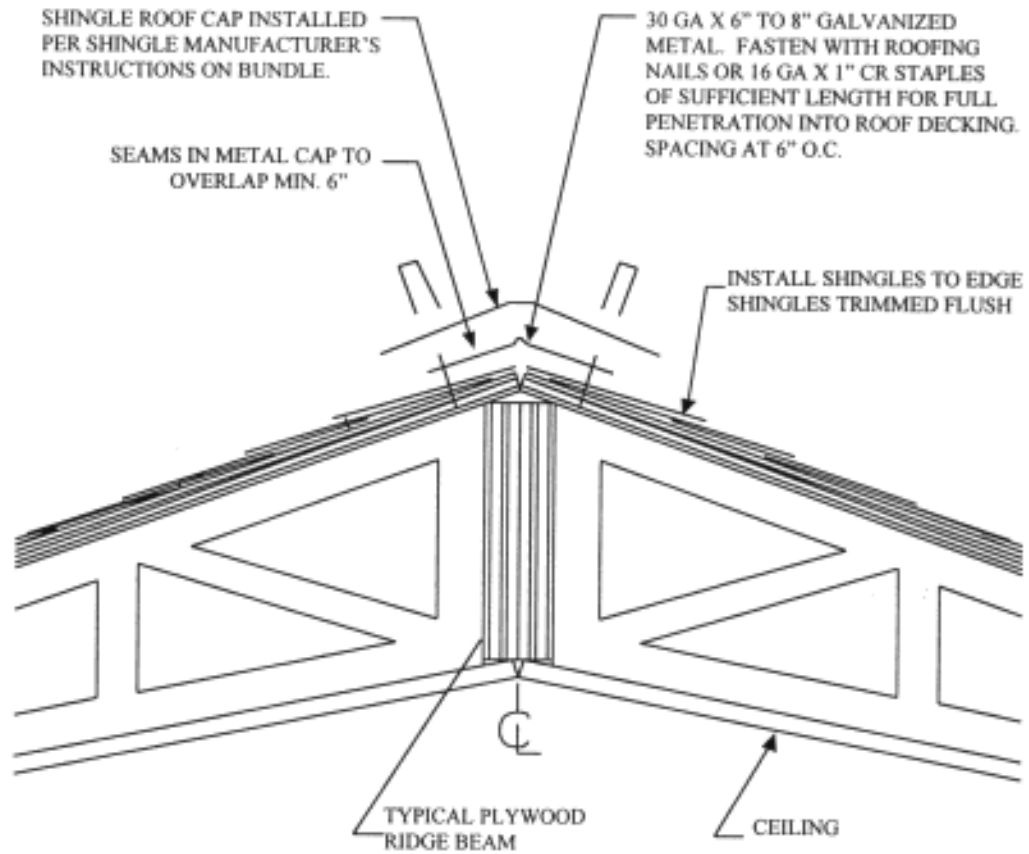




Figure 7: 10 TAC §80.56(g)(4)

**HVAC (HEAT/COOLING) DUCT CROSSOVER**

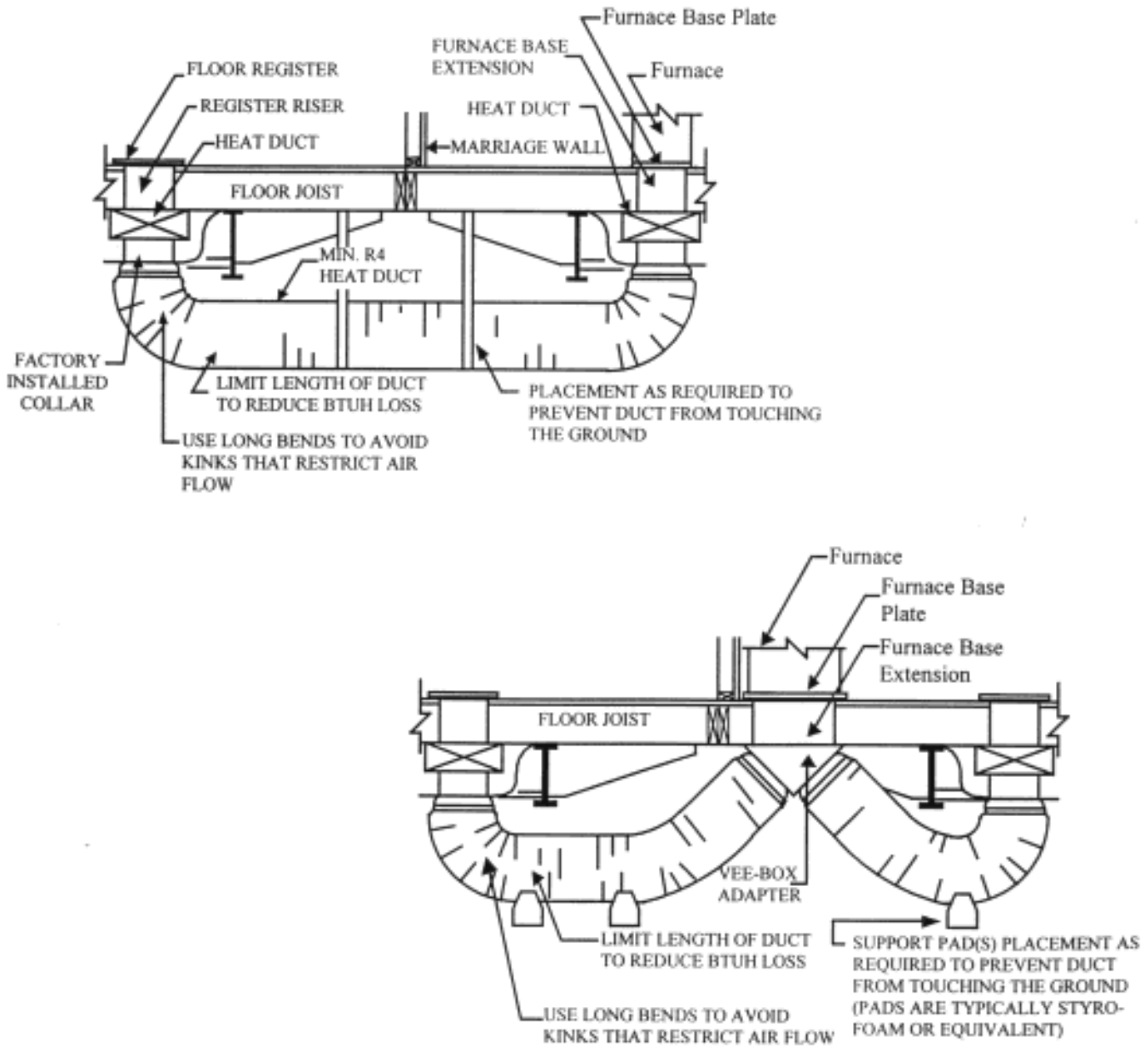


Figure 8: 10 TAC §80.56(h)(1)

**MULTI-SECTION WATER CROSSOVER CONNECTIONS**

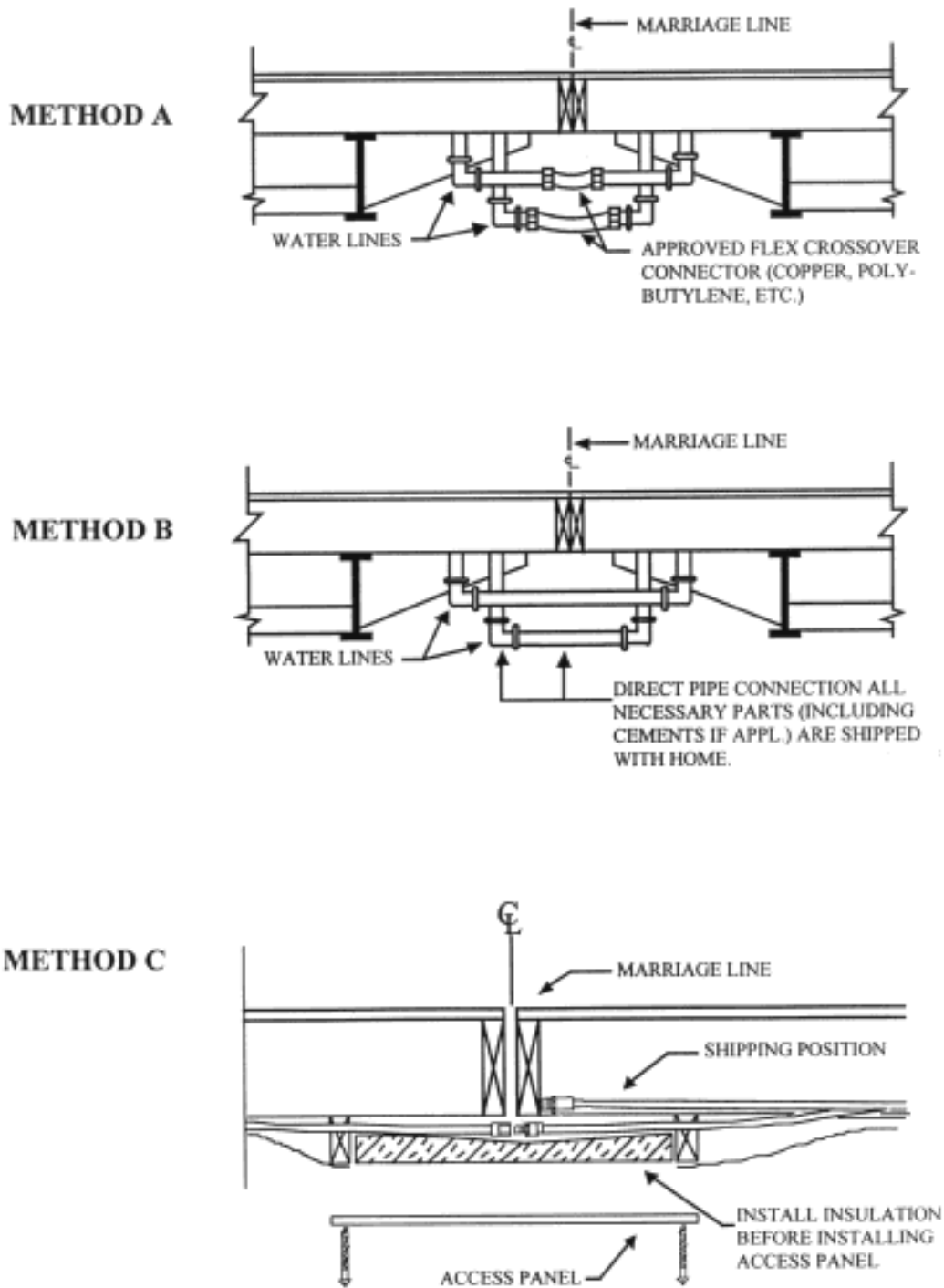


Figure 9: 10 TAC §80.56(i)(2)(F)

**DRAIN, WASTE AND VENT FLOOR PIPING SYSTEM**

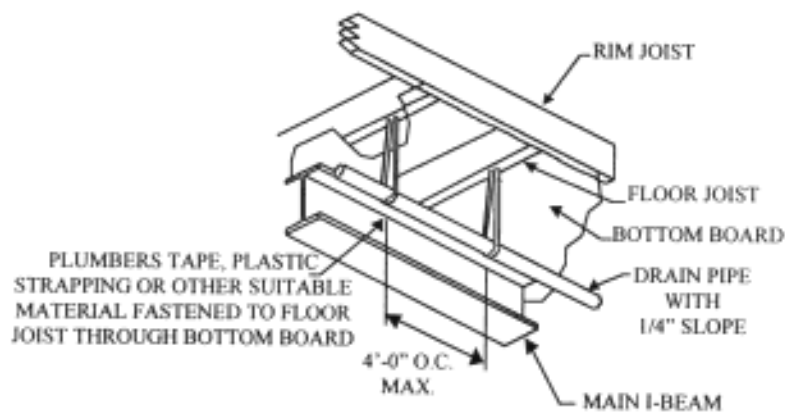
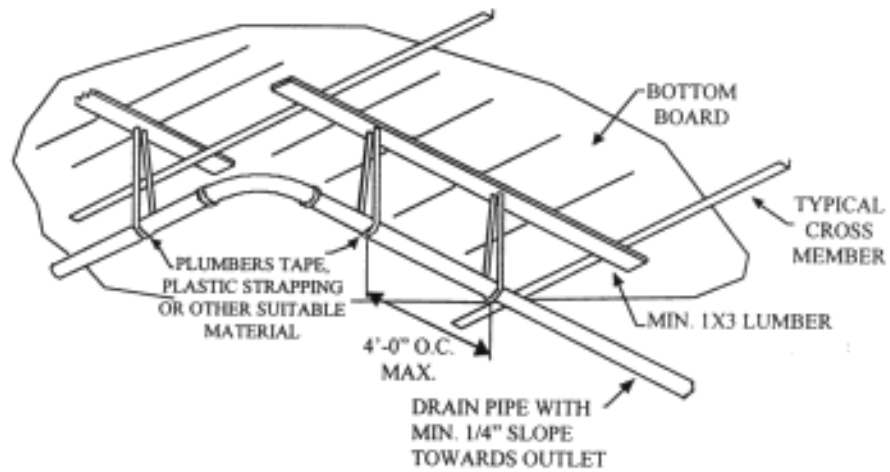
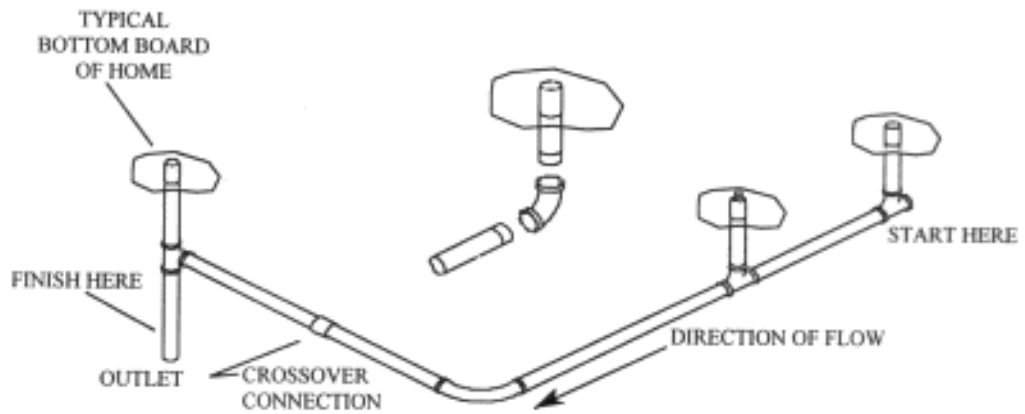
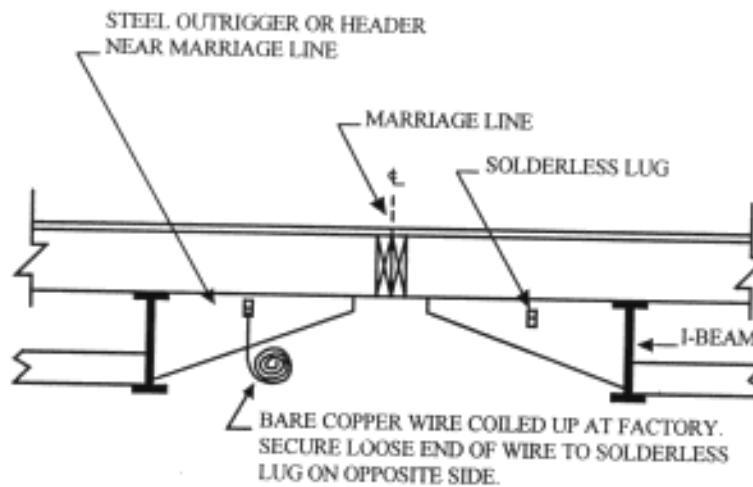


Figure 10: 10 TAC §80.56(j)(2)

CHASSIS BONDING

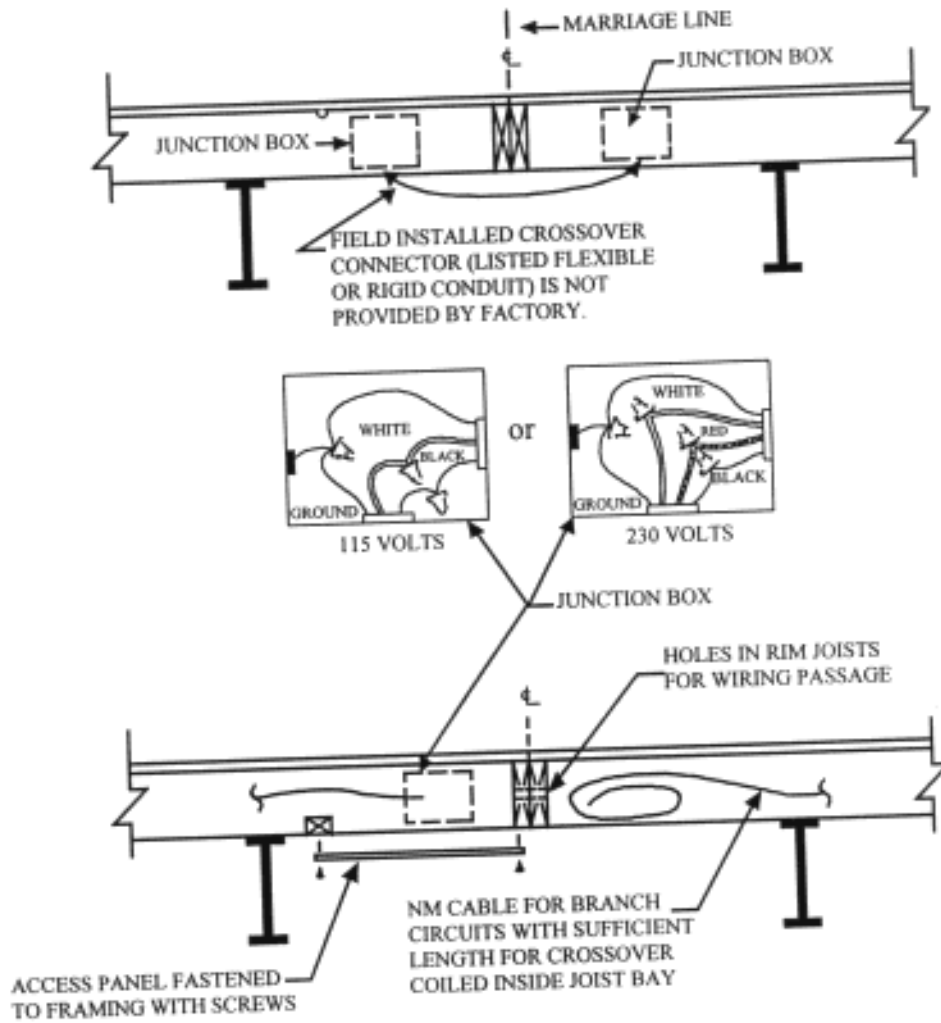
**BONDING**



NOTE:  
A 4" BONDING STRAP MAY BE USED INSTEAD OF COPPER WIRE BY ATTACHING THE STRAP TO BOTH UNITS WITH 2-#8X3/4" SELF-TAPPING METAL SCREWS ON EACH SIDE. BONDING STRAPS AND SCREWS FURNISHED BY THE MFR.

Figure 11: 10 TAC §80.56(j)(3)

### ELECTRICAL CROSSOVER



NOTE:  
ANY EXPOSED NM CABLE MUST BE PROTECTED BY  
CONDUIT AND INSTALLED IN ACCORDANCE WITH THE  
N.E.C.

Figure 12: 10 TAC §80.56(j)(6)

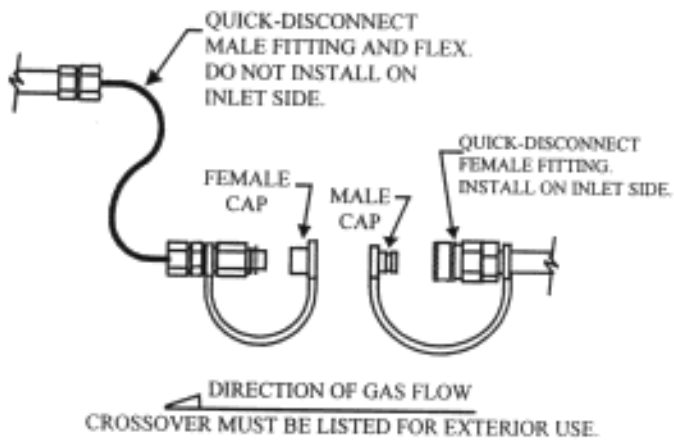
**MAIN PANEL BOX FEEDER CONDUCTOR SIZES**

<b>Main Breaker size (amps)</b>	<b>Raceway diameter</b>	<b>Red/Black (power)</b>	<b>White (neutral)</b>	<b>Green (grounding)</b>
50	1	#6	#6	#8
100	1 1/4	#2 or #3	#2 or #3	#6
150	1 1/2	#1/0 or #2/0	#2	#6
200	2	#3/0	#2	#6

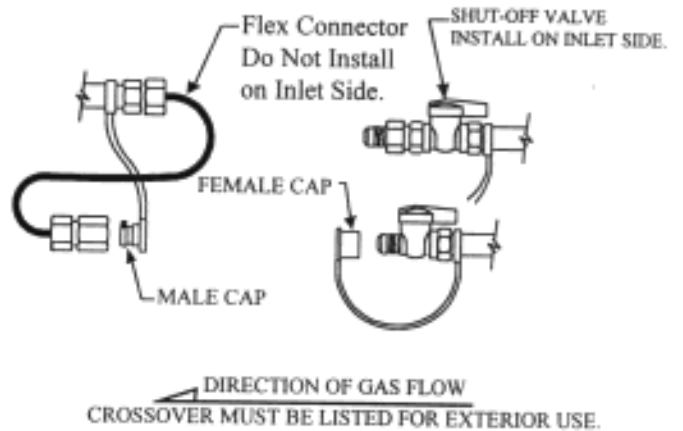
Figure 13: 10 TAC §80.56(k)(2)

**FUEL GAS PIPE CROSSOVER CONNECTIONS**

**Method A**



**Method B**



# OPEN MEETINGS

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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 before a scheduled meeting time. Some notices may be received too late to be published before the meeting is held, but all notices are published in the *Texas Register*.

**Emergency meetings and agendas.** Any of the governmental entities listed above must have notice of an emergency meeting, an emergency revision to an agenda, and the reason for such emergency posted for at least two hours before the meeting is convened. All emergency meeting notices filed by governmental agencies will be published.

**Posting of open meeting notices.** All notices are posted on the bulletin board at the main office of the Secretary of State in lobby of the James Earl Rudder Building, 1019 Brazos, Austin. These notices may contain a more detailed agenda than what is published in the *Texas Register*.

**Meeting Accessibility.** Under the Americans with Disabilities Act, an individual with a disability must have an equal opportunity for effective communication and participation in public meetings. Upon request, agencies must provide auxiliary aids and services, such as interpreters for the deaf and hearing impaired, readers, large print or braille documents. In determining type of auxiliary aid or service, agencies must give primary consideration to the individual's request. Those requesting auxiliary aids or services should notify the contact person listed on the meeting summary several days prior to the meeting by mail, telephone, or RELAY Texas (1-800-735-2989).

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## **Texas State Board of Public Accountancy**

Wednesday, May 13, 1998, 9:00 a.m.

333 Guadalupe Street, Tower III, Suite 900, Room 910

Austin

Major Case Enforcement Committee Meeting

AGENDA:

1. Possible Investigation
2. Discussion of file no. 98-01-64L.
3. Discussion of file no. 98-01-18.
4. Discussion of file no. 98-01-19L.
5. Discussion of file no. 98-01-17L.
6. Discussion of file no. 98-01-28L.
7. Review of March 6, 1998 Wall Street Journal.
8. Discussion of file no. 98-01-16L.
9. Discussion of file no. 98-01-21L.
10. Discussion of file no. 98-01-20L.
11. Discussion of file nos. 95-08-39L, 95-08-40L, 95-11-09L through 95-11-14L, and 96-03-06L
12. Discussion of file nos. 95-10-03L and 95-10-04L.  
Amendment to Consultant Contract
13. Discussion of file nos. 94-09-24L through 94-09-27L
14. Status Reports son Cases Pending. Major Case Summary.

Contact: Amanda G. Birrell, 333 Guadalupe, Tower III, Suite 900,  
Austin, Texas 78701-3900, (512) 305-7848.  
Filed: April 29, 1998, 11:43 a.m.

TRD-9806005



Wednesday, May 13, 1998, 1:00 p.m.

333 Guadalupe Street, Tower III, Suite 900, Room 950G

Austin

Rules Committee

AGENDA:

1. Revised Rule 505.10(e)(8)
2. Rule 501.47: firm names
3. Firm names; Mr. Kollmansberger
4. Revisions to Chapter 519

Contact: Amanda G. Birrell, 333 Guadalupe, Tower III, Suite 900,  
Austin, Texas 78701-3900, (512) 305-7848.

Filed: April 29, 1998, 11:43 a.m.

TRD-9806006



## **Texas Department on Aging**

Thursday, May 14, 1998, 8:30 a.m.

Texas Department on Aging (TDoA), 4900 North Lamar Boulevard,  
Room 1410

Austin

Board on Aging

REVISED AGENDA:

Consider and possibly act on: The following Item under H. Audit and Finance and Committee of the previously posted agenda should read-

Request for waiver from sanctions from Alamo Area Council of Governments;

Contact: Mary Sapp, P.O. Box 12786, Austin, Texas 78751, (512) 424-6840.

Filed: April 27, 1998, 10:47 a.m.

TRD-9805833



## **Texas Commission on Alcohol and Drug Abuse**

Tuesday, May 5, 1998, Noon

501 West Sanford Street, Conference Room A, Health and Human Services Building

Arlington

Regional Advisory Consortium, (RAC), Region 3

### **AGENDA:**

Call to order; welcome and introduction of guests; approval of minutes; comments on statewide services delivery plan; managed behavioral healthcare pilot project; old business; new business; overview of the RAC conveners meeting; public comment; and adjournment.

Contact: Heather Harris, 9001 North IH35, Suite 105, Austin, Texas 78753-5233, (512) 349-6669 or (800) 832-9623, extension 6669.

Filed: April 23, 1998, 3:33 p.m.

TRD-9805708



Friday, May 8, 1998, 1:30 p.m.

9001 North IH35, Suite 105, Hearing Room, Whitney Jordan Plaza

Austin

Regional Advisory Consortium, (RAC), Region 7

### **AGENDA:**

Call to order; welcome and introduction of guests; approval of minutes; old business; revisit RAC membership; new business; public comment; and adjournment.

Contact: Albert Ruiz, 9001 North IH35, Suite 105, Austin, Texas 78753-5233, (512) 349-6607 or (800) 832-9623, extension 6607.

Filed: April 24, 1998, 8:42 a.m.

TRD-9805723



## **Texas State Board of Barber Examiners**

Tuesday, May 5, 1998, 9:00 a.m.

333 Guadalupe, Tower 2, Fourth Floor, Room 400a,

Austin

### **AGENDA:**

Convene, Roll Call, Read and Possibly Approve Minutes of Board Meetings of February 3rd, March 2nd, and March 23rd, 1998.

Executive Session: Executive Session pursuant to §551.074, Texas Government Code

Interviewing candidates for the position of Executive Director.

Discussion of the employment, appointment and/or duties of an Executive Director

### **Open Session:**

Discussion and possible action concerning the employment, appointment and/or duties of an Executive Director, pursuant to §551.074, Texas Government Code.

Executive Director's Report on agency operations:

Progress Report on Agency Work Backlog. Deposit Figures and comparisons.

Progress Report on Inspector report status.

Report on upcoming due dates and report deadlines: Agency Strategic Plan 1999-2003, Information Resources Strategic Plan 1999-2003

Briefing on agency meeting with: House Appropriation Committee Analyst, Governor's Office of Budget and Planning Analyst, Legislative Budget Board Analysts.

The Board reserves the right to go into executive session on any posted agenda item as permitted by Government Code Chapter 551.

### **Adjournment**

Contact: Greg Williamson, 333 Guadalupe, Austin, Texas 78701, (512) 305-8475.

Filed: April 22, 1998, 4:32 p.m.

TRD-9805678



## **Texas School for the Blind and Visually Impaired**

Friday, May 1, 1998, Noon

4245 Office Parkway, Board of Trustees Room

Dallas

Board of Trustees, Subcommittee on Personnel

### **AGENDA:**

Consideration of Development of Superintendent's Goals and Objectives for 1998/1999.

Contact: Marjorie T. Heaton, 1100 West 45th Street, Austin, Texas 78756, (512) 206-9133.

Filed: April 27, 1998, 2:12 p.m.

TRD-9805887



## **Texas Cancer Council**

Tuesday, April 28, 1998, 3:15 p.m.

Red Lion Hotel, Butch Cassidy Room, 6121 North IH35 @ Highway 290

Austin

Executive Committee

### **EMERGENCY MEETING AGENDA:**

The Committee will discuss and possibly act on transfer of travel funds pending the approval from the Legislative Budget Board. Staff will update the Committee on the status of the current administrative budget. The Committee will then adjourn.

Persons planning to attend this meeting and requiring ADA assistance or accommodation, please contact Lisa Nelson at (512) 463-3190 five working days prior to meeting.

**REASON FOR EMERGENCY:** This emergency meeting provided by this notice is authorized by Tex. Gov't. Code Ann. §551.045(b)(2) and by §551.125 that authorizes meeting by telephone conference call when the convening at one location if a quorum is difficult or impossible. The Executive Committee must take immediate action to transfer funds from within the FY 1998 operating budget before May 1, 1998. The category from which the expenses are to be paid is insufficient to meet current financial obligations. The transfer is needed prior to May 1, 1998 in order to allow the agency to pay for outstanding and upcoming travel expenses. It was not reasonably foreseeable that the category within the fund would not be sufficient to pay these expenses until late in the afternoon of Thursday, April 23, 1998.

Contact: Mickey L. Jacobs, P.O. Box 12097, Austin, Texas 78711, (512) 463-3190.

Filed: April 28, 1998, 9:18 a.m.

TRD-9805929



## Texas Board of Chiropractic Examiners

Thursday, May 7, 1998, 9:00 a.m.

333 Guadalupe, Tower III, Suite 825

Austin

Technical Standards Committee

### AGENDA:

The Technical Standards Committee of the Texas Board of Chiropractic Examiners will meet on Thursday, May 7, 1998 at 9:00 to consider, discuss, take any appropriate action/or approve: D. 1. HVPG's Units for patients: Mike A. Benson, 2. Myopractic, 3. Dispensing of products to patients: Janie Duke, D.C., 4. Amendments to Texas Department of Health Radiologic Technologist Certification Program, 5. Objection or opinion on selling physical therapy equipment for home use: Joe W. Peeks, D.C., 6. Questionnaire on Manipulative and Physiological Therapeutics: Lester C. Lamm, D.C., 7. Injectables, 8. Selling of Nutritional Supplements; Paul C. Falgout, D.C., and general discussion regarding doctors of chiropractic involving themselves in multilevel marketing with patients, 9. Final Board determination regarding recent Attorney General opinion on acupuncture and injectable use of nutrients. 10. Board opinion and guidelines for appropriate training for Needle EMGs and MUAs. 11. Preceptor/Intern and taking x-rays: Karl L. Foster, D.C., 12. Chiropractic scope of practice: Peter Hoang, R. Ph., D.C.

Contact: Vera Gonzales, 333 Guadalupe, Tower III, Suite 825, Austin, Texas 78701, (512) 305-6702.

Filed: April 24, 1998, 8:02 a.m.

TRD-9805718



Thursday, May 7, 1998, 9:00 a.m.

333 Guadalupe, Tower III, Suite 825

Austin

Licensure and Educational Standards Committee

### AGENDA:

The Licensure and Educational Standards Committee of the Texas Board of Chiropractic Examiners will meet on Thursday, May 7, 1998 at 9:00 to consider, discuss, take any appropriate action/or approve: B. 1. Review of licensees who passed April 2, 1998 jurisprudence examination. 2. Revised jurisprudence examination. 3. Proposal to discontinue bulk-mailing of continuing education list. 4. Change in verbage for continuing education application. 5. Continuing education — License Renewal coordination. 6. Change in fee for continuing education sponsors, to charge per seminar. 7. Request to sit jurisprudence examination with felony conviction; Michael Goebel.

Contact: Joyce Kershner, 333 Guadalupe, Tower III, Suite 825, Austin, Texas 78701, (512) 305-6709.

Filed: April 24, 1998, 8:02 a.m.

TRD-9805716



Thursday, May 7, 1998, 10:00 a.m.

333 Guadalupe, Tower III, Suite 825

Austin

Enforcement Committee

### AGENDA:

The Enforcement Committee of the Texas Board of Chiropractic Examiners will meet on Thursday, May 7, 1998 at 10:00 a.m. to consider, discuss, take any appropriate action/or approve:

A.1. Schedule of sanctions, including administrative fines and penalties and Rule 75.10, 2. Acceptance of unsigned complaints and Worker's Compensation cases, 3. Year to date enforcement status.

Contact: Joyce Kershner, 333 Guadalupe, Tower III, Suite 825, Austin, Texas 78701, (512) 305-6709.

Filed: April 24, 1998, 8:02 a.m.

TRD-9805715



Thursday, May 7, 1998, 10:00 a.m.

333 Guadalupe, Tower III, Suite 825

Austin

Rules Committee

### AGENDA:

The Rules Committee of the Texas Board of Chiropractic Examiners will meet on Thursday, May 7, 1998 at 10:00 a.m. to consider, discuss, take any appropriate action/or approve:

1.

- a. Rule 78.1, Chiropractic Radiologic Technologists
- b. Rule 75.1, Grossly Unprofessional Conduct,
- c. Rule 73.4, Inactive Status
- d. Rule 75.10, Administrative Fines and Penalties
- e. Rules 73.2, 73.3, 73.5, Deadline for CE

2. Proposed new rules:

- a. Proper diligence and efficient practice of chiropractic
- b. Adjustment of Animals
- c. Needle Acupuncture.

3. Plan for Rules Review

4. Interpretation regarding release of records: Tom Verso, D.C.

Contact: Joyce Kershner, 333 Guadalupe, Tower III, Suite 825, Austin, Texas 78701, (512) 305-6709.

Filed: April 24, 1998, 8:02 a.m.

TRD-9805719



Thursday, May 7, 1998, 11:00 a.m.

333 Guadalupe, Tower III, Suite 825

Austin

Executive Committee

AGENDA:

The Executive Committee of the Texas Board of Chiropractic Examiners will meet on Thursday, May 7, 1998 at 11:00 a.m. to consider, discuss, take any appropriate action/or approve: C.1. Discussion on the Investigative Report about Chiropractic by Channel 11 in Dallas on Thursday evening, April 23, 1998.

Contact: Joyce Kershner, 333 Guadalupe, Tower III, Suite 825, Austin, Texas 78701, (512) 305-6709.

Filed: April 24, 1998, 8:02 a.m.

TRD-9805717



Thursday, May 7, 1998, 1:30 p.m.

333 Guadalupe, Tower III, Room 400-A

Austin

Board

AGENDA:

The Texas Board of Chiropractic Examiners will consider and act, if necessary, on matters within the jurisdiction of the agency which are listed on the complete agenda, as follows: Approval of minutes of last meeting. President's report. Report of Executive Director. Report of the Executive Director on administration, budget, internal policy and procedure, personnel and general information on licensees. A. Enforcement Committee: 1. Schedule of sanctions, including administrative fines and penalties and Rule 75.10. 2. Acceptance of unsigned complaints and Worker's Compensation cases. 3. Year to date enforcement status. B. Licensure and Educational Standards Committee: 1. Review of licensees who passed April 2, 1998 jurisprudence examination. 2. Revised jurisprudence examination. 3. Proposal to discontinue bulk-mailing of continuing education list. 4. Change in verbage for continuing education application. 5. Continuing Education — License Renewal Coordination. 6. Change in fee for continuing education sponsors, to charge per seminar. 7. Request to sit jurisprudence examination with felony conviction: Michael Goebel. C. Executive Committee: 1. Discussion on the Investigative Report about Chiropractic by Channel 11 in Dallas on Thursday evening, April 23, 1998. D. Technical Standards Committee: 1. HVPG's Units for patients: Mike A. Benson. 2. Myopractic. 3. Dispensing of product to patients: Janie Duke, D.C. 4. Amendments to Texas Department of Health Radiologic Technologist Certification Program. 5. Objection or opinion on selling physical therapy equipment for home use: Joe W. Peeks, D.C. 6. Questionnaire on manipulative and physiological therapeutics: Lester C. Lamm, D.C. 7. Injectables 8. Selling of nutritional supplements: Paul C. Falgout, D.C. and multilevel marketing with patients by chiropractors. 9. Final Board

determination regarding recent Attorney General opinion on acupuncture and injectable use of nutrients, 10. Board opinion and guidelines for appropriate training for Needle EMG and MUA. 11. Preceptor/ Intern and taking x-rays: Karl L. Foster, D.C., 12. Chiropractic scope of practice: Peter Hoang, R. Ph., D.C. E. Rules Committee: 1. e. Rules 73.2, 73.3, 73.5, Deadline for CE 2. Proposed New Rules: a. Proper diligence and efficient practice of chiropractic b. Adjustment of animals c. Needle acupuncture 3. Plan for Rules Review 4. Interpretation regarding release of records: Tom Verso, D.C. Open forum for licensees or the general public to address the Board. Items to be discussed for future agenda. The Board may meet from time to time in Executive Session with respect to the above items authorized by the Texas Open Meetings Act, Chapter 551 of the Government Code. Adjournment.

Contact: Joyce Kershner, 333 Guadalupe, Tower III, Suite 825, Austin, Texas 78701, (512) 305-6709.

Filed: April 24, 1998, 8:02 a.m.

TRD-9805720



## Comptroller of Public Accounts

Thursday, May 7, 1998, 11:00 a.m..

200 East 10th Street, Room 227, Rusk Building

Austin

TexPool Advisory Board

AGENDA:

I. Call to Order

II. Discussion and Approval of Minutes

III. Update on Administration of TexPool by Texas Commerce Bank/ First Southwest Asset Management, Inc.

IV. Staff Briefing on TexPool Investments

V. Staff Briefing on TexPool Operations

VI. Discussion of Agenda, meeting dates and times for future Board Meetings

VII. Adjournment

Contact: Steve Garven, 200 East 10th Street, Austin, Texas 78701, (512) 463-5931.

Filed: April 28, 1998, 1:13 p.m.

TRD-9805943



## Texas Cosmetology Commission

Monday, April 27, 1998, 10:00 a.m.

9100 Gulf Freeway, (Radisson — Hobby Airport)

Houston

EMERGENCY REVISED AGENDA:

Discussion of NIC By-Laws and Possible Vote.

REASON FOR EMERGENCY: Agenda item needs posting to vote on by-laws prior to N.I.C. conference deadline.

Contact: Catherine Nahay, 5717 Balcones Drive, Austin, Texas 78755-0700, (512) 454-4674.

Filed: April 22, 1998, 4:21 p.m.

TRD-9805677



### Office of Court Administration

Thursday, May 14, 1998, 10:00 a.m., rescheduled from 10:00 p.m.

State Capitol Extension Room E2.020

Austin

Texas Judicial Council Committee on Visiting and Retired Judges

#### REVISED AGENDA:

- I. Commencement of Meeting- Chief Justice John Cayce
- II. Attendance of Members
- III. Adoption of Minutes of March 27, 1998 Meeting
- IV. Overview of Issues to be Discussed by Committee
- V. Discussion and Vote on Committee's Legislative Recommendations to Judicial Council
- VI. Other Business
- VII. Adjourn.

Contact: Amy Chamberlain, P.O. Box 12066, Austin, Texas 78711-2066, (512) 463-1625.

Filed: April 24, 1998, 9:15 a.m.

TRD-9805728



Tuesday, May 19, 1998, 1:00 p.m.

1515 Young Street, East Room, Dallas City Library  
Dallas

Texas Judicial Council Committee on Court Records

#### AGENDA:

- I. Commencement of Meeting — Judge Mike Wood
- II. Attendance of Members
- III. Opening Remarks and Committee Update
- IV. Committee Discussion of Public Access to Court Records
- V. Public Testimony
- VI. Other Business
- VII. Adjourn

Contact: Amy Chamberlain, P.O. Box 12066; Austin, Texas 78711-2066, (512) 463-1625.

Filed: April 29, 1998, 11:57 a.m.

TRD-9806010



### State Board of Dental Examiners

Friday, May 15, 1998, 10:00 a.m.

SBDE Offices — Conference room, 333 Guadalupe, Tower 3, Suite 800

Austin

Dental Laboratory Certification Council

#### AGENDA:

- I. Call to Order
- II. Roll Call
- III. Review and Approval of Past Minutes
- IV. Dental Laboratory Association of Texas (DLAT) Appearance before the Committee to Discuss DLAT Legislative Issues
- V. Discuss Proposing Legislative Amendments to the Dental Practice Act
- VI. Discuss and Consider Dental Laboratory Application and Registration Fees
- VII. Discuss and Consider Conducting On-Site Office Evaluations for Newly Registered Dental Laboratories
- VIII. Discuss and Review Status of Laboratory Complaints for First and Second Quarter.
- IX. Discuss and Review DLCC Budget
- X. Public Comments
- XI. Announcements
- XII. Adjourn

Contact: Mei Ling Clendennen, 333 Guadalupe Street, Tower 3, Suite 800, Austin, Texas 78701, (512) 453-6400.

Filed: April 28, 1998, 8:24 a.m.

TRD-9805925



Saturday, May 23, 1998, 10:00 a.m.

SBDE Offices, 333 Guadalupe, Tower 3, Suite 800  
Austin

Anesthesia Rules Review Committee

#### AGENDA:

- I. Call to Order
- II. Roll Call
- III. Review and Approval of Past Minutes
- IV. Discuss, Review, and Consider Proposing Amendments to Anesthesia Rules 109.171, 109.172, 109.173, 109.174, 109.175.
- V. Announcements
- VI. Adjourn

Contact: Mei Ling Clendennen, 333 Guadalupe Street, Tower 3, Suite 800, Austin, Texas 78701, (512) 453-6400.

Filed: April 28, 1998, 1:58 p.m.

TRD-9805950



### Texas Planning Council for Developmental Disabilities

Friday, May 15, 1998, 9:30 a.m.

Brown School Rehabilitation Center, 1106 W. Dittmar Road

Austin

Traumatic Brain Injury Advisory Board

AGENDA:

9:30 a.m. — Call to Order

I. Welcome, Introductions, Approval of Minutes

II. Needs Assessment Activities

III. Public Input Meetings Review and Interim Report

IV. Educational Presentation by T.E.A.

V. Policy Analysis Activities

VI. State Plan Work Groups and Activities

VII. Review and Planning for Second Year Non-Competing Grant Cycle

4:30 p.m. — Adjourn.

Persons planning to attend the meeting and requiring ADA assistance, are requested to contact Sandra Knutson at (972) 726-7790.

Contact: Sandra Knutson, 16209 Dalmaley Lane, Dallas, Texas 75248, (972) 726-7790.

Filed: April 28, 1998, 8:17 a.m.

TRD-9805924



**Texas Education Agency (TEA)**

Thursday, May 7, 1998, 11:00 a.m.

Room 1-111, William B. Travis Building, 1701 North Congress Avenue

Austin

State Board of Education (SBOE) Committee on Planning

REVISED AGENDA:

The agenda has been revised by the addition of a new action item entitled "Proposed Action to Consider an Additional Cycle of Applications for Open-Enrollment Charter Schools, the Process of Review of the Applications, and the Schedule to Follow for the Next Cycle." There are no other changes to the agenda as originally posted and as follows: Public testimony; Proposed amendment to 19 TAC §157.41, Certification Criteria for Independent Hearing Examiners; Review of indicators reported through the Academic Excellence Indicator System; Update on approved open-enrollment charter schools and request for approval of charter amendments; Recommendation for appointment to the Boys Ranch Independent School District Board of trustees; Discussion of ongoing communication activities; Discussion of federal governmental relations activities; Status report on the accreditation interventions, and sanctions of school districts; Proposed Selection of Additional Open-Enrollment Charter Schools.

Contact: Criss Cloudt, 1701 North Congress Avenue, Austin, Texas (512) 463-9701

Filed: April 27, 1998, 7:47 a.m.

TRD-9805815



Friday, May 8, 1998, 9:00 a.m.

Room 1-104, William B. Travis Building, 1701 North Congress Avenue

Austin

State Board of Education (SBOE)

REVISED AGENDA:

The agenda has been revised by the addition of a new action item entitled "Proposed Action to Consider an Additional Cycle of Applications for Open-Enrollment Charter Schools, the Process of Review of the Applications, and the Schedule to Follow for the Next Cycle." There are no other changes to the agenda as originally posted and as follows: Invocation; Pledge of Allegiance; Roll Call; Approval of March 6, 1998 SBOE minutes; Public testimony; Heroes for Children — SBOE districts 4,5,6,7,8 and 9; Resolutions of the SBOE; First Quarter 1998 PSF Investment Managers' Performance Report; Consideration of the Petition for Redress of Grievance by Unsuccessful Open-Enrollment Charter School Applicants; Proposed amendments to 19 TAC Chapter 74, Curriculum Requirements; Proposed repeal of 19 TAC Chapter 75; Curriculum, Subchapter B, Essential Elements— Prekindergarten-Grade 6, Subchapter C, Essential Elements — Grades 7-8, and Subchapter D, Essential Elements — Grades 9-12; Proposed new 19 TAC §114.27, American Sign Language, Levels I and II, §114.28, American Sign Language, Levels III and IV, and §114.29, American Sign Language, Levels V, VI, and VII; Approval of the Procedures Concerning Dyslexia and Related Disorders; Proposed approval of innovative courses; Proposed revisions to the academic achievement record; Proposed amendment to 19 TAC §157.41, Certification Criteria for Independent Hearing Examiners; Review of indicators reported through the Academic Excellence Indicator System; Update on approved open-enrollment charter schools and request for approval of charter amendments; Recommendation for appointment to the Boys Ranch ISD board of Trustees; Proposed Selection of Additional Open-Enrollment charter Schools; Proposed amendments to 19 TAC §66.107, Local Accountability; Proposed new 19 TAC §109.25, State Compensatory Education Program Reporting and Auditing System; Proposed repeal of 19 TAC §53.1, Board of Directors (relating to regional education service centers); Proposed repeal of 19 TAC Chapter 61, School Districts, Subchapter B, School Facility Standards; Report on back ordered instructional materials and recommendations for penalties; Proposed amendments to 19 TAC Chapter 33, Statement of Investment Objectives, Policies and Guidelines of the Texas Permanent School Fund; Ratification of the purchases and sales to the investment portfolio of the PSF for the months of February and March 1998; Information on agency administration.

Contact: Criss Cloudt, 1701 North Congress Avenue, Austin, Texas (512) 463-9701

Filed: April 27, 1998, 7:47 a.m.

TRD-9805816



Wednesday, May 13, 1998, 10:00 a.m.

Room 1-109, 1701 North Congress Avenue

Austin

Texas Ed-Flex Committee

AGENDA:

This is a regular meeting of the Texas Ed-Flex Committee. The agenda is as follows: (1) call to order; (2) approval of minutes; (3) recommendations on specific district and campus waiver requests; (4) discussion of Ed-Flex evaluation for 1996-1997 and 1997-1998; (5) status report; and (6) adjournment.

Contact: Madeleine Draeger Manigold, 1701 North Congress Avenue, Austin, Texas 78701, (512) 463-9077.

Filed: April 29, 1998, 8:52 a.m.

TRD-9805971.



### **State Employee Charitable Campaign**

Thursday, May 7, 1998, 10:00 a.m.

United Way of Lubbock, Board Room, 2201 19th Street  
Lubbock

Local Employee Committee, Lubbock

AGENDA:

Approval of Minutes — April 23, 1998 — Jim Bob Jones

Local Appeals Reviewed by SPC (if applicable) — Jim Bob Jones

1998 Campaign Planning — Committee

Contact: Jami Pltts, 2201 19th Street, Lubbock, Texas 79401, (806) 747-2711.

Filed: April 24, 1998, 12:10 p.m.

TRD-9805747



### **Texas Energy Coordination Council (TECC)**

Thursday, May 7, 1998, 10:00 a.m.

1200 Congress Avenue, Capitol Extension Room E1.012

Austin

Council

AGENDA:

I. Call to Order and Verification of a Quorum

II. Introductions- Council Members, and guests

III. Consideration of and formal action on TECC Minutes of January 14, 1998 and March 24, 1998

IV. Receive TECC Interim Director's Report including discussion and possible action on:

— TECC Budget

—TECC Strategic Plan

—TECC Request for Comments as published in April 3, 1998 Texas Register

—TECC-charged Senate Study on "Market-based Methods of Providing Renewable Energy and Energy Efficiency Programs"

V. Receive Texas Building Energy Institute (TBEI) report from Director

VI. Receive performance Contracting Guidelines report from TBEI Director, discussion and possible action on Guidelines

VII. Receive update and status report from Mr. Kelso King on Senate Study: "Market-based Methods of Providing Renewable Energy and Energy Efficiency Programs"

VIII. Discussion and possible action on Senate Interim Committee on Electric Utility Restructuring Study: "Market-based Methods of Providing Renewable Energy and Energy Efficiency Programs"

• Receive invited presentations relating to Senate Interim Committee on Electric Utility Restructuring Study: "Market-based Methods of Providing Renewable Energy and Energy Efficiency Programs"

• Council discussion and possible action concerning the presentations

• Opportunity for public comments concerning the Senate Interim Committee on Electric Utility Restructuring Study: "Market-based Methods of Providing Renewable Energy and Energy Efficiency Programs"

• Council discussion and possible action concerning the public comments

• Council discussion and possible action concerning the resources available to facilitate the assigned Senate Interim Committee on Electric Utility Restructuring Study: "Market-based Methods of Providing Renewable Energy and Energy Efficiency Programs"

IX. Recommendations for Agenda Items for next meeting.

X. Set next meeting date and site

XI. Adjourn.

Contact: Jerry Matthews, TECC Interim Director, (512) 475-6774.

Filed: April 29, 1998, 10:10 a.m.

TRD-9805987



### **Texas Ethics Commission**

Friday, May 8, 1998, 9:30 a.m.

Capitol Extension, Room E1.010

Austin

AGENDA:

The commission will take roll call; hear comments by the commissioners and the executive director, and communications from the public; approve the minutes of the April 17, 1998 meeting; briefing, discussion, and possible action to waive certain fines assessed for late filing of campaign finance reports, lobby reports, or personal financial statements; discussion and possible action in response to Advisory Opinion Request No. 438; Adjourn.

Contact: Tom Harrison, 201 East 14th Street, Austin, Texas 78701, (512) 463-5800.

Filed: April 29, 1998, 11:07 a.m.

TRD-9806003



### **Texas Funeral Service Commission**

Monday, May 4, 1998, 10:00 a.m.

510 South Congress, Suite 206

Finance Review Committee

AGENDA:

I. Convene, Chairman, Dr. John Q. Taylor King

II. Review and Discussion of 1998 Fiscal Year Budget

III. Adjourn.

Contact: Eliza May, 510 South Congress Avenue, Suite 206, Austin, Texas 78704-1716, (512) 479-7222.

Filed: April 24, 1998, 3:13 p.m.

TRD-9805775



Monday, May 4, 1998, 11:00 a.m.

510 South Congress, Suite 206  
Reciprocal Licensure Committee

AGENDA:

- I. Convene, Chair, Robert Duncan
- II. Review and Discussion on Audit Finding regarding Reciprocation
- III. Discussion and Possible Action on Reciprocal Applications From:
  1. Derrick Gunn (Pending Texas State Law Exam Results)
  2. Will Traxson (Pending Texas State Law Exam Results)
  3. Kimberly Sabella (Pending Texas State Law Exam Results)
  4. Rodney Molitor (Reciprocating From a Non-Licensing State)
  5. Brandy Molitor (Reciprocating From a Non-Licensing State)
  6. Timothy Paul Kolotyliuk (Needs to go to an Accredited School)
- IV. Other Business
- V. Public Comment
- VI. Adjourn

Contact: Eliza May, 510 South Congress Avenue, Suite 206, Austin, Texas 78704-1716, (512) 479-7222.  
Filed: April 24, 1998, 3:13 p.m.

TRD-9805776



Monday, May 4, 1998, 1:30 p.m.

510 South Congress, Suite 206

Rules Committee

AGENDA:

1. Convene, Chair, Kenneth Hughes
2. Review and Discussion on Attorney General Letter Opinion No. 98-014 on the issue of whether the Texas Funeral Service Commission may by rule exempt a funeral establishment from the requirement of having an embalming preparation room, and the requirements of Article 4582b, Texas Civil Statutes, §4(c).
3. Review and Discussion on proposed amendment to rule 203.17(b) and (c), clarification of other facilities necessary in a preparation room (delete)
4. Review and Discussion on rule 203.15, requirements for reciprocal licenses.
5. Review and Discussion on rule 203.6, provisional licensees.
6. Review and Discussion on proposed rule regarding chapels.
7. Review and Discussion on rule 201.7, allegations and investigations.
8. Discussion and possible action on recommendations to full commission for adoption in the May 7th commission meeting.
9. Other business
10. Public comment.
11. Adjourn.

Contact: Eliza May, 510 South Congress Avenue, Suite 206, Austin, Texas 78704-1716, (512) 479-7222.  
Filed: April 24, 1998, 3:13 p.m.

TRD-9805777



Monday, May 4, 1998, 4:00 p.m.

510 South Congress, Suite 206

Education and Evaluation Committee

AGENDA:

1. Convene, Chairman, Robert Duncan
2. Adoption of the January 26, 1998 meeting minutes
3. Discussion and possible action on adoption of amendments to Texas Funeral Service Commission rule 203.30.
4. Other business
5. Public comment
6. Adjourn

Contact: Eliza May, 510 South Congress Avenue, Suite 206, Austin, Texas 78704-1716, (512) 479-7222.

Filed: April 24, 1998, 3:13 p.m.

TRD-9805779



Monday, May 4, 1998, 4:00 p.m.

510 South Congress, Suite 206

Ad-Hoc Committee

AGENDA:

1. Convene, Chairman, Kenneth Hughes
2. Discussion and possible action on review of agency rules in accordance with the Appropriations Act, §167.
3. Adjourn.

Contact: Eliza May, 510 South Congress Avenue, Suite 206, Austin, Texas 78704-1716, (512) 479-7222.

Filed: April 24, 1998, 3:13 p.m.

TRD-9805778



Tuesday, May 5, 1998, 9:00 a.m.

510 South Congress, Suite 206

Complaint Review Committee

AGENDA:

- I. Convene, Leo Metcalf, III, Chair.
- II. Discussion and possible action concerning cases listed in this notice: 1. TFSC Case No. 98-030 (Informal Conference 9:00 — 9:45) 2. TFSC Case No 97-160 (Informal Conference 9:45-10:30) 3. TFSC Case No. 98-045 (Informal Conference 10:30-11:15) 4. TFSC Case Nos. 96-148, 96-196, 96-201, 97-108, 97-110, 98-026 (Informal Conference 11:15 — noon) 5. TFSC Case No. 97-006 and 97-066. 6. TFSC Case No. 97-089. 7. TFSC Case No. 97-132, 8. TFSC Case No. 97-141. 9. TFSC Case No. 97-151. 10. TFSC Case No. 97-168. 11. TFSC Case No. 98-014. 12. TFSC Case No. 98-020. 13. TFSC Case No. 98-022. 14. TFSC Case No. 98-024. 15. TFSC Case No. 98-027. 16. TFSC Case No. 98-029. 17. TFSC Case No. 98-037. 18. TFSC Case No. 98-043. 19. TFSC Case No. 98-047. 20. TFSC Case No. 98-050. 21. TFSC Case No.



98-052. 22. TFSC Case No. 98-054. 23. TFSC Case No. 98-058. 24. TFSC Case No. 98-068. 25. TFSC Case No. 98-073. 26. TFSC Case No. 98-076. 27. TFSC Case No. 98-081. 28. TFSC Case No. 98-087. 29. TFSC Case No. 98-090. 30. TFSC Case No. 98-093. 31. TFSC Case No. 98-095. 32. TFSC Case No. 98-101. 33. TFSC Case No. 98-107. 34. TFSC Case No. 98-104. 35. TFSC Case No. 98-108. 36. TFSC Case No. 98-109. 37. TFSC Case No. 98-110.

### III. Adjourn

Contact: Eliza May, 510 South Congress Avenue, Suite 206, Austin, Texas 78704-1716, (512) 479-7222.

Filed: April 24, 1998, 3:13 p.m.

TRD-9805780



Wednesday, May 6, 1998, 8:30 a.m.

Omni Austin Hotel Southpark

4140 Governor's Row

Exit Interviews

#### AGENDA:

I. Convene, Chair, Robert Duncan

II. Funeral Director and Embalmer Exit Exams for the following eligible provisional licensees: 1. Ayala, Teresa — FD/EMB, 2. Bauman, Dwayne, FD, 3. Bean, Billy — FD/EMB, 4. Beaty, Jason, FD/EMB, 5. Blackwell, Edward, DF/EMB, 6. Boling, Edward, FD/EMB, 7. Boyd, Patricia — FD/EMB, 8. Brooks, Everett — FD, 9. Brooks, Otis — FD, 10. Brown, Martin — FD/EMB, 11. Cantu, Carmelo — FD, 12. Castro, Hilda — FD/EMB, 13. Chennault, James — FD, 14. Clark, Scott — FD/EMB, 15. Conley, James — FD/EMB, 16. Conley, Brad — FD/EMB, 17. Crofts, Jennifer — FD/EMB, 18. Ewan, Vernon — FD/EMB, 19. Gardner, Roy — FD/EMB, 20. Gonzalez, Norman — FD/EMB, 21. Greathouse, Ray — FD/EMB, 22. Griffin, Anthony — FD/EMB, 23. Huff-Bankston, Gwendolyn — FD/EMB, 24. Husband, Patrick- FD/EMB 25. Incardona, Kyle — FD/EMB, 26. Levy, Ina — FD/EMB 27. Lindsey, Andre — FD/EMB 28. Loera, George — FD/EMB, 29. Marek, Kristy — FD/EMB 30. McGehee, Bettye — FD, 31. Meizler, Paul — EMB 32. Michael, Timothy — FD/EMB 33. Mims, Joyce — FD/EMB 34. Mitchell, Craig — FD 35. Munoz, Rene — FD 36. Pate, Thomas — FD/EMB 37. Price, Christine — FD 38. Ramirez, Michelle — FD, 39. Ruiz-Sada, Edgar — FD/EMB, 40. Sanders, Robert — RD/EMB, 41. Sawyer, Greg — FD 42. Simmons, Calvin — FD 43. Tolliver, William — FD/EMB 44. Valdez, Ida — FD, 45. Watson, Ed — FD/EMB, 46. Weaver, Jeremy — FD/EMB, 47. Welch, Stephen — FD/EMB, 48. Whatley, George — FD/EMB

### III. Adjourn

Contact: Eliza May, 510 South Congress Avenue, Suite 206, Austin, Texas 78704-1716, (512) 479-7222.

Filed: April 24, 1998, 3:13 p.m.

TRD-9805781



Wednesday, May 6, 1998, 3:00 p.m.

510 South Congress, Suite 206

Personnel, Policies, and Employee Grievance Committee

#### AGENDA:

1. Convene, Chair, Patricia Keegan

2. Public Comment

3. Executive Session: pursuant to the Texas Government Code, §551.074 for discussion of any employee grievances, complaints, or other personnel matters.

4. Return to Open Session; discussion and possible action concerning employee grievances, complaints or other personnel matters discussed in executive session

5. Adjourn

Contact: Eliza May, 510 South Congress Avenue, Suite 206, Austin, Texas 78704-1716, (512) 479-7222.

Filed: April 24, 1998, 3:13 p.m.

TRD-9805782



Thursday, May 7, 1998, 9:00 a.m.

510 South Congress, Suite 206

#### AGENDA:

1. Convene, Chairman, Dick McNeil 2. Adoption of the January 29th 1998 Commission meeting minutes. 3. Public comment 4. Chairman's report, discussion and possible action 5. Executive director's report and discussion 6. Presentation on 1998 management control audit, Office of the State Auditor, Susan Driver 7. Discussion and possible action on Database Design Vendors: Blade, MSI and DIR 8. Discussion and possible action on a petition by Smith Memorial for an exemption regarding the location of retained records as provided by 22 TAC, §203.23(b) of the Commission rules 9. Discussion and possible action on final adoption of amendments to Texas Funeral Service Commission rule 203.30, Continuing Education as a Condition for License Renewal 10. Discussion and possible action on proposed adoption of amendments to Texas Funeral Service Commission rule 201.18, Charges for Providing Copies of Public Information (delete and substitute) 11. Review and discussion on Attorney General Letter Opinion No. 98-014 on the issue of whether the Texas Funeral Service Commission may by rule exempt a funeral establishment from the requirement of having an embalming preparation room, and the requirements of Article 4582b, Texas Civil Statutes, §4(c). 12. Discussion and possible action on reports from the following Committees: (A) Rules Committee (B) Complaint Review Committee (C) Education and Evaluation Committee (D) Reciprocal Licensure Committee (E) Personnel, Policies and Employee Grievance Committee (F) Ad-Hoc Committee on Rules Review (G) Finance Review Committee 13. Ratification of Release and Settlement Agreement in Ivy vs. TFSC, Cause No. 96-01757 14. Final Ratification on actions taken on the cases listed on the attached agenda as posted with the Texas Register 15. Public Comment 16. Discussion and possible action on request to attend Mortuary School. M.C. Prater, currently incarcerated at the Texas Department of Criminal Justice for murder. 17. Non-renewal of individual licensees for violations of §3(H), Article 4582b, Texas Revised Civil Statutes; Henderson M. Lee, Jr., DLO8786 18. Setting of next Commission meetings 19. Adjourn

Contact: Eliza May, 510 South Congress Avenue, Suite 206, Austin, Texas 78704-1716, (512) 479-7222.

Filed: April 27, 1998, 4:42 p.m.

TRD-9805911



## General Land Office

Tuesday, May 5, 1998, 10:00 a.m.

Stephen F. Austin Building, 1700 North Congress Avenue, Room 831  
Austin

School Land Board

AGENDA:

Approval of previous board minutes; pooling applications, Wildcat Field, Kenedy Co.; Giddings (Austin Chalk-3) and Giddings (Austin Chalk, Gas), Lee Co.; Giddings (Buda), Robertson Co.; Application for waiver of surface agency and lease, J.E. Brennen Survey No. 920, Abstract 1060, Starr Co.; applications to lease highway rights of way for oil and gas, St. Hwy. 14, Falls Co.; St. Hwy. 90A, Colorado Co.; Co. Rd. 250, Fayette Co.; FM 1935 and Co. Rd. 96, Washington Co.; St. Hwy. 71, Wharton Co.; Coastal public lands, commercial easement applications, Laguna Madre, Cameron Co.; structure (cabin) renewal, Laguna Madre, Kleberg Co.; easement application, Carancahua Bay, Calhoun Co.; Closed and Open Sessions — consideration and approval of tracts, terms and conditions for a June 16, 1998 sealed bid land sale; Closed and Open Session — briefing on status of contract on Paseo Del Este, El Paso Co.; Closed and Open Session — Status report and consideration of settlement offers from certain defendants in State v. Ashton, Cause #478,687, Travis Co.; Closed and Open Session- consideration of proposed settlement agreement with certain defendants, Cause 97-12328, State v. Langdon et al; Closed and Open Sessions — consideration of proposed settlement on underpayment claims at issue in Cause #9713874, TransTexas Gas Corp. v. Texas General Land Office, v. TransTexas Gas Corp., Conoco, Inc., and First Union Bank of Connecticut; Closed Session and Open Sessions — status report on State of Texas et al v. Amoco Production Company, et al, Cause #95-08680, 345th Judicial District Court, Travis Co., Texas; Closed and Open Sessions- pending or contemplated litigation; and/or settlement offers.

Contact: Linda K. Fisher, 1700 North Congress Avenue, Room 836,  
Austin, Texas 78701, (512) 463-5016.  
Filed: April 27, 1998, 3:59 p.m.

TRD-9805908



## Office of the Governor-Criminal Justice Division

Monday, May 4, 1998, 5:30 p.m.

The Omni Hotel, 9821 Colonade Boulevard  
San Antonio

Texas Crime Stoppers Advisory Council Regular Meeting

AGENDA:

- I. Call to order
- II. Approval of minutes, August 25, 1997, February 12, 1998
- III. Discuss and designate a Director of the Texas Crime Stoppers Advisory Council, pursuant to §414.004 of the Texas Government Code
- IV. Update on the future of the Texas Crime Stoppers Advisory Council in regards to Chapter 2110, Texas Government Code, including Attorney General Opinion status
- V. Report from the Education Steering Committee and approval of conference awards

VI. Executive Session pursuant to §551.074, Texas Government Code, re: personnel matters

VII. Open Forum

VIII. Set date for next meeting

IX. Adjourn

Contact: Patricia J. McDaniel, P.O. Box 12428, Austin, Texas 78711,  
(512) 463-1784.

Filed: April 24, 1998, 2:30 p.m.

TRD-9805756



## Texas Department of Health

Saturday, May 9, 1998, 9:30 a.m.

Moreton Building, Room M-739, Texas Department of Health, 1100  
West 49th Street

Austin

Texas Radiation Advisory Board Medical Committee

AGENDA:

The committee will introduce members and guests and will discuss and possibly act on: recommendations to Texas Department of Health/Bureau of Radiation Control (TDH/BRC) staff regarding physician requirements for PET radiopharmaceuticals (positron emission tomography); recommendation to TDH/BRC staff regarding approval of denial of an individual physician's credentials for mammography; recommendation of policy regarding physician self attestation (prior to 1994) of physician credentials for mammography to TDH/BRC staff; and public comment.

To request ADA accommodation, please contact Suzzanna C. Currier, ADA Coordinator in the Office of Civil Rights at (512) 458-7627 or TDD at (512) 458-7708 at least four days prior to the meeting.

Contact: Margaret Henderson, 1100 West 49th Street, Austin, Texas  
78756, (512) 834-6688.

Filed: April 23, 1998, 2:32 p.m.

TRD-9805702



Saturday, May 9, 1998, 10:30 a.m.

Moreton Building, Room M-739, Texas Department of Health, 1100  
West 49th Street

Austin

Texas Radiation Advisory Board Waste and Industrial Committee

AGENDA:

The committee will introduce members and guests and will discuss and possibly act on: recommendation for final adoption of rule regarding disposal of cesium 137 incident-related materials (25 TAC §289.202); items for discussion and requiring action; and public comment.

To request ADA accommodation, please contact Suzzanna C. Currier, ADA Coordinator in the Office of Civil Rights at (512) 458-7627 or TDD at (512) 458-7708 at least four days prior to the meeting.

Contact: Margaret Henderson, 1100 West 49th Street, Austin, Texas  
78756, (512) 834-6688.

Filed: April 27, 1998, 2:32 p.m.

TRD-9805703



Saturday, May 9, 1998, 11:00 a.m.

Moreton Building, Room M-739, Texas Department of Health, 1100 West 49th Street

Austin

Texas Radiation Advisory Board Fee Committee

AGENDA:

The committee will introduce members and guests and will discuss and possibly act on: recommendation for final adoption of rule concerning fees (25 TAC §289.204); and public comment.

To request ADA accommodation, please contact Suzzanna C. Currier, ADA Coordinator in the Office of Civil Rights at (512) 458-7627 or TDD at (512) 458-7708 at least four days prior to the meeting.

Contact: Margaret Henderson, 1100 West 49th Street, Austin, Texas 78756, (512) 834-6688.

Filed: April 23, 1998, 2:32 p.m.

TRD-9805704



Saturday, May 9, 1998, 11:30 a.m.

Moreton Building, Room M-739, Texas Department of Health, 1100 West 49th Street

Austin

Texas Radiation Advisory Board Executive Committee

AGENDA:

The committee will introduce guests and will discuss and possibly act on: recommendations for proposal of Memorandum of Understanding on regulatory jurisdiction between the Texas Department of Health and the Texas Natural Resource Conservation Commission (25 TAC §289.101); recommendation for proposal of Memorandum of Understanding on uranium between the Texas Department of Health, the Texas Natural Resource Conservation Commission, and the Railroad Commission of Texas (25 TAC §289.102); recommendation for final adoption of rule on notices, instructions, and reports to workers (25 TAC §289.203); and public comment.

To request ADA accommodation, please contact Suzzanna C. Currier, ADA Coordinator in the Office of Civil Rights at (512) 458-7627 or TDD at (512) 458-7708 at least four days prior to the meeting.

Contact: Margaret Henderson, 1100 West 49th Street, Austin, Texas 78756, (512) 834-6688.

Filed: April 23, 1998, 2:32 p.m.

TRD-9805705



Saturday, May 9, 1998, 1:00 p.m.

Moreton Building, Room M-739, Texas Department of Health, 1100 West 49th Street

Austin

Texas Radiation Advisory Board

AGENDA:

The board will introduce guests and will discuss and possibly act on: approval of the minutes of the last meeting; update on drafting laser rules (25 TAC §289.301); Waste and Industrial Committee (recommendation for final adoption of rule regarding disposal of cesium 137 incident-related materials (25 TAC §289.202)); Medical Committee (recommendations to Texas Department of Health/Bureau of Radiation Control (TDH/BRC) staff regarding physician requirements for PET radiopharmaceuticals (positron emission tomography); recommendation to TDH/BRC staff regarding approval of denial of an individual physician's credentials for mammography; and recommendation of policy regarding physician self attestation (prior to 1994) of physician credentials for mammography to TDH/BRC staff); Fee Committee (recommendation for final adoption of rule on fees (25 TAC §289.204)); Executive Committee (recommendation for proposal of Memorandum of Understanding on regulatory jurisdiction between the Texas Department of Health and the Texas Natural Resource Conservation Commission (25 TAC §289.101); recommendation for proposal of Memorandum of Understanding on uranium between the Texas Department of Health, the Texas Natural Resource Conservation Commission, and the Railroad Commission of Texas (25 TAC §289.102); recommendation for final adoption of rule on notices, instructions, and reports to workers (25 TAC §289.203)); program reports (Texas Low-Level Radioactive Waste Disposal Authority; Texas department of Health, Bureau of Radiation Control; Texas Natural Resource Conservation Commission; and the Railroad Commission of Texas); discussion items not requiring action; public comment; and the setting of the next meeting dates for the Board.

To request ADA accommodation, please contact Suzzanna C. Currier, ADA Coordinator in the Office of Civil Rights at (512) 458-7627 or TDD at (512) 458-7708 at least four days prior to the meeting.

Contact: Margaret Henderson, 1100 West 49th Street, Austin, Texas 78756, (512) 834-6688.

Filed: April 23, 1998, 2:32 p.m.

TRD-9805706



Friday, May 15, 1998, 9:00 a.m.

Commons Building, Room 1.130, J.J. "Jake" Pickle Research Center, 10100 Burnet Road

Austin

End Stage Renal Disease (ESRD), Facility Task Force

AGENDA:

The task force will introduce members and guests and will discuss and possibly act on: approval of the minutes of the March 31, 1998 meeting; presentation on nutrition of health services in an End Stage Renal Disease (ESRD) facility (nutrition health services; and the Dallas/Fort Worth Council of Renal Nutrition); Operations Subcommittee report; review of draft changes to the ESRD rules and standards (25 TAC §117.1-117.85); other issues or concerns regarding the ESRD facility rules and standards (25 TAC §§117.1-117.85) preparation of guidelines for task force members and alternate members; setting of future meeting dates for the task force and applicable subcommittees; and public comment (may be limited to three minutes per comment).

To request ADA accommodation, please contact Suzzanna C. Currier, ADA Coordinator in the Office of Civil Rights at (512) 458-7627 or TDD at (512) 458-7708 at least four days prior to the meeting.

Contact: S. Mark Jeffers, 1100 West 49th Street, Austin, Texas 78756, (512) 834-6646.

Filed: April 27, 1998, 9:45 a.m.

TRD-9805824



Friday, May 22, 1998, 1:30 p.m.

Room 3.102, Joe C. Thompson Convention Center, 26th and Red River Streets

Austin

Emergency Health Care Advisory Committee

AGENDA:

The committee will meet and will discuss and possibly act on: approval of the minutes of the last meeting; public comments; associate commissioner's report and introduction of Rose Brownridge, M.D.; bureau chief's report; report on Emergency Medical Services (EMS) week; appointment to subcommittees; subcommittee/task force reports (Legislative and Funding Task Force; Trauma Subcommittee; Pediatric Subcommittee; EMS Subcommittee/ Project Alpha; and Public Education/Prevention Task Force); and public comments.

To request ADA accommodation, please contact Suzzanna C. Currier, ADA Coordinator in the Office of Civil Rights at (512) 458-7627 or TDD at (512) 458-7708 at least four days prior to the meeting.

Contact: Debby Hilliard, 1100 West 49th Street, Austin, Texas 78756, (512) 834-6740.

Filed: April 27, 1998, 3:58 p.m.

TRD-9805907



## Health and Human Services Commission

Thursday, May 14, 1998, 9:15 a.m.

Texas Department of Human Services, Public Hearing room, 701 West 51st Street

Austin

Medical Care Advisory Committee

AGENDA:

Opening comments; State Medicaid Director's Comments; approval of Minutes; Tuberculosis Clinic Services; Proposed Amendment §29.1118, Provider Re-enrollment or Provider contract or Agreement Modification; Submission of Vendor Drug Claims; New §409.069 of 25 TAC Chapter 409 Subchapter C, Fraud and Abuse and Recovery of Benefits, to be titled Provider Re-enrollment or Provider Contract or Agreement Modification; Revised 1 TAC §355.775 Reimbursement Methodology for the Mental Retardation Local Authority (MRLA) Program; Clarification of Processing Deadlines; Accelerating the Expansion of Medicaid Eligibility for Children Ages 6 through 18 and Changes to the Medically Needy Program to Accommodate the Acceleration; Information Item- Proposed Rules for Texas Medicaid Comprehensive Care Program Including, Durable Medical Equipment Providers, Outpatient Rehabilitation Facilities, and Private Duty Nursing; Medicaid Managed Care Report; Open Discussion by Members; Next Meeting/Adjournment

Contact: Sharon Dobbs, (512) 424-6569.

Filed: April 29, 1998, 10:37 a.m.

TRD-9805992



## Health Professions Council

Monday, May 11, 1998, 9:00 a.m.

333 Guadalupe Street, Suite 2-225

Austin

AGENDA:

1. Call to Order, 9:00 a.m.
2. Roll Call and Introductions
3. Minutes of February 23, 1998
4. Report of Committees
5. Other Reports
6. Old Business
  - 6.1 CAC Conference
7. New Business
  - 7.1 Statewide Health Coordinating Council
  - 7.2 Legislative Issues
8. Announcements
9. Comments From Audience
10. Next Meeting
11. Adjourn

Contact: Jane McFarland, 333 Guadalupe Street, Austin, Texas 78701, (512) 305-8550.

Filed: April 29, 1998, 10:49 a.m.

TRD-9805993



## Texas Healthy Kids Corp. ("THKC")

Wednesday, May 6, 1998, 9:30 a.m.

333 Guadalupe Street, Lobby, Room 100

Austin

Board of Directors

AGENDA:

THKC staff presentation, and possible THKC Board deliberation and action regarding the following:

- Request for Proposal for Health Benefit Plan Vendor(s) ("RFP") and proposals received in response to RFP; plan of action for moving forward.
- Ongoing THKC program development and design.
- Discussions with universities re possible Management Information Systems ("MIS") Agreement with THKC and possible recommendations from staff regarding possible agreement.
- Grievance procedures in accordance with House Bill 3.
- Ongoing community outreach, fundraising efforts
- Interagency Cooperation Contract re certain services, as requested by the Texas Rehabilitation Commission.
- Timelines, future meetings, general updates, other administrative, procedural matters, public comment.

Executive Session: The THKC Board may meet in Executive Session in accordance with the Texas Open Meetings Act.

For ADA assistance, accommodation or services, please contact THKC at least three business days prior to meeting.

Contact: Tyrette Hamilton, P.O. Box 1506, Austin, Texas 7876701506, (512) 424-6565, fax: (512) 424-6601.

Filed: April 28, 1998, 2:06 p.m.

TRD-9805951



## Texas Department of Insurance ("TDI")

Wednesday, May 6, 1998, 9:30 a.m.

333 Guadalupe Street, Room 102

Austin

Life and Health Working Group of the Advisory Committee for the Interim Study for Agents and Agents' Licensing Statutes

### REVISED AGENDA:

Report to the Working Group concerning the discussions of the April 29 Advisory Committee meeting. Discussion of the requirements of life/accident and health licenses including who should be licensed and what licensing requirements should be imposed. Continued deliberation and possible action regarding the streamlining and consolidation of license types including a license consolidation presentation from the representatives of stipulated premium and funeral pre-arrangement companies. Discussions concerning the 11-99 Life Insurance Counselor license including requirements to obtain the license and the potential placement of this license authority under the 01-01 license type. Discussion of the marketing of insurance products including electronic marketing on the Internet and telemarketing. Discussion of continuing education requirements including who should be subject to continuing education and how many hours should be required to keep a particular license type in force. Discussions on the revenue neutrality of the changes proposed to the agents' licensing statutes. Time for public comment. Deliberation and possible action regarding timelines, future meetings, other administrative or procedural matters.

Contact: Bill Elkjer, 333 Guadalupe Street, Austin, Texas 78701, (512) 305-8197.

Filed: April 28, 1998, 9:58 a.m.

TRD-9805934



Monday, May 11, 1998, 9:00 a.m.

Stephen F. Austin Building 1700 North Congress Avenue, Suite 1100

Austin

### AGENDA:

Docket No. 454-97-0934.C — To consider whether disciplinary action should be taken against GEORGE L. INGRUM, Pampa, Texas, who holds a Group I, Legal Reserve Life Insurance Agent's License and Local Recording Agents License issued by the Texas Department of Insurance.

Contact: Bernice Ross, 333 Guadalupe Street, Mail Code 113-2A, Austin, Texas 78701, (512) 463-6328.

Filed: April 29, 1998, 10:06 a.m.

TRD-9805986



Tuesday, May 12, 1998, 1:00 p.m.

Stephen F. Austin Building, 1700 North Congress, Suite 1100

Austin

### AGENDA:

Docket No. 454-98-0387.C — To consider the application of RONALD GONZALES, Houston, Texas, for a Group II, Stock and Casualty Selling Accident and Health Insurance Agent's License to be issued by the Texas Department of Insurance.

Contact: Bernice Ross, 333 Guadalupe Street, Mail Code 113-2A, Austin, Texas 78701, (512) 463-6328.

Filed: April 29, 1998, 10:05 a.m.

TRD-9805984



Monday, May 18, 1998, 9:30 a.m.

333 Guadalupe Street, Room 100

Austin

Property and Casualty Working Group of the Advisory Committee for the Interim Study for Agents and Agents' Licensing Statutes

### AGENDA:

Discussion of the marketing of insurance products including electronic marketing on the Internet and telemarketing. Discussion of continuing education requirements including who should be subject to continuing education and how many hours should be required to keep a particular license type in force. Discussions on the revenue neutrality of the changes proposed to the agents' licensing statutes. Possible continuation of discussions concerning the consolidation and streamlining of license types including discussions of non-resident licensing issues. Continuation of discussions of licensing requirements for Property and Casualty licenses including who should be licensed and what licensing requirements should be imposed. Discussions on the proposed statutory language for the licensing of corporations. Time for public comment. Deliberation and possible action regarding timelines, future meetings, other administrative or procedural matters.

Contact: Bill Elkjer, 333 Guadalupe Street, Austin, Texas 78701, (512) 305-8197.

Filed: April 28, 1998, 4:11 p.m.

TRD-9805962



Tuesday, May 19, 1998, 9:00 a.m.

1700 North Congress Avenue, Suite 1100, Stephen F. Austin Building

Austin

### AGENDA:

Docket No. 454-98-0244.G — Hearing in the matter of Benchmark Rates for the Texas Automobile Insurance Association Plan (TAIPA). (Prehearing conferences on two specific motions to be held Thursday, May 14, 1998 at 10:00).

Contact: Bernice Ross, 333 Guadalupe Street, Mail Code 113-2A, Austin, Texas 78701, (512) 463-6328.

Filed: April 29, 1998, 10:05 a.m.

TRD-9805985



Tuesday, May 19, 1998, 9:00 a.m.

1700 North Congress Avenue, Suite 1100, Stephen F. Austin Building  
Austin

REVISED AGENDA:

Docket No. 454-98-0244.G — Hearing in the matter of Benchmark Rates for the Texas Automobile Insurance Association Plan (TAIPA). (Prehearing conferences on two specific motions to be held Thursday, May 14, 1998 at 10:00).

Contact: Bernice Ross, 333 Guadalupe Street, Mail Code 113-2A, Austin, Texas 78701, (512) 463-6328.

Filed: April 29, 1998, 11:57 a.m.

TRD-9806012



Wednesday, May 27, 1998, 9:00 a.m.

1700 North Congress Avenue, Suite 1100, Stephen F. Austin Building  
Austin

AGENDA:

Docket No. 454-98-0644.D — Hearing to consider whether or not to approve the conversion of THE MILLERS MUTUAL FIRE INSURANCE COMPANY to a stock insurance company.

Contact: Bernice Ross, 333 Guadalupe Street, Mail Code 113-2A, Austin, Texas 78701, (512) 463-6328.

Filed: April 29, 1998, 10:37 a.m.

TRD-9805991



**Board of Law Examiners**

Saturday, May 2, 1998, 8:30 a.m.

Suite 500, Tom C. Clark, 205 West 14th Street  
Austin

Panel Hearings

AGENDA:

The hearings panel will hold public hearings and conduct deliberations, on the character and fitness of the following applicants, declarants and/or probationary licensees: Shaun McCown; Saul Laureles; Donald Patterson; Xavier Gonzalez; Lou Ann Hughes; Alexander Wathen; and Dionne Roberts (character and fitness deliberations may be conducted in executive session, pursuant to §82.003(a), Texas Government Code.)

Contact: Rachael Martin, P.O. Box 13486, Austin, Texas 78711-3486, (512) 463-1621.

Filed: April 21, 1998, 12:11 p.m.

TRD-9805749



Sunday, May 3, 1998, 2:00 p.m. and continuing Monday, May 4, 1998, 8:00 a.m.

Suite 500, Tom C. Clark, 205 West 14th Street

Austin

AGENDA:

The board will consider: requests for excused absences; bar examination questions (in executive session; approval of minutes, certified agendas, financial reports, and investment reports; reports from members and staff; consultations with legal counsel concerning pending litigation (in executive session); review of and changes in certain policies and procedures; whether to recommend certain rule changes; consider applicability of Open Meetings Act to committee meetings; amending certain forms; request to publish previously used TBE questions in commercial materials; recommendation to Supreme Court regarding reinstatement procedures; report from Supreme Court Liaison; and hear communications from the public.

Contact: Rachael Martin, P.O. Box 13486, Austin, Texas 78711-3486, (512) 463-8929.

Filed: April 24, 1998, 4:50 p.m.

TRD-9805804



Sunday, May 3, 1998, 4:00 p.m.

Suite 500, Tom C. Clark, 205 West 14th Street  
Austin

Executive Committee

AGENDA:

The hearings panel will consider requests for waivers and rule interpretations and appeals from staff decisions on non standard testing accommodations.

Contact: Rachael Martin, P.O. Box 13486, Austin, Texas 78711-3486, (512) 463-8929.

Filed: April 24, 1998, 3:18 p.m.

TRD-9805783



Sunday, May 3, 1998, 4:00 p.m.

Suite 500, Tom C. Clark, 205 West 14th Street

Austin

Executive Committee

REVISED AGENDA:

The hearings panel will consider requests for waivers and rule interpretations and appeals from staff decisions on non standard testing accommodations.

Contact: Rachael Martin, P.O. Box 13486, Austin, Texas 78711-3486, (512) 463-8929.

Filed: April 27, 1998, 7:45 a.m.

TRD-9805813



Monday, May 4, 1998, Noon.

Doubletree Guest Suites, 303 West 15th Street — (Noon-1:15 p.m.: Bluebonnet II Room; 1:15 — 4:00 p.m. Houston II Room)

Austin

AGENDA:

1. BLE year-in-review, including the first administration of the Multistate Performance Test and the change in format of the Procedure and Evidence Questions

2. Availability of essay and P&E questions for posting on law school Internet sites, upon application for permission
3. Development of BLE website
4. Character and fitness certification process
5. Other matters of interest relating to bar admissions and professionalism
6. Texas Bar Examination Roundtable Discussion with Law School Professors and Deans

1. Newly formatted Procedure and Evidence Questions
2. Multistate Performance Test
3. Subjects to be Added to the TBE beginning in July 1999

- 1. Consumer law (one question)
- 2. Real Estate (two questions)
- 3. Guardianship, as a new component to be tested with Trusts (one question)
- 4. Taxation, as a cross-over topic, to be included where appropriate as an element of questions in other substantive areas, such as family law, oil and gas, trusts, wills and estates, etc.
- 5. Bankruptcy, as a cross-over topic, to be included where appropriate as an element of questions in other substantive areas, such as family law, oil and gas, trusts, wills and estates, etc.

Contact: Rachael Martin, P.O. Box 13486, Austin, Texas 78711-3486, (512) 463-8927.  
 Filed: April 24, 1998, 3:18 p.m.

TRD-9805784



### Texas State Library and Archives Commission

Monday, May 11, 1998, 1:00 PM.

Lorenzo de Zavala State Archives and Library Building, Room 314, 1201 Brazos Street

Austin

AGENDA:

1. Discuss and adopt report of the Internal Auditor on:
  - a. North East Texas Library System (NETLS).
  - b. Library Development Division.

Contact: Michele Lamb, P.O. Box 12927, Austin, Texas 78711, (512) 463-5460, fax: (512) 463-5436; email michele.lamb@tsl.state.tx.us.  
 Filed: April 29, 1998, 9:37 a.m.

TRD-9805980



Monday, May 11, 1998, 1:30 p.m.

Lorenzo de Zavala State Archives and Library Building, Room 314, 1201 Brazos Street

Austin

AGENDA:

1. Approve Minutes of the April 1, 1998 Commission meeting.
2. Approve contracts greater than \$100,000.

3. Approve acceptance of gifts greater than \$500.
4. Report of the Director and Librarian.
5. Adopt recommendations of the Audit Committee on:
  - a. North East Texas Library System (NETLS).
  - b. Library Development Division.
6. Approve appointment to the Library Systems Advisory Board.
7. Discuss and adopt agency Strategic Plan.
8. Discuss Supplemental Requests for Exceptional Items in the 2000-2002 Legislative Appropriation Request.
9. Discuss and adopt proposed rules for the TexShare program, 13 TAC §§8.16.
10. Discuss and approve request for waiver of the capital outlay budget rider.
11. Remarks by Rhoda Goldberg, Texas Library Association Legislative Committee
12. Public Comment.

Contact: Michele Lamb, P.O. Box 12927, Austin, Texas 78711, (512) 463-5460, fax: (512) 463-5436; email michele.lamb@tsl.state.tx.us.  
 Filed: April 29, 1998, 9:37 a.m.

TRD-9805979



### Texas Department of Licensing and Regulation

Thursday May 7, 1998, 9:00 a.m.

920 Colorado, E.O. Thompson Building, First Floor Conference Room

Austin

Enforcement Division, Staff Leasing

AGENDA:

According to the complete agenda, the Department will hold an Administrative Hearing to consider the possible assessment of administrative penalties against the Respondent, Mark J. Haag, President, Hire Solutions, Inc., for engaging in staff leasing services without a license in 1996 and 1997, a violation of TEX. LABOR CODE ANN. (the Code) §91.011 and 16 TEX. ADMIN. CODE (TAC) §72.20, pursuant to the Code, ch. 91: TEX. GOV'T. CODE ch. 2001, (APA), the TEX. REV. CIV. STAT. ANN. art. 9100 and 16 TAC chs. 60 and 72.

Contact: Richard E. Wootton, 920 Colorado, Austin, Texas 78701, (512) 463-3192.

Filed: April 27, 1998, 10:39 a.m.

TRD-9805832



### Texas Natural Resource Conservation Commission

Wednesday, May 6, 1998, 2:00 p.m.

12100 Park 35 Circle

Austin

AGENDA:

This meeting is a work session for discussion between commissioners and staff. Public testimony or comment will be invited relating to Item 1.

Contact: Doug Kitts, 12100 Park 35 Circle, Austin, Texas 78753, (512) 239-3317.

Filed: April 28, 1998, 1:44 p.m.

TRD-9805946



Thursday, May 7, 1998, 8:30 a.m.

12100 Park 35 Circle

Austin

AGENDA:

The Commission will consider approving the following matters on the attached agenda: Executive Session; Hearing Requests; Superfund Administrative Orders; Municipal Waste Discharge Enforcement Agreed Orders; Public Water Supply Enforcement Agreed Orders; Public Water Supply and Municipal Waste Discharge Enforcement Agreed Orders; Public Water Supply and Municipal Waste Discharge Enforcement Default Order; Air Enforcement Agreed Orders; Miscellaneous Items; Authorization to Construct; Permit Amendment and Extension of Variance; Petroleum Storage tank Enforcement Default Order; Agricultural Enforcement Default Order; Industrial Hazardous Waste Enforcement Agreed Orders; Municipal Solid Waste Enforcement Default Order; Municipal Solid Waste Enforcement Agreed Order; Utility Matters; Rules; Executive Session; Affirm, Modify, or Set Aside Emergency Order; the Commission will consider items previously posted for open meeting and at such meeting verbally postponed or continued to this date. With regard to any item, the Commission may take various actions, including but not limited to rescheduling an item in its entirety or for particular action at a future date and time. Registration for 9:30 Agenda starts 8:45 until 9:25). The Commission will consider the following items on the 1:00 agenda; Administrative Law Judge's Proposal for Decision and Order; Motion to Clarify Necessary Technical Data; Motion for Reconsideration/Rehearing. (Registration for 1:00 p.m. Agenda starts 12:30 until 1:00 p.m.)

Contact: Doug Kitts, 12100 Park 35 Circle, Austin, Texas 78753, (512) 239-3317.

Filed: April 27, 1998, 3:19 p.m.

TRD-9805901



Thursday, May 7, 1998, 10:00 a.m.

Stephen F. Austin, 11th Floor, Room 1100, 1700 North Congress Avenue

Austin

AGENDA:

For a hearing before an administrative law judge of the State Office of Administrative Hearings on a petition filed by the ratepayers of Rio Water supply corporation appealing a water rate change to the Texas Natural Resource Conservation Commission. The Board of Directors of the Rio Water Supply Corporation approved an increase in water rates effective August 1, 1997 for its service area located in Starr County, Texas. SOAH Docket No. 582-97-2241. I

Contact: Angie Sell, P.O. Box 13025, Austin, Texas 78711-3025, (512) 475-3445.

Filed: April 27, 1998, 3:02 p.m.

TRD-9805892



Tuesday, May 12, 1998, 10:00 a.m.

Weatherford City Hall, Council Chambers, 303 Palo Pinto

Weatherford

AGENDA:

For a hearing before an administrative law judge of the State Office of Administrative Hearings on an application filed by Walnut Creek Special Utility District (SUD) to the Texas Natural Resource Conservation Commission to amend its water Certificate of Convenience and Necessity (CCN) No. 10285 which authorizes the provision of water utility service in Parker and Wise Counties, Texas. The applicant also proposes to decertify a portion of CCN No. 11950 issued to Timothy Bradberry dba Bradberry Water Supply Company.

The proposed utility area is described as follows: The first area consists of an eastward expansion of Walnut Creek SUD's existing CCN No. 10285 in Wise County, with only a small portion of this expansion in Parker County, immediately south of FM 2247 and north of the Reno City Limits. This first expansion area encompasses approximately 125 square miles or 80,000 acres. The applicant proposed to decertify a portion of CCN No. 11950 issued to Timothy Bradberry dba Bradberry Water Supply Company. The second expansion area consists of a southern expansion of Walnut Creek SUD's existing CCN No. 10285 in Parker County. The second expansion area encompasses approximately 76 square miles or approximately 48,000 acres. No decertification is requested in the second expansion area.

The total area being requested includes approximately 201 acres and no current customers. SOAH Docket No. 582-98-0577.

Contact: Angie Sell, P.O. Box 13025, Austin, Texas 78711-3025, (512) 475-3445.

Filed: April 27, 1998, 3:02 p.m.

TRD-9805893



Tuesday, May 12, 1998, 10:00 a.m.

1700 North Congress Avenue, 11th Floor, Room 110

Austin

AGENDA:

For a hearing before an administrative law judge of the State Office of Administrative Hearings on an application filed by Windermere Utility Company, Inc. to the Texas Natural Resource Conservation Commission to amend its sewer Certificate of Convenience and Necessity (CCN) No. 20542 which authorizes the provision of sewer utility service in Travis and Williamson Counties, Texas. The proposed service area is located approximately 13 miles north of downtown Austin, Texas and is generally bounded on the north by Brushy Creek, on the east by Melber Lane, on the south by F.M. 1825, and on the west by IH35. The total area being requested includes approximately 14,573 acres and no current customers. SOAH Docket No. 582-98-0581.

Contact: Angie Sell, P.O. Box 13025, Austin, Texas 78711-3025, (512) 475-3445.

Filed: April 27, 1998, 3:08 p.m.

TRD-9805899





Tuesday, May 12, 1998, 10:00 a.m.

1700 North Congress Avenue, 11th Floor, Room 1100

Austin

AGENDA:

For a hearing before an administrative law judge of the State Office of Administrative Hearings on an application filed by Kelly Lane Utility Company, Inc. to the Texas Natural Resource Conservation Commission to amend its Certificate of Convenience and Necessity (CCN) No 20720 which authorizes the provision of sewer utility service in Travis and Williamson Counties, Texas. The proposed utility service area is located approximately 17 miles northeast of downtown Austin, Texas and is generally bounded on the north by Brushy Creek, on the east by Melbar Road, on the south by Kelly Lane and Wilke Lane, and on the West by the Williamson-Travis County Line. The total area being requested includes approximately 6,500 acres and 0 current customers. SOAH Docket No. 582-98-0582.

Contact: Angie Sell, P.O. Box 13025, Austin, Texas 78711-3025, (512) 475-3445.

Filed: April 27, 1998, 3:08 p.m.

TRD-9805900



### **Board of Nurse Examiners**

Wednesday, May 20, 1998, 9:30 a.m.

Hobby Building, 333 Guadalupe Street, Tower II, Room 2-225

Austin

Law and Regulations Advisory Committee

AGENDA:

9:30 a.m. — Call to order; Roll call

9:45 a.m. — Review of March 11, 1998 meeting minutes

10:00 a.m. — Old Business; Survey Status Report — D. Otto

10:30 a.m. — Proposed framework for Determining Laws and Regulation for Nursing Practice and Discussion — S. Glaze

12:00 p.m. — Working Lunch; Community activity; Using jurisprudence concepts to categorize laws and regulations for the entry level RN.

3:00 p.m. — Adjourn

Contact: Mitchell Diaz, Box 430, Austin, Texas 78767-0430, (512) 305-6844.

Filed: April 28, 1998, 2:37 p.m.

TRD-9805953



### **Texas Board of Occupational Therapy Examiners**

Tuesday, May 5, 1998, 8:30 a.m.

Harris County Department of Education, 6300 Irvington Boulevard

Houston

Application Review Committee

AGENDA:

1. Call to Order

2. Review and possible action on cases: 97-06; 97-13; 97-16; 97-21; 97-22; 98-09; 98-17; 98-18; 98-19; 98-20; 98-23; 98-24; 98-25; 98-27; 98-28; 98-29; 98-30; 98-31; 98-32; 98-33; 98-34 and 98-35.

3. Adjourn

Contact: Alicia Dimmick Essary, 333 Guadalupe, Suite 2-510, Austin, Texas 78701-3942, (512) 305-6900.

Filed: April 24, 1998, 9:15 a.m.

TRD-9805730



### **Texas State Occupational Coordinating Committee**

Wednesday, May 6, 1998, 2:00 p.m.

9001 IH35 North, Suite 103B, Training Room, Whitney Jordan Plaza, South of Rundberg and IH35.

Austin

AGENDA:

I. Review and Approval of the Minutes from April 23, 1998 (action item)

II. Review of revised SOICC Bylaws

III. Funding Status of the NOICC/SOICC Network for PY 1998

IV. SOICC Projects and Activities Overview for PY 1997

V. Overview of Planned SOICC Projects for PY 1998

VI. Approval of NOICC Basic Assistance Grant (action item)

Contact: Gary Tucker, 9001 IH35 North, Suite 103B, Austin, Texas 78753, (512) 491-4340.

Filed: April 23, 1998, 11:16 a.m.

TRD-9805693



### **Texas State Board of Physician Assistant Exam**

Friday, May 8, 1998, 8:30 a.m.

333 Guadalupe Street, Tower 2, Room 225

Austin

Disciplinary Committee

AGENDA:

Executive Session to review selected investigative files and cases recommended for dismissal by Informal Settlement Conference/Show Compliance Proceedings or staff.

\*Executive Session under the authority of the Open Meetings Act, §551.071 of the Government Code and Article 4495b, and Article 4495b-1, Section 4(h), Texas Revised Civil Statutes and Article 22 of the Texas Administrative Code, Chapter 185.3(h).

Contact: Cindy McCrae, 333 Guadalupe Street, Tower 2, Room 225, Austin, Texas 78701, (512) 305-7023.

Filed: April 27, 1998, 11:15 a.m.

TRD-9805850



Friday, May 8, 1998, 8:30 a.m.

333 Guadalupe Street, Tower 2, Room 225

Austin

Licensure Committee

AGENDA:

1. Call to Order
2. Roll Call
3. Set Licensure Committee procedures for Rehabilitation Orders
4. Review of Licensure applicants referred to the Licensure Committee by the Executive Director for determination of eligibility for licensure.\*
5. Review of Physician Assistant application for permanent licensure.\*

\*Executive Session under the authority of the Open Meetings Act, §551.071 of the Government Code and Article 4495b, and Article 4495b-1, Section 4(h), Texas Revised Civil Statutes and Article 22 of the Texas Administrative Code, Chapter 185.3(h).

For possible Rehabilitation Order:

\*Executive Session under the authority of the Open Meetings Act, §551.071 of the Government Code and Article 4495b, and Article 4495b-1, §2.07(b) and 2.07(o) Texas Revised Civil Statutes and the Physician Assistant Licensing Act, Article 4495b-1, Section 4(h) and 20, Texas Revised Civil Statutes.

Contact: Cindy McCrae, 333 Guadalupe Street, Tower 2, Room 225, Austin, Texas 78701, (512) 305-7023.

Filed: April 27, 1998, 11:15 a.m.

TRD-9805849



Friday, May 8, 1998, 11:00 a.m.

333 Guadalupe Street, Tower 2, Room 225

Austin

Long Range Planning Committee

AGENDA:

1. Call to Order
2. Roll Call
3. Legislative Report
4. Financial Report
5. Committee Member's Report
6. Discussion, recommendation and possible action regarding physician supervision of advanced practice nurses and physician assistant with prescriptive delegation.
7. Discussion, recommendation and possible action on Texas Register mandatory September 1, 1998 reporting of rules.

\*Executive Session under the authority of the Open Meetings Act, §551.071 of the Government Code and Article 4495b, and article 4495b-1, Section 4(h), Texas Revised Civil Statutes and Article 22 of the Texas Administrative Code, Chapter 185.3(h).

Contact: Cindy McCrae, 333 Guadalupe Street, Tower 2, Room 225, Austin, Texas 78701, (512) 305-7023.

Filed: April 27, 1998, 11:15 a.m.

TRD-9805851



Friday, May 8, 1998, 1:30 p.m.

333 Guadalupe Street, Tower 2, Room 225

Austin

Full Board Meeting

AGENDA:

- Call to Order
- Roll Call
- Election of Officers
- Approval of proposed 1999 Board Meeting dates
- Consideration and approval of Modification Request/Termination Request Orders
- Consideration and approval of Agreed Board Orders.
- Consideration and approval Termination of Suspension Orders.
- Public hearing on cancellation of licenses delinquent over one year
- Public hearing on cancellation of licenses by request
- Approval of minutes from previous Board Meeting
- Executive Director's Report

Report and recommendations from the Long Range Planning Committee

Report and recommendations from the Licensure Committee

Report and recommendations from the Disciplinary Committee

\*Executive Session under the authority of the Open Meetings Act, §551.071 of the Government Code and Article 4495b, and Article 4495b-1, Section 4(h), Texas Revised Civil Statutes and Article 22 of the Texas Administrative Code, Chapter 185.3(h).

Contact: Cindy McCrae, 333 Guadalupe Street, Tower 2, Room 225, Austin, Texas 78701, (512) 305-7023.

Filed: April 27, 1998, 11:18 a.m.

TRD-9805852



## Texas State Board of Plumbing Examiners

Monday, May 11, 1998, 8:30 a.m.

Lubbock City Council Chambers, 1625 13th Street

Lubbock

Board

AGENDA:

1. Roll Call
2. Recognize staff and visitors
3. Public comment
4. Previous board minutes
5. Request of a special board meeting to consider redevelopment of the criteria necessary to obtain a journeyman license and a plumbing inspectors' license
6. Committee Reports
7. Report from Attorney General's office
8. Confer with Assistant Attorney General to seek legal advice regarding employment law and personnel matters, the appointment, employment, evaluation, re-assignment, duties, discipline or dismissal of the Administrator and/or hear complaints or charges against the Administrator, the appointment, employment, and duties of an Acting Administrator.
9. The

future of the Continuing Education program and the Board's role with respect to that program. 10. Possible duplication of services between agencies "Occupational Licensing Programs" 11. Examinations translated in a language other than English. 12. Mr. David Morris and Mr. Gregory Schilb requests for a reader or extra time on the Journeyman examination. 13. Field/Citation Report 14. Examination Report 15. Fiscal Report 16. Administrator's Report 17. Committee Assignments 18. Date, location and time of next meeting. 19. Adjourn

Contact:

Filed: April 29, 1998, 9:30 a.m.

TRD-9805976



## **Texas Board for Licensure for Professional Medical Physicists**

Wednesday, May 13, 1998, Noon

Exchange Building, Texas Department of Health, 8407 Wall Street, Room S-402

Austin

AGENDA:

The board will introduce members, guests and staff and will discuss and possibly act on: approval of the minutes of the April 9, 1998 meeting; chair's report; executive secretary's report; medical physicist examination (Texas licensure examination) offered by the board; magnetic resonance imaging (MRI) as a speciality area; Bureau of Radiation Control (update on current and future rules); acceptance of the new design for licensure certificates; correspondence from (J. Michael Bruno, Jeff Shepherd, Hebert DuShane, American Registry of Radiologic Technologists; and Midwestern State University); acceptance of continuing education and approval of the continuing education form; plan for review of rules (22 TAC, Chapter 601) as provided by Article IX, §167, of the General Appropriations Act; amendments to rules concerning licensure of medical physicists (22 TAC, Chapter 601); orders approving the applications of M.M. and Y.Z.; ratification of applications approved by the Credentials Committee; ratification of applications approved by the executive secretary; election of a chair and vice-chair; appointment of committees; other matters relating to the regulation of medical physicists not requiring board action public comment; and the setting of the next meeting date for the board.

To request ADA accommodation, please contact Suzzanna Currier, ADA Coordinator in the Office of Civil Rights at (512) 458-7627 or TDD at (512) 458-7708 at least two days prior to the meeting.

Contact: Jeanette Hilsabeck, 1100 West 49th Street, Austin, Texas 78756, (512) 834-6655.

Filed: April 27, 1998, 3:58 p.m.

TRD-9805906



## **Texas Medical Liability Insurance Underwriting Association (JUA)**

Wednesday, May 20, 1998, 9:00 a.m.

Embassy Suites Hotel, 5901 North IH35

Austin

Board of Directors

AGENDA:

1. Consideration of and possible action on the appeal by Children's Medical Center of Dallas from the decision of the JUA General Manager denying Children's Medical Center of Dallas' request for flat cancellation of their 1998 HPL policy effective January 1, 1998, Policy No. TX110018.

2. Adjournment

Contact: Joe Chilton, 505 East Huntland Drive, Suite 180, Austin, Texas 78752, (512) 452-4370.

Filed: April 28, 1998, 3:22 p.m.

TRD-9805960



## **Texas Department of Public Safety**

Tuesday, May 12, 1998, 1:30 p.m.

DPS Regional Office, 2405 South Loop 250 West

Midland

Public Safety Commission

AGENDA:

Approval of Minutes

Budget Matters

Internal Audit Report

Public Comment

Miscellaneous and Other Unfinished Business

Executive Session to meet with attorneys to seek legal advice regarding pending and contemplated litigation, employment law, and personnel matters pursuant to Government Code, §551.074; executive session to receive information from employees concerning the information that is received pursuant to Government Code, §551.075.

Open session for discussion and possible action regarding legal advice on pending and contemplated litigation, employment law and personnel matters

State Auditor Report

Notice of Assistance: Persons planning to attend this meeting and requiring ADA services, accommodation or materials, please contact Dorothy Wright at (512) 453-3929 two working days prior to the meeting.

Contact: Dudley M. Moore, 5805 North Lamar Boulevard, Austin, Texas 78752, (512) 424-2000, extension 3700.

Filed: April 24, 1998, 2:50 p.m.

TRD-9805768



## **Public Utility Commission of Texas**

Saturday, May 2, 1998, 8:30 a.m.

University Drive (Between Lavaca and Virginia, Lamar University, Setzer Center, First Floor Ballroom

Beaumont

AGENDA:

The Public Utility Commissioners will attend and participate in the Southeast Texas Town Meeting on Electricity Issues.

Contact: Dianne Prior, 1701 North Congress Avenue, Austin, Texas 78701, (512) 936-7007.

Filed: April 22, 1998, 4:17 p.m.

TRD-9805676



Wednesday, May 6, 1998, 9:30 a.m.

1700 North Congress Avenue

Austin

AGENDA:

There will be an Open meeting for discussion, consideration, and possible action regarding: Project No. 15013; Docket Nos. 16705, 17899, 18290, 17880, 18041, 18616, 17285 and 17460; Project No. 17555; Electric industry restructuring, electric utility reliability, and customer service; Project No. 18000, Informal Dispute Resolution; Project No. 16251; Docket No. 19000; Project Nos. 18438, 16899, 16900, 16901, 18515, 18516, and 18886; Docket Nos. 18985, 18800, 17777, 18579, 18940, 18984, 18976, 18962, 18998, 19028, 18972, 18754, 18796, 18804 and 18805; Project Nos. 18702, 12941, 18072; Federal Telecommunications Act of 1996 and other actions taken by the Federal Communications Commission; Action regarding activities in local telephone markets, including but not limited to correspondence and implementation of interconnection agreements approved by the Commission pursuant to PURA and FTA; Project Nos. 17308 and 17709; Customer service issues, including but not limited to correspondence and complaint issues; 1998 Operating Budget, project assignments, correspondence, staff reports, agency administrative issues, fiscal matters and personnel policy; Agency Business Plan; Project No. 18491; Adjournment for closed session to consider litigation and personnel matters; Reconvene for discussion and decisions on matters considered in closed session.

Contact: Dianne Prior, 1701 North Congress Avenue, Austin, Texas 78701, (512) 936-7007.

Filed: April 28, 1998, 2:21 p.m.

TRD-9805952



Wednesday, May 6, 1998, 9:30 a.m.

1700 North Congress Avenue

Austin

AGENDA:

There will be an Open meeting for discussion, consideration, and possible action regarding: Project No. 15013; Docket Nos. 16705, 17899, 18290, 17880, 18041, 18616, 17285 and 17460; Project No. 17555; Electric industry restructuring, electric utility reliability, and customer service; Project no. 18000, Informal Dispute Resolution; Project No. 16251; Docket No. 19000; Project Nos. 18438, 16899, 16900, 16901, 18515, 18516, and 18886; Docket Nos. 18985, 17777, 18579, 18940, 18984, 18976, 18962, 18998, 19028, 18972, 18754, 18796, 18804 and 18805; Project Nos. 18702, 12941, 18072; Federal Telecommunications Act of 1996 and other actions taken by the Federal Communications Commission; Action regarding activities in local telephone markets, including but not limited to correspondence and implementation of interconnection agreements approved by the Commission pursuant to PURA and FTA; Project Nos. 17308 and 17709; Customer service issues,

including but not limited to correspondence and complaint issues; 1998 Operating Budget, project assignments, correspondence, staff reports, agency administrative issues, fiscal matters and personnel policy; Agency Business Plan; Project No. 18491; Adjournment for closed session to consider litigation and personnel policy; Agency Business Plan; Adjournment for closed session to consider litigation and personnel matters; Reconvene for discussion and decisions on matters considered in closed session.

Contact: Dianne Prior, 1701 North Congress Avenue, Austin, Texas 78701, (512) 936-7007.

Filed: April 28, 1998, 1:55 p.m.

TRD-9805949



## Texas Low-Level Radioactive Waste Disposal Authority

Friday, May 8, 1998, 9:00 a.m.

St. Joseph's Hospital, O'Gorman Room, 1919 La Branch

Houston

Board of Directors

REVISED AGENDA:

The Beginning time of the Board Meeting has been Changed to 9:00 a.m.

Contact: Lawrence R. Jacobi, Jr., 7701 North Lamar Boulevard, Suite 300, Austin, Texas 78752, (512) 451-5292.

Filed: April 27, 1998, 12:08 p.m.

TRD-9805885



## Railroad Commission of Texas

Tuesday, April 28, 1998, 9:30 a.m.

1701 North Congress Avenue, First Floor Conference Room 1-111

Austin

EMERGENCY REVISED AGENDA:

In addition to the previously posted items, the Railroad Commission of Texas will discuss and take action, as appropriate, regarding the Railroad Commission's safety program under the Texas Aggregate Quarry and Pit Safety Act and the Commission's authority as it may relate to the motor vehicle accident near Giddings, Texas, on April 21, 1998, in which five women died.

REASON FOR EMERGENCY: The vehicular accident that caused the deaths of five women did not occur until after the date for posting items for the April 28, 1998 open meeting.

Contact: Lindil C. Fowler, Jr., P.O. Box 12967, Austin, Texas 78711-2967, (512) 463-7033.

Filed: April 24, 1998, 10:16 a.m.

TRD-9805738



Tuesday, May 5, 1998, 9:30 a.m.

1701 North Congress Avenue, First Floor Conference Room 1-111

Austin

AGENDA:

According to the complete agenda, the Railroad Commission of Texas will consider various applications and other matters within the jurisdiction of the agency including oral arguments at the time specified on the agenda. The Railroad Commission of Texas may consider the procedural status of any contested case if 60 days or more have elapsed from the date the hearing was closed or from the date the transcript was received.

The Commission may meet in Executive session on any items listed above as authorized by the Open Meetings Act.

Contact: Lindil C. Fowler, Jr., P.O. Box 12967, Austin, Teas 78711-2967, (512) 463-7033.

Filed: April 24, 1998, 1:08 p.m.

TRD-9805752



Tuesday, May 5, 1998, 9:30 a.m.

1701 North Congress Avenue, First Floor Conference Room 1-111

Austin

REVISED AGENDA:

The Railroad Commission of Texas will consider and may act on the following items:

1. Railroad Commission's safety program under the Texas Aggregate Quarry and Pit Safety Act and the Commission's authority as it may relate to the motor vehicle accident near Giddings, Texas, on April 21, 1998, in which five women died.

2. Staff recommendations to close pipeline safety review of Koch Pipeline systems.

Contact: Lindil C. Fowler, Jr., P.O. Box 12967, Austin, Teas 78711-2967, (512) 463-7033.

Filed: April 27, 1998, 4:42 p.m.

TRD-9805910



## Employees Retirement System

Tuesday, May 12, 1998, 1:30 p.m.

18th and Brazos Streets, Auditorium, First Floor

Austin

Group Benefits Advisory Committee

AGENDA:

1. Call to Order; 2. Introduction of GBAC Members; 3. Recognition of Visitors and Guests; 4. Approval of Minutes From Previous Meeting; 5. Announcements/Updates; 6. ERS Update; 7. Subcommittee Reports; 8. Other Related Benefits Business; 9. Adjourn.

Contact: James W. Sarver, 18th and Brazos, Austin, Texas 78701, (512) 867-3217.

Filed: April 27, 1998, 3:44 p.m.

TRD-9805904



## Texas Municipal Retirement System

Sunday, May 22, 1998, 9:30 a.m.

Hyatt Regency-Austin, 208 Barton Springs Road

Austin

Special Meeting, Board of Trustees

AGENDA:

Consider and act on results of 1997 Actuarial Valuation and Approval of 1999 City Contribution Rates and Supplemental Death Benefits Contribution Rates; Staff Reports.

Contact: Gary W. Anderson, P.O. Box 149153, Austin, Texas 78714-9153, (512) 476-7577.

Filed: April 27, 1998, 3:23 p.m.

TRD-9805902



## State Securities Board

Thursday, June 4, 1998, 9:00 a.m.

Stephen F. Austin Building, 1700 North Congress Avenue, Suite 1100

Austin

Administration Hearing

AGENDA:

A hearing will be held in SOAH Docket No. 312-98-0717 for the purpose of determining whether the agent registration of William Jack Hawkins should be denied.

Contact: David Grauer, 200 East 10th Street, Fifth Floor, Austin, Texas 78701, (512) 305-8392.

Filed: April 22, 1998, 3:47 p.m.

TRD-9805673



## Spindletop Centennial Celebration Commission

Friday, May 15, 1998, Noon

600 Main Street

Beaumont

AGENDA:

Election of officers

Designate bank account and signatures

Approve office quarters

Approve interim budget

Adopt logo

Adopt mission statement

Sanction use of logo

Progress reports

Outline of future activities

Contact: Evelyn M. Lord, (409) 866-7179.

Filed: April 28, 1998, 10:25 a.m.

TRD-9805939



## Teacher Retirement System of Texas

Tuesday, May 12, 1998, Noon

1000 Red River, Room 420E

Austin

Medical Board

AGENDA:

Discussion of 1) the files of members who are currently applying for disability retirement and 2) the files of disability retirees who are due a re-examination report.

For ADA assistance, contact John R. Mercer, (512) 397-6400 or TDD (512) 397-6444 or (800) 841-4497 at least two days prior to the meeting.

Contact: Don Cadenhead, 1000 Red River, Austin, Texas, 78701-2698, (512) 397-6400.

Filed: April 29, 1998, 10:50 a.m.

TRD-9805994



## **The Board of Regents, Texas A&M University System**

Friday, May 1, 1998, 10:00 a.m.

Board of Regents Meeting Room, MSC Annex, Clark Street, Texas A&M University

College Station

Board of Regents

AGENDA:

The purpose of the meeting is to consider proposals from executive search firms interested in an agreement with The Texas A&M University System to conduct an extensive search to fill the position of Chancellor of The Texas A&M University System.

Contact: Vickie Burt, The Texas A&M University System, College Station, TX 77843, (409) 845-9600.

Filed: April 27, 1998, 3:44 p.m.

TRD-9805905



## **Texas State Technical College System**

Friday, May 1, 1998, 11:30 a.m.

TSTC Waco, Student Center, Rooms 102-103, 3801 Campus Drive

Waco

Board of Regents

AGENDA:

The Board of Regents will have a luncheon meeting with Don Brown, Texas Higher Education Coordinating Board, to discuss Texas State Technical College strategic planning.

Contact: Sandra J. Krumnow, 3801 Campus Drive, Waco, Texas 76705, (254) 867-3964.

Filed: April 24, 1998, 5:10 p.m.

TRD-9805812



Friday, May 1, 1998, 1:30 p.m.

TSTC Waco, IDEAS Center, 3801 Campus Drive

Waco

Board of Regents

REVISED AGENDA:

Addition of one item for the Board of Regents to take action on: Authorization for the Chancellor and Board chairman to approve the TSTC Strategic Plan and Information Resources Strategic Plan due June 15, 1998.

Contact: Sandra J. Krumnow, 3801 Campus Drive, Waco, Texas 76705, (254) 867-3964.

Filed: April 28, 1998, 9:57 a.m.

TRD-9805933



Saturday, May 2, 1998, 8:00 a.m.

TSTC Waco, Student Recreation Center, Multipurpose Room, 3801 Campus Drive

Waco

Board of Regents

AGENDA:

The Board of Regents will meet for a "Future Search Conference" (strategic planning) for Texas State Technical College System.

Contact: Sandra J. Krumnow, 3801 Campus Drive, Waco, Texas 76705, (254) 867-3964.

Filed: April 24, 1998, 5:10 p.m.

TRD-9805811



## **Texas Woman's University**

Saturday, May 2, 1998, 9:00 a.m.

Plano Bank and Trust Conference Facility, 15th and Alma

Plano

Board of Regents Retreat

AGENDA:

9:00 a.m. — Welcome- Kay Williams Goodman

Introductions- Corky Hilliard Agenda Overview

Critical Issues Identification

Purpose of the Board of Regents

Your Vision of the Board

Noon — Working Lunch

Long-term (3-5 year) results

Short-term (12 mo.) results

Work Plan and Assignments

Adjourn

Contact: Dr. Carol D. Surlles, P.O. Box 425597, Denton, Texas 76204, (940) 898-3201.

Filed: April 23, 1998, 2:28 p.m.

TRD-9805701



## **The Texas State University System**

Thursday-Friday, April 30-May 1, 1998, 8:15 a.m. and 9:00 a.m. respectively

Thursday morning Executive Sessions, Room 313.1 of the New LBJ Student Center; Thursday afternoon open session, and Friday, Room 1112 of the J.C. Kellam Building, Southwest Texas State University

San Marcos

Board of Regents

AGENDA:

Review of matters of the Board and the Universities in the System including: all matters of curriculum including twelfth class day reports, curriculum changes, revised graduate school admissions requirements, cooperative teaching and program offerings, revised mission statements, out-of country studies, degree changes, course and program changes; all matters of construction projects including Preliminary Plans, contracts and documentation, updates of campus master plans, purchase orders and land purchases, sales, leases and easements; financial matters of the System Office and the Universities in the System including budgetary changes, research guidelines, semi-annual financial reports, fees, approval of broker/dealers, authorization for HEAF Bond Sale, revised internal audit charter, policy and plan and internal audit reports; proposed rules and regulations changes; approval of contract awards, holiday schedules, scholarships, organizational charts, trade and/or purchase of equipment, re-naming of buildings and acceptance of gifts and contributions for each university and the system administration; discussion of pending or contemplated litigation, settlements, or other legal matters; personnel actions including promotions, dual employment, resignations, retirements, tenure, emeritus status, resolutions of honor, commissioning of police officers, salaries/salary supplements, non-conflict of interest elections and appointments, deliberation of appointment, employment, re-employment of existing employees, employment contracts, evaluation, reassignment, duties, discipline, dismissal and/or replacement of any system employee including staff, faculty, Presidents and the Chancellor and a grievance appeal to the Board. (Where appropriate and permitted by law, Executive Sessions may be held for the above listed subjects.)

Contact: Lamar Urbanovsky, Rusk Building, Suite 600, 200 East 10th Street, Austin, Texas 78701, (512) 463-1808.

Filed: April 24, 1998, 9:51 a.m.

TRD-9805737



## Texas Department of Transportation

Thursday, April 30, 1998, 9:00 a.m.

1400 North FM 1788, University of Texas- Permian Basin Center for Energy and Economic Diversification

Midland

Texas Transportation Commission

AGENDA:

Comments from area public officials. Report by Odessa District. Approve Minutes. Awards/Recognitions/Resolutions. Rulemaking: 43 TAC Ch. 7, 17, 25 and 29. Multimodal Transportation: Allocation of FTA rural mass transportation funds for FY 1999; Approval of planning funds for Wichita Falls Region. Turnpike Project: Dallas County-removal of a portion of SH-161 from the state highway system and transfer to North Texas Tollway Authority. Contract Awards/Rejections/Defaults/Assignments/Claims. Contested Cases. Routine

Minute Orders. Executive Session for legal counsel consultation, land acquisition matters, and personnel matters. Open comment period.

Contact: Diane Northam, 125 East 11th Street, Austin, Texas 78701, (512) 463-8630.

Filed: April 22, 1998, 1:00 p.m.

TRD-9805669



## Utilization Review Advisory Committee

Tuesday, May 5, 1998, 1:00 p.m.

William P. Hobby Building, 333 Guadalupe Street, Room 100

Austin

AGENDA:

1. Call to order
2. TDI staff introductions
3. Comments by TDI staff concerning status of rule
4. TDI staff summary of changes made to prior draft
5. Further committee discussion of staff draft
6. Possible vote on committee recommendations to Commissioner Bomer
7. Adjournment

Contact: Linda Von Quintus, 333 Guadalupe Street, Mail Code 107-2A, Austin, Texas 78701, (512) 322-3469.

Filed: April 24, 1998, 12:11 p.m.

TRD-9805750



## Texas Board of Veterinary Medical Examiners

Thursday, May 14, 1998, 8:30 a.m.

William P. Hobby Building, 333 Guadalupe Street, Tower 2, Room 500

Austin

Rules Committee

AGENDA:

The Committee will meet to establish a time frame to review all agency rules in accordance with §167 of the General Appropriations Act. The Committee will also consider drafting a rule to define terms used in various rules within 22 TAC 571 Licensing. They will also conduct other business as reflected on the agenda.

Contact: Judy Smith, 333 Guadalupe, #2-330, Austin, Texas 78701, (512) 305-7555.

Filed: April 24, 1998, 2:30 p.m.

TRD-9805755



## Texas Commission on Volunteerism and Community Service

Thursday, May 7, 1998, 2:30 p.m.

Hyatt Regency, 1200 Louisiana Street

Houston

AGENDA:

Approval of minutes of February meeting; Executive director's report; Executive Committee report; Reports of task force; Reports of standing committees; Announcements; Adjourn.

Contact: Robert Hickerson, 310 Stephen F. Austin Building, Austin, Texas 78711, (512) 475-1727.

Filed: April 27, 1998, 10:19 a.m.

TRD-9805827



**Texas Water Conservation Association Risk Management Fund**

Thursday, May 7, 1998, 10:00 a.m.

9420 Research Boulevard, Echelon III, Office of JI Specialty Services, Inc., Suite 120.

Austin

Board of Trustees

AGENDA:

- I. Organizational Items
- II. Governance Issues
- III. Financial Stability
- IV. Growth and Competitiveness
- V. Performance Monitoring
- VI. Ownership Linkage
- VII. Strategic Partnering
- VIII. Reaffirm Date of Next Meeting
- IX. Adjourn

Contact: Leroy Goodson, 221 East Ninth Street, Suite 206, Austin, Texas 78701, (512) 427-2306.

Filed: April 24, 1998, 9:16 a.m.

TRD-9805731



**Texas Workers' Compensation Commission**

Thursday, April 30, 1998, 1:30 p.m.

4000 South IH35, Room 910-911, Southfield Building

Southfield Building

Public Meeting

Austin

AGENDA:

- 1. Call to Order
- 2. Executive Session
- 3. Action on Matters Considered in Executive Session
- 4. General Reports, Discussion and Possible Action on Issues Relating to Commission Activities
- 5. Confirmation of Future Public Meeting Dates
- 6. Adjournment

Contact: Bob Marquette, 4000 South IH35, Austin, Texas 78704, (512) 440-5690.

Filed: April 24, 1998, 3:04 p.m.

TRD-9805773



Friday, May 1, 1998, 8:30 a.m.

4000 South IH35, Room 910-911, Southfield Building

Public Meeting

Austin

AGENDA:

- 1. Call to Order
- 2. Executive Session
- 3. Action on Matters Considered in Executive Session
- 4. General Reports, Discussion and Possible Action on Issues Relating to Commission Activities
- 5. Confirmation of Future Public Meeting Dates
- 6. Adjournment

Contact: Bob Marquette, 4000 South IH35, Austin, Texas 78704, (512) 440-5690.

Filed: April 24, 1998, 3:04 p.m.

TRD-9805774



**Texas Workforce Commission**

Wednesday, May 6, 1998, 10:00 a.m.

101 East 15th Street, Room 644, TWC Building

Austin

AGENDA:

Approval of prior meeting notes; vote on minutes dated: January 6, 1998, January 21, 1998, February 3, 1998, February 10, 1998 and February 24, 1998; Public comment; General discussion and staff report concerning the Employment Service and related functions at the Texas Workforce Commission; Discussion, consideration and possible action: (1) on acceptance of donations of Child Care Matching Funds; (2) relating to House Bill 2777 and the development and implementation of plan for the integration of services and functions relating to eligibility determination and service delivery by Health and Human Services agencies and TWC; (3) on modification and/or reallocation of Choices and Transitional Child Care Funding; (4) on the proposal and review of rules regarding Proprietary Schools (Chapter 807); (5) on amendment to Allocation Rule (40 TAC, Chapter 800); (6) on the revisions to the Texas Workforce Commission Strategic Plan for submission to the Office of the Governor and the Legislative budget Board; (7) on an affirmative action plan for Equal Opportunity and Diversity; (8) regarding potential and pending applications for certification and recommendations to the Governor of Local Workforce Development Boards for Certification; (9) regarding recommendations to TCWEC and status of strategic and operational plans submitted by Local Workforce Development Boards; and (10) regarding approval of Local Workforce Board or Private Industry Council Nominees; Staff Report and Discussion — Update on activities relating to: Administration Division, Finance Division, Information Systems Division, Unemployment Insurance Division, Welfare Reform Division and Workforce Division; Executive Session



pursuant to: Government Code §551.074 to discuss the duties and responsibilities of the executive staff and other personnel; Government Code §551.071 (1) concerning the pending or contemplated litigation of the Texas AFL-CIO v. TWC; TSEU/CWA Local 6184, AFL-CIO v. TWC; TSEU/CWA Local 6186, AFL-CIO, Lucinda Robles, and Maria Roussett v. TWC et al; Barbara Woodard v. TEC; Mid-first Bank v. Reliance Health Care et al (Enforcement of Oklahoma Judgement); and Gene E. Merchant et al v. TWC; Government Code §551.071(2) concerning all matters identified in this agenda where the commissioners seek the advice of their attorney as Privileged Communications under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas and to discuss the Open Meetings Act and the Administrative Procedure Act; Actions, if any, Resulting from Executive Session; Consideration and action on motion for attorney's fees for Appeal Tribunal No. 98-031367-1-0398; consideration, Discussion, questions, and possible action on: (1) whether to assume continuing jurisdiction on Unemployment Compensation cases and reconsideration of Unemployment Compensation cases if any; and (2) higher level appeals in Unemployment Compensation cases listed on Texas Workforce Commission Docket 18.

Contact: J. Randel (Jerry) Hill, 101 East 15th Street, Austin, Texas 78778, (512) 463-8812.  
Filed: April 28, 1998, 3:07 p.m.

TRD-9805955



Wednesday, May 6, 1998, 1:30 p.m.

101 East 15th Street, Room 644, TWC Building

Austin

AGENDA:

Public Hearing on the proposed Communities in Schools Rules to discuss, ask questions and receive comments on the proposed rules as published in the Texas Register on February 27, 1998 at 23 TexReg 1925.

Contact: J. Randel (Jerry) Hill, 101 East 15th Street, Austin, Texas 78778, (512) 463-8812.  
Filed: April 28, 1998, 3:36 p.m.

TRD-9805961



## Regional Meetings

Meetings filed April 22, 1998

Bexar Appraisal District, Board of Directors, met at 535 South Main Street, San Antonio, April 27, 1998 at 4:00 p.m. Information may be obtained from Sally Kronenthal, P.O. Box 830248, San Antonio, Texas, 78283-0248, (210) 224-8511. TRD-9805675.

Brazos River Authority, Board of Directors, met with revised agenda, at 4400 Cobbs Drive, Waco, April 27, 1998 at 9:00 a.m. Information may be obtained from Mike Bukala, P.O. Box 7555, Waco, Texas 76714-7555, (254) 776-1441. TRD-9805672.

Central Texas Opportunities, Inc. Board of Directors, met at 1200 South Frio, Coleman, April 28, 1998 at 7:00 p.m. Information may be obtained from Barbara E. Metcalf, P.O. Box 820, Coleman, Texas 76834, (915) 625-4167. TRD-9805670.

Central Texas Water Supply Corporation, Annual meeting, was held with revised agenda, at 4020 Lake Cliff Drive, Harker Heights, April 28, 1998 at 7:00 p.m. Information may be obtained from Delores

Hamilton, 4020 Lake Cliff Drive, Harker Heights, Texas 76548, (254) 698-2779. TRD-9805682.

Central Texas Water Supply Corporation, Monthly meeting, was held with revised agenda, at 4020 Lake Cliff Drive, Harker Heights, April 28, 1998 at 7:00 p.m. Information may be obtained from Delores Hamilton, 4020 Lake Cliff Drive, Harker Heights, Texas 76548, (254) 698-2779. TRD-9805685.

Leon County Central Appraisal District, Board of Directors, met at 114 North Commerce-Corner Highway and 75 Gresham Building, Centerville, April 27, 1998 at 7:00 p.m. Information may be obtained from Jeff Beshears, P.O. Box 536, Centerville, Texas 75833-0536. TRD-9805679.

Panhandle Water Planning Group, Board of Directors, met at 603 East First Street, Dumas, April 27, 1998 at 10:00 a.m. Information may be obtained from Jarrett Atkinson, P.O. Box 9257, Amarillo, Texas 79105, (806) 372-3381. TRD-9805680.

Southwest Milam Water Supply Corporation, Board, met at Patterson Civic Center, 609 Mill Street, Rockdale, April 27, 1998 at 8:30 a.m. Information may be obtained from Dwayne Jekel, P.O. Box 232, Rockdale, Texas 76567, (512) 446-2604. TRD-9805683.

Southwest Milam Water Supply Corporation, Annual, met at Patterson Civic Center, 609 Mill Street, Rockdale, April 27, 1998 at 7:00 p.m. Information may be obtained from Dwayne Jekel, P.O. Box 232, Rockdale, Texas 76567, (512) 446-2604. TRD-9805684.

Meetings filed April 23, 1998

Alamo Area Council of Governments, Area Judges, met at 118 Broadway, Suite 400, San Antonio, April 29, 1998 at 11:30 a.m. Information may be obtained from Al J. Notzon III, 118 Broadway, Suite 400, San Antonio, Texas 78205, (210) 225-5201. TRD-9805689.

Alamo Area Council of Governments, Board of Directors, met at 118 Broadway, Suite 400, San Antonio, April 29, 1998 at 1:00 p.m. Information may be obtained from Al J. Notzon III, 118 Broadway, Suite 400, San Antonio, Texas 78205, (210) 225-5201. TRD-9805688.

Bastrop Central Appraisal District, Board of Directors, met at 1200 Cedar Street, Bastrop, April 29, 1998 at 7:30 p.m. Information may be obtained from Dana Ripley, 1200 Cedar Street, Bastrop, Texas 78602, (512) 303-3536. TRD-9805707.

Edwards Aquifer Authority, Finance Committee, met at 1615 North St. Mary's Street, San Antonio, April 30, 1998 at 11:00 a.m. Information may be obtained from Mary Esther R. Cortez, 1615 North St. Mary's Street, San Antonio, Texas 78212, (210) 222-2204. TRD-9805714.

Ellis County Appraisal District, Board of Directors, met at 400 Ferris Avenue, Waxahachie, April 30, 1998 at 7:00 p.m. Information may be obtained from Kathy A. Rodrigue, P.O. Box 878, Waxahachie, Texas 75168-0878, (972) 937-3552. TRD-9805694.

Gulf Bend Center, Board of Trustees, met at 1502 East Airline, Victoria, April 28, 1998 at 11:30 a.m. Information may be obtained from Agnes Moeller, 1502 East Airline, Victoria, Texas 77901, (512) 582-2309. TRD-9805692.

High Plains Underground Water Conservation District No. 1, Special Board Meeting, was held at 2606 Olton Road, Plainview, April 29, 1998 at 6:30 p.m. Information may be obtained from A. Wayne Wyatt, 2930 Avenue Q, Lubbock, Texas 79405, (806) 762-0181. TRD-9805697.

Permian Basin Regional Planning Commission, met at 5200 East University Boulevard, Odessa, April 30, 1998 at 7:15 a.m. Information may be obtained from Terri Moore, P.O. Box 60660, Midland, Texas 79711, (915) 563-1061. TRD-9805698.

San Antonio River Authority, South Central Texas Regional Water Planning Group, met at 100 East Guenther Street, Boardroom, San Antonio, April 30, 1998 at 1:00 p.m. Information may be obtained from Fred N. Pfeiffer, P.O. Box 830027, San Antonio, Texas 78283-0027, (210) 227-1373. TRD-9805699.

Tarrant Appraisal District, Board of Directors, met at 2301 Gravel Road, Fort Worth, April 27, 1998, 10:00 a.m. Information may be obtained from Mary McCoy, 2315 Gravel Road, Fort Worth, Texas 76118, (817) 284-0024. TRD-9805686.

Tarrant Appraisal District, Board of Directors, met at 2301 Gravel Road, Fort Worth, April 28, 1998, 9:00 a.m. Information may be obtained from Mary McCoy, 2315 Gravel Road, Fort Worth, Texas 76118, (817) 284-0024. TRD-9805687.

Upper Leon River Municipal Water District, Board of Directors, met at General Office, Located off FM 2861, Lake Proctor Dam, Comanche, April 27, 1998 at 6:30 p.m. Information may be obtained from Upper Leon River MWD, P.O. Box 67, Comanche, Texas 76442, (254) 879-2258. TRD-9805696.

Meetings filed April 24, 1998

Angelina-Neches River Authority, ANRA Board of Directors, met at Temple-Inland North Boggy Slough Hunting Lodge, 1.5 miles West of the Neches River on Highway 7, April 29, 1998 at 10:00 a.m. Information may be obtained from Thomas D. Burr, P.O. Box 387, Lufkin, Texas 75901, (409) 632-7795, fax: (409) 632-2564. TRD-9805787.

Austin-Travis County MHMR Center, Finance and Control Committee, met at 1430 Collier Street, Board Room, Austin, April 28, 1998 at Noon. Information may be obtained from Sharon Taylor, 1430 Collier Street, Austin, Texas 78704, (512) 440-4031. TRD-9805739.

Dallas Area Rapid Transit, Audit Committee, met at 1401 Pacific Avenue, Conference Room "B", First Floor, Dallas, April 28, 1998 at 10:30 a.m. Information may be obtained from Paula J. Bailey, DART, P.O. Box 660163, Dallas, Texas 75266-0163, (214) 749-3256. TRD-9805791.

Dallas Area Rapid Transit, Project Management, met at 1401 Pacific Avenue, Conference Room "C", First Floor, Dallas, April 28, 1998 at Noon. Information may be obtained from Paula J. Bailey, DART, P.O. Box 660163, Dallas, Texas 75266-0163, (214) 749-3256. TRD-9805796.

Dallas Area Rapid Transit, Planning Committee, met at 1401 Pacific Avenue, Conference Room "C", First Floor, Dallas, April 28, 1998 at 2:00 p.m. Information may be obtained from Paula J. Bailey, DART, P.O. Box 660163, Dallas, Texas 75266-0163, (214) 749-3256. TRD-9805797.

Dallas Area Rapid Transit, Minority Affairs, met at 1401 Pacific Avenue, Conference Room "B", First Floor, Dallas, April 28, 1998 at 2:00 p.m. Information may be obtained from Paula J. Bailey, DART, P.O. Box 660163, Dallas, Texas 75266-0163, (214) 749-3256. TRD-9805792.

Dallas Area Rapid Transit, Committee of the Whole, met at 1401 Pacific Avenue, Conference Room "C", First Floor, Dallas, April 28, 1998 at 4:00 p.m. Information may be obtained from Paula J. Bailey, DART, P.O. Box 660163, Dallas, Texas 75266-0163, (214) 749-3256. TRD-9805798.

Dallas Area Rapid Transit, Board of Directors, met at 1401 Pacific Avenue, Board Room, First Floor, Dallas, April 28, 1998 at 6:30 p.m. Information may be obtained from Paula J. Bailey, DART, P.O. Box 660163, Dallas, Texas 75266-0163, (214) 749-3256. TRD-9805802.

Harris County Appraisal District, Appraisal Review Board, met at 2800 North Loop West, Houston, May 1, 1998 at 8:00 a.m. Information may be obtained from Bob Gee, 2800 North Loop West, Houston, Texas 77092, (713) 957-5222. TRD-9805727.

Heart of Texas Region MHMR Center, Board of Trustees, met at 110 South 12th Street, Waco, April 30, 1998 at 11:45 a.m. Information may be obtained from Helen Jasso, P.O. Box 890, Waco, Texas 76703, (254) 752-3451, extension 290. TRD-9805769.

Hunt County Appraisal District, Board of Directors, Special Meeting, was held at 4801 King Street, Greenville, April 30, 1998 at 6:30 p.m. Information may be obtained from Shirley Smith, P.O. Box 1339, Greenville, Texas 75403, (903) 454-3510. TRD-9805740.

MHMR Authority of Brazos Valley, Board of Trustees, met at 1504 Texas Avenue, April 30, 1998 at 3:30 p.m. Information may be obtained from Leon Bawcom, P.O. Box 4588, Bryan, Texas 77802, (409) 822-6467. TRD-9805753.

North Central Texas Council of Governments, Workforce Development Board, met at 1200 Ballpark Way, Meeting Room M-6, Arlington, April 28, 1998 at 9:00 a.m. Information may be obtained from Sharon Vassar, P.O. Box 5888, Arlington, Texas 76005-5888, (817) 695-9176. TRD-9805735.

Northeast Texas Rural Rail Transportation District, Board, met at Greenville Municipal Building, 2821 Washington Street, April 28, 1998 at 3:30 p.m. Information may be obtained from Sue Ann Harting, 2821 Washington Street, Greenville, Texas 75401, (903) 450-0140. TRD-9805722.

Permian Basin Regional Planning Commission, Policy Advisory Committee, met at 2910 LeForce Boulevard, Midland, April 29, 1998 at 8:30 a.m. Information may be obtained from Terri Moore, P.O. Box 60660, Midland, Texas 79711, (915) 563-1061. TRD-9805786.

Texas Council Risk Management Fund, Board of Trustees and Advisory Committee, Strategic Planning Session, met at Holiday Inn-South, 3401 IH35, Friendship/Mercury Room, Austin, April 30, 1998 at 8:30 a.m. Information may be obtained from Spencer McClure, Westpark Building 3, Suite 240, 8140 Mopac Expressway, Austin, Texas 78759, (512) 794-9268. TRD-9805732.

Texas Council Risk Management Fund, Executive Committee, met at Holiday Inn-South, 3401 IH35, Gemini Room, Austin, April 30, 1998 at 6:00 p.m. Information may be obtained from Spencer McClure, Westpark Building 3, Suite 240, 8140 Mopac Expressway, Austin, Texas 78759, (512) 794-9268. TRD-9805733.

Texas Council Risk Management Fund, Board of Trustees and Advisory Committee, met at Holiday Inn-South, 3401 IH35, Pioneer Room 10, Austin, May 1, 1998 at 8:00 a.m. Information may be obtained from Spencer McClure, Westpark Building 3, Suite 240, 8140 Mopac Expressway, Austin, Texas 78759, (512) 794-9268. TRD-9805734.

West Central Texas Council of Governments Tech Prep, Public Hearing, was held at 1025 E. North 10th Street, Abilene, April 29, 1998 at 9:00 a.m. in the Council of Governments Conference Room. Information may be obtained from Tina Melendez, P.O. Box 3195, Abilene, Texas 79604, (915) 672-8544. TRD-9805729.

Wood County Appraisal District, Appraisal Review Board, met at 210 Clark Street, Quitman, April 29, 1998 at 2:00 p.m. Information may

be obtained from Lois McKibben or Rhonda Powell, P.O. Box 518, Quitman, Texas 75783-0518, (903) 763-4891. TRD-9805721.

Meetings filed April 27, 1998

Austin-Travis County MHMR Center, Board of Trustees, met at 1430 Collier Street, Board Room, Austin, April 30, 1998 at 5:00 p.m. Information may be obtained from Sharon Taylor, 1430 Collier Street, Austin, Texas 78704, (512) 440-4031. TRD-9805875.

Bastrop Central Appraisal District, Appraisal Review Board, met at 1200 Cedar Street, Bastrop, April 30, 1998 at 8:30 a.m. Information may be obtained from Dana Ripley, 1200 Cedar Street, Bastrop, Texas 78602, (512) 303-3536. TRD-9805818.

District Judges Meeting, 36, 156 and 343rd District Courts, met at 400 West Sinton Street, Room B-16 (Courtroom Basement), Sinton, May 1, 1998, at 10:00 a.m. Information may be obtained from Joel B. Johnson, 400 West Sinton Street, Room 207, Sinton, Texas 78387, (512) 364-6262. TRD-9805891.

Grayson Appraisal District, Appraisal Review Board, met at 205 North Travis, Sherman, May 7, 1998 at 9:00 a.m. Information may be obtained from Angie Keeton, 205 North Travis, Sherman, Texas, 75090, (903) 893-9673. TRD-9805909.

Lavaca County Central Appraisal District, Board of Directors, will meet at 113 North Main Street, Hallettsville, May 11, 1998 at 4:00 p.m. Information may be obtained from Diane Munson, P.O. Box 836, Hallettsville, Texas 77964, (512) 798-4396. TRD-9805886.

Taylor County Central Appraisal District, Appraisal Review Board, met at 1534 Treadaway, Abilene, April 30, 1998 at 1:30 p.m. Information may be obtained from Richard Petree, P.O. Box 1800, Abilene, Texas 79604, (915) 676-9381, extension 24. TRD-9805831.

Van Zandt County Appraisal District, Appraisal Review Board, met at West Highway 64, Canton, April 29, 1998 at 1:30 p.m. Information may be obtained from Sue Huddle, (903) 567-6171, fax: (903) 567-6600. TRD-9805826.

Meetings filed April 28, 1998

Denton Central Appraisal District, Board of Directors, met at 3911 Morse Street, Denton, May 7, 1998 at 3:00 p.m. Information may be obtained from Connie Bradshaw, P.O. Box 2816, Denton, Texas 76202-2816, (817) 566-0904. TRD-9805931.

Education Service Center, Region 12, Board of Directors, met at 2101 West Loop 340, Waco, May 1, 1998 at 10:00 a.m. Information may be obtained from Harry J. Beavers or Vivian L. McCoy, P.O. Box 23409, Waco, Texas 76702-3409, (817) 666-0707. TRD-9805940.

Education Service Center, Region 12, Board of Directors, will meet at 2101 West Loop 340, Waco, May 9, 1998 at 8:00 a.m. Information may be obtained from Harry J. Beavers or Vivian L. McCoy, P.O. Box 23409, Waco, Texas 76702-3409, (817) 666-0707. TRD-9805941.

Lamar County Appraisal District, Board of Directors, met at 521 Bonham Street, Paris, April 30, 1998 at 4:00 p.m. Information may be obtained from Cathy Jackson, P.O. Box 400, Paris, Texas 75461, (903) 785-7822. TRD-9805923.

Middle Rio Grande Development Council, Area Advisory Council on Aging, met at 209 North Getty Street, Uvalde, May 6, 1998 at 10:00

a.m. Information may be obtained from MRGDC, P.O. Box 1199, Carrizo Springs, Texas 78834, (830) 876-3533. TRD-9805963.

Millersview-Doole Water Supply Corporation, Board of Directors, met at Corporation Office, Millersview, May 4, 1998 at 8:00 p.m. Information may be obtained from Glenda M. Hampton, P.O. Box 130, Millersview, Texas 76862-0130, (915) 483-5438. TRD-9805932.

Panhandle Regional Planning Commission, Panhandle Workforce Development Board, met at 415 West 8th Street, Amarillo, May 6, 1998 at 1:30 p.m. Information may be obtained from Tom Dressler, P.O. Box 9257, Amarillo, Texas 79105-9257, (806) 372-3381. TRD-9805957.

Region D, Regional Water Planning Group, will meet at 1800 North Jefferson, Mount Pleasant, May 11, 1998 at 4:00 p.m. Information may be obtained from Walt Sears, (903) 639-7538. TRD-9805968.

Meetings filed April 29, 1998

Bell-Milam-Falls WSC, Board met at Corporation Office, FM 485 West, Cameron, May 7, 1998 at 8:30 a.m. Information may be obtained from Dwayne Jekel, P.O. Box 150, Cameron, Texas 76520-0150, (254) 697-4016. TRD-9806014.

Dallas Central Appraisal District, Board of Directors Regular Meeting, met at 2949 North Stemmons Freeway, Second Floor Community Room, Dallas, May 6, 1998 at 7:30 a.m. Information may be obtained from Rick Kuehler, 2949 North Stemmons Freeway, Dallas, Texas 75247, (214) 631-0520. TRD-9805978.

East Texas Council of Governments, CEO Board of Directors, met at 1306 Houston Street, Kilgore, May 6, 1998 at 11:30 a.m. Information may be obtained from Glynn Knight, 3800 Stone Road, Kilgore, Texas 75662, (903) 984-8641. TRD-9805983.

Far West Texas Regional Water Planning Group, Committee, will meet at 110 North Stanton, Sixth Floor Conference Center, El Paso, May 15, 1998 at 10:00 a.m. (MST). Information may be obtained from Michele Maley, 1100 North Stanton, Suite 610, El Paso, Texas 79902, (915) 533-0998. TRD-9806015.

Harris County Appraisal Review Board, met at 2800 North Loop West, Houston, May 6, 1998 at 9:00 a.m. Information may be obtained from Bob Gee, 2800 North Loop West, Houston, Texas 77092, (713) 957-5222, TRD-9806004.

North Texas Regional Library System, Board of Directors, will meet at 1111 Foch Street, Suite 100, Fort Worth, May 12, 1998 at 1:30 p.m. Information may be obtained from Marlin Anglin, 1111 Foch Street, Suite 100, Fort Worth, Texas 76107, (817) 335-6076. TRD-9805977.

San Jacinto River Authority, Water Planning Group H, met at 3200 College Park Drive, Conroe, May 6, 1998 at 10:00 a.m. Information may be obtained from James R. Adams/Ruby Shiver, P.O. Box 329, Conroe, Texas 77305, (409) 588-1111. TRD-9806011.

Uvalde County Appraisal District, Ag Advisory Board, met at 209 North High Street, Uvalde, May 5, 1998 at 9:00 a.m. Information may be obtained from Alida E. Lopez, 209 North High Street, Uvalde, Texas 78801, (830) 278-1106, ext. 16. TRD-9805972.

# IN ADDITION

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The *Texas Register* is required by statute to publish certain documents, including applications to purchase control of state banks, notices of rate ceilings, changes in interest rate and applications to install remote service units, and consultant proposal requests and awards.

To aid agencies in communicating information quickly and effectively, other information of general interest to the public is published as space allows.

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## Texas Department of Agriculture

### Notice of Public Hearing

The Texas Department of Agriculture (the department) will hold a public hearing to take public comment on a petition filed with the department by the Texas Pecan Growers Association requesting certification to conduct a commodity referendum under the Texas Commodity Referendum Law, the Texas Agriculture Code, Chapter 41. The hearing will be held on Wednesday, May 13, 1998, beginning at 10:30 a.m., at Room 911 of the Stephen F. Austin State Office Building, 1700 North Congress, Austin, Texas 78701.

For more information, please contact Katie Dickie Stavinoha, Special Assistant for Producer Relations, Texas Department of Agriculture, P.O. Box 12847, Austin, Texas 78711, (512) 463-7593.

TRD-9805975

Dolores Alvarado Hibbs  
Deputy General Counsel  
Texas Department of Agriculture  
Filed: April 29, 1998



## Office of the Attorney General

### Texas Clean Air Act Enforcement Settlement Notice

Notice is hereby given by the State of Texas of the following proposed resolution of an environmental enforcement lawsuit under the Texas Clean Air Act. Section 82.096 of the Texas Health & Safety code provides that before the State may settle a judicial enforcement action under the Clean Air Act, the State shall permit the public to comment in writing on the proposed judgment. The Attorney General will consider any written comments and may withdraw or withhold consent to the proposed agreed judgment if the comments disclose facts or considerations that indicate that the consent is inappropriate, improper, inadequate, or inconsistent with the requirements of the Texas Clean Air Act.

Case Title and Court: Harris County and State of Texas v. Elf Atochem North America, Inc., Cause No. 98-19855, in the 280th District Court, Harris County, Texas.

Nature of Defendant's Operations: Elf Atochem owns and operates a specialty chemical plant located at 2231 Haden Road, Houston, Harris County, Texas. The lawsuit was brought for alleged nuisance odor conditions resulting from releases of sulfur dioxide and/or mercaptan on July 21, 1995, March 5, 1996, and July 1, 1996.

Proposed Agreed Judgment: The Agreed Judgment calls for Elf Atochem to conduct an environmental audit of the facility, install closed loop sampling, utilize an odor-suppressing spray system, enhance reporting of releases, and establish a piping replacement program. The Judgment also directs Elf Atochem to pay \$75,000 into a fund administered by Harris County to collect and analyze air quality samples in the County. The Judgment further orders Elf Atochem to pay \$27,500 in civil penalties and \$3,000 in attorneys fees plus costs of court.

For a complete description of the proposed settlement, the complete proposed Agreed Final Judgment should be reviewed. Requests for copies of the judgment and written comments on the judgment should be directed to Burgess Jackson, Assistant Attorney General, Office of the Texas Attorney General, P.O. Box 12548, Austin, Texas 78711-2548, (512) 463-2012, facsimile (512) 320-0052. Written comments must be received within 30 days of publication of this notice to be considered.

TRD-9805954

Sarah Shirley  
Assistant Attorney General  
Office of the Attorney General  
Filed: April 28, 1998



## Central Texas Workforce Commission

### Request for Proposals

The Central Texas Workforce Development Board, Inc. (Board) is soliciting proposals for marketing services to assist the Board in informing the public of the Board's role as the key provider of workforce programs in the counties of Bell, Coryell, Hamilton, Lampasas, Milam, Mills, and San Saba, Texas. Specific services include a full-service, two-year marketing strategy that introduces the Workforce Board and newly developed Central Texas Workforce

Centers to the employer, job seeker, and resident community of the Central Texas Area.

Proposal specifications may be obtained from the office of the Workforce Development Board on April 27, 1998 by contacting Linda Angel at (254) 939-3771, ext. 224 or at 200 North Main, P.O. Box 729, Belton, Texas 76513. The deadline for receipt of proposals is 5:00 p.m., CDT, May 29, 1998. Proposals received after this deadline will not be considered. Proposals should be sent to: Central Texas Workforce Development Board, 200 North Main Street, P.O. Box 450, Belton, Texas 76513 (Attention: RFP Staff).

If it is in the best interest of the Board, the Board reserves the right to accept or reject any or all proposals received as a result of this request, or to negotiate with all qualified bidders, or to cancel in part or in its entirety the Request for Proposals.

The Board encourages female and minority owned businesses to request and respond to all Request for Proposals.

TRD-9805814

Susan Kamas

Executive Director

Central Texas Workforce Commission

Filed: April 27, 1998



## Coastal Coordination Council

Notice and Opportunity to Comment on Requests for Consistency Agreement/Concurrence under the Texas Coastal Management Program

On January 10, 1997, the State of Texas received federal approval of the Coastal Management Program (CMP) (62 Federal Register pp. 1439-1440). Under federal law, federal agency activities and actions affecting the Texas coastal zone must be consistent with the CMP goals and policies identified in 31 TAC 501. Requests for federal consistency review were received for the following projects(s) during the period of April 21, 1998, through April 27, 1998:

### FEDERAL AGENCY ACTIONS:

Applicant: City of Corpus Christi; Location: 6 miles southwest of downtown Corpus Christi, Nueces County, Texas; Project No.: 98-0174-F1; Description of Proposed Action: The applicant proposes to reconstruct the terminal building in its present location, and expand the commercial apron to the west for the Corpus Christi International Airport. The proposed work will be conducted within the boundaries of the airport property.

Applicant: Chambers Liberty Counties Navigation District; Location: In Trinity Bay, in the Pix Bayou Channel, west of Smith's Point, south of the City of Anahuac, in Chambers County, Texas; Project No.: 98-0179-F1; Description of Proposed Action: The applicant proposes to perform periodic maintenance dredging in the Pix Bayou Channel for a period of 10 years. The channel will be 100 feet wide with 4 to 1 side slopes. The water depth in the channel will be - 7 feet mean high water. The applicant also proposes to realign a small section of the existing channel to eliminate a sharp curve that has caused navigational problems. Dredging will be performed using hydraulic and/or mechanical means. Approximately 53,000 cubic yards of material, consisting of a mixture of sand and clay, will be obtained during the initial maintenance dredging operation; Type of Application: U.S.C.O.E. permit application #21260 under §10 of the Rivers and Harbors Act of 1899 (33 U.S.C.A. 403).

Applicant: Walter J. and Olivia T. Meyer; Location: In Offatts Bayou, at 1502 Driftwood Lane, in Galveston, Galveston County, Texas; Project No.: 98-0180-F1; Description of Proposed Action: The applicant proposes to amend their existing permit to authorize the placement of approximately 40 cubic yards of riprap along 120 feet of two existing concrete/rock groins. This project is proposed to repair the existing groins. The project site is located in a residentially developed tidally influenced estuarine area. No wetlands are located in the project area. The riprap is proposed to be supplied from destruction of a house and slab on the applicant's property; Type of Application: U.S.C.O.E. permit application #21084(01) under §10 of the Rivers and Harbors Act of 1899 (33 U.S.C.A. 403), and §404 of the Clean Water Act (33 U.S.C.A. §§125-1387).

Applicant: Enron Oil and Gas Company; Location: Approximately 28 miles southeast of Galveston, Texas, between Platform "A" in High Island Block 207 (coordinates X = 3,446,818 and Y = 498,656) and in Platform "B" in High Island Block 207 (coordinates X = 3,456,212.32 and Y = 490,298.18); Project No.: 98-0181-F1; Description of Proposed Action: The applicant proposes to install, operate and maintain a 6.675-inch gas pipeline from Enron's High Island Block 207 Platform "A" to Platform "B". The pipeline will be used to transport gas produced at Platform "B" to Platform "A". The 11,475-foot long section that crosses the fairway will be buried a minimum of 10 feet below the mudline; Type of Application: U.S.C.O.E. permit application # 21199(Rev) under §10 of the Rivers and Harbors Act of 1899 (33 U.S.C.A. 403).

Applicant: City of Aransas Pass; Location: At the Community Park on Johnson Street, 1 mile south of the intersection of Johnson Street and Highway 361, Aransas Pass, San Patricio County, Texas; Project No.: 98-0186-F1; Description of Proposed Action: The applicant proposes to construct the Aransas Pass Nature Area by widening a 1,200-foot section of an existing man-made tidal access channel from 6 feet wide and 3 feet deep to 18 feet wide and 3 feet deep. A proposed treated domestic 8-inch wastewater effluent line will be installed by trench excavation. Approximately 150 feet of the 3,132-foot pipeline will be constructed in disturbed sandflats near an existing pond system. Fill material will be deposited on uplands or used to revegetate areas surrounding the existing ponds. A 600-foot wetland trail boardwalk and a 225-square foot coastal resources kiosk will be constructed near existing ponds; Type of Application: U.S.C.O.E. permit application #18446(02) under §10 of the Rivers and Harbors Act of 1899 (33 U.S.C.A. 403), and §404 of the Clean Water Act (33 U.S.C.A. §§125-1387).

Applicant: TransTexas Gas Corporation; Location: In Galveston Bay on the U.S.G.S. Bacliff and Texas City quadrangles, Galveston and Chambers Counties, Texas; Project No.: 98-0-187F1; Description of Proposed Action: The applicant proposes to amend its permit to add State tract 308 and the southern half of State tract 330 to conduct oil/gas exploration and production activities; Type of Application: U.S.C.O.E. permit application #20643(03) under §10 of the Rivers and Harbors Act of 1899 (33 U.S.C.A. 403), and §404 of the Clean Water Act (33 U.S.C.A. §§125-1387).

Applicant: Velasco Drainage District; Location: In both the Clute-Lake Jackson Drainage Channel, between Clute's Main Street, FM 523 and the Dow Barge Canal, between State Highway 288 and FM 523, Clute and Freeport, Brazoria County, Texas; Project No.: 98-0188-F1; Description of Proposed Action: The applicant proposes to mechanically, or hydraulically dredge in the streambed of the Clute-Lake Jackson Drainage Channel. Dredging within the Clute-Lake Jackson Drainage Channel would extend for approximately 25,000 feet at approximately 64 feet wide. All dredged material would be temporarily stockpiled within an adjacent disposal area located

on Dow Chemical property. The applicant proposes to reclaim the disposed material from the disposal area to repair and maintain the bank slopes and toe of the hurricane flood protection levee, along the Dow Barge Canal; Type of Application: U.S.C.O.E. permit application 21073 (Revised) under §10 of the Rivers and Harbors Act of 1899 (33 U.S.C.A. 403), and §404 of the Clean Water Act (33 U.S.C.A. §§125-1387).

Applicant: Tepeco, Inc. ; Location: In State Tract 62, West Galveston Bay, immediately east of Greens Lake and the Gulf Intracoastal Waterway, near Galveston, Galveston County, Texas; Project No.: 98-0189-F1; Description of Proposed Action: The applicant proposes to establish an oilfield development general permit in State Tract 62. It is anticipated that as many as 8 wells will be drilled along with associated flow lines. Shell pads, if needed, will be 4 feet in height and will require approximately 1,330 cubic yards of shell or gravel per structure. Flow lines between the wells will be jetted in to 3 feet below the mud line. Authorizations for flow lines leaving the state tract will be sought on an individual basis; Type of Application: U.S.C.O.E. permit application #21246 under §10 of the Rivers and Harbors Act of 1899 (33 U.S.C.A. 403), and §404 of the Clean Water Act (33 U.S.C.A. §§125-1387).

Pursuant to §306(d)(14) of the Coastal Zone Management Act of 1972 (16 U.S.C.A. §§1451-1464), as amended, interested parties are invited to submit comments on whether a proposed action should be referred to the Coastal Coordination Council for review and whether the action is or is not consistent with the Texas Coastal Management Program goals and policies. All comments must be received within 30 days of publication of this notice and addressed to Ms. Janet Fatheree, Council Secretary, 1700 North Congress Avenue, Room 617, Austin, Texas 78701-1495.

TRD-9805974  
Garry Mauro  
Chairman  
Coastal Coordination Council  
Filed: April 29, 1998

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## Office of Consumer Credit Commissioner

### Notice of Rate Ceilings

The Consumer Credit Commissioner of Texas has ascertained the following rate ceilings by use of the formulas and methods described in Articles 1D.003, 1D.005 and 1D.009, Title 79, Revised Civil Statutes of Texas, as amended (Articles 5069-1D.003, 1D.005, and 1D.009, Vernon's Texas Civil Statutes).

The weekly ceiling as prescribed by Art. 1D.003 and 1D.009 for the period of 05/04/98 - 05/10/98 is 18% for Consumer <sup>1</sup>/Agricultural/Commercial <sup>2</sup>/credit thru \$250,000.

The weekly ceiling as prescribed by Art. 1D.003 and 1D.009 for the period of 05/04/98 - 05/10/98 is 18% for Commercial over \$250,000.

The monthly ceiling as prescribed by Art. 1D.005 and 1D.009<sup>3</sup> for the period of 04/01/98 - 04/30/98 is 18% for Consumer/Agricultural/Commercial/credit thru \$250,000.

The monthly ceiling as prescribed by Art. 1D.005 and 1D.009 for the period of 05/01/98 - 05/31/98 is 18% for Commercial over \$250,000.

<sup>1</sup>Credit for personal, family or household use.

<sup>2</sup>Credit for business, commercial, investment or other similar purpose.

<sup>3</sup>For variable rate commercial transactions only.

TRD-9805948  
Leslie L. Pettijohn  
Commissioner  
Office of Consumer Credit Commissioner  
Filed: April 28, 1998

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## Texas Department of Criminal Justice

### Notice to Bidders

The Texas Department of Criminal Justice invites bids for construction of the High Security Facility at the Preston E. Smith Unit, Lamesa, Texas and for the Security Electronics Systems for the Preston E. Smith High Security Unit, James V. Allred High Security Unit, William P. Clements High Security Unit, John B. Connally High Security Unit, and GIB Lewis High Security Unit. The High Security Facility for the Preston E. Smith Unit consists of new construction of a 660 cell High Security Prototype facility at the existing Preston E. Smith Unit. The size of the facility is approximately 145,000 square feet. The work includes civil, architectural, mechanical, electrical, plumbing, security electronics, food service, structural concrete and steel, and pre-engineered metal building as further shown on the Contract Documents prepared by Hellmuth, Obata and Kassabaum, Inc. There will be two contracts awarded as result of this one solicitation, one for the construction of the new high security facility at the existing Preston E. Smith Unit and one for the furnishing and installation of the Electronic Security Systems at five geographically separate sites.

The successful bidder will be required to meet the following requirements and submit evidence of same to Owner within five days after receiving notice of intent to award from the Owner:

A. Contractor must have a minimum of five consecutive years of experience as a General Contractor and provide references for at least three projects that have been completed of a dollar value and complexity equal to or greater than the proposed project.

B. Contractor must be bondable and insurable at the levels required.

All Bid Proposals must be accompanied by a Bid Bond in the amount of 5.0% of greatest amount bid. Performance and Payment Bonds in the amount of 100% of the contract amount will be required upon award of a contract.

Bid Documents can be purchased from the Architect/Engineer at a cost of \$250.00 (non-refundable) per set, inclusive of mailing/delivery costs, or they may be viewed at various plan rooms. Payment checks for documents should be made payable to the Architect/Engineer:

Hellmuth, Obata & Kassabaum, Inc. (HOK), 2001 Ross Avenue, Suite 2800, Dallas, Texas 75201; Attention: David House, Phone: (214) 720-6000; Facsimile: (214) 720-6005.

A Pre-Bid conference will be held 9:00 a.m. on May 14, 1998, at the W.J. Estelle Unit, Huntsville, Texas followed by a site-visit of this prototype unit. Attendance is mandatory. Bids will be publicly opened and read at 2:00 p.m. June 4, 1998, in the large Conference Room at the Facilities Division located in the warehouse building of the TDCJ Administrative Complex (formally Brown Oil Tool) on Spur 59 off of Highway 75 North, Huntsville, Texas. The Owner reserves the right to reject any or all bids, and to waive any informality or irregularity.

The Texas Department of Criminal Justice requires the Contractor to make a good faith effort to include Historically Underutilized Businesses (HUB's) in at least 26.1% of the total value of this

construction contract award. Attention is called to the fact that not less than the minimum wage rates prescribed in the Special Conditions must be paid on these projects.

TRD-9806002  
Carl Reynolds  
General Counsel  
Texas Department of Criminal Justice  
Filed: April 29, 1998

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## Texas Department of Economic Development

### Notice of Deadline for Submission of Defense Economic Adjustment Assistance Grant Applications

The Texas Department of Economic Development (department) administers the Defense Economic Adjustment Assistance Grant program authorized by Senate Bill 227 of the 75th Legislature (Act), codified at Government Code, Chapter 486. Rules for the program are published at 10 *Texas Administrative Code*, Chapter 174. Under the program, defense dependent communities that have experienced defense worker job loss due to base realignment and closure, cancellation of defense contracts, or other defense downsizing may be eligible for up to \$2 million in grant funds to be used for purposes set forth in the Act.

Approximately \$10 million of the \$20 million appropriated for the program in fiscal years 1998-99 has been allocated. The department anticipates that current demand for the remaining grant money will exceed funding for the biennium. Therefore, to adequately assess the need for and fairly allocate funds remaining for the biennium, the department asks all interested communities to submit their grant applications no later than 5:00 p.m., C.S.T., Monday, May 18, 1998.

The grant application can be downloaded from the department's web page at [www.tded.state.tx.us/commerce/defense/applic.htm](http://www.tded.state.tx.us/commerce/defense/applic.htm). The text of SB 227 and the implementing regulations can also be found at the department's web site. Communities should note that the information provided in the application is used to evaluate projects for funding and will form the basis for the contract between the community and the department in the event that grant funds are awarded. Communities that previously submitted applications and that wish to amend or update and resubmit those applications should do so by the 5:00 p.m., C.S.T., Monday, May 18, 1998, deadline.

For further information regarding the program, contact Dan Wattles, Director of Strategic Initiatives, at (512) 936-0230.

TRD-9805988  
W. Lane Lanford  
Chief Administrative Officer  
Texas Department of Economic Development  
Filed: April 29, 1998

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## Texas Education Agency

### Request for Application Concerning Public Law 103-382, Elementary and Secondary Education Act (ESEA) Title I, Part A-Capital Expenses, 1998-1999

Eligible Applicants. The Texas Education Agency (TEA) is requesting applications under Request for Application (RFA) #701-98-007 from school districts that have incurred capital expenses since July 1, 1995, or will incur such expenses during the 1998-1999 school year, as a result of implementation of alternative delivery systems to

comply with the requirements of *Aguilar v. Felton* in providing Title I, Part A, services to students attending private, religiously affiliated schools.

Description. Under Public Law 103-382, Title I, Part A, §1120(e), the term "capital expenses" means expenditures for noninstructional goods and services, such as: the purchase, lease, rental, and renovation of real and personal property (including, but not limited to, mobile educational units and leasing of neutral sites or space); insurance and maintenance costs; transportation; technician costs for the supervision of computer-assisted instruction (CAI); and other comparable goods and services. Under 34 Code of Federal Regulations (CFR), §200.16, capital expenses do not include the purchase of instructional equipment such as computers.

Dates of Project. The Title I, Part A-Capital Expenses, project will be implemented during the 1998-1999 school year, starting no earlier than July 1, 1998, and ending no later than June 30, 1999.

Project Amount. The projected state total available for these projects is \$1,557,217. These projects are funded 100% from ESEA, as amended by Public Law 103-382, Title I, Part A-Capital Expenses.

Selection Criteria. Applications submitted in response to this RFA must address all required components of the RFA. Applications are non-competitive and will be selected according to the following criteria: (1) requests for funding to meet current-year capital expenses will be categorized as Priority 1; and (2) requests for funding to reimburse the Title I, Part A, program for prior-year capital expenses will be categorized as Priority 2. Only requests for prior-year expenses from school years 1995-1996, 1996-1997, and 1997-1998 will be considered under Priority 2.

If the level of funding is insufficient to fund all eligible applicants under Priority 1, a prorated share will be granted for Priority 1 expenses and no funds will be distributed under Priority 2. The TEA is not obligated to approve an application, provide funds, or endorse any application submitted in response to this RFA. This RFA does not commit TEA to pay any costs incurred before an application is approved. The issuance of this RFA does not obligate TEA to award a grant or pay any costs incurred in preparing a response.

Requesting the Application. A complete copy of RFA #701-98-007 may be obtained by writing the: Document Control Center, Room 6-108, Texas Education Agency, William B. Travis Building, 1701 N. Congress Avenue, Austin, Texas 78701-1494, or by calling (512) 463-9304. Please refer to the RFA number in your request.

Further Information. For clarifying information about the RFA, contact Vivian Smyrl, Division of Accelerated Instruction/Student Support Programs, Texas Education Agency, (512) 463-9374.

Deadline for Receipt of Applications. Applications must be received in the Document Control Center of the Texas Education Agency by 5:00 p.m. (Central Time), Friday, June 26, 1998, to be considered.

TRD-9805973  
Criss Cloudt  
Associate Commissioner, Policy Planning and Research  
Texas Education Agency  
Filed: April 29, 1998

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## Edwards Aquifer Authority

### Consolidated Notice of Receipt of Applications, Determination of Administrative Completeness, Proposed Initial Regular Permit, and Technical Summary



The applicants listed in the following Summary of the Technical Summary of the Proposed Initial Regular Permits (Technical Summary) have applied to the Edwards Aquifer Authority (Authority) for initial regular permits to withdraw groundwater from the Edwards Aquifer. The applications were declared administratively complete on February 18, 1997. The places of use are in the counties identified by applica-

tion in the following Technical Summary. The points of withdrawal (i.e., wells) are within the service area, irrigated lands, or project or facility site, as may be applicable for each applicant. The General Manager of the Authority filed the applications with the Docket Clerk of the Authority on April 24, 1998. The proposed permit numbers, where appropriate, are as indicated on the Technical Summary.

### Summary of Proposed Initial Regular Permit and the Technical Summary

Application #	Owner Name and Address	Application Received	Proposed Recommendation	Place of Use	Maximum Claimed Purpose	Proposed Permit Withdrawal A
AT00900	William J. Gidley, Manager, Gidley Farms, L.L.P., 600 North Whiting Baytown TX 77520	12/26/96	G	ATA	IRR 276.4	258.4
AT00901	William J. Gidley, Manager, Gidley Farms, L.L.P., 600 North Whiting Baytown TX 77520	12/26/96	G	ATA	IRR 432.4	427.8
AT00902	Kye Mask, PO Box 1389, Lytle TX 78052	12/27/96	G	ATA	IRR 2051	2051
AT00903	Gladys T. McDonald, P.O. Box 823, Lytle TX 78052	12/26/96	G	ATA	IRR 554.18	554.18
BE00001	Burgess Development Co., Inc., 13006 Country Walk, San Antonio TX 78216	10/31/96	G	BEX	IND 82	43.52
BE00002	Collis W. Markt, P.O. Box 245, 15760 IH35 South Von Ormy TX 78073	11/13/96	G	BEX	IRR 70	70
BE00003	Cadillac Water Corporation, 15385 Cadillac Dr., San Antonio TX 78248	12/18/96	G	BEX	MUN 52.45	52.45
BE00004	Robert & John Yhari, 105 N. Alamo Street, San Antonio TX 78205	12/27/96	G	BEX	MUN 11.34	11.34
BE00005	Gary Management Services, Inc., 438 Sandau Rd., San Antonio TX 78216	12/27/96	D	BEX	IND 28	NA
BE00006	St. Joan of Arc Catholic Church, 2829 Askerman Rd., San Antonio TX 78219	12/27/96	G	BEX <sub>1</sub>	IND 16.085	5.36
BE00007	Ross Vañ, 3021 Nogalitos, San Antonio TX 78225	12/2/96	G	BEX	MUN 12	2.315
BE00008	Pearl Brewing Company, 312 Pearl Parkway, P.O. Box 1661 San Antonio TX 78296-1661	12/2/96	G	BEX	IND 1695	1169.31
BE00009	Robert & Judy Grossenbacher, 8480 Jungman Rd., San Antonio TX 78252-1702	12/3/96	G	BEX	IRR 885	323

BE00010	Baptist Childrens Home, 7404 Hwy 90 W, San Antonio TX 78227	12/4/96	G BEX	MUN	6.83	6.01
BE00011	Howard & Barbara Schurmer, 11280 W Loop 1604 S, San Antonio TX 78252	12/6/96	G BEX	IRR	230	230
BE00012	City of Kirby, 112 Bauman, Kirby TX 78219	12/6/96	G BEX	MUN	1674.3	888.354
BE00013	Presentation Sisters, 8931 Callaghan Road, San Antonio TX 78230-4570	12/9/96	G BEX	IND	2.49	2.49
BE00014	City of Converse, 9239 Converse Business Lane, P.O. Box 36 Converse TX 78109	12/10/96	G BEX	MUN	1499.9	808.425
BE00015	M.G. Building Materials, Inc., 9501 Hwy 81 South, San Antonio TX 78211	12/10/96	G BEX	IND	26.88	20.16
BE00016	Kiobassa Provision Co., Inc., 1325 So. Brazos St., San Antonio TX 78207	12/10/96	G BEX	IND	22.51	16.74
BE00017	Rainbow Gardens #3, 8516 Bandera Rd., San Antonio TX 78250	12/10/96	G BEX	IND	14	13.8
BE00018	Campbell Lumber Co., Inc., 3896 Stahl Road, P.O. Box 33474 San Antonio TX 78265-0060	12/10/96	D BEX	DOM	0	NA
BE00019	Comgas Enterprise, Inc., 856 Gemblar Rd., San Antonio TX 78219	12/10/96	G BEX	IRR	80	80
BE00020	Don E. Dalros, 14155 Dubose, Atascosa TX 78002	12/11/96	G BEX	IRR	122.68	122.68
BE00021	SW Independent School District, 11914 Dragon Lane, San Antonio TX 78252	12/11/96	G BEX	IND	269.29	120.46
BE00022	SW Independent School District, 11914 Dragon Lane, San Antonio TX 78252	12/11/96	G BEX	IND	126.95	82.55
BE00023	SW Independent School District, 11914 Dragon Lane, San Antonio TX 78252	12/11/96	G BEX	IND	1.5	1.5
BE00024	SW Independent School District, 11914 Dragon Lane, San Antonio TX 78252	12/11/96	D BEX	IRR	40	NA
BE00025	Windsor Golf Course, 8600 Midcrown, San Antonio TX 78239	12/11/96	G BEX	IND	56	44
BE00026	City of Leon Valley, 6400 El Verde Road, Leon Valley TX 78238	12/12/96	G BEX	MUN	1441.46	819.9
BE00027	San Antonio Zoo, 3903 N. St. Mary's Street, San Antonio TX 78212-3199	12/13/96	G BEX	IND	2986.54	1790.4
BE00028	Bexar County Water Control & Improvement District #10, 8601 Midcrown, San Antonio TX 78239	12/13/96	G BEX	MUN	1636.17	1201.309
BE00029	Fred Neumann, 6851 FM 2536, #1, San Antonio TX 78252	12/13/96	G BEX	IRR	46	46
BE00030	Roger G & Patricia Verstuyff & Marvin G & Merlynn Verstuyff, Rt. 38, Box 549, San Antonio TX 78211	12/16/96	G BEX	IRR	239.6	239.6
BE00031	St. John Neumann Catholic Church, 6680 Crestway, San Antonio TX 78239	12/17/96	D BEX	IND	0.5	NA
BE00032	Elmer P. Shelton, 9680 Pearsall Road, Atascosa TX 78002	12/17/96	G BEX	IRR	276.808	192
BE00033	Cox MFGCO, 5500 N Loop 1604 E, San Antonio TX 78247	12/17/96	G BEX	IND	1	1
BE00034	Oakwell Farms Homeowners Asso., 3330 Oakwell Court, #132, San Antonio TX 78218	12/17/96	G BEX	IND	12	1.64
BE00035	Minnie M. Schumann, 2334 W. King's Hwy, San Antonio TX 78201	12/17/96	G BEX	IRR	284	284
BE00036	Wilcox & Asso. dba Texas Allied Landscape & Scape Jr, 5203 Casa Bella, San Antonio TX 78249	12/17/96	G BEX	IRR	4.83	4.26
BE00037	East Central Water Supply Corp, 5520 FM 1628, P.O. Box 570 Adkins TX 78101	12/18/96	D BEX	MUN	1438	NA
BE00038	C. H. Guenther & Son, Inc. dba Pioneer Flour Mills, 129 E. Guenther, San Antonio TX 78204	12/18/96	G BEX	IND	9.21	7.94
BE00039	Homer Verstuyff, Jr., 8449 Nelson Rd., San Antonio TX 78252	12/19/96	G BEX	IRR	174	174
BE00040	Meta Keller, 14887 Hwy 90 West, San Antonio TX 78252	12/19/96	G BEX	IRR	216.8	146
BE00041	Clara Showlin & Mary Vehle, 209 W. Woodlawn, San Antonio TX 78212	12/19/96	G BEX	IRR	400	400
BE00042	Ralph & Seta Farms, Inc., 13459 FM 2790 South, Laconite TX 78039	12/19/96	G BEX	IRR	230	218
BE00043	Lone Star Growers - Limited Partnership, 7960 Cagnon Rd., San Antonio TX 78252	12/19/96	G BEX	IND	3656	400

## Summary of Proposed Initial Regular Permit and the Technical Summary

BE00044	City of Universal City, 2150 Universal City Blvd., Universal City TX 78148	12/19/96	G BEX MUN	2792.08	1958.4
BE00045	Retama Partners, Ltd., P.O. Box 600, San Antonio TX 78292	12/19/96	G BEX IRR	1611.32	966
BE00046	Medina Investments, Ltd. dba, Rt. 9, Box 226-D, 8910 Montgomery Rd San Antonio TX 78252	12/19/96	D BEX IRR	1206	NA
BE00047	Norman J. Jungman, 1105 Madrid St., Castroville TX 78009	12/19/96	G BEX IRR	80	80
BE00048	John W. Jr and Adah V. Watts, 9990 Pearsall Road, P.O. Box 444 Atascosa TX 78002	12/19/96	G BEX IRR	300	300
BE00049	Kathleen N. Jaruga, 5311 Wirtidge, San Antonio TX 78228	12/19/96	G BEX IRR	68	24
BE00050	Felix & Cecilia Lange, 1020 County Rd. 5711, La Coste TX 78039	12/20/96	D BEX IRR	0	NA
BE00051	City of Schertz, 1400 Schertz Parkway, P.O. Drawer 1 Schertz TX 78154	12/20/96	G BEX MUN	2414.2	1472.58
BE00052	Air Force Village II, 5100 John D. Ryan Blvd, San Antonio TX 78245	12/20/96	G BEX MUN	197.03	139.698
BE00053	Air Force Village II, 5100 John D. Ryan Blvd, San Antonio TX 78245	12/20/96	G BEX IRR	400	400
BE00054	Vernell Pope Burch, 2542 Blossom Lane, San Antonio TX 78217	12/20/96	G BEX IRR	600	600
BE00055	Henry Venstrater, Sr., 8091 #2 Pearsall Road, San Antonio TX 78252	12/20/96	G BEX IRR	1542	699.6
BE00056	Venstrater Bros Farms, Inc., 7844 #1 Pearsall Road, San Antonio TX 78252	12/20/96	G BEX IRR	2376	792.4
BE00057	Life Family Church, P.O. Box 690090, San Antonio TX 78269-0090	12/20/96	D BEX IRR	25.4	NA
BE00058	City of Alamo Heights, 6116 Broadway, San Antonio TX 78209	12/20/96	G BEX MUN	3650.8	2138.814
BE00059	Lucille Suberg, 1001 Honda, P.O. Box 1273 Sabel TX 78881	12/20/96	G BEX IRR	140	129.4
BE00060	U Bar Ranch, Inc., 310 S. St. Mary's #1100, San Antonio TX 78205	12/23/96	D BEX IRR	2570	NA
BE00061	William G. Reichert, 14964 Hwy 90 E, Castroville TX 78009	12/23/96	G BEX IRR	1031	1031
BE00062	San Antonio Packing Company, 1922 S. Laredo, P.O. Box 7265 San Antonio TX 78207	12/23/96	G BEX IND	131.6	42.9
BE00063	Frank Medler, Jr., 14975 Gross Lane, P.O. Box 265 La Coste TX 78039	12/23/96	G BEX IRR	822	742
BE00064	Becker Ranch, 11170 West Loop 1604 South, San Antonio TX 78252	12/23/96	G BEX IRR	416	416
BE00065	Oblate School of Theology, 285 Oblate Drive, San Antonio TX 78216	12/23/96	D BEX MUN	100.2	NA
BE00066	Missionary Oblates of Mary Immaculate of Texas, 7711 Madonna Drive, San Antonio TX 78216	12/23/96	G BEX IND	4.2	4.2
BE00067	Roger & Marvin Versteff, Sharon Eisenhauer, et al, Rt. 38, Box 549, San Antonio TX 78211	12/20/96	G BEX IRR	266.4	266.4
BE00068	Culebra-1604 Joint Venture, P.O. Box 17065-0065, San Antonio TX 78217-0065	12/20/96	D BEX DOM	108	NA
BE00069	Mildred V. Baedke and Alame Bays, 3195 E. Loop 1604 S, Adkins TX 78101-9480	12/20/96	G BEX IRR	48	48
BE00070	David N. Digby, 13154 Hunters Brook, San Antonio TX 78230	12/26/96	G BEX IND	28	1
BE00071	Eddie Miller, 6312 Grissom Rd., San Antonio TX 78238	12/24/96	G BEX IRR	98.36	97.16
BE00072	Willowood Investments, Inc., 310 S. St. Mary's #1100, San Antonio TX 78205	12/24/96	G BEX IND	20.2	5.05
BE00073	Estate of Jose & Manuel Espino, P.O. Box 83, La Coste TX 78039	12/24/96	G BEX IRR	290	290
BE00074	San Fernando Water Co., 501 Harriman, San Antonio TX 78204	12/26/96	G BEX MUN	507.8	441.657
BE00075	Albert L. James, 17370 Shephard Rd., P.O. Box 543 Somerset TX 78069	12/26/96	G BEX IRR	190	190
BE00076	St. Mary's University, One Camino Santa Maria, San Antonio TX 78228	12/26/96	G BEX IND	77.97	42.43
BE00077	EG&G Automotive Research, Inc., 5404 Bandera Rd., San Antonio TX 78238	12/24/96	G BEX IND	156.1	91.84
BE00078	Sunshine Industries, 617 N. Flores, San Antonio TX 78205	12/23/96	G BEX IND	239	140.57
BE00079	Sea World of Texas, 10500 Sea World Drive, San Antonio TX 78251	12/23/96	G BEX IND	1105.37	897.52
BE00080	City of Selma Water Utilities, 9375 Corporate Drive, Selma TX 78154	12/24/96	G BEX MUN	163.09	131.07
BE00081	Living Waters Artesian Springs, Ltd, 1177 Davis Bend, Alvin TX 77511	12/23/96	G BEX IND	47043	6934
BE00082	Bexar County Infrastructure Services Dept., 233 N. Pecos, Suite 420, San Antonio TX 78207	12/24/96	G BEX IRR	570.8	570.8
BE00083	The Stroh Brewery Company, 600 Lone Star Blvd., San Antonio TX 78204	12/24/96	G BEX IND	907.1	752.55
BE00084	St. Rose of Lima Catholic Church, 9883 Marbach Road, San Antonio TX 78245	12/26/96	G BEX IND	0.75	0.75
BE00085	Antonio Mario Fernandez, Box 487, Devine TX 78016	12/26/96	G BEX IRR	1240	1240
BE00086	Cindy Glover, Cit's Produce, Inc., 9830 Camino Villa #712 San Antonio TX 78250	12/26/96	G BEX IRR	964.8	740
BE00087	A. V. Tharman, 10920 Blanchard Rd., Atascosa TX 78002-3921	12/23/96	G BEX IRR	206	206
BE00088	Ruth McLean Bowers, 415 Bellnap, P.O. Box 12199 San Antonio TX 78212	12/27/96	G BEX IRR	385.4	385.4
BE00089	Southwest Research Institute, 6220 Culebra Rd, P.O. Drawer 28510 San Antonio TX 78228-0510	12/27/96	G BEX IND	1705	752.4
BE00090	Myrtle LaVerne Weir Fischer, 2328 Krueger Canyon, New Braunfels TX 78132	12/27/96	G BEX IRR	497.7	140.22
BE00091	Zion Lutheran Church of Helotes, 9944 Leslie Rd., San Antonio TX 78254-9547	12/27/96	G BEX IND	0.8	0.43
BE00092	Division Laundry & Cleaners, 6649 Highway 96 West, San Antonio TX 78227	12/26/96	G BEX IND	102	95.27
BE00093	Jerry Van Overborg, 314 Laurel Ridge, San Antonio TX 78253	12/26/96	G BEX IRR	460	459
BE00094	Redland Stone Products Company, 17910 Interstate Highway 10 W, San Antonio TX 78257	12/26/96	G BEX IND	5220.68	85.86
BE00095	CSR, P.O. Box 27256, San Antonio TX 78009	12/26/96	G BEX IND	1.08	1.01
BE00096	Freeport Business Centre L.P., 2425 East Camelback Rd., Suite 900 Phoenix AZ 85016	12/26/96	D BEX IRR	998.4	NA
BE00097	Johnson & Roberts, L.L.C., 8626 Tesoro, Suite 804, San Antonio TX 78217	12/26/96	G BEX IND	156	108.28

## Summary of Proposed Initial Regular Permit and the Technical Summary

BE00098	Alamo Cement Co., Ltd., 6055 W. Green Mountain Road, PO Box 34807, San Antonio TX 78265	12/27/96	G	BEX	IND	347.4	76.68
BE00099	Southwest Texas Methodist Hosp, 7700 Floyd Curl Drive, San Antonio TX 78229	12/27/96	G	BEX	IND	27	3.04
BE00100	City of San Antonio - CPS, PO Box 1771, San Antonio TX 78205	12/27/96	G	BEX	IND	4736	1196
BE00101	K O Steel, 3700 Pittak Road, PO Drawer 5 San Antonio TX 78211	12/26/96	D	BEX	IRR	120	NA
BE00102	Homer Vestayff, et al, 12403 Shepherd Road, Atascosa TX 78002	12/27/96	G	BEX	IRR	91.6	88.6
BE00103	Cynd Vestayff Est., 13235 Watson Road, Von Ormy TX 78073	12/27/96	G	BEX	IRR	433	433
BE00104	Homer C. Vestayff, Rt. 38, Box 545, San Antonio TX 78211	12/27/96	G	BEX	IRR	100	100
BE00105	Otto A. Reeh, PO Box 3102, San Antonio TX 78211	12/27/96	G	BEX	IRR	202.55	97.2
BE00106	Albert & Marcel Grothaus, 14798 IH 35 S, Von Ormy TX 78073	12/27/96	G	BEX	IRR	490.76	479
BE00107	Alamo Park, Inc., PO Box 34807, San Antonio TX 78265	12/27/96	G	BEX	IND	435.78	144.6
BE00108	Alamo Park, Inc., PO Box 34807, San Antonio TX 78265	12/27/96	G	BEX	IND	613.78	183.78
BE00109	F W Ranchlands, L.P., 40-004 Cook Street, Palm Desert CA 92211	12/27/96	G	BEX	IRR	358.062	358
BE00110	Mallard Farms, P.O. Box 790305, San Antonio TX 78279-0305	12/27/96	D	BEX	IRR	849.98	NA
BE00111	Union Stock Yards San Antonio, Inc., 1716 South San Marcos, #221, San Antonio TX 78207	12/26/96	G	BEX	IND	646.31	373.28
BE00112	Patricia A. Cox and Nancy A. Steger, 1310 S. Texas Blvd., Weslaco TX 78394	12/26/96	D	BEX	IRR	1039.05	NA
BE00113	Aldridge Nursery, Inc., 10440 Jarratt Road, PO Box 1299 Von Ormy TX 78073	12/27/96	D	BEX	IND	2100	NA
BE00114	Ed J. Kneupper, Pat Bryson, Ramiro Villarreal, 806 Toemperwein, Converse TX 78109	12/27/96	D	BEX	MUN	1.25	NA
BE00115	Oakwell Farms Corporation, 330 Oakwell Court, #110, San Antonio TX 78218	12/26/96	D	BEX	IRR	646	NA
BE00116	Richard M. KJeborg, Jr. Trusts NFC 1250 NE Loop 410, Ste. 555, Box 17777 San Antonio TX 78217	12/27/96	G	BEX	IND	2700	1280
BE00117	Panther Springs Golf, Inc., 16900 Blanco, San Antonio TX 78232	12/27/96	G	BEX	IND	19.89	4.6238
BE00118	Florence Becker, 10085 Shepherd Rd., Atascosa TX 78002	12/26/96	G	BEX	IRR	130	98.4
BE00119	Sarlean Meat Company, 1545 S. San Marcos Street, PO Box 14276 San Antonio TX 78214	12/24/96	G	BEX	IND	248.6	136.95
BE00120	L&H Picking Company, 475 Stevens Avenue, PO Box 14514 San Antonio TX 78214	12/24/96	G	BEX	IND	636	526.42
BE00121	Keith & Chen Byron, 15660 IH 35 South, Atascosa TX 78002	12/27/96	G	BEX	IRR	248.6	188
BE00122	John R. Delgado, 410 Pat Booker Road, Universal City TX 78149	12/27/96	D	BEX	IND	128	NA
BE00123	SW Foundation for Bio Research, 7620 NW Loop 410, PO Box 760549 San Antonio TX 78245-0549	12/27/96	G	BEX	IND	164.45	117.59
BE00124	Capitol Cement Div/Capitol Aggregates, Ltd., PO Box 33246, San Antonio TX 78265	12/27/96	G	BEX	IND	488.9	204.95
BE00125	Capitol Cement Div/Capitol Aggregates, Ltd., PO Box 33246, San Antonio TX 78265	12/27/96	G	BEX	IND	80.354	30
BE00126	Diamond Shamrock, PO Box 696000, San Antonio TX 78269	12/27/96	G	BEX	MUN	1	1
BE00127	Shady Acres Trailer Park, Alfred Hudson, 7603 Seidel Road San Antonio TX 78209	12/27/96	G	BEX	MUN	23.42	18.84
BE00128	Oak Hills Country Club, 5403 Fredericksburg Road, San Antonio TX 78229	12/27/96	G	BEX	IND	412	229.06
BE00129	Theresa M. Shadrock, Box 36, Macedonia TX 78054	12/27/96	G	BEX	IRR	1230	510
BE00130	Blue-Wing Club, 112 E. Pecan St, Suite 900, San Antonio TX 78205	12/27/96	D	BEX	IND	645.2	NA
BE00131	Harold R. Harlach, Rt. 27, Box 332D, San Antonio TX 78245	12/27/96	G	BEX	IRR	396	396
BE00132	Joe Van Hecke, 7523 Pearsall Road, San Antonio TX 78252	12/27/96	G	BEX	IRR	3711	102
BE00133	Frederick T. Fey & Kathleen Fey Davis, 16301 Kinney Road, Von Ormy TX 78073	12/27/96	G	BEX	IRR	284.2	284.2
BE00134	San Antonio Country Club, 4100 N. New Braunfels, San Antonio TX 78209	12/27/96	G	BEX	IND	266.99	231.84
BE00135	Medina Valley Land & Cattle, Rt. 2, Box 777, Hondo TX 78861	12/27/96	G	BEX	IRR	807.144	788.304
BE00136	Lakeside Properties, Ltd., 310 St. Mary's, 10th Floor San Antonio TX 78205	12/27/96	D	BEX	IND	499.5	NA
BE00137	Randy & Suzanne Dym, 11815 IH 10 W, Suite 107, San Antonio TX 78230	12/27/96	D	BEX	DOM	1	NA
BE00138	Larry Ohlenburger and Marilyn Ohlenburger, 18843 Redland Road, San Antonio TX 78259	12/27/96	D	BEX	DOM	1	NA
BE00139	Joseph H. Nentwich, et al, 12997 Shepherd Road, PO Box 57 Atascosa TX 78002	12/30/96	G	BEX	IRR	176	176
BE00140	Alamo Concrete Products, Ltd., 4981 E. Evans Road, PO Box 34210 San Antonio TX 78265	12/30/96	G	BEX	IND	23.59	9.82
BE00141	Alamo Concrete Products, Ltd., 4981 E. Evans Road, PO Box 34210 San Antonio TX 78265	12/30/96	G	BEX	IND	17.2	8.871569
BE00142	Alamo Concrete Products, Ltd., 4981 E. Evans Road, PO Box 34210 San Antonio TX 78265	12/30/96	D	BEX	IND	3920.382	NA
BE00143	Alamo Concrete Products, Ltd., 4981 E. Evans Road, PO Box 34210 San Antonio TX 78265	12/30/96	G	BEX	IND	30.38	17.99616
BE00144	Alamo Concrete Products, Ltd., 4981 E. Evans Road, PO Box 34210 San Antonio TX 78265	12/30/96	G	BEX	IND	1095.38	196.25
BE00145	Bill Schultz, 4602 Black Oak Woods, San Antonio TX 78249	12/30/96	G	BEX	IND	4	2.154
BE00146	Larry J. Alexander, 18 De Zavala Place, San Antonio TX 78249	12/30/96	D	BEX	IND	55.73	NA
BE00147	13095 Ltd., PO Box 460567, San Antonio TX 78246	12/30/96	G	BEX	IRR	122	122
BE00148	13095 Ltd., PO Box 460567, San Antonio TX 78246	12/30/96	D	BEX	IND	322.23	NA
BE00149	Ron D. Ross, 11722 Raindrop, San Antonio TX 78216	12/30/96	G	BEX	MUN	1917.92	1125.783
BE00150	T-Slash-Bar Texas, Ltd., 1920 Nacogdoches, Suite 101 San Antonio TX 78209	12/30/96	G	BEX	IRR	3748.83	1200
BE00151	U.S. Air Force - Lackland AFB, 1555 Gott Street, Lackland AFB TX 78236-5637	12/30/96	G	BEX	MUN	7152.7	3903.84

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BE00152	Beck Ready-mix Concrete Company, 122 E. Turbo, PO Box 32641 San Antonio TX 78216	12/30/96	G BEX	IND	48.6	27.58
BE00153	Alma Tausch, 8845 Leslie Road, San Antonio TX 78254	12/30/96	G BEX	IRR	994.32	334.078
BE00154	City of Live Oak, 8001 Shin Oak, Live Oak TX 78233	12/30/96	G BEX	MUN	4432.8	876.8043
BE00155	Silver Lake Farm Joint Venture, 5701 Broadway, Suite 210 San Antonio TX 78209	12/30/96	G BEX	IRR	598.2	598.2
BE00156	San Antonio A&M Club Found., 6205 West Avenue, San Antonio TX 78213	12/30/96	G BEX	IND	2	2
BE00157	Joe W. Owings, 13798 FM 471 West, PO Box 27615 San Antonio TX 78227-0615	12/30/96	G BEX	MUN	87.04444	43.01
BE00158	Frank Persyn, 8788 Reed Road, San Antonio TX 78251	12/30/96	G BEX	IRR	1172	1168
BE00159	Frank Persyn, Jr. & Henry Persyn, 6106 Ridge Arbor, San Antonio TX 78250	12/30/96	G BEX	IRR	552	552
BE00160	Mary Ann Adamek, 14080 DuBose Road, PO Box 142 Atascosa TX 78003-0142	12/30/96	D BEX	DOM	0	NA
BE00161	Tony Constanto, 14471 Herring Road, Atascosa TX 78002	12/30/96	D BEX	IRR	600	NA
BE00162	Sunset Memorial Park, 1701 Austin Highway, San Antonio TX 78218	12/30/96	G BEX	IND	318	208.83
BE00163	Gibson Realty Corporation, 511 Dietrich Road, San Antonio TX 78219	12/30/96	G BEX	IND	1	1
BE00164	Santa Rosa Health Care, 519 W. Houston, San Antonio TX 78207-3198	12/30/96	G BEX	IND	4.67	3.58
BE00165	David Herweck, PO Box 127, Atascosa TX 78002	12/30/96	D BEX	IRR	110	NA
BE00166	Warren Weir, 726 Patricia, San Antonio TX 78216	12/30/96	D BEX	MUN	28	NA
BE00167	G.M. Trading Corp., 4818 Hwy. 90 East, PO Box 200596 San Antonio TX 78220-0596	12/30/96	G BEX	IND	216	84
BE00168	Southern Wool & Skin Co., 222 Kemper Street, San Antonio TX 78207	12/30/96	G BEX	IND	94.86	68.92
BE00169	NE Independent School District, 10333 Broadway, Annex 1 San Antonio TX 78217	12/30/96	G BEX	IND	20.7	20.7
BE00170	NE Independent School District, 10333 Broadway, Annex 1 San Antonio TX 78217	12/30/96	G BEX	IND	4.8	4.8
BE00171	NE Independent School District, 10333 Broadway, Annex 1 San Antonio TX 78217	12/30/96	G BEX	IND	69.1	69.1
BE00172	NE Independent School District, 10333 Broadway, Annex 1 San Antonio TX 78217	12/30/96	G BEX	IND	16.4	10.5
BE00173	Atascosa Rural W.S.C., 10882 Jarratt Road, PO Box 9 Atascosa TX 78002	12/30/96	G BEX	MUN	901	422.181
BE00174	Bankruptcy Estate of Standard Industries, Inc., 318 East Nopal, Uvalde TX 78801	12/30/96	G BEX	IND	94.2	52.34873
BE00175	Temple of Praise, 1620 Pitts, San Antonio TX 78223	12/30/96	G BEX	IND	11.543	5.058
BE00176	Maria Aabvost Estate, 110 CR. 4803, Castroville TX 78009	12/30/96	G BEX	IRR	114	114
BE00177	Robert L. Cooper, 17474 Judson Rd., San Antonio TX 78247	12/30/96	G BEX	IND	3.9	3.9
BE00178	U.S. Army Fort Sam Houston, 2202 15th Street, Building 4196 Fort Sam Houston TX 78234-5067	12/23/96	G BEX	MUN	4737	3735.135
BE00179	Marcus T. Barrett, III & Mary R. Barrett, 939 Garraty Road, San Antonio TX 78209	12/30/96	D BEX	DOM	15.5	NA
BE00180	US Air Force - Randolph AFB, 12 FTW/C.C., 1 Washington Circle, Suite 1 Randolph AFB TX 78150	12/30/96	G BEX	MUN	2017	1384.209
BE00181	Wilma V. Mortellaro - Mortellaro's Nursery, Inc., 2611 NE Loop 410, San Antonio TX 78217	12/30/96	G BEX	IRR	48	48
BE00182	James C. Hasden, Sr., 16940 IH 35 North, Schertz TX 78154	12/30/96	G BEX	IRR	34.1	4.5
BE00183	Edmund Persyn, 1616 Argyle, Castroville TX 78009	12/30/96	D BEX	IRR	50	NA
BE00184	George Ray Broun dba Auge Building Co., PO Box 460566, San Antonio TX 78246	12/30/96	G BEX	IND	152.4	103.08
BE00185	Sports America SA, Ltd. dba Ozam Sports Park, 12001 Wetmore Road, San Antonio TX 78247	12/30/96	D BEX	IND	49.4	NA
BE00186	Cecilia A. Dove, 5307 King George, PO Box 680425 San Antonio TX 78268-0425	12/30/96	G BEX	MUN	4.68	3.16
BE00187	Episcopal Diocese of West TX, 111 Torcido, PO Box 6885 San Antonio TX 78209	12/30/96	D BEX	IND	13.79	NA
BE00188	Hilda Huth, 6761 Walzem Road, San Antonio TX 78239-3614	12/30/96	D BEX	DOM	4	NA
BE00189	Griffin's Garden Center, Inc., 15934 Naogloches Road, San Antonio TX 78247-1105	12/30/96	G BEX	IND	11.45	4.16
BE00190	Living Faith Church, 18850 Red Land Road, PO Box 790862 San Antonio TX 78279	12/30/96	G BEX	MUN	1.3	0.52
BE00191	St. Anthony's Catholic H.S., 3200 McCullough, San Antonio TX 78212	12/30/96	G BEX	IND	115.7	35.095
BE00192	George W. Keding, 20450 Huebner Rd. Apt #112, PO Box 70 San Antonio TX 78258-3902	12/30/96	D BEX	IRR	80	NA
BE00193	Tim O'Brien, 7907 N. New Braunfels, San Antonio TX 78209	12/30/96	D BEX	IRR	0.5	NA
BE00194	Day & McDaniel, 5531 Noyes Rd., Von Ormy TX 78073	12/30/96	G BEX	IRR	700	600
BE00195	8343 BL San Antonio, Ltd., 15851 Dallas Parkway, Suite 1120 Dallas TX 75248	12/30/96	G BEX	IRR	1125	900
BE00196	Contemporary Constructors, Inc, 19240 Red Land Rd., PO Box 790846 San Antonio TX 78279	12/30/96	D BEX	IND	0	NA
BE00197	Clementine Moehler, 6775 Jungman Road, San Antonio TX 78252	12/30/96	G BEX	IRR	220	220
BE00198	E.M.W. Ltd., 3023 Iron Stone Court San Antonio TX 78230	12/30/96	G BEX	IRR	700	691.2
BE00199	River City Ready Mix, Inc., 5745 Eastfield, PO Box 681085 San Antonio TX 78268-1085	12/30/96	D BEX	IND	2.5	NA
BE00200	William E. Cooper, 1431 Cable Ranch Road, San Antonio TX 78245	12/30/96	G BEX	IRR	600	600
BE00201	Phappo Properties, Ltd., 3602 Highpoint, San Antonio TX 78217	12/30/96	D BEX	IND	295	NA
BE00202	Marbach/Kodland Partners, Ltd., 140 East Houston, #220, San Antonio TX 78205	12/30/96	D BEX	IND	22.64	NA
BE00203	Waste Management of Texas dba Covell Gardens RDF, 8611 Covell Road, San Antonio TX 78252	12/30/96	G BEX	IRR	94	92
BE00204	Waste Management of Texas dba Covell Gardens Recycling, 8611 Covell Rd, San Antonio TX 78252	12/30/96	G BEX	IRR	206.6	206.6
BE00205	F.H. Rogers dba Elm Valley Water Company, 3075 Talley Road, San Antonio TX 78253	12/30/96	G BEX	IND	61	33.24

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BE00206	J.H. Upton & Asso., Inc., 3740 Colony Drive, Suite LL102 San Antonio TX 78230	12/30/96	G BEX IND	342	181.68
BE00207	J.H. Upton & Asso., Inc., 3740 Colony Drive, Suite LL102 San Antonio TX 78230	12/30/96	G BEX IRR	2900	1160
BE00208	San Antonio Museum of Art, 200 W. Jones, San Antonio TX 78215	12/30/96	G BEX IND	14.65	14.65
BE00209	Geryl Brannan-IRA #69001067391, c/o Briley Natl Bank, 1177 NE Loop 410 San Antonio TX 78209	12/26/96	G BEX IRR	1041.85	417.4
BE00210	Meredith Aldridge and David Aldridge, 10409 Jarrat Rd., Von Ormy TX 78073	12/26/96	G BEX IRR	352	85
BE00211	Richard Vogt, 4506 Ackerman Rd, San Antonio TX 78219	12/26/96	G BEX IRR	288	288
BE00212	Allen & Herman Mechler, 6760 Jungman Rd., San Antonio TX 78252-1703	12/26/96	G BEX IRR	310	310
BE00213	YN Systems LTD dba The Club at Sostera, 901 Sostera, San Antonio TX 78258	12/26/96	G BEX IND	429	198.3
BE00214	United Services Automobile Association, 9800 Fredericksburg Road, San Antonio TX 78288-0001	12/26/96	G BEX IND	469	205.66
BE00215	O-Sports Golf Dev II Linn Part dba Silverhorn Golf Club of TX, 6303 Waterford Blvd, #225, Okla. City OK 73118	12/26/96	D BEX IND	14.58	NA
BE00216	Quality Service Tank Lines Inc, 13550 Toopervain Road, San Antonio TX 78233-4036	12/27/96	G BEX IND	2.74	2.04
BE00217	Ann L. Bippert, 131 Duffmoor, San Antonio TX 78227	12/26/96	G BEX IRR	106.2	106.2
BE00218	Millberger Landscaping, Inc., 3920 N Loop 1604 East, San Antonio TX 78247	12/27/96	G BEX IND	17.52	17.52
BE00219	Lake View Garden No. 2, 5527 W. Comalmeane Street, San Antonio TX 78237	12/27/96	G BEX MUN	11.25	8.44
BE00220	Sisters of Charity of the Incarnate Word, 4503 Broadway, San Antonio TX 78209	12/27/96	G BEX IND	52.2	50.86
BE00221	Harold Jungman, 7524 E. Evans Rd., San Antonio TX 78266-2804	12/24/96	G BEX IRR	60	60
BE00222	Charles J. Haner, 8891 Grissom Road, San Antonio TX 78251	12/27/96	G BEX IRR	385.2	385.2
BE00223	Harold & Patricia Prisenhahn dba Holiday Pines, 15356 IH 35 N, Selma TX 78154	12/27/96	G BEX IRR	2	2
BE00224	Alta Vista Farms, Inc, 12796 FM 2790 SW #3, La Coste TX 78039	12/26/96	G BEX IRR	801	716
BE00225	Bernard & Margaret M. Echle, George M. Echle, Jr., 15241 Gross Lane, La Coste TX 78039-9419	12/26/96	G BEX IRR	416	416
BE00226	William M. Menard, Sr., Rt 9, Box 329-B, San Antonio TX 78252-2100	12/26/96	G BEX IRR	40	40
BE00227	Bexar Met Water District, 2047 W. Malone, PO Box 3577 San Antonio TX 78211-0577	12/30/96	G BEX MUN	2762441	19998.31
BE00228	Gene & Barbara Brown, PO Box 33995, San Antonio TX 78265	12/30/96	G BEX IND	536.93	154.1908
BE00229	Water Services, Inc., PO Box 421, Bulverde TX 78163	12/30/96	G BEX MUN	96.2	71.49615
BE00230	Yolande De Leon Charitable Tr., Frost Bank Trustee, 100 W. Houston San Antonio TX 78230	12/30/96	D BEX DOM	0	NA
BE00231	Donald S. Thomas, 5498 Talley Road, San Antonio TX 78253	12/30/96	D BEX DOM	0	NA
BE00232	John D. Walker, II, 5617 Grissom Road, San Antonio TX 78238	12/30/96	D BEX IRR	18	NA
BE00233	Our Lady of the Lake Univ., Physical Plant Department, 411 SW 24th St San Antonio TX 78207-4689	12/27/96	G BEX IND	96.85	77.64365
BE00234	Surf San Antonio, Inc. dba Splashtown San Antonio, 3600 North I 35, San Antonio TX 78219	12/30/96	G BEX IND	44.76	4.3
BE00235	Mother Earth Daycare, Ltd., 8464 Barrow Road, San Antonio TX 78240	12/30/96	G BEX IND	0.5	0.5
BE00236	Tejas Valley, Inc., 13080 Potranco Road, San Antonio TX 78257	12/30/96	D BEX IND	3	NA
BE00237	Carl W. Miles, 103 Bearcliff, San Antonio TX 78213	12/30/96	G BEX IND	6.39	5.11
BE00238	Glen B. Lacy, 6301 Old Hwy. 90 West, San Antonio TX 78227	12/30/96	G BEX IND	3.9	2.94
BE00239	U.S. Air Force - Kelly AFB, 76 CBG/CC, 73 Park Court Kelly AFB TX 78241-6037	12/27/96	G BEX MUN	472495	3636.35
BE00240	Carl A. Newtich, 1983 Oakwell Farms Parkway, #1106 San Antonio TX 78218	12/30/96	G BEX IRR	602.2	569.8
BE00241	Harvey L. & Norene M. Kuritz, Box 357, LaCoste TX 78039	12/30/96	G BEX IRR	32	32
BE00242	Valencia Harsmann Kinsey Trust, P.O. Box 83, Hondo TX 78861-0083	12/30/96	G BEX IRR	89.45	89.45
BE00243	Justin Jungman, 201 Lower LaCoste Road, Castroville TX 78609	12/30/96	G BEX IRR	40	40
BE00244	Delvin J. Bippert, 13898 US Hwy 90 West, #1, San Antonio TX 78245	12/30/96	G BEX IND	84.5	84.5
BE00245	Amstar Corporation, Box 171192, San Antonio TX 78217	12/30/96	G BEX IRR	200	160
BE00246	Western Finance Corporation, PO Box 171192, San Antonio TX 78217	12/30/96	G BEX IRR	96	96
BE00247	James L. Penryn, 6546 Jungman Road, San Antonio TX 78252	12/30/96	G BEX IRR	23	23
BE00248	Stanley G. Winchester, 518 W. Craig, San Antonio TX 78212	12/30/96	G BEX IND	5.898	5.898
BE00249	Lakeside Village, A Mobile Home Community, 5627 Sherry Drive, San Antonio TX 78242	12/30/96	G BEX MUN	52.79	37.34956
BE00250	Venstuyff Farms, 14819 IH 35 South, Von Ormy TX 78073	12/30/96	G BEX IRR	2505	952
BE00251	Henry Venstuyff Farms, 14819 IH 35 South, Von Ormy TX 78073	12/30/96	G BEX IRR	1450	640
BE00252	Irma & Henry Venstuyff, Clotilde & Clara Penryn, 14819 IH 35 South, Von Ormy TX 78073	12/30/96	G BEX IRR	400	180
BE00253	Ralph J. & Hazel M. Davidson, 1075 Lone Star Drive, New Braunfels TX 78130	12/30/96	G BEX IND	2.49	2.49
BE00254	A.J. Weatherford, P.O. Box 680246, San Antonio TX 78268	12/30/96	D BEX IND	0.055	NA
BE00255	Walsh Estate, 13310 Lathe Road, Houston TX 77039	12/30/96	D BEX IRR	180	NA
BE00256	Keith Zars, 17427 San Pedro, San Antonio TX 78232-1407	12/30/96	D BEX IRR	40	NA
BE00257	Waste Technologies, Inc., 10360 US Hwy 90 West, PO Box 544 Hiedota TX 78023	12/30/96	D BEX IND	0	NA
BE00258	Olson Land Fund No. 1, Ltd., PO Box 6125, San Antonio TX 78209	12/30/96	D BEX IRR	100	NA
BE00259	Craget, Inc dba Artistic Images, 17222 Classen Road, San Antonio TX 78247	12/30/96	G BEX IND	0.81	0.5

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BE00260	Nelle R. & Manuel O. Paleo, 17106 IH 10 West, San Antonio TX 78257	12/30/96	D BEX IND 0	NA
BE00261	Billy N. Gray, 338 Robinhood Place, San Antonio TX 78209	12/30/96	D BEX IND 2.5	NA
BE00262	C.E. Swain, et al, 7943 Evans Road, San Antonio TX 78266	12/30/96	D BEX IRR 110	NA
BE00263	San Antonio Resort Limited Partners, L.P., 1445 Ross Avenue, Suite 5000, Dallas TX 75202	12/30/96	G BEX IND 28	1.7
BE00264	San Antonio Resort Limited Partners, L.P., 1445 Ross Avenue, Suite 5000, Dallas TX 75202	12/30/96	G BEX IND 586.46	206.0935
BE00265	Henry L. Zarnwalt, 12354 FM 1560 N, Helotes TX 78023	12/30/96	G BEX IRR 110	110
BE00266	Los Patios Investors, Ltd., 2015 NE Loop 410, San Antonio TX 78217	12/30/96	G BEX IND 123.34	93.74
BE00267	Robert J. Brady, 3407 NE Parkway, Suite 101, San Antonio TX 78218	12/30/96	D BEX IRR 235.06	NA
BE00268	NationsBank of Texas, N.A., 300 Convent Street, PO Box 300 San Antonio TX 78291-0300	12/30/96	G BEX IND 5061.58	2900.47
BE00269	San Antonio Water System, 1001 E. Market Street, PO Box 2449 San Antonio TX 78298-2449	12/30/96	G BEX MUN 193944	148074.3
BE00270	City of San Antonio, 1001 E. Market Street, PO Box 2449 San Antonio TX 78298-2449	12/30/96	G BEX IND 5210	12
BE00271	City of San Antonio, 1001 E. Market Street, PO Box 2449 San Antonio TX 78298-2449	12/30/96	G BEX IRR 1174	1174
BE00272	Marisa Flores, 925 Country Meadow, San Antonio TX 78253	12/30/96	D BEX IRR 0	NA
BE00273	Rick Schaeffgen, 6790 Gans Road, #3, San Antonio TX 78253	12/30/96	D BEX DOM 0	NA
BE00274	Branch T. Keller, 5425 Canal Road, Santa Fe TX 77517	12/30/96	D BEX IRR 60	NA
BE00275	Loma Vista Trust, PO Box 647, Dibley TX 78017	12/30/96	G BEX IRR 230	230
BE00276	City of Shavano Park Water, 99 Saddletrac Road, San Antonio TX 78231	12/30/96	G BEX MUN 949.48	589.131
BE00277	Vulcan Materials Company, 12307 Huebner Road, PO Box 791550 San Antonio TX 78279	12/30/96	D BEX IND 1696	NA
BE00278	Vulcan Materials Company, 12307 Huebner Road, PO Box 791550 San Antonio TX 78279	12/30/96	D BEX IND 2986	NA
BE00279	Vulcan Materials Company, 12307 Huebner Road, PO Box 791550 San Antonio TX 78279	12/30/96	D BEX IND 1424	NA
BE00280	Vulcan Materials Company, 12307 Huebner Road, PO Box 791550 San Antonio TX 78279	12/30/96	G BEX IND 105.9	65.64
BE00281	Vulcan Materials Company, 12307 Huebner Road, PO Box 791550 San Antonio TX 78279	12/30/96	D BEX IND 0	NA
BE00282	Castle Hills First Baptist Church, 2220 NW Military Hwy., San Antonio TX 78213	12/30/96	G BEX IND 0.5	0.5
BE00283	Colorado Real Estate Investment Co., 8671 SW Loop 410, San Antonio TX 78242	12/30/96	D BEX MUN 137.08	NA
BE00284	James D. Rhodes, 7 Lazy Hollow, San Antonio TX 78230	12/30/96	D BEX DOM 0	NA
BE00285	Joe J. Klar, 13639 Bulverde Road, San Antonio TX 78247	12/30/96	D BEX DOM 0	NA
BE00286	Mockingbird Condominiums, 7711 Callaghan Road, San Antonio TX 78229	12/30/96	D BEX IND 0	NA
BE00287	Rosnie L. Borman, 3511 Talley Road, San Antonio TX 78253	12/30/96	D BEX DOM 0	NA
BE00288	Country Oaks Mobile Home Park, 7510 Talley Road Office, San Antonio TX 78253	1/3/97	G BEX MUN 33	21.22
BE00289	Mission Returns Park, Inc., Box 171192, San Antonio TX 78217	12/31/97	D BEX IRR 0	NA
BE00290	Charles M. Brown, 12430 Trawalter Ln, PO Box 1160 Von Ormy TX 78073	12/31/97	D BEX IRR 0	NA
BE00291	Coker United Methodist Church, 231 E. North Loop Road, San Antonio TX 78216	11/6/97	D BEX IND 0	NA
BE00292	San Geronimo Airport Inc., 15464 FM 471 W #30, San Antonio TX 78253	1/29/97	D BEX MUN 0	NA
BE00293	Northern Hills Management Corp., 13202 Scarsdale Dr., San Antonio TX 78217	3/11/97	D BEX IND 0	NA
BE00294	Louis Scott Felder, 1122 FM 474, Boerne TX 78006	2/10/97	D BEX IRR 0	NA
BE00295	Louis Scott Felder, 1122 FM 474, Boerne TX 78006	2/10/97	D BEX IRR 0	NA
BE00296	Louis Scott Felder, 1122 FM 474, Boerne TX 78006	2/10/97	D BEX IRR 0	NA
BE00297	Alamo City Beverage, Inc., dba Artesia Water Co., 4671 Walzem Rd., San Antonio TX 78218	12/30/96	G BEX IND 27.62	21.52
BE00298	Good Samaritan Lodge Nursing Home Inc., 6518 Samaritan, Leon Valley TX	5/20/97	D BEX IND 0	NA
BE00299	Royal Oak Veterinary Corp., 13141 IH 10 West, San Antonio TX 78249	5/16/97	D BEX IND 0	NA
BE00300	Ed Barkley, Rachel and Arnold Jones, 12320 Kelly Road, Atascosa TX 78002	6/11/97	D BEX IRR 0	NA
BE00301	Gene and Barbara Brown, 2300 Broadway, San Antonio TX 78215	8/20/97	D BEX IND 0	NA
BE00302	Redland Stone Products Company, 17910 Interstate Highway 10 West, San Antonio TX 78257	3/25/98	D BEX IND 82.332	NA
BE00303	Redland Stone Products Company, 17910 Interstate Highway 10 West, San Antonio TX 78257	3/25/98	D BEX IND 5074.344	NA
BE00304	United Services Automobile Association, 9800 Fredericksburg Road, San Antonio, TX 78288-0001	12/26/96	D BEX IND 226	NA
CO00100	Sambell Cement, Inc., 2580 Wald Road, New Braunfels TX 78132	12/9/96	G COM IND 334.28	220.8553
CO00101	Espinazo del Diablo Property Owners Association, Inc, 1449 Camino Alto, San Marcos TX 78666	12/17/96	D COM IRR 5.8	NA
CO00102	Arnold & Angelina S. Moos, 19106 Nacogdoches Loop, San Antonio TX 78266-2736	12/17/96	G COM IRR 96	96
CO00103	Milton F. Schmidt, 5844 FM 482, New Braunfels TX 78132	12/17/96	G COM IRR 10	10
CO00104	Robert T. Pfeuffer, Rockin' R' River Rides, 1425 Grange Road New Braunfels TX 78130	12/17/96	G COM IND 10	5
CO00105	Tom J. Shandan Properties Inc, 14015 Toepperwein Rd, #2A, San Antonio TX 78233	12/19/96	G COM IND 30	14.50746
CO00106	Sambell Asphalt & Materials, 2682 Wald Road, New Braunfels TX 78132	12/20/96	D COM IND 7138.3	NA
CO00107	Johanna J. Rodriguez, 1341 Timberwood Trail, New Braunfels TX 78132	12/20/96	G COM MUN 995	115.2275
CO00108	Lloyd K. Loshman, 8710 Garden Ridge Dr., San Antonio TX 78266-2124	12/24/96	G COM IRR 6	6

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CO00109	Melvin Noble, Jr., 175 N. Market Street, New Braunfels TX 78130-5084	12/24/96	D COM IRR	83	NA
CO00110	Melvin Noble, Jr., 175 N. Market Street, New Braunfels TX 78130-5084	12/24/96	D COM IRR	4	NA
CO00111	Melvin Noble, Jr., 175 N. Market Street, New Braunfels TX 78130-5084	12/26/96	D COM IRR	2.5	NA
CO00112	NationsBank of Texas, N.A., Trustee, 300 Corwert, San Antonio TX 78291-0121	12/24/96	G COM IRR	140	140
CO00113	Floyd McLaughlin, 1286 River Rd., P.O. Box 311716 New Braunfels TX 78130	12/26/96	G COM IND	0.5	0.5
CO00114	S-G W.C., Inc., 3030 FM 306, New Braunfels TX 78131	12/24/96	G COM MLN	16.51	13.24
CO00115	Moet Roszell Company, Inc., 18975 Marbach Lane, San Antonio TX 78266	12/24/96	G COM IND	3.11	2.745064
CO00116	Texas Industries, 7781 FM 1102, New Braunfels TX 78132	12/26/96	G COM IND	203	144.7
CO00117	Malcolm Beck, 7561 E. Evans Rd., San Antonio TX 78266	12/26/96	G COM IRR	20	20
CO00118	Scheel Family Trust, Wilbur & Bernice Friesenbahn, Clarence, 8045 Bardsell, San Antonio TX 78266-2107	12/26/96	G COM IRR	234	234
CO00119	Scheel Family Trust, 8045 Bardsell, San Antonio TX 78266-2107	12/26/96	G COM IRR	410.4	410.4
CO00120	George Hylnar Fischer and Myrtle LaVene Fischer, 2328 Kraeger Canyon, New Braunfels TX 78132-4554	12/27/96	G COM IRR	2	2
CO00121	George Hylnar Fischer and Myrtle LaVene Fischer, 2328 Kraeger Canyon, New Braunfels TX 78132-4554	12/27/96	D COM DOM	2	NA
CO00122	George Hylnar Fischer and Myrtle LaVene Fischer, 2328 Kraeger Canyon, New Braunfels TX 78132-4554	12/27/96	G COM IND	5.648	3.64
CO00123	Comarstone C&M, Inc dba Gifford-Hill & Company, PO Box 311535, New Braunfels TX 78131	12/27/96	D COM IND	1682	NA
CO00124	Hunter Oaks Prop. Owners Asso dba Hunter Oaks W.S.C., 1313 Winding Way, New Braunfels TX 78132	12/27/96	G COM MLN	6.98	5.854154
CO00125	Slumber Falls Camp & Retreat Center, 3610 River Road, New Braunfels TX 78132	12/27/96	G COM MLN	6.31	5.941463
CO00126	Glen W. Hitzfelder, 715 Elm Creek Road, New Braunfels TX 78132-3017	12/27/96	D COM DOM	0	NA
CO00127	Country Hills, 410 N. Sagan, New Braunfels TX 78130	12/27/96	G COM IND	43.1	19.18594
CO00128	Leon Timmermann, 18730 Marbach Lane, San Antonio TX 78266-2139	12/27/96	G COM IRR	88.4	30
CO00129	Mark Friesenbahn, 231 High Creek Road, New Braunfels TX 78132-4836	12/30/96	G COM IRR	144.426	144.426
CO00130	John F. Svoboda, 1020 N. Houston Avenue, New Braunfels TX 78130-4097	12/30/96	G COM IND	23.21	2.06
CO00131	Wat & Edith Smith, 25439 Mickusch Lane, New Braunfels TX 78132	12/30/96	D COM DOM	8	NA
CO00132	Grace E. Rollins, 18770 FM 2252, San Antonio TX 78266	12/30/96	G COM IND	12	7.5
CO00133	Midtex Oil, Inc., 3455 IH 35 S, PO Box 310330 New Braunfels TX 78132	12/27/96	G COM IND	0.25	0.25
CO00134	Ken & Marinda Reicher Trust, 1927 Grange Rd., New Braunfels TX 78130	12/30/96	D COM IRR	49.2	NA
CO00135	City of Cibola, 109 S. Main Street, P.O. Box 88 Cibola TX 78108	12/30/96	D COM MLN	257.14	NA
CO00136	New Braunfels Utilities, 263 Main Plaza, P.O. Box 310289 New Braunfels TX 78131-0289	12/26/96	G COM MLN	10002.69	6895.908
CO00137	Brauntext Materials, Inc., 1504 Wald Road, New Braunfels TX 78132-5018	12/26/96	G COM IND	20.26	20.26
CO00138	Ray Schanzacher, Jr., 588 FM 1863, New Braunfels TX 78132	12/30/96	G COM IND	23.65	17.58
CO00139	City of Garden Ridge, 9357 Schoenthal Road, Garden Ridge TX 78266-1839	12/30/96	G COM MLN	548.51	419.5441
CO00140	Dean Word Company, PO Box 310330, New Braunfels TX 78131-0330	12/30/96	G COM IND	185	32.76191
CO00141	Dean Word Company, Ltd., Tim D. Word, Trustee, PO Box 310330, New Braunfels TX 78131-0330	12/30/96	D COM IND	95.7	NA
CO00142	Jim & Dorothy Menor Santa's Forest, 1555 Hoffman Lane, New Braunfels TX 78132	12/30/96	G COM IRR	40	40
CO00143	Carl R. Caton, 23995 Bat Cave Road, Suite 120 Garden Ridge TX 78266	12/30/96	D COM DOM	0	NA
CO00144	Marion J. Borchers, 1355 River Road, New Braunfels TX 78130	12/30/96	D COM DOM	0.31	NA
CO00145	W.P. Vorderbeurn, 19280 Marbach Lane, San Antonio TX 78266	12/30/96	G COM IRR	80	80
CO00146	Queen Valley S.U.D., 529 S. Center, PO Box 188 Marion TX 78124	12/26/96	G COM MLN	2070.6	1059.921
CO00147	City of Marion, 303 S. Center Street, PO Box 158 Marion TX 78124	12/30/96	G COM MLN	191.48	145.8391
CO00148	Flying W Properties, Ltd., PO Box 2109, San Marcos TX 78667	12/30/96	D COM IND	5144.1	NA
CO00149	Heimer & Prouser, Inc. Northwoods Water System, PO Box 311059, New Braunfels TX 78131-1059	12/30/96	G COM IND	71	20.98882
CO00150	Balcones Supply Company, CO 457 Landa, Suite H, PO Box 311059 New Braunfels TX 78131-1059	12/30/96	G COM MLN	89	34.49047
CO00151	Bad Schloss, Inc., 305 W. Austin, New Braunfels TX 78130	12/30/96	D COM IND	310	NA
CO00152	Stan Cunningham, 650 Landa Street, New Braunfels TX 78130	12/30/96	D COM IND	0	NA
CO00153	R. Lee Bretzke, HCR 3, Box 875, New Braunfels TX 78132	12/30/96	D COM IND	0	NA
CO00154	Forest Waters Lodge, Inc., 21320 Waterwood Drive, Garden Ridge TX 78266-2044	12/30/96	D COM IND	4.42	NA
CO00155	Channing Williams, 1442 Oakdown, PO Box 310157 New Braunfels TX 78130	12/30/96	G COM IRR	60	60
CO00156	Ronald Travia, 18771 FM 2252, San Antonio TX 78266	12/30/96	D COM IND	10	NA
CO00157	Gene A. Hitzfelder, 2828 FM 2722, New Braunfels TX 78132	12/30/96	D COM DOM	0	NA
CO00158	Carl Liebsoher, Trustee, PO Box 310420, New Braunfels TX 78131-0420	12/27/96	D COM LVSR	0	NA
CO00159	Dorothy Wegner, 4000 Quail Run, San Marcos TX 78666	12/31/96	D COM DOM	0	NA
CO00160	APG Lane Corp., 350 APG Lane, New Braunfels TX 78132	1/17/97	G COM IND	1021.5	618.2326
GU00600	Lambeth Building Company, 8520 Crownhill Blvd., San Antonio TX 78209	12/18/96	D GRA IND	110.68	NA
GU00601	Sunshine Nut Company, 16435 IH 35 North, Selma TX 78154-1200	12/30/96	G GRA IND	113.15	62.54



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GU0602	James C. Harden, Sr., 16940 IH 35 North, Schertz, TX 78154	12/30/96	D	GUIA	IND	266.36	NA
GU0603	Melvin Bading, 1606 Freedom Church Road, Seguin, TX 78155-0239	12/30/96	D	GUIA	IRR	184	NA
HA00200	Robert E. Anderson, 722 Palomino, San Marcos TX 78666	12/17/96	G	HAY	MUN	24.24	11 55452
HA00201	County Lane WSC, 140 Grist Mill Rd., Uhlard, TX 78640	12/17/96	G	HAY	MUN	123	81 48
HA00202	B. W. Bowden, 1503 Post Rd., San Marcos TX 78666	12/17/96	G	HAY	IND	0.6	0.5
HA00203	David Allen, Box 128, Kyle TX 78640	12/19/96	D	HAY	IRR	120	NA
HA00204	Blanco River Investments, 1200 IH 35 North, P.O. Box 1018 San Marcos TX 78666	12/19/96	G	HAY	IRR	250	250
HA00205	Southwest Texas State University, 601 University Dr., San Marcos TX 78666	12/20/96	G	HAY	IND	1600.9	592 134
HA00206	Southwest Texas State University, 601 University Dr., San Marcos TX 78666	12/20/96	D	HAY	IND	1296.53	NA
HA00207	Southwest Texas State University, 601 University Dr., San Marcos TX 78666	12/20/96	G	HAY	IND	15.9	4282439
HA00208	Robert C. Harney, P.O. Box 117, San Marcos TX 78667	12/20/96	G	HAY	IND	0.4186	0.315
HA00209	Stringtown Wtr Svc Corporation, 1300 Capitol Center, 919 Congress Avenue Austin TX 78701	12/20/96	G	HAY	MUN	132.1	6467835
HA00210	Ed Longcope, 1300 Capitol Center, 919 Congress Avenue Austin TX 78701	12/20/96	G	HAY	IRR	652	240
HA00211	Ed Longcope, 1300 Capitol Center, 919 Congress Avenue Austin TX 78701	12/20/96	D	HAY	IND	207.2	NA
HA00212	Macwell Water Supply Corp, CCR 286, P.O. Box 158 Macwell, TX 78656	12/23/96	G	HAY	MUN	412.3	258 201
HA00213	San Marcos Baptist Academy, 2801 RR 12, San Marcos TX 78666	12/28/96	G	HAY	IND	54	408
HA00214	Crystal Clear W. S. C., 2370 FM 1979, San Marcos TX 78666	12/28/96	G	HAY	MUN	1228.1	741 753
HA00215	Marvack Loff Inc, c/o Jan Ahern, 3510 N. St. Marys #360 San Antonio, TX 78212	12/28/96	D	HAY	MUN	0	NA
HA00216	City of Kyle, PO Box 46, Kyle TX 78640	12/27/96	G	HAY	MUN	583	397 1277
HA00217	U.S. Fish & Wildlife Service-National Fish Hatchery, 500 East McCarty Lane, San Marcos TX 78666	12/27/96	G	HAY	IND	2635.7	678
HA00218	Rocket Water Company, PO Box 1703, San Marcos TX 78667	12/26/96	D	HAY	MUN	0	NA
HA00219	Rocket Water Company, PO Box 1703, San Marcos TX 78667	12/27/96	D	HAY	MUN	0	NA
HA00220	B.A. Bassett Pecharcik, et al, 8370 Graubur Road, Bryan TX 77802	12/27/96	G	HAY	IRR	73.2	73.2
HA00221	City of San Marcos, 630 East Hopkins, San Marcos TX 78666	12/27/96	G	HAY	MUN	7231.8	5154 728
HA00222	City of San Marcos (Elm Water Company), 302 East Hopkins Street, PO Box 1229 San Marcos TX 78667	12/27/96	G	HAY	MUN	383.4	194 4112
HA00223	Don L. Cam, PO Box 380, Wimberley TX 78676	12/30/96	D	HAY	MUN	0	NA
HA00224	Dean Wood Company, Ltd., PO Box 310330, New Braunfels TX 78131-0330	12/30/96	D	HAY	IND	370	NA
HA00225	Randall E. Moss, PO Box 1685, San Marcos TX 78667	12/30/96	D	HAY	IND	3	NA
HA00226	Hays Co. Youth Athletic Assn., PO Box 371, Buda TX 78610	12/30/96	D	HAY	IND	7.7	NA
HA00227	Don B. and Karen S. Meador, 601 Willow Creek Circle, San Marcos TX 78666	12/30/96	G	HAY	IRR	81	81
HA00228	Mocking Bird Mobile Home Park, 1716 Hebeitz, PO Box 1084 San Marcos TX 78667	12/30/96	D	HAY	MUN	3.2	NA
HA00229	Water Works L.L.C dba Diamond Pure Water Co., 1815 Mesquite Street, San Marcos TX 78666	12/30/96	G	HAY	MUN	11.5	9 561429
HA00230	Arthur Douglas Tipps, 1200 Lane Kihn Road, San Marcos TX 78666	12/30/96	G	HAY	IRR	10	9
HA00231	Paul Geiger, 101 Six Pines Road, San Marcos TX 78666	12/30/96	D	HAY	IRR	74	NA
HA00232	Aqua-Tru Water System, Rt. 3, Box 45E, Kyle TX 78640	12/30/96	D	HAY	MUN	7.05	NA
HA00233	Jeanne S. Unstard, 3355 Bee Cave Road, Suite B Austin, TX 78746	12/30/96	G	HAY	IND	9	5 719708
HA00234	R&R Marketing & Development, 103 Canyon Road, PO Box 1270 San Marcos TX 78667	12/30/96	D	HAY	IND	1 105	NA
HA00235	R&R Marketing & Development, 103 Canyon Road, PO Box 1270 San Marcos TX 78667	12/30/96	G	HAY	IND	0.9988	0.614633
HA00236	Meadow Woods Water Supply, Inc., PO Box 800, Buda TX 78610	12/30/96	G	HAY	MUN	75	44 47505
HA00237	Nola Stone, 200 Wandersome, 39 North Mesquite Dr Victoria TX 77905-San Marcos TX 78666	6/30/97	D	HAY	IRR	0	NA
ME00300	La Vern Vinson, 3590 County Road 4713, La Coste TX 78039-2106	11/25/96	G	MED	IRR	39.6	37.1
ME00301	Kenneth A. Haby, 7565 FM 471 N, San Antonio TX 78253	11/27/96	G	MED	IRR	463.2	463.2
ME00302	City of Lytle, 14916 Main St, Lytle TX 78052	11/27/96	G	MED	MUN	672	391 6478
ME00303	Fernand J. Zinsmeyer, 140 PR 3720, Mico TX 78056-5113	11/27/96	G	MED	IRR	260	260
ME00304	Dennis N. Zinsmeyer, 2404 County Road 271, Mico TX 78056	12/2/96	G	MED	IRR	52	52
ME00305	City of Hondo, 1600 Ave M, Hondo TX 78861	12/4/96	G	MED	IRR	1278.4	1278.4
ME00306	City of Hondo, 1600 Ave M, Hondo TX 78861	12/4/96	G	MED	MUN	2135	1580 76
ME00307	Doyle Weber, 32x2 C R. 456, Hondo TX 78861	12/4/96	G	MED	IRR	640	640
ME00308	Sharon Schoenfeld Adams, 201 CR 3640, Hondo TX 78861	12/4/96	G	MED	IRR	350	350
ME00309	George F. Persyn, 176 PR 376, Castroville TX 78009	12/6/96	G	MED	IRR	322	318
ME00310	John & Karen Persyn, 1907 Copperfield, San Antonio TX 78251	12/6/96	G	MED	IRR	324	324
ME00311	Creekwood Water Supply, c/o Creekwood Homeowners Assoc., 210 County Road 9510 Hondo TX 78861	12/6/96	G	MED	MUN	20.02	16 7113
ME00312	Byron O. Sens, P.O. Box 1325, Castroville TX 78009	12/6/96	G	MED	IRR	142.5	62.3
ME00313	Frank Ahlerson, 300 CR 425, Hondo TX 78861-5117	12/10/96	G	MED	IRR	1170	660

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ME00314	Glenn H. Kofmann, P.O. Box 18121, San Antonio TX 78218	12/10/96	G MED IRR	424.4	424.4
ME00315	Janet Ruzan and Robert Solenberger, 3076 Wright Carpenter Rd., San Antonio TX 78221	12/10/96	G MED IRR	174.016	174.016
ME00316	Kenneth O. Bendle, Box 189, Hondo TX 78861	12/10/96	G MED IRR	200	200
ME00317	Lydell & Jenae Kiplin, 877 County Road 540, Hondo TX 78861	12/12/96	G MED IRR	447.78	302.2
ME00318	East Medina County Special Utility District, 16313 FM 471 South, Devine TX 78016	12/12/96	G MED MUN	604.97	424.71
ME00319	H. James Kuen, 200 LaRue Ann Court, San Antonio TX 78213	12/16/96	G MED IRR	377.2	377.2
ME00320	Richard Schwens, 1060 CR 4513, Hondo TX 78861	12/16/96	G MED IRR	1110.6	1110.6
ME00321	Gertrude Raff, 838 Cr 4513, Hondo TX 78861	12/16/96	G MED IRR	302.8	302.8
ME00322	City of La Costa, 16004 South Front Street, P.O. Box 112 La Costa TX 78039	12/16/96	G MED MUN	239.33	186.165
ME00323	Gail F. or Janel D. Boehme, B-Two Farms, 1642 Hwy 90 West Castroville TX 78009	12/17/96	G MED IRR	966.2	966.2
ME00324	Arthur Weblen, 545 PR 4753, Castroville TX 78009	12/16/96	G MED IRR	296.8	296.8
ME00325	Arthur Weblen, 545 PR 4753, Castroville TX 78009	12/16/96	G MED IRR	1660	1660
ME00326	Donald Wayne Baker & wife Cheryl Lynn Baker et al, P.O. Box 887, Uvalde TX 78007	12/17/96	G MED IRR	772	772
ME00327	W. G. Baskerville, Jr., Seneca Ranch, 444 Private Road 7311 Yancey TX 78886-4028	12/17/96	G MED IRR	560	559.2
ME00328	Walter L. Haass, 3261 St. Hwy 173 N, Hondo TX 78861	12/17/96	D MED IRR	20	NA
ME00329	Otto H. Clay, Box 301, Sabinas TX 78861	12/17/96	G MED IRR	1176.6	1176.6
ME00330	Hwy 90 Ranch Water Co., P.O. Box 723, Castroville TX 78009	12/17/96	G MED MUN	48	35.97314
ME00331	Metzger Lane Farm, Inc., 2145 CR 532, P.O. Box 269 Hondo TX 78861	12/17/96	G MED IRR	574	574
ME00332	Yancey Water Supply Co., 150 CR 743, P.O. Box 127 Yancey TX 78886	12/17/96	G MED MUN	603.8774	364.05
ME00333	Edwin L. & Margaret Yantz, Rt. 1, Box 119, Devine TX 78016	12/17/96	G MED IRR	700	700
ME00334	Edwin L. & Margaret Yantz, Rt. 1, Box 119, Devine TX 78016	12/17/96	G MED IRR	412	412
ME00335	Floyd & Myrtle Santleben, P.O. Box 417, Lacombe TX 78039	12/17/96	G MED IRR	245.8	245.8
ME00336	Floyd & Myrtle Santleben, P.O. Box 417, Lacombe TX 78039	12/17/96	G MED IRR	278.6	278.6
ME00337	Hidden Valley Ranch, 800 Isom Road, Ste 100, P.O. Box 7906-65 San Antonio TX 78279-0645	12/17/96	G MED IRR	852	852
ME00338	Vito F. Castiglione, 660 County Road 5711, Lacombe TX 78039	12/17/96	G MED IRR	6	6
ME00339	Dona J. Blair, 155 PR 379, Rio Medina TX 78066	12/17/96	G MED IRR	287.4	287.4
ME00340	Francisco B. Garcia, M.D., 343 W. Houston, Suite 403, San Antonio TX 78205	12/17/96	G MED IRR	368	368
ME00341	Don F. Faust, 8751 Flagship Dr., Houston TX 77029	12/17/96	G MED IRR	1500	1400
ME00342	Eileen P. Gooding, 747 Country Road 361, Hondo TX 78861-6811	12/18/96	G MED IRR	530	346
ME00343	William H. Reus Farm, 740 County Road 431, Hondo TX 78861	12/18/96	G MED IRR	1040	898.8
ME00344	Jarlon Boehme, P.O. Box 974, 244 CR 477 Castroville TX 78009	12/19/96	G MED IRR	230	230
ME00345	Glenn B. Quick, 614 Semrade, San Antonio TX 78216	12/19/96	G MED IRR	362	362
ME00346	Medina Valley Indep Sch Dist, 8449 FM 471 South, Castroville TX 78009	12/19/96	G MED IND	77.9	34.85361
ME00347	Alvin Santleben, 15745 Gross Lane, P.O. Box 101 Lacombe TX 78039	12/19/96	G MED IRR	344	344
ME00348	Wm. Terry Tschirhart, 515 Vienna, P.O. Box 499 Castroville TX 78009	12/19/96	G MED IRR	300	300
ME00349	Fohn's Farm-Joe and Charles Fohn, 1101 27th Street, Hondo TX 78861	12/19/96	G MED IRR	1450.8	1450.8
ME00350	E. G. Hendrix, Jr., 1523 North Laredo, P.O. Box 7499 San Antonio TX 78207	12/19/96	G MED IRR	286.22	286.22
ME00351	Titus H. Harris, Jr., 1204 Potomac, Houston TX 77057	12/20/96	G MED IRR	364.2	364.2
ME00352	Thomas Boehme, 1785 FM 471 N, Castroville TX 78009	12/20/96	G MED IRR	456.8	456.8
ME00353	S. J. Boehme and Sons, 4645 FM 471 N, Rio Medina TX 78066	12/20/96	G MED IRR	586	586
ME00354	Redbird Ranch, Ltd., 303 West Sunset, Suite 200, San Antonio TX 78209	12/20/96	G MED IRR	1080.2	1080.2
ME00355	John R. Windsor, 1207 Acorn Road, Hondo TX 78861	12/20/96	G MED IRR	1507.4	1507.4
ME00356	Emelle E. Cowan, 1207 31st, Hondo TX 78861	12/20/96	G MED IRR	232	232
ME00357	Leo L. and Anna Mae Hitzfelder Trust, 3090 CR 4713, La Costa TX 78039-2105	12/20/96	D MED IRR	397.5	NA
ME00358	Kathleen Davenport Caskadden, 4602 County Road 531, Hondo TX 78861-5538	12/20/96	G MED IRR	1270	1270
ME00359	Deborah Ann Benke, 341 Country Road #515, D'Hanis TX 78850	12/20/96	G MED IRR	686	686
ME00360	West Medina Water Supply Corp., 145 CR 526, P.O. Box 365 D'Hanis TX 78850-0365	12/20/96	G MED MUN	111.49	94.30416
ME00361	John H. and Jo Ann Poerner, P.O. Box 215, D'Hanis TX 78850	12/23/96	D MED IRR	320	NA
ME00362	Marion A. Jungman, Margaret M. Echtle & Patricia Verstyff, 181 CR 5712, La Costa TX 78039	12/20/96	G MED IRR	161.4	161.4
ME00363	Harvey C. Boehme, 4547 FM 471 N, Rio Medina TX 78066	12/20/96	G MED IRR	308.2	308.2
ME00364	Harvey C. Boehme, 4547 FM 471 N, Rio Medina TX 78066	12/20/96	G MED IRR	248	248
ME00365	Hilton and Cindy Stinson, 2890 FM 471 N, Castroville TX 78009	12/26/96	G MED IRR	559	559
ME00366	Hilton and Anthony Stinson, 2890 FM 471 N, Castroville TX 78009	12/26/96	G MED IRR	780	780
ME00367	Hilton and Cindy Stinson, 2890 FM 471 N, Castroville TX 78009	12/26/96	G MED IRR	385.2	385.2

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ME00368	Robt Q Stinson Life Estate, 2890 FM 471 N, Castroville TX 78009	12/26/96	G MED IRR	650	650
ME00369	Wayde and Judy Anderson, RR 1, Box 134A, Devine TX 78016	12/26/96	G MED IRR	114.76	114.76
ME00370	Ernen Haby, P.O. Box 427, Utopia TX 78884	12/26/96	G MED IRR	976.7	976.7
ME00371	Werner Stinson, 3345 FM 471 N, Castroville TX 78009-3513	12/20/96	G MED IRR	268	268
ME00372	Rowe Ranch, 711 Navarro, State 555, San Antonio TX 78205	12/24/96	G MED IRR	294	294
ME00373	Medina Valley Water Supply Company, Inc., 1640 FM 471 N, Castroville TX 78009	12/26/96	D MED MUN	0	NA
ME00374	Floyd W Saathoff, 2909 FM 462 N, Hondo TX 78861	12/26/96	G MED IRR	568.6	568.6
ME00375	Evelyn K. Collins, Trustee-Collins Living Trust, 437 Rutman Rd., Apt A, San Antonio TX 78209	12/23/96	G MED IND	127.23	80
ME00376	Robert J. Schulte, 949 CR 4526, Hondo TX 78861	12/24/96	D MED IRR	0	NA
ME00377	Robert J. Schulte, 949 CR 4526, Hondo TX 78861	12/24/96	D MED IRR	0	NA
ME00378	Ernel Broekhove, 15490 Gross Lane, La Costa TX 78039	12/26/96	G MED IRR	2188.8	304
ME00379	Valley Mobile Home Properties, 17612 Hwy 90 West, P.O. Box 545 Castroville TX 78009	12/26/96	G MED MUN	21.8	12.59435
ME00380	New Abasco Water Supply Co., P.O. Box 854, Castroville TX 78009	12/26/96	G MED MUN	24.62	16.77443
ME00381	Christina M. Wiazbach, 703 US Highway 90E, Castroville TX 78009-5313	12/26/96	D MED IRR	529.18	NA
ME00382	Mary E. Pettibon, 2547 Hwy 90 East, Castroville TX 78009	12/26/96	G MED IRR	44	44
ME00383	Aaron Charles Berzede, Jr., 8121 FM 471 S, Castroville TX 78009	12/23/96	G MED IRR	19	19
ME00384	Gilbert C. Schultz, 17796 CR 371, Rio Medina TX 78066	12/23/96	G MED IRR	48	48
ME00385	Newell Earl Woods and Mary Louise Woods, 1000 CR 431, Hondo TX 78861	12/27/96	G MED IRR	8	8
ME00386	Julian Van Damme and Cyrd Van Damme, Rt. 1, Box 105A, Hondo TX 78861	12/27/96	G MED IRR	772	772
ME00387	Rene T. and Rosee Advoot, 1095 C R. 532, Hondo TX 78861	12/27/96	G MED IRR	966	966
ME00388	Clarence Bippert, Jr., 230 PR 3710, San Antonio TX 78253	12/27/96	G MED IRR	298	298
ME00389	Clinton and Vera Bourquin, 812 Algiers, Castroville TX 78009	12/27/96	G MED IRR	170.4	170.4
ME00390	E & S Farms, Inc., 1838 Farm Road 462 N, Hondo TX 78861	12/27/96	G MED IRR	873.84	528
ME00391	E & S Farms, Inc., 1838 Farm Road 462 N, Hondo TX 78861	12/27/96	G MED IRR	782	782
ME00392	Michael Saathoff, 225 Country Road 421, Hondo TX 78861	12/27/96	G MED IRR	828	828
ME00393	Old Highway 90 Water Service, PR 4775, P.O. Box 100 Castroville TX 78009	12/27/96	D MED MUN	3.9	NA
ME00394	Vergi Boll, 600 PR 3131, Utopia TX 78884	12/27/96	G MED IRR	828	828
ME00395	Richard C. & Rose M. Advoot, 4474 FM 462 S., Hondo TX 78861	12/26/96	G MED IRR	668.1	410
ME00396	Henry Lee & Margaret Keller, 1170 Hwy 90E, Castroville TX 78009	12/26/96	G MED IRR	1215.198	1215.198
ME00397	Reynold Keller, 1150 Hwy 90E, Castroville TX 78009	12/26/96	G MED IRR	426	140
ME00398	Warberley Development Corp., 1240 E. Sunshine Dr., San Antonio TX 78228	12/26/96	G MED IRR	304	204
ME00399	Gregory & Cora Rothe, Box 2790 PR 322, Hondo TX 78861	12/27/96	D MED DOM	0	NA
ME00400	Muel E. & Verna B. Steubing, 4072 CR 531, Hondo TX 78861-5536	12/27/96	G MED IRR	1005.6	1005.6
ME00401	Garrison & Garrison, 114 Park Lane, Box 761 Hondo TX 78861	12/27/96	D MED IRR	1692.5	NA
ME00402	Zansmeyer Farms, 345 RR 484, Castroville TX 78009	12/27/96	G MED IRR	520	520
ME00403	M&B Farms, 2929 FM 2676, Hondo TX 78861	12/27/96	D MED IRR	80	NA
ME00404	M&B Farms, 2929 FM 2676, Hondo TX 78861	12/27/96	G MED IRR	482	482
ME00405	Steven C. & Patricia E. Myers, 1153 CR 422, Hondo TX 78861	12/27/96	D MED IRR	0	NA
ME00406	Medina River West WSC, 1301 S IH 35, Suite 200, PO Box 276 Austin TX 78767	12/27/96	G MED MUN	130.83	74.96101
ME00407	Richard A. & Nancy Calpepper, 4535 FM 2676, Hondo TX 78861	12/27/96	G MED IRR	254	254
ME00408	Lynn W. Haby, et al, 890 PR 3810, San Antonio TX 78253	12/27/96	G MED IRR	597.8	597.8
ME00409	M.L. Stolte, 8370 FM 471 N, San Antonio TX 78253	12/27/96	G MED IRR	704	704
ME00410	Van Damme Farms, Inc., 3975 CR 5228, Hondo TX 78861	12/27/96	G MED IRR	604.4	604.4
ME00411	City of Devine, 303 S Teel, Devine TX 78016	12/26/96	G MED MUN	663.85	409.694
ME00412	John H and Margaret Parker, Rt. 2, Box 109A, Hondo TX 78861	12/26/96	G MED IRR	690	690
ME00413	Fred J. Yanta, Rt. 1, Box 102C, Devine TX 78016	12/26/96	G MED IRR	1064.4	1040
ME00414	Maurice P. DeCook Farms, Inc., 2356 US Hwy 90 E, Castroville TX 78009	12/27/96	G MED IRR	1003.6	1003.6
ME00415	Glen Maestrank, Deborah Cox, Ronald Maestrank, Karen Bain, C/O 709 Kottrow, Hondo TX 78861	12/27/96	G MED IRR	866	866
ME00416	Julius & Genevieve Advoot, 3830 CR 541, Hondo TX 78861	12/27/96	G MED IRR	474.4	474.4
ME00417	F. W. Ranchlands, L.P., 40-004 Cook Street, Palm Desert CA 92211	12/27/96	G MED IRR	847	827
ME00418	Albert R. & Mamra Saathoff, 3030 FM 462 N, Hondo TX 78861	12/27/96	G MED IRR	428.8	428.8
ME00419	Charles L. & Annac Halbardier, 3600 FM 462 S, Hondo TX 78861	12/27/96	G MED IRR	536	536
ME00420	North 1796 Limited, 1701 19th Street, PO Box 444 Hondo TX 78861	12/27/96	D MED IRR	2016.8	NA
ME00421	Sarrry W. Neomer, 1204 Oak Lane, PO Box 444 Hondo TX 78861	12/27/96	D MED DIRM	1748.7	NA

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ME00422	Sammy W. Nooner, 1701 19th Street, PO Box 444 Hondo TX 78861	12/27/96	D	MED	IRR	108	NA
ME00423	Countywide Builders, L.L.C., 1701 19th Street, PO Box 444 Hondo TX 78861	12/27/96	D	MED	IRR	151.3	NA
ME00424	Robert A. Rothe, et al, PO Box 395, D'Hanis TX 78850	12/27/96	D	MED	IRR	91.3	NA
ME00425	Perry C. & Perry H. Finger, 22 Quadrango Circle, Laredo, TX 78041	12/27/96	D	MED	DOM	1554	NA
ME00426	John Finger Estate, PO Box 395, D'Hanis TX 78850	12/27/96	D	MED	DOM	748	NA
ME00427	Robert A. & Norma Rothe Trust, PO Box 395, D'Hanis TX 78850	12/27/96	D	MED	DOM	1805.3	NA
ME00428	Robert A. & Norma Rothe Trust, PO Box 395, D'Hanis TX 78850	12/27/96	D	MED	IRR	0	NA
ME00429	Richard C. Lynch, 1082 CR 421, Hondo TX 78861-5004	12/27/96	D	MED	IRR	6	NA
ME00430	Lawrence Carle, PO Box 245, D'Hanis TX 78850	12/27/96	G	MED	IRR	84	84
ME00431	Glenn & JoLynn Bragg, PO Box 291, Hondo TX 78861	12/27/96	D	MED	IRR	193.12	NA
ME00432	Glenn & JoLynn Bragg, PO Box 291, Hondo TX 78861	12/27/96	G	MED	IRR	228.85	113.2
ME00433	Virgil Boll, 600 PR 3131, Utopia TX 78884	12/27/96	G	MED	IRR	778.44	778.44
ME00434	Virgil Boll, 600 PR 3131, Utopia TX 78884	12/27/96	D	MED	IND	0	NA
ME00435	Virgil Boll, 600 PR 3131, Utopia TX 78884	12/27/96	D	MED	IRR	50	NA
ME00436	Paul, Denise, Andrew, Theresa Ashvost, 1092 CR 532, Hondo TX 78861	12/27/96	G	MED	IRR	830	830
ME00437	Prairie Oaks Ranch, Rt. 1, Box 45, D'Hanis TX 78850	12/26/96	G	MED	IRR	848.24	848.24
ME00438	Bornie Yablonski, 223 E. Terra Alta, San Antonio TX 78209	12/26/96	G	MED	IRR	1857.16	1857.16
ME00439	Bob Clary & Sons, P.O. Box 299, Sabinal TX 78881	12/26/96	G	MED	IRR	690.64	690.64
ME00440	Robert A. Clary, Jr., P.O. Box 299, Sabinal TX 78881	12/26/96	G	MED	IRR	1030.64	1029.8
ME00441	Medina Agriculture Products, 4360 Hwy 90 West, P.O. Box 309 Hondo TX 78861	12/26/96	G	MED	IND	4.8	3.23
ME00442	Malvern J. Benke, 341 Country Road #515, D'Hanis TX 78850	12/26/96	G	MED	IRR	335.08	335.08
ME00443	Larry & Dwight Haby, 2780 CR 271, Mico TX 78056	12/26/96	G	MED	IRR	946.4	946.4
ME00444	Russell Bros. Cattle Co., 1339 CR 4516, PO Box 659 Castroville TX 78009	12/27/96	G	MED	IRR	292	292
ME00445	Raymond & Carol Bartman, 437 Ogden Lane, New Braunfels TX 78130	12/27/96	G	MED	IRR	634	634
ME00446	Luis G. Arguades, 1704 Hwy 90 East, Castroville TX 78009	12/27/96	D	MED	IND	0	NA
ME00447	Carroll T. Keller, 4465 FM 471 N, Rio Medina TX 78066	12/27/96	G	MED	IRR	538.4	538.4
ME00448	Gary Boshma, 4315 FM 471 N, Rio Medina TX 78066	12/27/96	G	MED	IRR	360	360
ME00449	Leslie Schlerntz, 4241 FM 462 S, Hondo TX 78861-5525	12/27/96	G	MED	IRR	632	632
ME00450	Garry & Nancy Redding, P.O. BOX 911, Castroville TX 78009-0911	12/27/96	D	MED	IRR	144.9	NA
ME00451	Ralph Gilliam, 2775 PR 322, Hondo TX 78861	12/27/96	D	MED	DOM	0	NA
ME00452	A.O. & Joyce Gilliam Garrison & Garrison, 2775 PR 322, Hondo TX 78861	12/27/96	D	MED	LVSR	0	NA
ME00453	A.O. & Joyce Gilliam, 2775 PR 322, Hondo TX 78861	12/27/96	D	MED	DOM	0	NA
ME00454	Gilliam Ranch, 2775 PR 322, Hondo TX 78861	12/27/96	G	MED	IRR	1409	1409
ME00455	Harold Timp, Jr. & Beryl Timp, 2810 FM 471, PO Box 702 Castroville TX 78009	12/27/96	G	MED	IRR	442	442
ME00456	Bruce A. Haby, 7521 FM 471 N, San Antonio TX 78253	12/27/96	G	MED	MUN	6.36	3.083077
ME00457	Van L. Crapps, 777 PR 5327, Hondo TX 78861	12/27/96	D	MED	IRR	609	NA
ME00458	Crapps Family Joint Venture, 777 PR 5327, Hondo TX 78861	12/27/96	G	MED	IRR	875.15	525
ME00459	Crapps Family Joint Venture, 777 PR 5327, Hondo TX 78861	12/27/96	G	MED	IRR	502.72	502.72
ME00460	C&S Joint Venture, Rt. 2, Box 777, Hondo TX 78861	12/27/96	G	MED	IRR	600	164
ME00461	C&S Joint Venture, Rt. 2, Box 777, Hondo TX 78861	12/27/96	D	MED	IRR	1600	NA
ME00462	C&S Joint Venture, Rt. 2, Box 777, Hondo TX 78861	12/27/96	D	MED	IRR	140	NA
ME00463	Hunter Schaeble, Rt. 2, Box 777, Hondo TX 78861	12/27/96	D	MED	IRR	800	NA
ME00464	Charles Ray Murrese, 379 CR 432, Hondo TX 78861	12/27/96	G	MED	IRR	940	940
ME00465	Jon & Sharon Bader, 240 E. Oakview, San Antonio TX 78209	12/27/96	G	MED	IRR	994.4	994.4
ME00466	Colby Heyen, 3520 CR 251, Hondo TX 78861	12/27/96	G	MED	IRR	278.8	278.8
ME00467	Larry & Stephen Bourquin dba L&S Bourquin Farm, 5851 FM 471 N, Rio Medina TX 78066	12/27/96	G	MED	IRR	583.8	583.8
ME00468	Larry & Stephen Bourquin dba L&S Bourquin Farm, 5851 FM 471 N, Rio Medina TX 78066	12/27/96	G	MED	IRR	50	50
ME00469	Ervin Bourquin, 958 CR 2615, Rio Medina TX 78066	12/27/96	G	MED	IRR	102.6	102.6
ME00470	R. C. Fuller Co., 252988 IH 10 West, San Antonio TX 78258	12/30/96	G	MED	IND	53.47	22.72584
ME00471	Medina Crushed Stone, 8845 Leslie Road, San Antonio TX 78254	12/30/96	G	MED	IND	64.63	28.89488
ME00472	Robert L. Bowers dba Health Care Administration, 9311 San Pedro, #1103, San Antonio TX 78216	12/30/96	D	MED	IND	122.76	NA
ME00473	Frank Dupenier, Phyllis S Karther, Boyce Oliver, M.D., 300 Convent, Suite 1600, San Antonio TX 78205	12/30/96	G	MED	IRR	2299.982	1248
ME00474	Frank Dupenier, Phyllis S Karther, Boyce Oliver, M.D., 300 Convent, Suite 1600, San Antonio TX 78205	12/30/96	G	MED	IND	153.065	81.25
ME00475	Mike & Terry Miller, PO Box 99, Hondo TX 78861	12/30/96	G	MED	IRR	1730	1730

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MED0476	Stall Farm, PO Box 180, Devine TX 78016	12/30/96	D MED IRR	152.12	NA
MED0477	Laura Rasch, 2602 Munsterka, San Antonio TX 78216	12/30/96	G MED IRR	654	574
MED0478	F. W. Ranslands, L.P., 40-004 Cook Street, Palm Desert CA 92211	12/30/96	G MED IRR	184	184
MED0479	F. W. Ranslands, L.P., 40-004 Cook Street, Palm Desert CA 92211	12/30/96	G MED IRR	830	830
MED0480	John W. Carroll Estate & Theresa M. Carroll, 715 CR 683, Lytle TX 78052	12/27/96	G MED IRR	1360	1360
MED0481	John A. Cardwell, Trustee, 807 Brazos, #1001, Austin TX 78701	12/27/96	D MED DOM	28	NA
MED0482	Lynn & Art Formann, PO Box 54, Hondo TX 78861	12/30/96	D MED IRR	0	NA
MED0483	Rio Medina Water Co., 11509-A Potranco Road, San Antonio TX 78253	12/30/96	G MED MUN	39.032	34.62904
MED0484	Rio Medina Water Co., 11509-A Potranco Road, San Antonio TX 78253	12/30/96	G MED MUN	44.147	39.032
MED0485	Dwan Hawes, 770 CR 374, Rio Medina TX 78066	12/30/96	D MED LVSA	20	NA
MED0486	Joseph & Kirk Decker, Rt 1, Box 212, Hondo TX 78861	12/30/96	D MED IRR	436	NA
MED0487	Joe M. Herlocker, PO Box 6827, San Antonio TX 78209	12/30/96	D MED IRR	600	NA
MED0488	Duane A. Hickey, 2545 Hwy 462 N, Hondo TX 78861	12/30/96	D MED IRR	610	NA
MED0489	Harold & Janell Huckle, Lyle Huby, 541 CR 2645, Rio Medina TX 78066	12/30/96	D MED DOM	15	NA
MED0490	Wayne & Dorothy Cheney Trust, PO Box 187, DTHana TX 78850	12/30/96	D MED DOM	0	NA
MED0491	Jeffrey S. Cooper, 861 St Hwy 173 South, Hondo TX 78861	12/30/96	G MED IRR	140	140
MED0492	Kevin J. Neumann, 7595 FM 471 North, San Antonio TX 78253	12/30/96	D MED IRR	50	NA
MED0493	George D. Koch, HCR 12, Box 16, Hondo TX 78861	12/30/96	D MED IRR	231	NA
MED0494	Congregation of Divine Providence, Inc., 600 Londo Street, Castroville TX 78009-4509	12/30/96	G MED IND	4	4
MED0495	Scott Petty, Jr., 711 Navarro, Suite 235, San Antonio TX 78205	12/30/96	G MED IND	41	34.7
MED0496	Petty Ranch Company, 711 Navarro, Suite 235, San Antonio TX 78205	12/30/96	D MED IND	48	NA
MED0497	Petty Ranch Company, 711 Navarro, Suite 235, San Antonio TX 78205	12/30/96	G MED IRR	1992.64	1594
MED0498	Petty Ranch Company, 711 Navarro, Suite 235, San Antonio TX 78205	12/30/96	D MED IRR	1323.846	NA
MED0499	Scott Petty, Jr., Joan Petty, Susan P. Arrant, Scott J. Petty, 711 Navarro, Suite 235, San Antonio TX 78205	12/30/96	D MED IRR	1884.004	NA
MED0500	Scott Petty, Jr., 711 Navarro, Suite 235, San Antonio TX 78205	12/30/96	D MED IRR	1611.792	NA
MED0501	Scott Petty, Jr., Joan Petty, Susan P. Arrant, Scott J. Petty, 711 Navarro, Suite 235, San Antonio TX 78205	12/30/96	G MED IND	555	186
MED0502	Scott Petty, Jr., Joan Petty, Susan P. Arrant, Scott J. Petty, 711 Navarro, Suite 235, San Antonio TX 78205	12/30/96	G MED IRR	794.72	794.72
MED0503	Scott J. Petty, 3181 CR 341, Hondo TX 78861	12/30/96	D MED IRR	20	NA
MED0504	Scott J. Petty, 3181 CR 341, Hondo TX 78861	12/30/96	D MED IND	115.222	NA
MED0505	Scott J. Petty & Kathryn Heffe, 3181 CR 341, Hondo TX 78861	12/30/96	D MED IRR	572.2	NA
MED0506	Read Wells, 9151 FM 2200 S, Yancey TX 78886	12/30/96	G MED IRR	107.52	107.52
MED0507	Milton Poshler Trust, 1603 Wood Quail, San Antonio TX 78248	12/30/96	G MED IRR	552	552
MED0508	Sylvia C. Buford, 275 CR 5228, Rio Medina TX 78066	12/30/96	G MED IRR	280	280
MED0509	Jake Schuelke, Box 187, Hondo TX 78861	12/30/96	D MED DOM	210	NA
MED0510	Ray W. Griggs, P.O. Box 58, Castroville TX 78009	12/30/96	G MED IRR	19	18
MED0511	Watt Murnah, et al, 200 Vienna, Castroville TX 78009	12/30/96	D MED DOM	18	NA
MED0512	Olan F. Karn, 121 Van de Walle Ln., Castroville TX 78009	12/26/96	D MED IRR	279.4	NA
MED0513	Leon B. Mangold, 1145 PR 362, Hondo TX 78861-6438	12/26/96	D MED IRR	300	NA
MED0514	Naugle Brothers, 320 CR 4714, Castroville TX 78009	12/26/96	G MED IRR	350.0	350.0
MED0515	W. R. Sarno, 2910 FM 471 N, Castroville TX 78009	12/26/96	G MED IRR	757.4	757.4
MED0516	Robert Barell, 1216 FM 471 North, Castroville TX 78009	12/26/96	G MED IRR	460	430.4
MED0517	Harley and Dorothy Tschuhart, 2425 Hwy 90 East, Castroville TX 78009	12/26/96	G MED IRR	140	140
MED0518	Richard S. Castleberry, #225 FM 471S, Castroville TX 78009	12/26/96	D MED IRR	102.4	NA
MED0519	Patrick J. Warrbach, 3580 FM 471 N, Castroville TX 78009	12/27/96	G MED IRR	596	596
MED0520	Hugo Saathoff, 909 CR 331, Hondo TX 78861	12/26/96	G MED IRR	101.0	101.0
MED0521	Patrick J. Warrbach, 3580 FM 471 N, Castroville TX 78009	12/27/96	D MED IRR	306	NA
MED0522	Hugo Saathoff, HCR 12 Box 16A, Hondo TX 78861	12/26/96	D MED IRR	422	NA
MED0523	Samuel H. Tschuhart, 202 Hwy 90 E., Castroville TX 78009	12/26/96	G MED IRR	100	50
MED0524	Timothy G. Hay, 271 CR 448, Hondo TX 78861	12/26/96	D MED IRR	86	NA
MED0525	Alvin J and Ailee M. Wierners, 933 CR 341, Hondo TX 78861-6811	12/26/96	G MED IRR	413.2	373.2
MED0526	Patrick J. Warrbach, 3580 FM 471 N, Castroville TX 78009	12/27/96	D MED IRR	897.5	NA
MED0527	Van De Walle Agricultural Properties, L.T.D., 5310 Old Hwy 90 West, San Antonio TX 78227	12/26/96	D MED IRR	1765.5	NA
MED0528	Anthony H. Koch & Herbert H. Koch Estate, PO Box 231, San Antonio TX 78291-0231	12/27/96	D MED IRR	474	NA
MED0529	Wilton Schott, 3520 CR 171, Mico TX 78056	12/26/96	G MED IRR	700	700

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ME00530	H. S. Affleck, Jr., P.O. Box 9006, San Antonio TX 78209	12/26/96	D MED IND	150	NA
ME00531	Robert & Dora Mae Frazier, 1733 CR #42, Hondo TX 78861-5518	12/27/96	G MED IRR	660	440
ME00532	Huette and John D. Canmack, 2777 CR 251, Hondo TX 78861	12/26/96	D MED IRR	368	NA
ME00533	Roy Lee Bippert, 2676 Hwy 90 E, Castroville TX 78009	12/26/96	G MED IRR	357	354
ME00534	Tom & Phyllis Ducos, 1901 CR 467, Hondo TX 78861	12/26/96	D MED IRR	1056	NA
ME00535	Raymond L. Jagg, PO Box 582, Castroville TX 78009	12/27/96	G MED IRR	332	332
ME00536	Charles L. Neuman, 3707 St Hwy 173 North, Hondo TX 78861	12/26/96	G MED IRR	476	476
ME00537	City of Castroville, 1209 Fossilia Street, Castroville TX 78009	12/27/96	G MED MUN	1434.54	1040.988
ME00538	Harvey & Gladys Stein, 1411 CR 251, Hondo TX 78861	12/27/96	G MED IRR	528	528
ME00539	Vandenberg Farms Wayne & Patrick Star, 1089 CR 445, Hondo TX 78861	12/27/96	G MED IRR	224	224
ME00540	Pace Foods, PO Box 12636, San Antonio TX 78212	12/30/96	G MED IRR	48.92	44.82
ME00541	Fred W. & Barbara L. Middleton, 800 Ivy Lane, San Antonio TX 78209	12/30/96	D MED IRR	1753.9	NA
ME00542	Fred W. & Barbara L. Middleton, 800 Ivy Lane, San Antonio TX 78209	12/30/96	G MED IRR	353.1	353
ME00543	Fred W. & Barbara L. Middleton, 800 Ivy Lane, San Antonio TX 78209	12/30/96	G MED IND	621.99	140.6973
ME00544	Morris Salzman, 695 PR, 5752, Devine TX 78016	12/30/96	G MED IRR	860	430
ME00545	John W. & Helen D. Frenich, PO Box 176, D'Hanis TX 78850	12/30/96	D MED IRR	76	NA
ME00546	Paul M. Krause, PO Box 431, D'Hanis TX 78850	12/30/96	D MED IRR	0	NA
ME00547	Lawrence H. Weyand, Box 428, D'Hanis TX 78850	12/30/96	G MED IRR	200	200
ME00548	Robert E. Nester, HCR 12, Box 88, Hondo TX 78861	12/30/96	D MED IRR	4290	NA
ME00549	Bernard Rothe, Box 8, D'Hanis TX 78850	12/30/96	D MED IRR	11049	NA
ME00550	Bernard Rothe, Box 8, D'Hanis TX 78850	12/30/96	D MED IRR	0	NA
ME00551	Elenora Gegen, 8750 FM 471 S, LaCoste TX 78039-1904	12/30/96	G MED IRR	130.94	130.94
ME00552	Clay W. Heyen, 3585 CR 251, Hondo TX 78861	12/30/96	G MED IRR	66	24
ME00553	William J. Moffen & Larry Huesser, PO Box 264, D'Hanis TX 78850	12/30/96	D MED DOM	0	NA
ME00554	Joe H. Martin, 1316 Shady Lane, Hondo TX 78861	12/30/96	G MED IRR	652	652
ME00555	Melvin N. Baley, 300 PR 481, Castroville TX 78009	12/30/96	G MED IRR	134	134
ME00556	Marshal Perzyn, 1430 Hwy 90 East, Castroville TX 78009	12/30/96	G MED IRR	357.78	157.78
ME00557	Debra J. Bippert, 13898 US Hwy 90 West, #1, San Antonio TX 78245	12/30/96	G MED IRR	163	160
ME00558	Elise Lindeburg & Sturley Saewald, 491 CR 251, Hondo TX 78861	12/30/96	G MED IRR	348	348
ME00559	Walker Rothe, PO Box 218, D'Hanis TX 78850	12/30/96	D MED IRR	0	NA
ME00560	Marshal A. Perzyn, 1430 Hwy 90 East, Castroville TX 78009	12/30/96	G MED IRR	347.508	347.508
ME00561	Concepcion Lopez Castillo, PO Box 47, San Antonio TX 78229	12/30/96	G MED IRR	30	30
ME00562	John R. Windrow and wife, Vivian W. Windrow, 1207 Acorn Road, Hondo TX 78861	12/30/96	G MED IRR	1484.25	585.5
ME00563	Carl M. Padgett, 10803 Burgoyne Rd., Houston TX 77042	12/30/96	D MED DOM	91.357	NA
ME00564	Sarnud R. Lyle, 300 Norris Drive West, Converse TX 78109	12/30/96	G MED MUN	5	5
ME00565	William Echle, 1921 FM 471 N, Castroville TX 78009	12/30/96	G MED IRR	126	126
ME00566	Mesquite Creek Subdivision Homeowners Association, Inc., PO Box 1613, Castroville TX 78009	12/30/96	D MED MUN	12	NA
ME00567	Beatrice N. Koch, PO Box 37, D'Hanis TX 78850	12/30/96	D MED IRR	90	NA
ME00568	Charles Hutchins, 512 CR 474, PO Box 494 Castroville TX 78009	12/30/96	G MED IRR	82	82
ME00569	John Bernick, Box 277, D'Hanis TX 78850	12/30/96	D MED IRR	472	NA
ME00570	Castroville Orchards & Exotics, 1398 FM 1343, Castroville TX 78009	12/30/96	G MED IRR	779.67	28
ME00571	David M. Crouch, PO Box 29385, San Antonio TX 78229	12/30/96	D MED IRR	120	NA
ME00572	Milton Tschirhart, 105 CR 478, Castroville TX 78009	12/30/96	G MED IRR	200	200
ME00573	Henry Ernd Mueller, 9111 FM 471 S, LaCoste TX 78039-1903	12/30/96	G MED IRR	168	168
ME00574	Henry Ernd Mueller, 9111 FM 471 S, LaCoste TX 78039-1903	12/30/96	G MED IRR	196	196
ME00575	Henry Ernd Mueller, 9111 FM 471 S, LaCoste TX 78039-1903	12/30/96	G MED IRR	210	140
ME00576	City of NAtascocusa, 300 3rd Street, PO Box 270 NAtascocusa TX 78059	12/30/96	G MED MUN	313	153.5436
ME00577	Joe W. & Melba L. Rothe, 319 CR 4211, Box 85 D'Hanis TX 78850	12/30/96	D MED DOM	0	NA
ME00578	Michael J. & Shannon M. Rothe, Box 364, D'Hanis TX 78850	12/30/96	D MED DOM	0	NA
ME00579	Gaylen & Joyce Webb, Ralph J. Bensen, Sr., 977 CR 441, Hondo TX 78861	12/30/96	G MED IRR	449.736	248
ME00580	Melina Co. W.C. & I.D. #2, 106 Front Street, PO Box 337 D'Hanis TX 78850	12/30/96	G MED MUN	181.4	126.6514
ME00581	John & Mary Farley, Box 145, D'Hanis TX 78850	12/30/96	D MED DOM	0	NA
ME00582	George L. Brucko and wife, Evelyn Brucko, P.O. Box 90, Hondo TX 78861	12/30/96	G MED IRR	207	90
ME00583	Melvin W. Zinsmeyer, 2851 Hwy 90 East, Castroville TX 78009	12/30/96	G MED IRR	96.038	54

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ME00584	Harvey E. Tondre, 1715 Naples, Castroville TX 78009	12/30/96	D MED IRR	240	NA
ME00585	Arthur W. Lutz, Rt. 2, Box 86, Kilsom TX 76542	12/30/96	D MED IRR	0	NA
ME00586	Cyndi Aabovet, 461 PR 4749, Castroville TX 78009	12/30/96	D MED DOM	0	NA
ME00587	Robert T. & Alynne Fitzgerald Family Real Estate Ltd. Pr., 202 CR 450, Hondo TX 78861	12/27/96	D MED IRR	0	NA
ME00588	Robert T. & Alynne Fitzgerald Family Real Estate Ltd. Pr., 202 CR 450, Hondo TX 78861	12/27/96	D MED IRR	0	NA
ME00589	Robert T. & Alynne Fitzgerald Family Real Estate Ltd. Pr., 202 CR 450, Hondo TX 78861	12/27/96	D MED IRR	0	NA
ME00590	Robert T. & Alynne Fitzgerald Family Real Estate Ltd. Pr., 202 CR 450, Hondo TX 78861	12/27/96	D MED IRR	0	NA
ME00591	Jerry Wurzbach dba Aquanetic Systems, Inc., c/o Fred Walls, ARA, 601 Monticello Circle Devine TX 78016	12/27/96	D MED MUN	0	NA
ME00592	Clayton J. Woolks, 1506 26th Street, Hondo TX 78861	12/27/96	D MED LVSR	0	NA
ME00593	Joe H. Biry, 10407 Byrr Oak, San Antonio TX 78230	12/30/96	D MED DOM	0	NA
ME00594	Houston H. Harte, 2207 Camelback, San Antonio TX 78209	3/20/98	D MED DOM	800	NA
ME00595	Alvin Thaggard, 319 Elizabeth, San Antonio TX 78229	12/30/96	D MED DOM	0	NA
ME00596	Michael Wetzel, 730 County Road 646, Hondo TX 78861	1/10/97	D MED IRR	0	NA
ME00597	Russell Bros. Cattle Co., 1339 CR 4516, PO Box 659 Castroville TX 78009	12/27/96	G MED IND	152.7944	34.53038
ME00598	Peary Ranch, P.O. Box 1103, Shreveport, LA 71163	12/30/97	D MED IRR	308	NA
UV00400	Garcia C. Marsh, Box 2678 Garner Field Road, Uvalde TX 78801	11/13/96	G UVA IRR	160	160
UV00401	Frank A. Ramsey, No. 8 El Norte Circle, Uvalde TX 78801	11/21/96	G UVA IRR	129.04	129.04
UV00402	A. M. Rankins and Flo F. Rankins, Rt. 1, Box 38 Krippa TX 78870	11/21/96	G UVA IRR	2302.8	2302.8
UV00403	Charles V. Griffin, Jr., 1005 S. Getty, Uvalde TX 78801	11/27/96	G UVA IRR	276	159.2
UV00404	Jess Clark Ward III, Rt. 1, Box 15W, Krippa TX 78870	11/26/96	G UVA IRR	856	856
UV00405	Sammy Gugliotti, P.O. Box 1691, Uvalde TX 78802	11/22/96	G UVA IRR	62	60
UV00406	Bobby DeRusha, HCR 33, Box 523, Uvalde TX 78801	11/26/96	G UVA IRR	3578.5	1700
UV00407	Thomas & Gretel Elbaum, 1871 West County Line Rd., P.O. Box 22492 Jackson MS 39225-2492	12/3/96	G UVA IRR	1881.6	1881.6
UV00408	Carnes Farms, Inc., 1101 N. Camp St., P.O. Box 1232 Uvalde TX 78802	12/3/96	G UVA IRR	1210	1210
UV00409	Thomas A. Morris, Jr., Ladera Rd., Box 1490 Uvalde TX 78802	12/4/96	G UVA IRR	8	8
UV00410	Traugott Farms, Inc., P.O. Box 1923, Uvalde TX 78801	12/3/96	D UVA IRR	204	NA
UV00411	R. E. Traugott, P.O. Box 1923, Uvalde TX 78801	12/3/96	D UVA IRR	202	NA
UV00412	R. E. Traugott, P.O. Box 1923, Uvalde TX 78801	12/3/96	D UVA IRR	370	NA
UV00413	Fred Schoenfeld, HCR 70, Box 308, Sabinal TX 78881	12/3/96	G UVA IRR	476.4	476
UV00414	J R O S Properties, Inc., HCR 70, Box 308, Sabinal TX 78881	12/3/96	G UVA IRR	1729.62	1729.62
UV00415	Pete Nurtze, 2666 E. Main, Uvalde TX 78801	12/3/96	G UVA IRR	398	398
UV00416	Kramer or Biedfeldt, P.O. Box 74, Krippa TX 78870	12/4/96	D UVA IRR	465.6	NA
UV00417	Joe B. Parker, Jr., P.O. Box 206, Uvalde TX 78882	12/9/96	G UVA IRR	400	400
UV00418	4-M Ranch (Partnership), 700 E. Verot School Road, P.O. Box 51729 Lafayette LA 70505	12/9/96	D UVA IRR	1260.8	NA
UV00419	4-M Ranch (Partnership), 700 E. Verot School Road, P.O. Box 51729 Lafayette LA 70505	12/9/96	D UVA DOM	0	NA
UV00420	Uvalde Concrete Co., Inc., P.O. Box 118, Krippa TX 78870	12/5/96	D UVA IND	536	NA
UV00421	U.S. Fish & Wildlife Service-Uvalde National Fish Hatchery, FM 481, P.O. Box 708, Uvalde TX 78802	12/9/96	G UVA IND	2154	1010.4
UV00422	4-M Ranch, P.O. Box 51729, Lafayette LA 70505	12/9/96	G UVA IRR	1260.8	1260.8
UV00423	Kenneth D. Sparks, HCR 77, Box 442 Durbar Lane, Uvalde TX 78801	12/9/96	G UVA IRR	859	502
UV00424	Sarah Speir White, P.O. Box 1603, Uvalde TX 78802	12/10/96	G UVA IRR	893.405	311.034
UV00425	Sarah Speir White, P.O. Box 1603, Uvalde TX 78802	12/10/96	G UVA IRR	160	153.4
UV00426	Vivian Lucille Jones, 1620 N. Camp, Uvalde TX 78801	12/10/96	G UVA IRR	5.8	5.8
UV00427	Leonard May, May Joint Venture, 4733 A. Baldwin Corpus Christi TX 78408	12/12/96	G UVA IRR	572	572
UV00428	Leonard May, May Joint Venture, 4733 Baldwin Corpus Christi TX 78408	12/12/96	D UVA IRR	1799.8	NA
UV00429	Box K, Limited, 1015 N. High St., Uvalde TX 78801	12/12/96	G UVA IRR	516	516
UV00430	Tommy C. Walker and Ann Walker, HCR 32, Box 29, Uvalde TX 78801	12/12/96	G UVA IRR	911.04	364.75
UV00431	Tommy C. Walker and Ann Walker, HCR 32, Box 29, Uvalde TX 78801	12/12/96	G UVA IRR	1512.805	588.5
UV00432	Annette Keresedy Hagen, I Kings Ct., Uvalde TX 78801	12/12/96	G UVA IRR	866.258	367.75
UV00433	Krippa Water Supply Corp., FM 1049 N. of Krippa, P.O. Box 237 Krippa TX 78870	12/9/96	G UVA MUN	298	109.61
UV00434	The Anthony C. Ranch, 1150 North 11th Street, Beaumont TX 77702	12/9/96	D UVA IRR	648.6	NA
UV00435	C. D. (Pat) Cowser, P.O. Box 606, Rocksprings TX 78880	12/10/96	D UVA IRR	120	NA
UV00436	Joe Gerber, Jr., FM 1049S, P.O. Box 238 Krippa TX 78870	12/12/96	G UVA IRR	1196.8	1196.8
UV00437	F. W. Ranchlands, L.P., 40-004 Cook Street, Palm Desert CA 92211	12/9/96	G UVA IRR	398	324
UV00438	Bruce Gililand, County Road 103, P.O. Box 836 Uvalde TX 78802	12/16/96	G UVA IRR	564	564

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UV00439	Bruce Gilleland, County Road 103, P.O. Box 836 Uvalde TX 78802	12/16/96	G UVA IRR	175	70
UV00440	Bruce Gilleland, County Road 103, P.O. Box 836 Uvalde TX 78802	12/16/96	G UVA IRR	450	180
UV00441	Vivian Howard Gee, 801 E. Nopal, Uvalde TX 78802	12/16/96	G UVA IRR	560	560
UV00442	Weldon Gilleland, County Road 103, P.O. Box 2132 Uvalde TX 78802	12/16/96	G UVA IRR	992	992
UV00443	Vic & Sally Gleichmann, 2535 Crescent Street, Ferrisdale WA 98248	12/16/96	G UVA IRR	810	810
UV00444	Vic & Sally Gleichmann, 2535 Crescent Street, Ferrisdale WA 98248	12/16/96	G UVA IRR	580	580
UV00445	Roger & Marvin Verstryff, Rt. 1, Box 33, Knappa TX 78870	12/16/96	G UVA IRR	2108	2108
UV00446	Roger & Marvin Verstryff, Rt. 1, Box 33, Knappa TX 78870	12/16/96	D UVA IRR	600	NA
UV00447	Roger & Marvin Verstryff, Rt. 1, Box 33, Knappa TX 78870	12/16/96	G UVA IRR	792	774
UV00448	Gad F. or Jared D. Bostime, B-Two Farms, 1642 Hwy 96 West Castroville TX 78809	12/17/96	G UVA IRR	824	824
UV00449	B-L Investments and Mr. Roger L. Berry, P.O. Box 448, Uvalde TX 78802	12/17/96	D UVA IRR	117.8	NA
UV00450	J E Pascan, Jr., 2053 Swan's Neck Way, P.O. Box 763 Uvalde TX 78802-0163	12/17/96	G UVA IRR	187.8	172.4
UV00451	Alma Haag, 134 Saddle Club, Boerne TX 78006	12/17/96	G UVA IRR	80	80
UV00452	Torres Ready-Mix, Inc - Russell Road, Hilltop Subdiv., P.O. Box 855, Dilley TX 78017	12/17/96	D UVA IND	0	NA
UV00453	Carson B. Wells, P.O. Box 1085, Sabinal TX 78881	12/17/96	G UVA IRR	991.2	991.2
UV00454	Henry Bros A Partnership, P.O. Box 146, Sabinal TX 78881	12/18/96	G UVA IRR	494	494
UV00455	Ian Garmon, 13204 E. Jarratt Rd., Eola TX 76937	12/18/96	D UVA IRR	500	NA
UV00456	Gerald Jeffrey, P.O. Box 1971, Uvalde TX 78801	12/18/96	G UVA IRR	324	324
UV00457	Lorrie Meyer & Glenn Meyer, Rt. 1, Knappa TX 78870	12/18/96	G UVA IRR	520	416
UV00458	City of Uvalde, P.O. Box 799, Uvalde TX 78802	12/19/96	G UVA IRR	127.54	127.54
UV00459	City of Uvalde, P.O. Box 799, Uvalde TX 78802	12/19/96	G UVA MUN	5033.8	3903.543
UV00460	Fred Woodley, 4600 Broadway, Suite 220, San Antonio TX 78209	12/19/96	D UVA IRR	6732.8	NA
UV00461	F W Ranchlands, L.P., 40-004 Cook Street, Palm Desert CA 92211	12/19/96	G UVA IRR	920	920
UV00462	Gayle N. Linkerhager, 429 Ham Lane, Uvalde TX 78801	12/20/96	G UVA IRR	100	100
UV00463	Armando Luna, Jr., 1317 Garden Court, Deer Park TX 77536	12/20/96	G UVA IRR	152	152
UV00464	Lewis R. Cole, Jr and Kenneth S. Cole, 18325 FM 471 S., Natascosola TX 78059	12/20/96	G UVA IRR	1188	1188
UV00465	Lewis R. Cole, Jr and Kenneth S. Cole, 18325 FM 471, Natascosola TX 78059	12/20/96	G UVA IRR	500	500
UV00466	Lewis R. Cole, Jr and Kenneth S. Cole, 18325 FM 471 S., Natascosola TX 78059	12/20/96	G UVA IRR	696	600
UV00467	Lewis R. Cole, Jr and Kenneth S. Cole, 18325 FM 471 S., Natascosola TX 78059	12/20/96	G UVA IRR	850	400
UV00468	Sterling H. Fly, Jr., HCR 34, Box 987, Uvalde TX 78801	12/20/96	G UVA IRR	236	236
UV00469	Eugene & Mildred Verstryff, P.O. Box 998, Sabinal TX 78881	12/20/96	G UVA IRR	669.6	669.6
UV00470	Nathan L. & Eula Mae Lanford, 3260 W Loop 1604 N, San Antonio TX 78251	12/20/96	G UVA IRR	648	648
UV00471	City of Sabinal Texas, 501 North Center Street, P.O. Box 838 Sabinal TX 78881	12/20/96	G UVA MUN	636.21	374 5013
UV00472	Tex. Ag. Research & Extension Ctr., Texas A&M University, 1619 Garner Field Rd., Uvalde TX 78801-6705	12/20/96	G UVA IRR	320	97
UV00473	Sam T. Henderson Inc., Box 313, Sabinal TX 78881	12/20/96	G UVA IRR	1100	1100
UV00474	Herman Mechler, 6760 Jungman Rd., San Antonio TX 78252-1703	12/20/96	G UVA IRR	390	390
UV00475	Jack & Jessie L. Wandlaw, P.O. Box 944, Sonoma TX 76970	12/20/96	D UVA IRR	18353.42	NA
UV00476	Parker Harvesting Co., HCR 33, Box 531, Uvalde TX 78801	12/20/96	G UVA IRR	63.88	40
UV00477	E B Kincaid Est., ET AL, P.O. Box 25, Sabinal TX 78881	12/23/96	G UVA IRR	2062	3562
UV00478	F W Ranchlands, L.P., 40-004 Cook Street, Palm Desert CA 92211	12/26/96	G UVA IRR	666 0261	398
UV00479	F W Ranchlands, L.P., F W Ranchlands, L.P., 40-004 Cook Street Palm Desert CA 92211	12/26/96	D UVA IRR	1227.86	NA
UV00480	J E. Wingham IV and M K. Chandler, P.O. Box 1828, Uvalde TX 78802	12/18/96	G UVA IND	1600	328
UV00481	Archer McFadin, P.O. Box 66, Uvalde TX 78802	12/24/96	G UVA IRR	99.4	99.4
UV00482	Archer McFadin, P.O. Box 66, Uvalde TX 78802	12/24/96	G UVA IRR	1683	1046
UV00483	Cecil or Mildred Kirk, P.O. Box 1690, Uvalde TX 78802	12/20/96	D UVA IRR	300	NA
UV00484	Leon D. Walton, HCR 77, Box 443, Uvalde TX 78801	12/20/96	G UVA IRR	196	196
UV00485	Briscoe Ranch Inc., PO Box 389, Uvalde TX 78802	12/24/96	D UVA IRR	468.2	NA
UV00486	Stephen L. Horton, HC 70, Box 175, Sabinal TX 78881	12/20/96	G UVA IRR	270	270
UV00487	F W Ranchlands, L.P., 40-004 Cook Street, Palm Desert CA 92211	12/20/96	D UVA IRR	994	NA
UV00488	Steve Gerdes, Box 1616, Uvalde TX 78802-1616	12/20/96	G UVA IRR	800	800
UV00489	Phyllis Farr, Alexander Kathleen Farr, Reeves & Thomas Lee Farr, HCR 77, #422, Uvalde TX 78801	12/27/96	G UVA IRR	575	575
UV00490	Thomas Lee Farr, HCR 77, #422, Uvalde TX 78801	12/27/96	G UVA IRR	330	330
UV00491	Box K, Ltd., 1015 N. High St., Uvalde TX 78801	12/26/96	G UVA IRR	2166.28	1766.28
UV00492	Pat S. & Beverly K. Johnson, HCR 34, Box 1136, Uvalde TX 78801	12/26/96	G UVA IRR	1208	1208



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UV00493	William A. Kessler, P.O. Box 1040, Uvalde TX 78802-1040	12/26/96	G UVA IRR	142.58	142.58
UV00494	William A. Kessler, P.O. Box 1040, Uvalde TX 78802-1040	12/26/96	D UVA LVST 0	NA	NA
UV00495	J. B. Barrett, P.O. Box 5418, Uvalde TX 78802	12/26/96	D UVA IRR	324	NA
UV00496	Doyle & Marsha Kitchens, 698 W. Faratin St., Uvalde TX 78801	12/26/96	G UVA IRR	36	36
UV00497	Ellen Armstrong, HCR 33, Box 560, Uvalde TX 78801	12/26/96	D UVA IRR	40	NA
UV00498	Davenport Land Joint Venture, Route 1, Box 14D, Knippa TX 78870	12/20/96	G UVA IRR	844	844
UV00499	John T. Brigman, PO Box 1611, Uvalde TX 78802-1611	12/24/96	G UVA IRR	360	360
UV00500	Mark C. Kelling, Route 1, Box 30, Knippa TX 78870	12/24/96	G UVA IRR	628.2	562
UV00501	R B Willoughby, Jr. and Cecil R. Atkinson, Jr., 113 West South Street, Uvalde TX 78802	12/24/96	G UVA IRR	960.59	680.45
UV00502	Jana O. Brown or Russell D. Brown, HCR 77 - 441, Uvalde TX 78801	12/20/96	G UVA IRR	152	132
UV00503	George Ligocky, P.O. Box 150, Old Eagle Pass Road Uvalde TX 78802	12/20/96	G UVA IRR	207.6	207.6
UV00504	George Ligocky, P.O. Box 150, Old Eagle Pass Road Uvalde TX 78802	12/20/96	G UVA IRR	795.6	795.6
UV00505	R B Willoughby, Jr., P.O. Box 986, Uvalde TX 78802	12/24/96	D UVA DOM	200	NA
UV00506	Robert L. Johnson, P.O. Box 495, Uvalde TX 78801	12/20/96	G UVA IRR	100	25.4
UV00507	Thomas Franklin Johnson III, P.O. Box 495, Uvalde TX 78801	12/20/96	D UVA IRR	288	NA
UV00508	Charles W., Newman, Jr., 827 E. Garden St., Uvalde TX 78801	12/20/96	G UVA IRR	20	11
UV00509	H. E. Stoy Estate, Steven Stoy, ET AL., 634 Dorothy Jo Circle, Uvalde TX 78801	12/24/96	G UVA IRR	2065.31	1395.005
UV00510	James B. Crawford, HCR 34 Box 914, Uvalde TX 78801	12/24/96	G UVA IRR	1647.13	1011.75
UV00511	James B. Crawford, HCR 34, Box 914, Uvalde TX 78801	12/24/96	G UVA IRR	458.2	458.2
UV00512	Lawrence A. W. and Virginia Friesenthal, Rt. 1, Box 63, CR 302, Knippa TX 78870	12/18/96	G UVA IRR	3042	992.5
UV00513	Mark Vanham, 12 Tanglewood West, Uvalde TX 78802	12/20/96	G UVA IRR	386.8	386.8
UV00514	Mark Vanham, 12 Tanglewood West, Uvalde TX 78802	12/20/96	G UVA IRR	537.2	537.2
UV00515	Eddie Falkenberg, Rt. 1, Box 7, Knippa TX 78870	12/20/96	G UVA IRR	614	614
UV00516	Martha Handorf, Box 1521, Uvalde TX 78802	12/20/96	G UVA IRR	377.4	377.4
UV00517	Robert Cabera, 5700 NW 27th Ave, Miami FL 33142	12/20/96	G UVA IRR	276	257.304
UV00518	Louis Hemdon, P.O. Box 825, Uvalde TX 78802	12/20/96	G UVA IRR	1500	1500
UV00519	D. S. Turner, HCR 33 - 522, Uvalde TX 78801	12/20/96	G UVA IRR	240	240
UV00520	Joseph B. Parker, 525 Elizabeth Rd., San Antonio TX 78209	12/20/96	D UVA DOM	120	NA
UV00521	Alicia Oakley, HCR 33, Box 599, Uvalde TX 78801	12/18/96	G UVA IRR	60	40
UV00522	Joe W. Carpet, 472 N. Park, Uvalde TX 78801	12/18/96	G UVA IRR	70	70
UV00523	James C. Surber, 425 Ham Lane, Uvalde TX 78801	12/20/96	G UVA IRR	29.52	29.52
UV00524	C. V. Sheffield, Jr., HCR 34, Box 997, Uvalde TX 78801	12/20/96	D UVA DOM	10	NA
UV00525	John P. Molloy and Ann F. Molloy, 120 Blaebornet Dr. E., Uvalde TX 78802-0005	12/20/96	G UVA IRR	85.16	85.16
UV00526	G. C. Knippa, 16802 East Dorman Dr., Round Rock TX 78681-3605	12/26/96	G UVA IRR	1396	1396
UV00527	Fred C. Speir, Old Leskey Road, P.O. Box 1392 Uvalde TX 78802	12/26/96	G UVA IRR	32.16	32.16
UV00528	Jenark, L.L.C., 2727 East Main, P.O. Box 5387 Uvalde TX 78801	12/26/96	G UVA IRR	309.6	120
UV00529	James J & Ann M Braden, P.O. Box 425, Sabinal TX 78881	12/26/96	G UVA IRR	2775.24	1525
UV00530	Paul M. Smith, 15511 Dawn Crest, San Antonio TX 78248	12/23/96	D UVA IND	274	NA
UV00531	Ray Kelling, Rt 1, Box 30, Knippa TX 78870	12/18/96	G UVA IRR	1510	1510
UV00532	Bob Reagan, Rt 1, Box 80, Knippa TX 78870	12/20/96	G UVA IRR	640	640
UV00533	W. C. Reagan, Jr., Bob Reagan, Clinton Carlisle, Renee Stone, Rt 1, Box 80, Knippa TX 78870	12/20/96	G UVA IRR	1604	1604
UV00534	Cecil Reagan, Rt 1, Box 81, Knippa TX 78870	12/20/96	G UVA IRR	1578	1578
UV00535	Wilford Charles and Marsha Gayle Schneider, 517 Mintz, Uvalde TX 78801	12/20/96	G UVA IRR	383.3	383.3
UV00536	W. B. McFatter, Jr., 332 Benson Road, Uvalde TX 78801	12/20/96	G UVA IRR	48	48
UV00537	F. W. Ranchlands, L.P., 40-004 Cook Street, Palm Desert CA 92211	12/20/96	G UVA IRR	511	511
UV00538	Gertrude Miles and John Stephen Miles, Rt 1, Box 74, Knippa TX 78870	12/20/96	G UVA IRR	648	648
UV00539	OJR Farms, Inc., P.O. Box 427, Uvalde TX 78802-0427	12/26/96	G UVA IRR	1002.92	408
UV00540	Orvin & Josephine Carnes Trust, P.O. Box 427, Uvalde TX 78802-0427	12/26/96	G UVA IRR	644.92	436
UV00541	OJR Farms, Inc., P.O. Box 427, Uvalde TX 78802-0427	12/26/96	G UVA IRR	313.2	313.2
UV00542	Maury Farm, P.O. Box 427, Uvalde TX 78802	12/26/96	G UVA IRR	4616.8	0
UV00543	Charlotte Woodley, 150 Oak Park, San Antonio TX 78209	12/26/96	G UVA IRR	382.4	382.4
UV00544	Malcolm Richey, Box 8, El Indio TX 78860	12/26/96	D UVA IRR	286	NA
UV00545	Malcolm Richey, Box 8, El Indio TX 78860	12/26/96	G UVA IRR	156	156
UV00546	Malcolm Richey, Box 8, El Indio TX 78860	12/26/96	D UVA IRR	224	NA

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UV00541	Malcolm Rashey, Box 8, El Indio TX 78860	12/26/96	G UVA IRR	70	70
UV00548	Tim & Sandy Ligosky, PO Box 1555, Uvalde TX 78802-1555	12/27/96	D UVA IRR	7	NA
UV00549	Peter B. Derrney, PO Box 1038, Sabinal TX 78881	12/27/96	G UVA IRR	684	684
UV00550	Kenneth & Floy Bishop, Rt. 1, Box 45, Krappa TX 78870	12/27/96	G UVA IRR	1814	1210
UV00551	T.M. Woodley, Jr., Hwy 90 W, Box 188 Sabinal TX 78881	12/27/96	D UVA IND	3868	NA
UV00552	Victor John Niemeier, RR 1, Box 71, Krappa TX 78870	12/27/96	G UVA IRR	1224	1198.2
UV00553	Don Alpaugh, 724 Skyline Drive South, Uvalde TX 78801	12/27/96	G UVA IND	0.5	0.5
UV00554	Gulf Western Au, L.C., PO Box 13400, San Antonio TX 78213	12/27/96	D UVA IRR	0	NA
UV00555	Fauld Warren Estate & heirs, PO Box 573, Uvalde TX 78802	12/27/96	G UVA IRR	381.62	167
UV00556	Jess C. Ward, Box 1225, Uvalde TX 78802	12/27/96	D UVA IRR	60	NA
UV00557	Bobby Horton, Rt. 1, Box 67AA, Mt. Home TX 78058	12/27/96	G UVA IRR	400	400
UV00558	Lawrence Wilde - McSpadan Farm, PO Box 1073, Uvalde TX 78802	12/27/96	D UVA IRR	613.35	NA
UV00559	Lawrence Wilde - Home, PO Box 1073, Uvalde TX 78802	12/27/96	G UVA IRR	505.72	225.01
UV00560	Lawrence Wilde - Kirk Farm, PO Box 1073, Uvalde TX 78802	12/27/96	G UVA IRR	170	170
UV00561	Lawrence Wilde - Kessler Farm, PO Box 1073, Uvalde TX 78802	12/27/96	G UVA IRR	290	290
UV00562	Lawrence Wilde - Sights Farm, PO Box 1073, Uvalde TX 78802	12/27/96	G UVA IRR	386	386
UV00563	Lawrence Wilde - Sharley Farm, PO Box 1073, Uvalde TX 78802	12/27/96	G UVA IRR	74	74
UV00564	Lawrence Wilde - Klein Farm, PO Box 1073, Uvalde TX 78802	12/27/96	G UVA IRR	889.44	333.8
UV00565	Briscoe Ranch, Inc. and Archie McFadin, 200 E. Nopal, Uvalde TX 78802	12/26/96	D UVA IND	101.65	NA
UV00566	Briscoe Ranch, Inc., 200 E. Nopal Street, P.O. Box 389 Uvalde TX 78802	12/26/96	G UVA IRR	9234.82	287.2
UV00567	Briscoe Ranch, Inc., 200 E. Nopal Street, P.O. Box 389 Uvalde TX 78802	12/26/96	G UVA IRR	1112	1112
UV00568	Briscoe Ranch, Inc., 200 E. Nopal Street, P.O. Box 389 Uvalde TX 78802	12/26/96	G UVA IRR	1305.6	1305.6
UV00569	Briscoe Ranch, Inc., 200 E. Nopal Street, P.O. Box 389 Uvalde TX 78802	12/26/96	G UVA IRR	1197.4	1197.4
UV00570	Briscoe Ranch, Inc. and Archie McFadin, 200 E. Nopal St, Uvalde TX 78802	12/26/96	D UVA IRR	1222	NA
UV00571	Briscoe Ranch, Inc., 200 E. Nopal Street, P.O. Box 389 Uvalde TX 78802	12/26/96	D UVA IRR	2639.88	NA
UV00572	Briscoe Ranch, Inc. and Archie McFadin, 200 E. Nopal Street, Uvalde TX 78802	12/26/96	D UVA IRR	1832.74	NA
UV00573	Briscoe Ranch, Inc., 200 E. Nopal Street, P.O. Box 389 Uvalde TX 78802	12/26/96	G UVA IRR	906.35	643.53
UV00574	Briscoe Ranch, Inc., 200 E. Nopal Street, P.O. Box 389 Uvalde TX 78802	12/26/96	G UVA IRR	1094.7	663.5
UV00575	Chapman Grain, Inc., 1202 14th Street, PO Box 276 Hondo TX 78861	12/27/96	G UVA IRR	249.6	249.6
UV00576	F. W. Ranchlands, L.P., 40-004 Cook Street, Palm Desert CA 92211	12/27/96	G UVA IRR	3155.8	3154.2
UV00577	Albert & Martina Saathoff, Gregory Saathoff, 3030 FM 462 N, Hondo TX 78861	12/27/96	G UVA IRR	1363	1361
UV00578	Bob A. & Minnie K. Roberts, PO Box 1, Lytle TX 78052	12/27/96	G UVA IRR	653.6	649.6
UV00579	Charles L. & Arnie Halbantler, 3600 FM 462 S, Hondo TX 78861	12/27/96	G UVA IRR	600	600
UV00580	Courtyard Builders, L.L.C., 1701 19th Street, PO Box 444 Hondo TX 78861	12/27/96	D UVA IRR	500	NA
UV00581	Ted Sanderlin, PO Box 43, Krappa TX 78870	12/27/96	G UVA IRR	1324	1324
UV00582	Bernad Mendelke, HCR 77, Apt. 353-B, FM 481, PO Box 110 Uvalde TX 78802	12/27/96	D UVA IND	0	NA
UV00583	J.H.T. Family Preservation Tr., Box 305, Sabinal TX 78881	12/27/96	G UVA IRR	800	800
UV00584	Winter Garden Chemicals, Inc. c/o Adah McGlothlin, 717 Skyline Dr So., Uvalde TX 78801	12/27/96	G UVA IND	38.94	6.49
UV00585	Diemich J. Gembler, III, Rt. 1, Box 62, Krappa TX 78870	12/27/96	G UVA IRR	1438.6	1438.6
UV00586	W.A. Hensarling, Jr., 4326 Hwy 90 East, Uvalde TX 78801	12/27/96	G UVA IND	2	0.5
UV00587	Rudy & Company, Ltd., 2143 Zacher, San Antonio TX 78209	12/27/96	D UVA IND	548	NA
UV00588	Gregory E. Roth, Box 2790 FR 322, Hondo TX 78861	12/27/96	G UVA IRR	336	336
UV00589	Elizabeth, Wesley, Haygood-Gulley, David Gulley Family Tr, PO Box 420248, Dal Rio TX 78842	12/27/96	G UVA IRR	1103.01	575.68
UV00590	Tracy O. Karg, 2502 Garner Field Road, Uvalde TX 78801	12/27/96	D UVA IRR	45.2	NA
UV00591	Pat Koch, PO Box 148, Krappa TX 78870	12/27/96	G UVA IRR	360	10
UV00592	Owen R. Kirchner, J.W. & Marjorie O. Kirchner, PO Box 818, Uvalde TX 78802	12/30/96	G UVA IRR	2061.63	1445.7
UV00593	Carl Muecke, Jr. & Diane Muecke, RR 1, Box 89, Krappa TX 78870	12/30/96	G UVA IRR	442.5	442.5
UV00594	Carl Muecke, RR 1, Box 90, Krappa TX 78870	12/30/96	D UVA IRR	784	NA
UV00595	Jack H. Griffin, PO Box 828, Sabinal TX 78881	12/30/96	G UVA IRR	745	362
UV00596	Nayak Aviation Corp., 1403 Northern Boulevard, San Antonio TX 78216	12/30/96	G UVA IRR	790	790
UV00597	Jones Enterprises, Rt. 1, Box 16, Krappa TX 78870	12/30/96	G UVA IRR	1476.4	968.57
UV00598	Daisy McFadin, Rt. 1, Box 16, Krappa TX 78870	12/30/96	D UVA IRR	600	NA
UV00599	Mike & Terry Miller, PO Box 99, Hondo TX 78861	12/30/96	G UVA IRR	350	350
UV00600	Patricia Anne Leonard, 1129 Challenger, Lakeway TX 78754	12/30/96	G UVA IRR	200	200

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UV00601	Kate Lou Pepper Trust & Kate Lou Pepper, PO Box 1059, Sabinal TX 78881	12/30/96	G UVA IRR	788	400
UV00602	James A. Hester, Steve Gerdes and Randy J. Gerdes, Box 1616, Uvalde TX 78802-1616	12/30/96	D UVA IRR	80	NA
UV00603	E.E. Capt Trust, 333 East Main Street, Uvalde TX 78801	12/30/96	G UVA IRR	347.92	230.25
UV00604	E.E. Capt Trust, 333 East Main Street, Uvalde TX 78801	12/30/96	G UVA IRR	563	311.71
UV00605	Louis E. Capt, 333 East Main Street, Uvalde TX 78801	12/30/96	D UVA IRR	360	NA
UV00606	Louis E. Capt, 333 East Main Street, Uvalde TX 78801	12/30/96	G UVA IRR	30	30
UV00607	Elaine Seidel Haris, 214 Tusado, San Antonio TX 78209	12/30/96	D UVA IRR	0	NA
UV00608	Fred Woodley, 4600 Broadway, San Antonio TX 78209	12/30/96	D UVA IND	323	NA
UV00609	Steve Gerdes, Box 1616, Uvalde TX 78802-1616	12/30/96	D UVA IRR	0	NA
UV00610	Lucille C. Hutcherson, HCR 32, Box 89, Uvalde TX 78801	12/30/96	G UVA IRR	432	432
UV00611	Harry O. Watkins, 1042 Garner Field Road, Uvalde TX 78801	12/30/96	G UVA IRR	570	570
UV00612	Mary Jane & Lyles Houston, Reagan Houston, IV, 4040 Broadway, State 630, San Antonio TX 78209	12/30/96	G UVA IRR	550	550
UV00613	Steve Cargil, PO Box 1146, Uvalde TX 78802-1146	12/30/96	G UVA IRR	880	836
UV00614	Gary Aelvoet, PO Box 235, Knappa TX 78870	12/30/96	G UVA IRR	440	440
UV00615	Neal's Lodges, Inc., PO Box 165, Concan TX 78838	12/30/96	D UVA IND	0	NA
UV00616	RDMS Family Partners, Ltd., PO Box 330, San Marcos TX 78667	12/30/96	G UVA IRR	600	600
UV00617	Carolyn Ambler and Dan Mason, 345 Oakwood Ln., Hewitt TX 76643	12/30/96	D UVA DOM	0	NA
UV00618	Carolyn Ambler, 345 Oakwood Ln, Hewitt TX 76643	12/30/96	D UVA IRR	37.6	NA
UV00619	John M. Wade, Rt 1, Box 22, Knappa TX 78870-9711	12/26/96	G UVA IRR	209.7	195.24
UV00620	Bill H. Soyars, P O Box 1406, Uvalde TX 78802-1406	12/26/96	G UVA IRR	1430	1430
UV00621	Richard Redland, HCR 77 Box 425, Uvalde TX 78801	12/24/96	G UVA IRR	21.36	20
UV00622	Charles K. Wootton, 415 FM Rd. 1574, Uvalde TX 78801	12/26/96	G UVA IRR	486	472
UV00623	Robert Ellodge, #7 Buena Vista, Uvalde TX 78801	12/26/96	G UVA IRR	40	40
UV00624	Claude Kelley, Jr., Rt 3, Box 300, Fredericksburg TX 78624	12/20/96	G UVA IRR	365.36	365.36
UV00625	T. David Bishop, Rt 1, Box 21, Knappa TX 78870	12/26/96	G UVA IRR	1526	804
UV00626	Bianco Farm, HC 70 Box 310, Sabinal TX 78881	12/26/96	D UVA IRR	788	NA
UV00627	Driskill Feedyard, Inc., PO Box 248, Sabinal TX 78881	12/27/96	G UVA IND	188.01	139.27
UV00628	Driskill Feedyard, Inc., PO Box 248, Sabinal TX 78881	12/27/96	G UVA IRR	308.8	308.8
UV00629	H. Cecil Tindall, 29355 Grand Cotan, Fair Oaks Ranch TX 78015	12/27/96	G UVA IRR	983.86	983.86
UV00630	F. W. Ranchlands, L.P., 40-004 Cook Street, Palm Desert CA 92211	12/27/96	G UVA IRR	400	400
UV00631	Jim Biediger, HC 34, Box 907, Uvalde TX 78801	12/27/96	G UVA IRR	27.88	19.29
UV00632	Evan B. Matha, PO Box 569, Sabinal TX 78881	12/27/96	G UVA IRR	321	321
UV00633	Evan B. Matha & Alice A. Matha Harris, PO Box 569, Sabinal TX 78881	12/27/96	G UVA IRR	623.6	623.6
UV00634	Werner A. Wieboldt, III, PO Box 786, Sabinal TX 78881	12/27/96	G UVA IRR	450	450
UV00635	Billy & Becky Kingston, PO Box 325, Uvalde TX 78802	12/30/96	G UVA IRR	44	44
UV00636	Larry V. Emerson & Michael E. McHugh, PO Box 1431, Uvalde TX 78802	12/30/96	D UVA IND	447.32	NA
UV00637	Bob Black, 5001 FM 3126, Livingston TX 77351	12/30/96	D UVA IND	28	NA
UV00638	Charlie Waller, 3839 Hwy. 90 East, PO Box 1771 Uvalde TX 78801	12/30/96	D UVA MUN	200	NA
UV00639	Jesus R. Flores, Sr., 1505 Hood Street, Uvalde TX 78801	12/30/96	D UVA IND	7.39	NA
UV00640	Atkinson Auto Parts, Inc., 3655 Hwy 90 East, Uvalde TX 78801	12/30/96	D UVA IND	0	NA
UV00641	William L. Spurgers and wife, Mary H. Spurgers, PO Box 1670, Uvalde TX 78802-1670	12/30/96	G UVA IND	4.9	2.9
UV00642	Geromano & Hilda Castro, 2617 Davis, Laredo TX 78040	12/30/96	D UVA IRR	0	NA
UV00643	George Lagodey, PO Box 150, Uvalde TX 78802	12/30/96	D UVA IND	0.5	NA
UV00644	Charles A. Heard Estate, 529 N. 4th Street, Uvalde TX 78801	12/30/96	G UVA IRR	30	30
UV00645	A S & Jennifer Elliott, HCR 32, Box 25, Uvalde TX 78801	12/30/96	D UVA DOM	6	NA
UV00646	Dorothy & Jeff Winston, HCR 33, Box 501, Uvalde TX 78801	12/30/96	G UVA IRR	204	204
UV00647	Ruben Klavemann, HCR 33, Box 552, Uvalde TX 78801	12/30/96	G UVA IRR	101.2	101.2
UV00648	Robert O. Coleman, HCR 34, Box 998, Uvalde TX 78801	12/24/96	G UVA IRR	350	350
UV00649	Hanning Brothers, Inc., 4813 Helens Road, Arena WI 53503 WI 53563	12/30/96	D UVA IND	0	NA
UV00650	Texas Ice Company, Inc., PO Box 146, Uvalde TX 78802-0146	12/30/96	G UVA IND	31.86	15 01 535
UV00651	Margaret Owens, PO Box 4, Sabinal TX 78881	12/30/96	G UVA IRR	310	310
UV00652	William E. McBryde, PO Box 5298, Uvalde TX 78802-5298	12/30/96	D UVA IRR	501.64	NA
UV00653	Dafene Schaefer, PO Box 644, Sabinal TX 78881	12/30/96	D UVA IRR	156.7	NA
UV00654	James D. Rose, HCR 77, Box 240, Uvalde TX 78801	12/30/96	G UVA IRR	346	346

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UV00655	Dean Foods Vegetable Company, PO Box 367, Uvalde TX 78802	12/30/96	D UVA IND	559	NA
UV00656	Dean Foods Vegetable Company, PO Box 367, Uvalde TX 78802	12/30/96	D UVA IND	172	NA
UV00657	Emmett E. Capt. Jr., HCR 33, Box 503, Uvalde TX 78801-9501	12/30/96	D UVA IRR	220	NA
UV00658	Victor John Niemeyer, RR1, Box 71, Krappa TX 78870	12/30/96	G UVA IRR	906	906
UV00659	Victor John Niemeyer, RR1, Box 71, Krappa TX 78870	12/30/96	G UVA IRR	358	352
UV00660	William Meade Mitchell, Jr., Box 130, Krappa TX 78870	12/30/96	G UVA IRR	680	626.8
UV00661	Pam & Shawn McCasland, HCR 34, Box 1139A, Uvalde TX 78801	12/30/96	D UVA IRR	108	NA
UV00662	Bert & Patsy McCasland, HCR 34, Box 1147, Uvalde TX 78801	12/30/96	G UVA IRR	150	147.4
UV00663	Uvalde Equipment Company, 2305 E. Main, PO Box 1251 Uvalde TX 78802	12/30/96	G UVA IND	1	0.5
UV00664	Ag Equipment, Inc., 4420 Hwy. 90 East, Uvalde TX 78801	12/30/96	G UVA IND	0.5	0.5
UV00665	W.D. Sutherland, HCR 32, Box 43-C, Uvalde TX 78801	12/30/96	D UVA IRR	236	NA
UV00666	Maria Elena R. Morales, PO Box 1980, Uvalde TX 78802	12/30/96	D UVA IND	0	NA
UV00667	C.E. Roberts, PO Box 1505, Uvalde TX 78802-1505	12/30/96	G UVA IND	68.96	57.66809
UV00668	John Burton Stockton, PO Box 5503, Uvalde TX 78802	12/30/96	D UVA IRR	0	NA
UV00669	Robert B. Nunley, Jr. & Richard H. Nunley, PO Box 308, Sabinal TX 78881	12/30/96	G UVA IND	38	19.95506
UV00670	Robert B. Nunley, Jr. & Richard H. Nunley, PO Box 308, Sabinal TX 78881	12/30/96	G UVA IRR	1469.4	1469.4
UV00671	Kittie Nelson Ferguson, HCR 72, Box 117, Helotes TX 78023	12/30/96	G UVA IRR	316	276
UV00672	Kittie Nelson Ferguson, HCR 72, Box 117, Helotes TX 78023	12/30/96	G UVA IRR	260	260
UV00673	Kittie Nelson Ferguson, HCR 72, Box 117, Helotes TX 78023	12/30/96	G UVA IRR	180	180
UV00674	Bruce T. Foster, PO Box E, Hondo TX 78861	12/30/96	G UVA IRR	960	917.4
UV00675	Carlos E. Meyer, HCR 77, Box 244, Uvalde TX 78801	12/30/96	D UVA IRR	150	NA
UV00676	Joy Unlimited, Inc., 39850 IH 10 West, PO Box 1619 Boerne TX 78006-1619	12/30/96	D UVA IRR	180	NA
UV00677	Craig K. Garnett and Melissa N. Garnett, 931 S. Getty, Uvalde TX 78801	12/30/96	D UVA IRR	100	NA
UV00678	John M. Woodman, HCR 77, Box 417A, Uvalde TX 78801	12/30/96	D UVA IND	403	NA
UV00679	Thomas E. Stephens, PO Box 908, Sabinal TX 78881	12/30/96	D UVA IRR	0	NA
UV00680	Thomas E. Stephens, PO Box 908, Sabinal TX 78881	12/30/96	D UVA IRR	0	NA
UV00681	Robert L. Johnson, Rt 1, Box 150-10, Merkel TX 79536	12/30/96	D UVA IRR	0	NA
UV00682	Charles M. Decker, Rt. 1, Box 15, Krappa TX 78870	12/30/96	D UVA LVSK	0	NA
UV00683	Terry & Cindy Horvath, PO Box 778, Uvalde TX 78802	12/30/96	D UVA LVSK	0	NA
UV00684	S&S Rental/Naacox Mobile Homes, 3521 Hwy. 90 East, PO Box 215 Krappa TX 78870	12/30/96	G UVA MUN	7.8	6.495125
UV00685	Briscoe Ranch - Gonzales Ranch, Box 389, Uvalde TX 78802	12/30/96	D UVA LVSK	0	NA
UV00686	Briscoe Ranch - Gonzales Ranch, Box 389, Uvalde TX 78802	12/30/96	D UVA LVSK	0	NA
UV00687	Briscoe Ranch - Gonzales Ranch, Box 389, Uvalde TX 78802	12/30/96	D UVA LVSK	0	NA
UV00688	Kittie Nelson Ferguson, HCR 72, Box 117, Helotes TX 78023	12/30/96	D UVA DOM	0	NA
UV00689	Edwin E. King, Box 389, Uvalde TX 78802	12/30/96	D UVA LVSK	0	NA
UV00690	Edwin E. King, Box 389, Uvalde TX 78802	12/30/96	D UVA DOM	0	NA
UV00691	Lloyd Brown, FM 1023, Gamet Field Rd., Old Agape Ranch, Uvalde TX 78801	1/3/97	D UVA IRR	0	NA
UV00692	Eather Clark Carnutt, 126 Five Oaks, San Antonio TX 78209	2/14/97	D UVA LVSK	0	NA
UV00693	John Burton Stockton, HCR 77 Box 232, Uvalde TX 78801	12/30/96	D UVA IRR	2.5	NA

The General Manager of the Authority has reviewed the applications and, as set forth in the Technical Summary, recommended that each application either be granted as applied for, granted as modified, or denied. For each application the General Manager is recommending an initial regular permit be issued, the General Manager has prepared

a Proposed Initial Regular Permit and recommended that it be approved by the Board of Directors of the Authority (the Board). If approved, the permit would authorize the applicant to withdraw and place to beneficial use groundwater from the Edwards Aquifer under the terms and conditions set out in the permit. Copies of the Proposed Initial Regular Permit are available for inspection by the public at the

offices of the Authority listed within this notice, as well as the full Technical Summary for each Proposed Initial Regular Permit.

The Proposed Initial Regular Permit contains recommended permit conditions including, but not limited to: (1) applicable definitions; (2) the payment of fees; (3) the duty to beneficially use, and not waste, groundwater from the Edwards Aquifer; (4) other circumstances under which the right to make withdrawals may be terminated or interrupted; (5) circumstances under which a transfer of the permit may or may not take place; (6) the duty to file applications to amend; (7) compliance with the conservation program of the Authority; (8) compliance with the reuse program of the Authority; (9) compliance with the Authority's meter program; (10) the duty to register wells; (11) the duty to report withdrawals; (12) the duty to comply with the Authority's and the Texas Natural Resource Conservation Commission's Edwards Aquifer water quality programs; (13) compliance with other plans of the Authority such as its comprehensive management plan, groundwater management plan, critical period management plan and demand management plan; (14) the duty to update the place of uses, points of withdrawal and period of use; (15) compliance with well construction laws; (16) notices concerning appropriation of surface water; (17) the filing and recording of permits; (18) the updating of addresses and phone numbers; and (19) compliance with the Edwards Aquifer Act and other applicable laws.

For each application for an initial regular permit the General Manager is recommending be denied, the General Manager has so notified the Docket Clerk of the Authority and requested the Docket Clerk advise the applicant of the General Manager's recommendation to deny.

Contested case hearings on applications for initial regular permits may be requested as follows:

(a) The Board will issue a final order granting or denying each application unless the applicant for any given application, or any other applicant for or holder of an initial regular permit, files a written request for a contested case hearing on the application with the Docket Clerk on or before 90 days after the date this notice is published in the Texas Register;

(b) A request for a contested case hearing by a person identified in subsection (a) of this section must be in writing and be filed by United States mail, facsimile, or hand delivery with the Docket Clerk;

(c) A hearing request must substantially comply with the following:

(1) give the name, address and daytime telephone number of the person filing the request. If the request is made by a group or association, the request must identify one person by name, address, daytime telephone number, and, where possible, fax number, who shall be responsible for receiving all official communications and documents for the group;

(2) the person making the request shall identify his personal justiciable interest affected by the application, including a brief, but specific, written statement explaining in plain language the person's location and distance relative to the point of withdrawal that is the subject of the application, and how and why he believes he will be affected by the activity in a manner not common to members of the general public;

(3) request a contested case hearing;

(4) identify the specific facts that serve as the foundation for the request;

(5) be verified by an affidavit of the person making the hearing request or his agent; and

(6) set forth specific prima facie facts showing that the person making the hearing request is affected by a Proposed Initial Regular Permit and that the person making the hearing request is reasonably entitled to a hearing.

(d) No hearing request will be acted upon by the board before the date this notice is published in the Texas Register;

(e) A separate request for a contested case hearing must be filed for each application for an initial regular permit; and

(f) The address of the Docket Clerk is: Docket Clerk's Office, Edwards Aquifer Authority, 1615 N. St. Mary's Street, San Antonio, Texas 78215, or P.O. Box 15830, San Antonio, Texas 78212.

If a request for contested case hearing that meets the requirements set forth above is filed, then the Board will not issue a final order on the application for which the request was filed and, instead, will consider and determine the validity of the request, or refer the application to the State Office of Administrative Hearings for a contested case hearing. If a hearing is held, it will be a legal proceeding similar to civil trials in state district court.

Based on the outcome of a contested case hearing, the General Manager may change or modify his recommendation as to granting, denying or modifying the Proposed Initial Regular Permit in question.

For the applications for which no requests for contested case hearings are received, the Board of Directors of the Authority will consider the Proposed Initial Regular Permits for final action on August 11, 1998, at 1615 N. St. Mary's, San Antonio, Texas, at 4:00 p.m. in the Conference Center. For those applications for which requests for contested case hearings are filed with the Docket Clerk, notice will be given separately, pursuant to 31 Texas Administrative Code, §707.315(d) for the meetings of the Board of Directors at which the requests will be considered by the Board. Any applications that are scheduled for contested case hearings will be separately noticed by the Docket Clerk pursuant to 31 Texas Administrative Code, §707.263 and §707.405(d)(3).

This consolidated notice is published pursuant to 31 Texas Administrative Code, §707.251(d) and §707.261(c) and will be published in the Texas Register and in the following six newspapers with circulation within the jurisdiction of the Authority: Hondo Anvil Herald, Medina Valley Times, New Braunfels Herald Zeitung, San Antonio Express-News; San Marcos Daily Record, and Uvalde Leader-News. For information concerning hearing procedures contact Kathy Elguea, Docket Clerk. For general information about the information contained in this notice, or to inquire about the Authority permit applications or processes, contact Tammy Valentine, Public Information Officer. The telephone number is (210) 222-2204 or 1-800-292-1047.

TRD-9805956

Gregory M. Ellis

General Manager

Edwards Aquifer Authority

Filed: April 28, 1998



## General Services Commission

### Notice of Contract Airline Fares Request for Proposal

The General Services Commission (the "GSC") announces a Request for Proposals ("RFP") for Contract Airline Fares (RFP #8-0498AF) to be provided to the State of Texas pursuant to the Texas Government Code, Section 2171.052. Any contract which results from this RFP shall be for the term of September 1, 1998, through August 31, 1999.

**Preproposal Conference:** A preproposal conference will be held on Thursday, May 7, 1998, in Austin, Texas. The conference is scheduled from 1:00 p.m. to 3:00 p.m. at the following address: General Services Commission, Central Services Building, Room 200B, 1711 San Jacinto Blvd., Austin, Texas 78701. The purpose of the conference is to review the content of this RFP and to answer attendees questions.

**Submission of Response to the RFP:** Responses to the RFP shall be submitted to and received by the GSC Bid Services Department on or before 3:00 p.m., Central Standard Time, on June 2, 1998, and shall be delivered or sent to: The General Services Commission, Attn: Bid Services, RFP #8-0498AF, 1711 San Jacinto Blvd., Room 180, Austin, Texas 78701, or P.O. Box 13047, Austin, Texas 78711-3047.

**Evaluation Criteria:** Evaluation of Proposals will be based on the criteria listed in the Request for Proposal. Evaluation will be performed by an evaluation team composed of persons designated by the GSC. The evaluation team will make a recommendation to the Division Director who shall determine and recommend to the Executive Director the proposer(s) chosen for contract award. Proposers to whom contracts are awarded will be notified by mail.

**Copies of RFP:** If you are interested in receiving a copy of the RFP, contact Ms. Gerry Pavelka, Program Director, at (512) 463-3559 to request a copy.

TRD-9805964  
Judy Ponder  
General Counsel  
General Services Commission  
Filed: April 28, 1998



#### Notices of Request for Offers for the Purchase of Raw Land in Brownsville, Texas

Notice is hereby given to all interested parties that pursuant to V.T.C.A., Government Code, Title 10, Subtitle D, Chapter 2166, Section 2166.052, the General Services Commission (the "Commission"), on behalf of the Department of Public Safety, is soliciting proposals for the potential purchase of raw land in Brownsville, Texas of at least 3 acres or a minimum of 130,058 square feet of contiguous land. The Commission will evaluate the proposals in accordance with the criteria outlined in a Request for Offers (RFO #98-405-001). The Request for Offers containing all the requirements necessary for an appropriate response may be obtained on and after May 5, 1998, from Facilities Planning at (512) 475-3498.

All responses must be received in a sealed envelope no later than 3:00 p.m. Central Standard Time, on June 5, 1998, at the following address: General Services Commission, Central Services Building, Bid Services, Room 180, RFO #98-405-001, 1711 San Jacinto Blvd., P. O. Box 13047, Austin, Texas 78711-3047.

TRD-9805967  
Judy Ponder  
General Counsel  
General Services Commission  
Filed: April 28, 1998



#### Notice of Request for Offers for the Purchase of Raw Land in McKinney, Texas

Notice is hereby given to all interested parties that pursuant to V.T.C.A., Government Code, Title 10, Subtitle D, Chapter 2166, Sec-

tion 2166.052, the General Services Commission (the "Commission"), on behalf of the Department of Public Safety, is soliciting proposals for the potential purchase of raw land in McKinney, Texas of at least 2.5 acres or a minimum of 108,900 square feet of contiguous land. The Commission will evaluate the proposals in accordance with the criteria outlined in a Request for Offers. The Request for Offers (RFO #98-405-002) containing all the requirements necessary for an appropriate response may be obtained on and after May 5, 1998 from Facilities Planning at (512) 475-3498.

All responses must be received in a sealed envelope no later than 3:00 p.m. Central Standard Time, on June 5, 1998, at the following address: General Services Commission, Central Services Building, Bid Services, Room 180, RFO #98-405-002, 1711 San Jacinto Blvd., P. O. Box 13047, Austin, Texas 78711-3047.

TRD-9805965  
Judy Ponder  
General Counsel  
General Services Commission  
Filed: April 28, 1998



#### Notice of Request for Offers for the Purchase of Raw Land in Terrell, Texas

Notice is hereby given to all interested parties that pursuant to V.T.C.A., Government Code, Title 10, Subtitle D, Chapter 2166, Section 2166.052, the General Services Commission (the "Commission"), on behalf of the Department of Public Safety, is soliciting proposals for the potential purchase of raw land in Terrell, Texas of at least 2.5 acres or a minimum of 108,900 square feet of contiguous land. The Commission will evaluate the proposals in accordance with the criteria outlined in a Request for Offers (RFO #98-405-003). The Request for Offers containing all the requirements necessary for an appropriate response may be obtained on and after May 5, 1998, from Facilities Planning at (512) 475-3498.

All responses must be received in a sealed envelope no later than 3:00 p.m. Central Standard Time, on June 5, 1998, at the following address: General Services Commission, Central Services Building, Bid Services, Room 180, RFO #98-405-003, 1711 San Jacinto Blvd., P. O. Box 13047, Austin, Texas 78711-3047.

TRD-9805966  
Judy Ponder  
General Counsel  
General Services Commission  
Filed: April 28, 1998



#### Texas Department of Health

##### Notice of Emergency Cease and Desist Order - Coulter Radiology

Notice is hereby given that the Bureau of Radiation Control (bureau) ordered Coulter Radiology (registrant M-00348) of Amarillo to cease and desist performing mammographic examinations until all requirements are met for mammographic quality assurance as described in Texas radiation control regulations. The bureau determined that performing mammography without an adequate quality assurance program may subject patients to unnecessary radiation exposure, which constitutes an immediate threat to public health and safety, and the existence of an emergency. The order shall remain in effect until

the registrant has received written approval from the bureau that the requirements of the radiation control regulations have been met.

A copy of all relevant material is available for public inspection at the Bureau of Radiation Control, Texas Department of Health, Exchange Building, 8407 Wall Street, Austin, Texas, Monday-Friday, 8:00 a.m. to 5:00 p.m. (except holidays).

TRD-9805942  
Susan K. Steeg  
General Counsel  
Texas Department of Health  
Filed: April 28, 1998



#### Notice of Intent to Revoke Certificates of Registration

Pursuant to *Texas Regulations for Control of Radiation* (TRCR), Part 13, (25 Texas Administrative Code §289.112), the Bureau of Radiation Control (bureau), Texas Department of Health (department), filed complaints against the following registrants: F. I. I., Beverley, Massachusetts, R06753; Martin L. Anderson, D.D.S., Houston, R22905; Risto E. Hurme, D.D.S., San Antonio, R09871; Medical High Technology International, Inc., Clearwater, Florida, R13665; Duane D. Olson, D.O., P.A., Houston, R19234; Channing Chiropractic, Dallas, R22133; Five Star Family Chiropractic, P.C., Plano, R22956; Columbia/St David's Health Care System, LP, Austin, Z00266.

The department intends to revoke the certificates of registration; order the registrants to cease and desist use of radiation machine(s); order the registrants to divest themselves of such equipment; and order the registrants to present evidence satisfactory to the bureau that they have complied with the orders and the provisions of the Health and Safety Code, Chapter 401. If the fee is paid within 30 days of the date of each complaint, the department will not issue an order.

This notice affords the opportunity to the registrants for a hearing to show cause why the certificates of registration should not be revoked. A written request for a hearing must be received by the bureau within 30 days from the date of service of the complaint to be valid. Such written request must be filed with Richard A. Ratliff, P.E., Chief, Bureau of Radiation Control (Director, Radiation Control Program), 1100 West 49th Street, Austin, Texas 78756-3189. Should no request for a public hearing be timely filed or if the fee is not paid, the certificates of registration will be revoked at the end of the 30-day period of notice. A copy of all relevant material is available for public inspection at the Bureau of Radiation Control, Texas Department of Health, Exchange Building, 8407 Wall Street, Austin, Texas, Monday-Friday, 8:00 a.m. to 5:00 p.m. (except holidays).

TRD-9805822  
Susan K. Steeg  
General Counsel  
Texas Department of Health  
Filed: April 27, 1998



#### Notice of Intent to Revoke Radioactive Material Licenses

Pursuant to *Texas Regulations for Control of Radiation* (TRCR), Part 13, (25 Texas Administrative Code §289.112), the Bureau of Radiation Control (bureau), Texas Department of Health (department), filed complaints against the following licensees: Brown & Root, Incorporated, Houston, G01965; Laboratory Corporation of America, San

Antonio, G01562; Woodward-Clyde Consultants, Houston, L00827; The Center, Duncanville, L03717.

The department intends to revoke the radioactive material licenses; order the licensees to cease and desist use of such radioactive materials; order the licensees to divest themselves of the radioactive material; and order the licensees to present evidence satisfactory to the bureau that they have complied with the orders and the provisions of the Health and Safety Code, Chapter 401. If the fee is paid within 30 days of the date of each complaint, the department will not issue an order.

This notice affords the opportunity to the licensees for a hearing to show cause why the radioactive material licenses should not be revoked. A written request for a hearing must be received by the bureau within 30 days from the date of service of the complaint to be valid. Such written request must be filed with Richard A. Ratliff, P.E., Chief, Bureau of Radiation Control (Director, Radiation Control Program), 1100 West 49th Street, Austin, Texas 78756-3189. Should no request for a public hearing be timely filed or if the fee is not paid, the radioactive material licenses will be revoked at the end of the 30-day period of notice. A copy of all relevant material is available for public inspection at the Bureau of Radiation Control, Texas Department of Health, Exchange Building, 8407 Wall Street, Austin, Texas, Monday-Friday, 8:00 a.m. to 5:00 p.m. (except holidays).

TRD-9805823  
Susan K. Steeg  
General Counsel  
Texas Department of Health  
Filed: April 27, 1998



#### Notice of Request for Application for the Medicaid Managed Care Program for the Dallas and El Paso Service Areas

The Texas Department of Health (department) is releasing a draft Request for Application (RFA) for the Dallas and El Paso service areas. The public and interested parties will have an opportunity to comment and offer suggestions before this document is formally released in June of 1998. The purpose of the RFA is to solicit applications from qualified entities to provide health care services through a managed care delivery system to certain Medicaid-eligible individuals in the Dallas and/or El Paso service areas. The Dallas service area includes the counties of Collin, Dallas, Ellis, Hunt, Kaufman, Navarro, and Rockwall. The El Paso service area includes the counties of Culberson, El Paso, and Hudspeth.

Qualified entities from whom applications will be accepted are health maintenance organizations (HMOs) and §5.01(a) nonprofit health corporations. All entities must have or receive a certificate of authority from the Texas Department of Insurance (TDI) to provide health care services in a managed care delivery system in all contiguous counties of the Dallas and El Paso service areas, on or before the date contracts are executed.

**Timetable:** The draft RFA will be released on April 23, 1998, for public comment and review. Comments must be in writing and may be mailed, submitted in person, or submitted by facsimile to the address or facsimile number listed below. Written public comments on the draft RFA are due at the department on or before 5:00 p.m., central daylight savings time, on May 18, 1998.

**How to obtain a copy of the draft RFA:** A copy of the draft RFA may be obtained either in person, by internet address, or by submitting a written request to the department as follows:

In person written requests should be taken to the Texas Department of Health, Bureau of Managed Care, 11044 Research Boulevard (US 183), Building D, Suite 214, Austin, Texas 78714-9030.

The draft RFA is available on the internet at <http://www.tdh.state.tx.us/hcf/mcstart.htm>.

Mail or fax written requests to the Bureau of Managed Care, Texas Department of Health, 1100 West 49th Street, Austin, Texas 78756-3168. The bureau's facsimile number is (512) 338-6546.

A copy of the draft RFA will be sent by overnight delivery if the request is submitted by facsimile transmission at the number noted above, and the Federal Express, Airborne Express, or PS billing number of the requestor is included in the request.

TRD-9805938

Susan K. Steeg

General Counsel

Texas Department of Health

Filed: April 28, 1998



### Notice of Request for Proposals for Diabetes Education in the Elementary School Project

**INTRODUCTION:** The Texas Department of Health (department) Diabetes program/Texas Diabetes Council is accepting requests for proposals (RFP) to increase school-based diabetes risk reduction activities in two communities across Texas. These services are expected to institutionalize a school-based approach to reduce the burden of diabetes in Texas.

**PURPOSE:** School-based programs can play an important role in promoting lifelong healthy eating and physical activity. Dietary factors and physical activity contribute substantially to the burden of preventable illness, include diabetes and premature death in the United States. The national health promotion and disease prevention objectives encourage schools to provide nutrition education and physical education from preschool to twelfth grade. Studies suggest diet and physical activity may influence the potential for improved learning behavior as well as overall health. School-based programs are known as a sound investment in our children's future.

The purpose of Diabetes Education in the Elementary School (DEES) is to implement an accountable school-based risk reduction program in, at minimum, two diverse Texas communities targeting African Americans, Hispanic Americans, and other children at high risk for developing Type 2 Diabetes. The goal of the DEES grant is to develop and implement an accountable school-based project that develops and institutionalizes the schools' capacity to enable children's adoption of positive risk reduction behaviors.

**Primary Prevention Interventions Work:** Less than 10% of our health care dollar is spent on prevention and very little of that is directed to community-based prevention. We need to direct more of our health care dollar to upstream community-based prevention projects. It is much easier to mold children's positive behaviors than to change established, high risk adult behaviors.

The applicant will design, implement, and evaluate a Diabetes education and elementary school project. This project will develop the following products: (1) action plan for the widespread diffusion of materials and teacher/staff training; (2) baseline data that describes the organizational readiness of the school, current program level of implementation, establishes adherence to the Centers for Disease Control and Prevention guidelines; and (3) action plan for local enhancement of the DEES project during year two. The DEES

must provide evidence of meeting the following objectives: (1) achieving the workload measure by reaching the negotiated number of students, parents and schools; (2) identification and recruitment of program champions within the school and community; (3) increase the visibility of the DEES to at least 15% of the target population; (4) significant systems change within the participating schools, i.e., an increase in access of health and physical education from baseline; and (5) improvement of the participating school's performance.

**ELIGIBLE APPLICANTS:** Eligible applicants include governmental agencies and not-for-profit organizations. Individuals are not eligible to apply. Contracting entities that have had state or federal funds terminated within the last 24 months for deficiencies in fiscal or programmatic performance are not eligible to apply.

**AVAILABLE FUNDS:** Approximately \$150,000 is expected to be available to fund one project for approximately twelve months. The specific dollar amount to be awarded to the selected applicant will depend upon the merit and scope of the proposed project. It is expected that funding will remain level throughout the project period.

**SELECTION CRITERIA:** Applicants will be funded in order of ranking. However, all applications receiving recommendations for funding may not be funded, as the amount of total funding available is limited. Higher ranking projects in individual regions may not be funded in order to ensure that diabetes prevention services are available in other areas of the state. Applicants may not receive the amount requested due to the limitation of funds and in order to provide services in other areas. Final budgets will be decided by department staff, based on reviewer recommendations and negotiations with the applicant. The department reserves the right to make funding decisions based on the need to provide diabetes prevention services across geographic areas, and to allocate funding based on an analysis of resources already available in a particular community in order to avoid duplication of services. Analysis may include data such as other state or federally-funded projects present and Diabetes prevalence data.

**DEADLINE:** Applications will be considered to be "on time" if they are (1) received on or before the established deadline date or (2) sent on or before the established deadline date and received in time for orderly processing. Applicants should request a legibly dated U.S. Postal Service postmark or obtain a legibly dated receipt from a commercial carrier or the U.S. Postal Service. Private metered postmarks shall not be acceptable as proof of timely mailing. Late competing applications not accepted for processing will be returned to the applicant. The department will not accept applications by facsimile transmission. Applications received after the due date and time shall not be considered for review.

**SUBMISSION:** The original and three copies must be received on or before 5:00 p.m., central daylight saving time, July 3, 1998, by Debra F. Owens, M.S., R.D., L.D., Texas Department of Health Diabetes Program/Texas Diabetes Council, 1100 West 49th Street, Tower Building Room 401, Austin, Texas 78756-3199. Application review will be completed by August 31, 1998, with written notification being sent to all applicants, shortly thereafter.

**REVIEW AND AWARD CRITERIA:** Each application will be screened for minimum eligibility, completeness, and satisfactory fiscal and administrative history. Applications which are deemed ineligible or incomplete will not be reviewed. Applications which arrive after the deadline for submission will not be reviewed. Eligible, complete applications will be reviewed by a panel of reviewers and scored according to the following criteria: clarity and appropriateness of the application; extent of the applicant's experience and capacity; applicant's description of the service area; service delivery plan and



budget; the efficacy of the curricula and materials to be utilized; the cost effectiveness of the proposal (cost per student and school); involvement of the school's senior level management/principals; food service staff; teachers; parents; and other stakeholders in the development, implementation and institutionalization of the DEES project in their community. If none of the applicants satisfactorily meets the criteria, the department reserves the right to refrain from making a selection and no funding will be awarded.

**FOR INFORMATION:** For a copy of the RFP, and other information, contact Ms. Debra F. Owens, Texas Diabetes Program/Council, Telephone (512) 458-7490, or E-Mail: Debra.Owens@tdh.state.tx.us.

TRD-9805700  
Susan K. Steeg  
General Counsel  
Texas Department of Health  
Filed: April 23, 1998



## Health and Human Services Commission

### Notices of Public Hearing

Community Based Alternatives and the Community Living Assistance and Support Services Waiver Programs

The Texas Health and Human Services commission and the Texas Department of Human Services will conduct a joint public hearing to receive public comment on proposed payment rates for the requisition and reassessment fees for the Community Based Alternatives (CBA) and the Community Living Assistance and Support Services (CLASS) Waiver programs. The joint hearing will be held in compliance with 1 T.A.C. §355.201(b)(4), which requires public hearings on proposed payment rates for medical assistance programs. The public hearing will be held on May 22, 1998 at 9:00 a.m. in Room 360 of the John H. Winters Human Services Building at 701 West 51st Street, Austin, Texas (third floor, West Tower). Written comments regarding payment rates set by the Health & Human Services Commission may be submitted in lieu of testimony until 5:00 p.m., Central Time, the day of the hearing. Written comments may be delivered by U.S. mail or express delivery to the attention of Ms. Barbara Tejero, Texas Health & Human Services Commission, P. O. Box 13247, Austin, Texas 78711. Hand deliveries will be accepted at 4900 North Lamar Boulevard, Fourth Floor, Austin, Texas 78751. Alternatively, written comments may be delivered via facsimile to Ms. Tejero at (512) 424-6586.

Persons with disabilities who wish to attend the hearing and require auxiliary aids or services should contact Mr. Ron Dowling of the Texas Department of Human Services at MC-W425, P. O. Box 149030, Austin, Texas 78714-9030, telephone number (512) 438-4817.

TRD-9805989  
Marina S. Henderson  
Executive Deputy Commissioner  
Health and Human Services Commission  
Filed: April 29, 1998



### Guardianship Advisory Board

The Guardianship Advisory Board which was appointed to advise the Health and Human Services Commission on the development of a guardianship plan for the State of Texas will conduct a public

hearing to receive public comment for use in the development of the guardianship plan. The Health and Human Services Commission will report on the plan pursuant to Acts 1997, 75th Leg., Ch. 1033, §3, (Senate Bill no. 586). The Board will accept public comment on the following topics:

1. Development and implementation of a plan to ensure that each incapacitated individual in Texas who needs a guardianship or another less restrictive type of assistance to make decisions concerning the individual's own welfare and financial affairs receives that assistance;
2. Fostering the establishment and growth of local volunteer guardianship programs, including the possibility of awarding grants to local volunteer guardianship programs; and
3. Adoption of minimum standards for the provision of guardianship services by guardianship programs, volunteer guardians and private professional guardians.

The hearing will be held on Friday, May 15, 1998, beginning at 3:00 p.m. in room E.1012 in the East Extension of the State Capitol in Austin, Texas. Written comments may be submitted to the Guardianship Advisory Board until 5:00 p.m., Central Time, of the day prior to the hearing. Please address written comments to Steve Fields, Guardianship Alliance of Texas, 4900 North Lamar Boulevard, Fourth Floor, Austin, Texas 78751.

Persons with disabilities who wish to attend the hearing and require auxiliary aids or services should contact Steve Fields at (512) 424-6599 by May 8, 1998, so that appropriate arrangements can be made.

TRD-9805990  
Marina S. Henderson  
Executive Deputy Commissioner  
Health and Human Services Commission  
Filed: April 29, 1998



## Texas Department of Housing and Community Affairs

Notice of Administrative Hearing (MHD1997001104D)

### Manufactured Housing Division

**Tuesday, May 19, 1998, 1:00 p.m.**

State Office of Administrative Hearing, Stephen F. Austin Building, 1700 N Congress, 11th Floor, Suite 1100

Austin, Texas

### AGENDA

Administrative Hearing before an administrative law judge of the State Office of Administrative Hearings in the matter of the Texas Department of Housing and Community Affairs vs. Randy Harris dba Prestige Housing to hear alleged violations of the Act, §4(f) and the Rules, §§80.51, 80.121(a)(b)(c), 80.131(b) and 80.132(6) regarding not properly installing manufactured homes and not responding with corrective action on the manufactured homes in a timely manner. SOAH 332-98-0645. Department MHD1997001104D.

Contact: Jerry Schroeder, P.O. Box 12489, Austin, Texas 78711-2489, (512) 475-3589.

TRD-9806007  
Larry Paul Manley  
Executive Director  
Texas Department of Housing and Community Affairs

Filed: April 29, 1998

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Notice of Administrative Hearing (MHD1997003035D,  
MHD1997003233D)

**Manufactured Housing Division**

**Tuesday, May 19, 1998, 1:00 p.m.**

State Office of Administrative Hearing, Stephen F. Austin Building,  
1700 N Congress, 11th Floor, Suite 1100

Austin, Texas

**AGENDA**

Administrative Hearing before an administrative law judge of the State Office of Administrative Hearings in the matter of the Texas Department of Housing and Community Affairs vs. W.D. Anderson dba TC Mobile Home Movers to hear alleged violations of the Act, § 7(d) and the Rules, § 80.125(e) regarding obtaining, maintaining or possessing a valid installer's license. SOAH 332-98-0646. Department MHD1997003035D and MHD1997003233D.

Contact: Jerry Schroeder, P.O. Box 12489, Austin, Texas 78711-2489, (512) 475-3589.

TRD-9806008

Larry Paul Manley

Executive Director

Texas Department of Housing and Community Affairs

Filed: April 29, 1998

◆ ◆ ◆  
Notice of Administrative Hearing (MHD1996001064C,  
MHD1997000962T, MHD1997001895C,  
MHD1998000031W, MHD1998000268W)

**Manufactured Housing Division**

**Friday, May 15, 1998, 9:00 a.m.**

State Office of Administrative Hearing, Stephen F. Austin Building,  
1700 N. Congress, 11th Floor, Suite 1100

Austin, Texas

**AGENDA**

Administrative Hearing before an administrative law judge of the State Office of Administrative Hearings in the matter of the Texas Department of Housing and Community Affairs vs. Cusach, Inc. dba Stardust Mobile Homes dba El Paso Mobile Homes dba Georgetown Mobile Homes aka Shipley Brothers, Inc. to hear alleged violations of the Act, §§7(j)(3)(6) and 14(f)(j) and the Rules §§80.28(a), 80.123(a), 80.131(b) and 80.132(6) regarding not properly complying with the initial report and warranty orders of the Director and providing the Department with copies of completed work orders, in a timely manner on four manufactured homes; failing to deliver proper title documents or certificate of title, and surrendering the manufacture's certificate of origin on a manufactured home; not properly submitting monthly Installation Summary Report showing the number of homes installed; not properly submitting a Installation Report "Form T"; and not properly submitting monthly Sales Summary Report showing the number of homes sold. SOAH 332-98-0778. Department MHD1996001064C, MHD1997000962T, MHD1997001895C, MHD1998000031W, MHD1998000268W.

Contact: Jerry Schroeder, P.O. Box 12489, Austin, Texas 78711-2489, (512) 475-3589.

TRD-9806009

Larry Paul Manley

Executive Director

Texas Department of Housing and Community Affairs

Filed: April 29, 1998

◆ ◆ ◆  
Notice of Administrative Hearing (MHD1997002206D)

Manufactured Housing Division

Thursday, March 21, 1998, 1:00 p.m.

State Office of Administrative Hearing, Stephen F. Austin Building,  
1700 N Congress, 11th Floor, Suite 1100

Austin, Texas

**AGENDA**

Administrative Hearing before an administrative law judge of the State Office of Administrative Hearings in the matter of the Texas Department of Housing and Community Affairs vs. Joy Shivers dba Shivers House Moving to hear alleged violations of the Act, §7(d) and the Rules, §80.125(e) regarding obtaining, maintaining or possessing a valid installer's license. SOAH 332-98-0648. Department MHD1997002206D.

Contact: Jerry Schroeder, P.O. Box 12489, Austin, Texas 78711-2489, (512) 475-3589.

TRD-9806016

Larry Paul Manley

Executive Director

Texas Department of Housing and Community Affairs

Filed: April 29, 1998

◆ ◆ ◆  
Notice of Administrative Hearing (MHD1997001660M,  
MHD1997002217D)

**Manufactured Housing Division**

**Thursday, May 21, 1998, 1:00 p.m.**

State Office of Administrative Hearing, Stephen F. Austin Building,  
1700 N Congress, 11th Floor, Suite 1100

Austin, Texas

**AGENDA**

Administrative Hearing before an administrative law judge of the State Office of Administrative Hearings in the matter of the Texas Department of Housing and Community Affairs vs. CMH Homes, Inc. dba Luv Homes #174 to hear alleged violations of the Act, §§4(f) and 7(j)(6) and the Rules, §§80.28(a), 80.51, 80.121(a)(b)(c), 80.123(a), 80.131(b), 80.132(6) and 80.203(b) by not properly submitting Monthly Installation Summary Reports showing the number of homes installed; not properly submitting Monthly Sales Summary Reports showing the number of homes sold; not properly submitting Used Inventory Summary Reports showing the number of homes taken into inventory during the preceding months; and not properly installing a manufactured home and not responding with corrective action on the home in a timely manner. SOAH 332-98-0647. Department MHD1997001660M and MHD1997002217D.

Contact: Jerry Schroeder, P.O. Box 12489, Austin, Texas 78711-2489, (512) 475-3589.

TRD-9806017

Larry Paul Manley

Executive Director

Texas Department of Housing and Community Affairs

Filed: April 29, 1998



## Notice of the State Of Texas Action Plan For Disaster Recovery Initiative Funds

The Texas Department of Housing and Community Affairs announces the proposed State of Texas Action Plan For Disaster Recovery Initiative Funds.

The State of Texas has received notice of approval from the U.S. Department of Housing and Urban Development for a \$2,223,138 grant from the Disaster Recovery Initiative allocation. Prior to the receipt of the grant funds, the State of Texas is required to publish for public comment the proposed State of Texas Action Plan For Disaster Recovery Initiative Funds. The proposed Action Plan describes the amount of funds available, eligible applicants, eligible activities, ineligible activities, the disaster recovery plan, and other considerations for the allocation and distribution of the Disaster Recovery Initiative funds.

Since the U.S. Department of Housing and Urban Development allocates Disaster Recovery Initiative funds under the Community Development Block Grant Program, the State of Texas Action Plan For Disaster Recovery Initiative Funds will become part of the 1998 State of Texas Consolidated Action Plan; specifically, part of the 1998 Consolidated Action Plan which describes the 1998 program year allocation and distribution of Community Development Block Grant funds by the Texas Community Development Program. After the public comment period for the Disaster Recovery Initiative Action Plan has ended, the final version of the State of Texas Action Plan For Disaster Recovery Initiative Funds will be submitted to the U.S. Department of Housing and Urban Development as an amendment to the 1998 Consolidated Action Plan.

The proposed State of Texas Action Plan For Disaster Recovery Initiative Funds:

### **DISASTER RECOVERY INITIATIVE ACTION PLAN**

#### **A. DISASTER RECOVERY INITIATIVE AWARD**

On January 23, 1998, the Department of Housing and Urban Development (HUD) announced the award of \$2,223,138 to the State of Texas under the HUD Disaster Recovery Initiative. The \$2,223,138 award increases the State of Texas 1998 Community Development Block Grant (CDBG) allocation from \$83,931,000 to \$86,154,138 and increases the amount of 1998 Texas' funds allocated for Disaster Relief/Urgent Need Fund activities from \$3,236,396 to \$5,459,534.

#### **B. ELIGIBLE APPLICANTS FOR DISASTER RECOVERY INITIATIVE FUNDS**

Eligible applicants for the \$2,223,138 of Disaster Recovery Initiative funds must meet the following criteria:

1. Must be a county, incorporated city, or eligible Indian tribe located in a county included in the list of counties eligible for Individual Assistance or Public Assistance through the July 7, 1997, Presidential Disaster Declaration for the Texas' counties that sustained damage from severe storms and flooding in June of 1997. The twenty-one (21) counties included in this Disaster Declaration are: Bandera,

Bexar, Blanco, Burnet, Comal, Eastland, Edwards, Gillespie, Goliad, Guadalupe, Hays, Kendall, Kerr, Kimble, Llano, Mason, Medina, Real, San Saba, Travis, and Uvalde.

2. Priority for these funds will be given to eligible applicants that have not already received a Texas Community Development Program (TCDP) Disaster Relief grant for activities associated with the occurrence of this disaster.

#### **C. ELIGIBLE ACTIVITIES FOR DISASTER RECOVERY INITIATIVE FUNDS**

Disaster Recovery Initiative funds may supplement, but not replace, resources received from other Federal or State agencies to address the damage from the June 1997 storm and flood conditions. These funds cannot be used for activities that were reimbursable by or for which funds were made available from the Federal Emergency Management Agency, the Small Business Administration, the National Resource Conservation Service, or the U.S. Army Corps of Engineers.

The funds can only be used to address damages from the storms and flooding that occurred during June of 1997. Any damages sustained in the counties named in this Disaster Declaration that were sustained from storm or flood conditions that occurred before or after June of 1997 are not eligible for assistance.

The funds may be used for a wide range of activities including:

1. Acquisition, construction, reconstruction, or installation of public facilities and improvements;
2. Acquisition of real property (including the buying out of properties in a flood plain and the acquisition of relocation property);
3. Relocation payments and assistance for displaced persons, businesses, organizations, and farm operations;
4. Debris removal, clearance, and demolition;
5. Rehabilitation or reconstruction of residential structures (for low and moderate income persons) and non-residential structures;
6. Code enforcement in deteriorated or deteriorating areas, e.g., disaster areas;
7. Assistance to facilitate homeownership among low and moderate income persons;
8. Provision of public services (the TCDP cannot spend more than 25% of the Disaster Recovery Initiative funds on public service activities);
9. Activities relating to energy conservation and renewable energy resources, incorporated into recovery;
10. Provision of assistance to profit-motivated businesses to carry out economic development or recovery activities that benefit the public through job creation/retention;
11. Planning and administration costs (limited to 16% of the total grant amount);
12. Acquisition, construction, or reconstruction of buildings for the general conduct of government damaged or destroyed as a direct result of this Presidentially declared disaster;
13. Construction of new replacement housing units (for persons of low and moderate income) by units of general local government damaged or destroyed as a direct result of this Presidentially declared disaster; and
14. Reimbursement for pre-award costs for eligible costs that occurred prior to the effective date of the TCDP contract agreement

but occurred on or after the incident date of the Presidentially declared disaster. The activity for which the costs are being incurred must be described in the application for funds and citizens in the applicant's jurisdiction must be informed of the amount of Disaster Recovery Initiative funds targeted for pre-award costs. The pre-award activities and costs must comply with the Environmental Review Procedures and payments for pre-award costs must be made during the 24-month contract start and end dates.

The TCDP must use at least fifty percent (50%) of the Disaster Recovery Initiative funds for activities which principally benefit low and moderate income persons. Priority for the use of these funds will be given to applications that include activities principally benefitting low and moderate income persons.

#### **D. INELIGIBLE ACTIVITIES FOR DISASTER RECOVERY INITIATIVE FUNDS**

In addition to other activities that are ineligible for CDBG assistance, Disaster Recovery Initiative funds cannot be used for any of the following activities:

1. The construction of public facilities that did not exist prior to the June 1997 storms and floods.
2. Activities that duplicate the activities already included in the Disaster Status Reports funded by the Federal Emergency Management Agency. An application for Disaster Recovery Initiative funds can only include activities that were not contained in the Disaster Status Reports.
3. Expenses required to carry out the regular responsibilities of the unit of general local government.
4. The purchase of construction equipment is generally ineligible except for the purchase of construction equipment integral to the operation of a solid waste facility or the purchase of fire protection equipment.
5. The purchase of equipment, fixtures, motor vehicles, furnishings, or other personal property not an integral structural fixture is generally ineligible. However, funds may be used to purchase such items when necessary for the administration of disaster recovery activities, of when eligible as fire fighting equipment, or when such items constitute all or part of a public service.
6. Operation and maintenance expenses are ineligible except for expenses associated with public service activities, interim assistance, and office space for staff employed in carrying out the disaster recovery activities.
7. Income payments (a series of subsistence-type grant payments made to an individual or family or items such as food, clothing, housing, or utilities) are ineligible except that grant payments made over a period of up to three consecutive months to the provider of such items or services on behalf of an individual or family, are eligible costs.

#### **E. TCDP DISASTER RECOVERY PLAN**

Upon the occurrence of the severe storms and flooding in June of 1997, the Texas Department of Housing and Community Affairs response to the disaster situation followed the policies and procedures contained in the Department's Emergency Management Standard Operating Procedure and the State of Texas Emergency Management Plan.

The TCDP does not have an accurate assessment of the needs in the twenty-one counties resulting from this covered disaster.

As such, the TCDP overall plan for disaster recovery is to provide funding to eligible entities in accordance with the federal requirements for these funds and to ensure that these funds will not be used for activities that were reimbursable by or for which funds were made available from the Federal Emergency Management Agency, the Small Business Administration, the National Resource Conservation Service, or the U.S. Army Corps of Engineers.

#### **F. OTHER CONSIDERATIONS FOR DISASTER RECOVERY INITIATIVE FUNDS**

Except for the descriptions concerning the eligible applicants, eligible activities, and ineligible activities for Disaster Recovery Initiative funds, the Texas Community Development Program will follow the same general application submission and review procedures that apply to the Disaster Relief/Urgent Need Fund.

Applications for these funds can be submitted on an as-needed basis and the TCDP will review each application for compliance with the applicable requirements. The decision to fund all or some of the activities included in an application will be influenced by the requirement that at least fifty-percent (50%) of the Disaster Recovery Initiative funds be used for activities that principally benefit low and moderate income persons.

The maximum award from Disaster Recovery Initiative funds is set at \$300,000 and the minimum award is \$50,000.

The monitoring standards for the Disaster Recovery Initiative funds will be the same as those described on Page 219 of the State of Texas Consolidated Plan.

A copy of State Of Texas Action Plan For Disaster Recovery Initiative Funds is available for review at the Texas Department of Housing and Community Affairs, Texas Community Development Office, 507 Sabine, Suite 700, Austin. Written comments concerning this plan will be accepted for fifteen days from the date of publication and should be submitted to Anne Paddock (apaddock@genesis.tdhca.state.tx.us), Deputy General Counsel, Texas Department of Housing and Community Affairs, 507 Sabine, P.O. Box 13941, Austin, Texas 78711-3941.

TRD-9805825

Larry Paul Manley

Executive Director

Texas Department of Housing and Community Affairs

Filed: April 27, 1998



#### **Request for Proposals**

The Texas Department of Housing and Community Affairs' (TDHCA) Housing Trust Fund is accepting proposals to administer two hundred sixty thousand dollars (\$260,000) of pre-development loan funds to nonprofit and community housing development organizations in the state of Texas, whose purpose is to provide safe, decent and sanitary housing for low, very low, and extremely low income individuals and families, and persons with special needs.

The successful candidate must demonstrate that they will be able to seek out or provide matching funds equal to the amount of funds provided by the Housing Trust Fund (\$260,000). The Housing Trust Fund will select a single nonprofit organization to match and administer these funds to local nonprofit and community housing development organizations throughout the state.

Proposals will be selected based on criteria outlined in the proposal package. The award will be made as a grant, and administered under

contract with TDHCA. An administrative fee of up to \$25,000 is available to the successful candidate.

**Proposals must be received at TDHCA by 5:00 p.m. on June 19, 1998.**

Faxed proposals will not be accepted.

All interested parties are encouraged to participate in the program. For more information or to request a proposal package, please contact the Housing Trust Fund office at (512) 475-1458, or e-mail [jcormier@tdhca.state.tx.us](mailto:jcormier@tdhca.state.tx.us). Please direct your proposal to :

Texas Department of Housing and Community Affairs

Housing Trust Fund

Attn.: Janna Cormier

P.O. Box 13941

Austin, Texas 78711-3941

Physical Address

507 Sabine, Suite 800

Austin, Texas 78701

TRD-9806013

Larry Paul Manley

Executive Director

Texas Department of Housing and Community Affairs

Filed: April 29, 1998



## Texas Department of Insurance

### Insurer Services

The following applications have been filed with the Texas Department of Insurance and are under consideration:

Application to change the name of FIRST GENERAL INSURANCE COMPANY to METROPOLITAN DIRECT PROPERTY AND CASUALTY INSURANCE COMPANY, a foreign property and casualty company. The home office is located in Warwick, Rhode Island.

Application for admission to Texas for MID-CONTINENT INSURANCE COMPANY, a foreign property and casualty company. The home office is located in Tulsa, Oklahoma.

Application to change the name of RECIPROCAL EXCHANGE to GARRISON PROPERTY & CASUALTY ASSOCIATION, a foreign reciprocal company. The home office is located in Kansas City, Missouri.

Application to change the name of MASSACHUSETTS GENERAL LIFE INSURANCE COMPANY to CONSECO LIFE INSURANCE COMPANY, a foreign life company. The home office is located in Carmel, Indiana.

Any objections must be filed within 20 days after this notice was filed with the Texas Department of Insurance, addressed to the attention of Kathy Wilcox, 333 Guadalupe Street, M/C 305-2C, Austin, Texas 78701.

TRD-9805748

Bernice Ross

Deputy Chief Clerk

Texas Department of Insurance

Filed: April 24, 1998

## Texas Natural Resource Conservation Commission

### Enforcement Orders

An agreed order was entered regarding APACHE SHORES UTILITY CORPORATION, Docket Number 95-0819-PWS-E; PWS Number 2270031; CCN Number 10309 on April 17, 1998 assessing \$110,000 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Tom Napier, Enforcement Coordinator at (512) 239-6063 or Guy Henry, Staff Attorney at (512) 239-6259, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding QUANTUM TECH, INCORPORATED, a.k.a. R CUBE S, INCORPORATED, and QUANTUM TECH, L.L.C., Docket Number 95-1672-MSW-E; MSW Nos. 44105 and 79511A on April 17, 1998 assessing \$62,600 in administrative penalties with \$62,000 deferred.

Information concerning any aspect of this order may be obtained by contacting Kathy Keils, Staff Attorney at (512) 239-0678 or Kristina LaRue, Enforcement Coordinator at (512) 239-2562, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding FIRST CO, Docket Number 97-0653-IHW-E; on April 17, 1998 assessing \$22,920 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Mary R. Risner, Staff Attorney at (512) 239-6224 or Thomas Greimel, Enforcement Coordinator at (512) 239-5690, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding JIMMY LENAMOND DBA BIG CREEK WEST WATER SYSTEM, Docket Number 97-0672-PWS-E; PWS Number 1470032 on April 17, 1998 assessing \$630 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Kara Salmanson, Staff Attorney at (512) 239-1738 or Terry Thompson, Enforcement Coordinator at (512) 239-6095, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding JIM SPENCER DBA AUNT ANNIE'S OLD FASHION HAMBURGER, Docket Number 96-1460-PWS-E; PWS Number 1700573 on April 17, 1998 assessing \$880 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Kathy Keils, Staff Attorney at (512) 239-0678 or Katherine Wheatley, Enforcement Coordinator at (512) 239-4757, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding STERLING SHRIMP DBA K & D MOBILE HOME VILLAGE, Docket Number 97-0559-PWS-E; PWS Number 2320048 on April 17, 1998 assessing \$480 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Thomas Corwin, Staff Attorney at (512) 239-5915 or Tom Napier, Enforcement Coordinator at (512) 239-6063, Texas Natural

Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding DAVID MCCOY DBA WHITEWING SUBDIVISION, Docket Number 97-0565-PWS-E; PWS Number 1460061 on April 17, 1998 assessing \$630 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Tom Napier, Enforcement Coordinator at (512) 239-6063, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding ALFRED CHALKEY DBA ARROWHEAD VILLAGE, Docket Number 97-0658-PWS-E; PWS Number 0460011 on April 17, 1998 assessing \$630 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Adele Noel, Enforcement Coordinator at (512) 239-1045, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding TIM BRADBERRY DBA MORROW ESTATES, Docket Number 97-0560-PWS-E; PWS Number 2490043 on April 17, 1998 assessing \$480 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Tom Napier, Enforcement Coordinator at (512) 239-6063, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding JO ANN DAVIS DBA JO ANN'S DAY CAMP, Docket Number 97-0551-PWS-E; PWS Number 1012907 on April 17, 1998 assessing \$630 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Bhaskar Reddi, Enforcement Coordinator at (512) 239-6646, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding LEON SPRINGS BUSINESS & OFFICE PARK, Docket Number 97-0552-PWS-E; PWS Number 0150441 on April 17, 1998 assessing \$630 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Bhaskar Reddi, Enforcement Coordinator at (512) 239-6646, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711-3087.

A default order was entered regarding ESTATE OF GERALD ENGLISH DBA ENGLISH ACRES WATER SYSTEM, Docket Number 97-0876-PWS-E; PWS Number 1250033 on April 17, 1998 assessing \$5,298 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Tracy Harrison, Staff Attorney at (512) 239-1736 or Terry Thompson, Enforcement Coordinator at (512) 239-6095, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711-3087.

A default order was entered regarding THOMAS GARTNER DBA COUNTRY VILLAGE MOBILE HOME PARK, Docket Number 96-0503-PWS-E; PWS Number 0200353 on April 17, 1998 assessing \$930 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Kathy Keils, Staff Attorney at (512) 239-0678 or Katharine Wheatley, Enforcement Coordinator at (512) 239-4757, Texas Natural

Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711-3087.

A default order was entered regarding ALI AFTAB DBA SUPER DOOPER FOOD MART, Docket Number 97-0265-PWS-E; PWS Number 1012943 on April 17, 1998 assessing \$880 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Kara Salmanson, Staff Attorney at (512) 239-1738 or Katharine Wheatley, Enforcement Coordinator at (512) 239-4757, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding BILLY E. NEWSOM, Docket Number 97-0362-AGR-E; Permit Number 03801 on April 17, 1998 assessing \$7,440 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Kathy Keils, Staff Attorney at (512) 239-0678 or Claudia Chaffin, Enforcement Coordinator at (512) 239-4717, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding BOB SCHOUTEN DBA SCHOUTEN GOLDEN STAR DAIRY, Docket Number 97-1005-AGR-E; Permit Number 03656 on April 17, 1998 assessing \$3,320 in administrative penalties with \$664 deferred.

Information concerning any aspect of this order may be obtained by contacting Laurie Eaves, Enforcement Coordinator at (512) 239-4495, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding FRED LUECK DBA AZTEX DAIRY, INCORPORATED, Docket Number 97-0627-AGR-E; Permit Number 02953 on April 17, 1998 assessing \$6,760 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Claudia Chaffin, Enforcement Coordinator at (512) 239-4717, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding VIC HOPKINS PAINT AND BODY, INCORPORATED, Docket Number 97-0754-AIR-E; Account Number DB-4047-Q on April 17, 1998 assessing \$750 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Tracy Harrison, Staff Attorney at (512) 239-1736 or David Edge, Enforcement Coordinator at (512) 239-1779, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding FIRST MOTOR SALES, Docket Number 97-1032-AIR-E; Account Number DB-3394-W on April 17, 1998 assessing \$400 in administrative penalties with \$100 deferred.

Information concerning any aspect of this order may be obtained by contacting Carl Schnitz, Enforcement Coordinator at (512) 239-1892, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding CHEMICAL LIME COMPANY, Docket Number 97-0482-AIR-E Account Number BJ-0001-T on April 17, 1998 assessing \$15,500 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Suzanne Walrath, Enforcement Coordinator at (512) 239-

2134, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding BUSTER PAVING COMPANY, INCORPORATED, Docket Number 97-0569-AIR-E; Account Number TF-0008-R on April 17, 1998 assessing \$13,000 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Suzanne Walrath, Enforcement Coordinator at (512) 239-2134, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding ELASTECH, INCORPORATED, Docket Number 97-0765-AIR-E; Account Number HX-0917-H on April 17, 1998 assessing \$500 in administrative penalties with \$100 deferred.

Information concerning any aspect of this order may be obtained by contacting Sheila Smith, Enforcement Coordinator at (512) 239-1670, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding J.D. RUSSELL COMPANY, Docket Number 97-0546-AIR-E ; Account Number CP-0225-E on April 17, 1998 assessing \$7,350 in administrative penalties with \$1,470 deferred.

Information concerning any aspect of this order may be obtained by contacting Carl Schnitz, Enforcement Coordinator at (512) 239-1892, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding CARDELL KITCHEN & BATH CABINETRY, FORMERLY CARDELL CABINETS, INCORPORATED, Docket Number 97-0722-AIR-E ; Account Number BG-0395-U on April 17, 1998 assessing \$92,346 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Carl Schnitz, Enforcement Coordinator at (512) 239-1892, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding A-AUTO BUYERS, Docket Number 97-0892-AIR-E ; Account Number TA-2279-C on April 17, 1998 assessing \$1,500 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting David Edge, Enforcement Coordinator at (512) 239-1779, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding ALVA'S COLLISION AND REFINISHING, Docket Number 97-0904-AIR-E ; Account Number DF-0464-D on April 17, 1998 assessing \$500 in administrative penalties with \$100 deferred.

Information concerning any aspect of this order may be obtained by contacting Kevin Cauble, Enforcement Coordinator at (512) 239-1874, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding CHEMICAL PROCESS AND PRODUCTION, INCORPORATED, Docket Number 97-1016-AIR-E ; Account Number GB-0016-E on April 17, 1998 assessing \$1,000 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Sheila Smith, Enforcement Coordinator at (512) 239-1670,

Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding TIPCO SERVICES, Docket Number 97-0838-AIR-E; Account Number JE-0763-E on April 17, 1998 assessing \$11,250 in administrative penalties with \$2,250 deferred.

Information concerning any aspect of this order may be obtained by contacting Adele Noel, Enforcement Coordinator at (512) 239-1045, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding CITY OF PALMER, Docket Number 97-1021-MWD-E ; Permit Number 13620-001 on April 17, 1998.

Information concerning any aspect of this order may be obtained by contacting Michael Meyer, Enforcement Coordinator at (512) 239-4492, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding TA OPERATING CORPORATION, Docket Number 97-0718-MWD-E; Permit Number 13505-001 on April 17, 1998 assessing \$2,400 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Gilbert Angelle, Enforcement Coordinator at (512) 239-4489, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding CITY OF RUNAWAY BAY, Docket Number 97-0944-MWD-E; Permit Number 10862-001 on April 17, 1998 assessing \$2,440 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Laurie Eaves, Enforcement Coordinator at (512) 239-4495, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding CITY OF CARRIZO SPRINGS, Docket Number 97-0777-MWD-E; Permit Number 10145-001 on April 17, 1998 assessing \$13,760 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Guy Henry, Staff Attorney at (512) 239-6259 or Karen Berryman, Enforcement Coordinator at (512) 239-2172, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding THE UNIVERSITY OF TEXAS AT EL PASO, Docket Number 97-1022-MWD-E on April 17, 1998 assessing \$600 in administrative penalties with \$120 deferred.

Information concerning any aspect of this order may be obtained by contacting Bill Main, Enforcement Coordinator at (512) 239-4481, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding CITY OF DUBLIN, Docket Number 97-1054-MWD-E; WQ Permit Number 10405-001 on April 17, 1998.

Information concerning any aspect of this order may be obtained by contacting Mary Smith, Enforcement Coordinator at (512) 239-4484, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding KELLY LANE UTILITY COMPANY, Docket Number 97-0899-MWD-E; Permit Number 13219-001 on April 17, 1998.

Information concerning any aspect of this order may be obtained by contacting Merrilee Mears, Enforcement Coordinator at (512) 239-4490, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding CITY OF BLOOMBURG, Docket Number 97-1020-MWD-E on April 17, 1998.

Information concerning any aspect of this order may be obtained by contacting Michael Meyer, Enforcement Coordinator at (512) 239-4492, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding SOUTHWESTERN ELECTRIC POWER COMPANY, Docket Number 97-0987-IWD-E ; Permit Number 01811 on April 17, 1998 assessing \$1,920 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Karen Berryman, Enforcement Coordinator at (512) 239-2172, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding CALEB BRETT, USA, INCORPORATED DBA INTERTEK TESTING SERVICES Docket Number 95-0880-IHW-E; SWR Number 75026; EPA ID Number TXD982563686 on April 17, 1998 assessing \$10,000 in administrative penalties with \$2,000 deferred.

Information concerning any aspect of this order may be obtained by contacting Thomas Greimel, Enforcement Coordinator at (512) 239-5690, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding G.B.'S SELF SERVE, INCORPORATED & MR. JIMMY NEWMAN, Docket Number 96-1953-PST-E; Facility Number 27374 on April 17, 1998 assessing \$3,600 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Raymond Winter, Staff Attorney at (512) 239-0477 or Mick Wilson, Enforcement Coordinator at (512) 239-2228, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding JEFF CUMMINGS DBA MID-LAKE SEPTIC SERVICE, Docket Number 97-0716-SLG-E on April 17, 1998.

Information concerning any aspect of this order may be obtained by contacting Pamela Campbell, Enforcement Coordinator at (512) 239-4493, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding KWIK INDUSTRIES, INCORPORATED, Docket Number 97-1122-EAQ-E on April 17, 1998 assessing \$200 in administrative penalties with \$40 deferred.

Information concerning any aspect of this order may be obtained by contacting Laurie Eaves, Enforcement Coordinator at (512) 239-4495, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding JOHN DANIEL WORKMAN, Docket Number 97-0525-WOC-E; WOC Number 205-44-8576 on April 17, 1998.

Information concerning any aspect of this order may be obtained by contacting Booker Harrison, Staff Attorney at (512) 239-4113 or Brian Lehmkuhle, Enforcement Coordinator at (512) 239-4482, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711-3087.

TRD-9805945

Eugenia K. Brumm, Ph.D.

Chief Clerk

Texas Natural Resource Conservation Commission

Filed: April 28, 1998



### Notice of Application to Appropriate Public Waters of the State of Texas

The following notices of application for permits to appropriate Public Waters of the State of Texas were issued during the period April 14, 1998 through April 21, 1998.

SABINE MINING COMPANY, Signature Place II, Suite 1100, 14785 Preston Road, Dallas, Texas 75240-7891; Application No. 5607; application for a permit pursuant to §11.121, Texas Water Code, and Texas Natural Resource Conservation Commission Rules 30 TAC §§295.1, et seq. for authorization to temporarily re-route all of the flows of Brandy Branch via a diversion structure (Diversion M-1) to Hatley Creek, both tributaries of the Sabine River, Sabine River Basin at the South Hallsville No. 1 Surface Lignite Mine, Harrison County, approximately 12 miles southeast from Marshall, Texas. The creek would be re-routed to facilitate mining operations by preventing fresh water from entering active mining blocks. The Sabine Mining Company is currently in the process of expanding its surface mining activities to new coal reserve areas, known as the South Marshall Project Area, located immediately west of its current operation. The Mine Plan, as approved by the Railroad Commission of Texas (RCT), contemplates construction of the proposed M-1 Diversion to re-route the flows of Brandy Branch just downstream of Brandy Branch Reservoir (a cooling structure for Southwestern Electric Power Company "SWEPCO") to Hatley Creek. Brandy Branch Reservoir effectively captures all runoff contributed by the Brandy Branch watershed up to the location of the dam and reservoir, and will not contribute flow to Diversion M-1. The applicant has right of entry provided by SWEPCO, who has control of the land where the re-routing of flows of Brandy Branch to Hatley Creek will be constructed. The land is controlled by SWEPCO. The applicant has indicated that Brandy Branch will be re-established to its current configuration during the reclamation process after mining in the area has ceased.

CITY OF ROSENBERG, P. O. Box 32, Rosenberg, Texas 77471-0032; Application No. 5606; Application for a permit pursuant to §11.121, Texas Water Code, and Texas Natural Resource Conservation Commission Rules 30 TAC §§295.1, et seq. to divert (pump) 34.6 acre-feet of water for the initial filling of two proposed reservoirs to be located in Fort Bend County, within the city limits of Rosenberg, Texas, at a city park. Applicant also requests authorization to divert not to exceed 18.1 acre-feet of water per annum to maintain the level of the reservoirs. The diversions will occur at a maximum rate of 1.11 cfs (500 gallons per minute) from a specific point (Diversion Point No. 1) on Seabourne Creek, tributary of Big Creek, tributary of the Brazos River, Brazos River Basin. Reservoir No. 1 will be an off-channel reservoir with a capacity of 28.1 acre-feet and will be used for in-place recreational purposes. The reservoir will be located off-channel of an unnamed tributary (known locally as Beasley Branch) of Seabourne Creek. Reservoir No. 2 will be a 6.76



acre-foot capacity wetlands area located on Beasley Branch. This wetlands area will be used to reroute high flows of the unnamed tributary. "Normal" flows of the unnamed tributary will not be rerouted through Reservoir No. 2. A small diversion weir structure (Diversion Point No. 2) will be created within the bank of the unnamed tributary to reroute high flows through the wetlands area to Seabourne Creek, via an outfall structure in the reservoir.

The Executive Director may approve these applications unless a written hearing request is filed in the Chief Clerk's Office of the TNRCC within 30 days after newspaper publication of the notice of application. To request a hearing, you must submit the following: (1) your name (or for a group or association, an official representative), mailing address, daytime phone number, and fax number, if any; (2) the name of the applicant and the application number; (3) the statement "I/we request a public hearing;" (4) a brief description of how you would be adversely affected by the granting of the application in a way not common to the general public; and (5) the location of your property relative to the applicant's operations.

If a hearing request is filed, the Executive Director will not approve the application and will forward the application and hearing request to the TNRCC Commissioners for their consideration at a scheduled Commission meeting. If a hearing is held, it will be a legal proceeding similar to civil trials in state district court.

If you wish to appeal a permit issued by the Executive Director, you may do so by filing a written Motion for Reconsideration with the Chief Clerk of the Commission no later than 20 days after the date the Executive Director signs the permit.

Requests for a public hearing must be submitted in writing to the Chief Clerk's Office, MC 105, TNRCC, P.O. Box 13087, Austin, TX 78711-3087. Individual members of the public who wish to inquire about the information contained in this notice, or to inquire about other agency permit applications or permitting processes, should call the TNRCC Office of Public Assistance, Toll Free, at 1-800-687-4040.

TRD-9805725

Eugenia K. Brumm, Ph.D.

Chief Clerk

Texas Natural Resource Conservation Commission

Filed: April 24, 1998



#### Notice of Applications for Waste Disposal/Discharge Permits

Notices of Applications for waste disposal/discharge permits issued during the period of April 2, 1998 through April 10, 1998. The Executive Director will issue these permits unless one or more persons file written protests and/or a request for a hearing within 30 days after newspaper publication of the notice.

To request a hearing, you must submit the following: (1) your name (or for a group or association, an official representative), mailing address, daytime phone number, and fax number, if any; (2) the name of the applicant and the permit number; (3) the statement "I/we request a public hearing;" (4) a brief description of how you would be adversely affected by the granting of the application in a way not common to the general public; (5) the location of your property relative to the applicant's operations; and (6) your proposed adjustments to the application/permit which would satisfy your concerns and cause you to withdraw your request for hearing.

Information concerning any aspect of these applications may be obtained by contacting the Texas Natural Resource Conservation

Commission, Chief Clerk's Office-MC105, P.O. Box 13087, Austin, Texas 78711. Individual members of the public who wish to inquire about the information contained in this notice, or to inquire about other agency permit applications or permitting processes, should call the TNRCC Office of Public Assistance, Toll Free, at 1-800-687-4040.

Listed are the name of the applicant and the city in which the facility is located, type of facility, location of the facility, type of application-new permit, amendment, or renewal and permit number.

AMBER TERMINAL, INC., 3101 North Sylvania, Fort Worth, Texas 76111, a petroleum product and/or an ammonium nitrate fertilizer storage and shipping terminal, the plant site is located at the northwest corner of the intersection of 28th Street (State Highway Business 183) and North Sylvania Avenue in the City of Fort Worth, Tarrant County, Texas, renewal of Permit Number 00570.

CITY OF BLOSSOM, P.O. Box 297, Blossom, Texas 75416, the Blossom Wastewater Treatment Facilities are located approximately 3,000 feet southwest of the intersection of U.S. Highway 82 and Farm-to-Market Road 1502, approximately 4,000 feet east of the intersection of Farm-to-Market Roads 194 and 196 in Lamar County, Texas, renewal of Permit Number 10715-002.

ECOLOCHEM, INCORPORATED, 4545 Patent Road, Norfolk, Virginia 23502, an ion exchange water treatment facility, the plant site is located adjacent to the west side of Farm-to-Market Road (FARM-TO-MARKET ROAD) 1405 and approximately 4000 feet south of the intersection of State Highway 55 and FARM-TO-MARKET ROAD 1405, east of the City of Baytown, Chambers County, Texas, Proposed Permit Number 03964.

CITY OF GREENVILLE, P.O. Box 1049, Greenville, Texas 75403-5476, the Greenville Wastewater Reclamation Center is located approximately 1.3 miles east of the intersection of Interstate Highway 30 and S. Highway 69 in Hunt County, Texas, amendment with renewal to Permit Number 10485-002.

KAUFMAN COUNTY DEVELOPMENT DISTRICT NO. 1, c/o Leonard & Hurt, 816 Congress Avenue, Suite 1280, Austin, Texas 78701, the Kaufman County Development Wastewater Treatment Facilities are located 1,500 feet southeast of an unimproved road (Helms Road); 3,400 feet west of Big Brushy Creek and 3,800 feet south of the east bound lanes of U.S. Highway 80 in Kaufman County, Texas, Proposed Permit Number 13910-01.

CITY OF LAKEPORT, P.O. Box 7728, Longview, Texas 75607, the plant site is located approximately 1550 feet northeast of the intersection of State Highway 149 and State Highway 322 and adjacent to the east bank of the Sabine River in the northern part of the City of Lakeport in Gregg County, Texas, renewal of Permit Number 10939-001.

ALBERT M. MILLER, P.O. Box 168, Winfield, Texas 75493, the Millers Cove Wastewater Treatment Plant is located approximately 0.75 mile southwest of the intersection of State Spur No. 158 and Interstate Highway 30, just south of Winfield in Titus County, Texas, renewal of Permit Number 11750-001.

CITY OF NEW LONDON, P.O. Box 428, New London, Texas 75682, the City of New London South Wastewater Treatment Plant is located approximately 7,500 feet northwest of the intersection of the State Highway 323 and Farm-to-Market Road 838 and approximately 5,000 feet east of Farm-to-Market Road 2089 in Rusk County, Texas, renewal of Permit Number 12376-001.

NORTHWEST HARRIS COUNTY MUNICIPAL UTILITY DISTRICT NO. 16, c/o Gardere, Wynne, Sewell & Riggs, 333 Clay

Avenue, Suite 800, Houston, Texas 77002, the wastewater treatment plant is located approximately 5,800 feet southwest of the intersection of Farm-to-Market Road 529 and State Highway 6 in Harris County, Texas, amendment to Permit Number 11935-001.

RAYFORD ROAD MUNICIPAL UTILITY DISTRICT, 1100 Louisiana Street, Suite 400, Houston, Texas 77002, the Rayford MUD Wastewater Treatment Plant is located north of Rayford Road, approximately 2.1 miles east of the intersection of Rayford Road and Interstate Highway 45 in Montgomery County, Texas, an amendment to Permit Number 12030-001.

RICE INDEPENDENT SCHOOL DISTRICT, P.O. Box 450, Rice, Texas 75155, the wastewater treatment facilities and disposal site will be located approximately 500 feet from the Interstate Highway 45 and approximately 500 feet east from Southern Pacific Railroad; 9/10 of a mile northwest of State Highway 1126 in Navarro County, Texas, Proposed Permit Number 13908-001.

SILVERLEAF RESORTS, INC., 1221 Riverbend Drive, Suite 120, Dallas, Texas 75221, the plant site will be located approximately 450 feet south and 550 feet east of the intersection of State Highway 306 and North Lake Drive in Comal County, Texas, Proposed Permit Number 13915-001.

SILVERLEAF RESORTS, INC., 1211 Riverbend Drive, Suite 120, Dallas, Texas 75221, the Holly Ranch Water Wastewater Treatment Facilities site is located approximately 7600 feet south and 2400 feet east of the intersection of Farm-to-Market Road 49 and Farm-to-Market Road 2869 and 9.0 miles north of the Town of Hawkins in Wood County, Texas, amendment to Permit Number 12482-001.

SOUTHWESTERN ELECTRIC POWER COMPANY, P.O. Box 21106, Shreveport, Louisiana 71101, the Wilkes Power Plant, a steam electric generating station is located adjacent to Johnson Creek Reservoir approximately three miles northwest of the intersection of State Highway 49 and State Highway 1969, approximately 5 miles south of the City of Avinger, Marion County, Texas, amendment to Permit Number 01331.

CITY OF UVALDE, P.O. Box 799, Uvalde, Texas 78801, The wastewater treatment plant site is located approximately 1.3 miles southwest of the intersection of Farm-to-Market Road 117 and U.S. Highway 83 in Uvalde County, Texas, an amendment with renewal to Permit Number 10306-001.

WHARTON COUNTY WATER CONTROL AND IMPROVEMENT DISTRICT NO. 1, P.O. Box 395, Louise, Texas 77455, the Wharton County WCID No. 1 Wastewater Treatment Facilities are located approximately 850 feet north of the intersection of Farm-to-Market Road 1160 and Loop 525, between Farm-to-Market Road 1160 and East Mustang Creek in Wharton County, Texas, renewal of Permit Number 10849-001.

REYNOLDS METALS COMPANY, a domestic wastewater treatment plant sludge disposal facility, the facility is located on the south side of State Highway 361, adjacent to its intersection with State Highway 35, approximately one mile southeast of the City of Gregory, in San Patricio County, Texas, Permit Number 03966, 30-day notice.

TRD-9805726

Eugenia K. Brumm, Ph.D.

Chief Clerk

Texas Natural Resource Conservation Commission

Filed: April 24, 1998



## Notice of Opportunity to Comment on Settlement Agreements of Administrative Enforcement Actions

The Texas Natural Resource Conservation Commission (TNRCC or commission) Staff is providing an opportunity for written public comment on the listed Agreed Orders (AOs) pursuant to Texas Water Code (the Code), §7.075, which requires that the TNRCC may not approve these AOs unless the public has been provided an opportunity to submit written comments. Section 7.075 requires that notice of the proposed orders and of the opportunity to comment must be published in the Texas Register no later than the 30th day before the date on which the public comment period closes, which in this case is June 7, 1998. Section 7.075 also requires that the TNRCC promptly consider any written comments received and that the TNRCC may withhold approval of an AO if a comment discloses facts or considerations that indicate the proposed AO is inappropriate, improper, inadequate, or inconsistent with the requirements of the Code, the Texas Health and Safety Code (THSC), and/or the Texas Clean Air Act (the Act). Additional notice is not required if changes to an AO are made in response to written comments.

A copy of each of the proposed AOs is available for public inspection at both the TNRCC's Central Office, located at 12100 Park 35 Circle, Building C, 1st Floor, Austin, Texas 78753, (512) 239-1864 and at the applicable Regional Office listed as follows. Written comments about these AOs should be sent to the enforcement coordinator designated for each AO at the TNRCC's Central Office at P.O. Box 13087, Austin, Texas 78711-3087 and must be received by 5:00 p.m. on June 7, 1998. Written comments may also be sent by facsimile machine to the enforcement coordinator at (512) 239-2550. The TNRCC enforcement coordinators are available to discuss the AOs and/or the comment procedure at the listed phone numbers; however, §7.075 provides that comments on the AOs should be submitted to the TNRCC in writing.

(1)COMPANY: Albuquerque Auto Wholesale; DOCKET NUMBER: 97-1151-AIR-E; IDENTIFIER: Account Number EE-1257-U; LOCATION: El Paso, El Paso County, Texas; TYPE OF FACILITY: used car dealership; RULE VIOLATED: 30 TAC §114.1(c)(1) and the Act, §382.085(b), by offering for sale a vehicle with missing required emission control equipment; PENALTY: \$500; ENFORCEMENT COORDINATOR: Stacey Young, (512) 239-1899; REGIONAL OFFICE: 7500 Viscount Boulevard, Suite 147, El Paso, Texas 79925-5633, (915) 778-9634.

(2)COMPANY: East Texas Plating Company; DOCKET NUMBER: 97-1042-IHW-E; IDENTIFIER: Solid Waste Registration Number 75060; LOCATION: Malakoff, Henderson County, Texas; TYPE OF FACILITY: electroplating; RULE VIOLATED: 30 TAC §335.4 and the Code, §26.121, by allowing the discharge of hazardous waste onto the property and into a ditch adjacent to the property; 30 TAC §335.62, by failing to complete hazardous waste determinations; and 30 TAC §335.69, by failing to label hazardous waste drums located in a container storage area (CSA) with the dates accumulation began, by failing to label hazardous waste containers with the words "Hazardous Waste," by exceeding the maximum allowable limit of hazardous waste stored on-site as a small quantity generator, by storing hazardous waste in containers which were pitted and/or corroded, by storing hazardous waste in open containers, by failing to conduct weekly inspections of the hazardous waste drums stored in the two CSAs, by exceeding both the volume limit and the time limit on storage of hazardous waste in the satellite accumulation area, by failing to ensure that the plant manager has received the appropriate hazardous waste management training, by failing to maintain a personnel training program which ensures that facility personnel are able to respond in emergency situations, by failing to make arrangements with local

authorities regarding emergency response procedures, and by failing to maintain a written contingency plan for the facility; PENALTY: \$14,560; ENFORCEMENT COORDINATOR: Anne Rhyne, (512) 239-1291; REGIONAL OFFICE: 2916 Teague Drive, Tyler, Texas 75701-3756, (903) 535-5100.

(3)COMPANY: H & B Contractors, Incorporated; DOCKET NUMBER: 97-1130-AIR-E; IDENTIFIER: Account Number MB-0055-U; LOCATION: Waco, McLennan County, Texas; TYPE OF FACILITY: asphalt concrete plant; RULE VIOLATED: 30 TAC §116.115(a), Permit Number 2345, and the Act, §382.085(b), by exceeding the permitted 5.0% opacity limit; and 30 TAC §101.20(1), Code of Federal Regulations (CFR) §60.92(a)(2), and the Act, §382.085(b), by exceeding the 20% opacity limit for hot mix asphalt facilities; PENALTY: \$720; ENFORCEMENT COORDINATOR: Suzanne Walrath, (512) 239-2134; REGIONAL OFFICE: 6801 Sanger Avenue, Suite 2500, Waco, Texas 76710-7807, (254) 751-0335.

(4)COMPANY: Harrisburg Water Supply Corporation; DOCKET NUMBER: 97-0974-PWS-E; IDENTIFIER: Public Water Supply Number 1210013; LOCATION: Jasper, Jasper County, Texas; TYPE OF FACILITY: public drinking water; RULE VIOLATED: 30 TAC §290.106(a)(1), by failing to prepare a plan showing the sites at which samples for bacteriological analysis will be collected; 30 TAC §290.46(i), (m), (n), and (p), by failing to have an agreement with each customer with provisions to prevent cross-connections, by failing to initiate a maintenance program to facilitate cleanliness, improve general appearance of all plant facilities, and reduce costly repairs, by failing to maintain an up-to-date map of the distribution system, and by failing to inspect and maintain records of inspections for ground storage and pressure tanks on an annual basis; 30 TAC §290.43(c), by failing to provide a water storage reservoir in compliance with American Water Works Association and commission standards; 30 TAC §290.43(c)(1), (2), (3), and (4), by failing to equip the system's water storage reservoir with an acceptable roof vent and with a 30-inch diameter roof hatch and by failing to provide the overflow on the water storage reservoir with a hinged flap valve and with a satisfactory means of easily determining the amount of water in storage; 30 TAC §290.43(d)(2) and (3), by failing to equip the pressure tank with an easily readable pressure gauge, by failing to provide a method of determining the air to water ratio in the pressure tanks, and by failing to equip the compressor with a filter to prevent the entrance of contaminants to the pressure tank; 30 TAC §290.46(j)(3), by failing to maintain copies of customer service inspection certifications for new customers; 30 TAC §290.42(e)(8), by failing to completely cover the top of the hypochlorinator solution container; 30 TAC §290.45(b)(1)(B)(iii), by failing to provide two or more service pumps; 30 TAC §290.41(c)(1)(D), by failing to prevent the pasturing of livestock within 50 feet of the well; 30 TAC §290.41(c)(3)(J), (K), and (N), by failing to provide the well with a concrete sealing block, by failing to seal the well head with gaskets or a pliable crack-resistant caulk, and by failing to provide the well with a flow measuring device; 30 TAC §290.41(c)(1)(F), by failing to protect the system's facilities by establishing a 150-foot radius sanitary control easement; 30 TAC §291.76 and the Code, §5.235, by failing to pay regulatory assessment fees; and Commission Order Number 9842-C and the Code, §5.102(b), by failing to repair or replace both the pressure and ground storage tanks and by failing to submit quarterly reports outlining its efforts to make the necessary improvements to the system; PENALTY: \$600; ENFORCEMENT COORDINATOR: Tom Napier, (512) 239-6063; REGIONAL OFFICE: 3870 Eastex Freeway, Suite 110, Beaumont, Texas 77703-1892, (409) 898-3838.

(5)COMPANY: Merichem Company and Merichem-Sasol USA LLC; DOCKET NUMBER: 97-1024-AIR-E; IDENTIFIER: Account Num-

ber HG-0486-G; LOCATION: Houston, Harris County, Texas; TYPE OF FACILITY: petrochemical plant; RULE VIOLATED: 30 TAC §116.115(a), Permit Number 20120, §101.20(1), 40 CFR §60.8, §60.664(b) and (d), and the Act, §382.085(b), by failing to conduct initial performance tests on distillation columns; 30 TAC §116.115(a), Permit Numbers 7358 and 6890, §101.20(2), 40 CFR §61.355(a)-(c), and the Act, §382.085(b), by failing to determine the annual waste quantity or the flow-weighted annual average benzene concentration at the point of generation; 30 TAC §115.122(a)(2) and the Act, §382.085(b), by failing to operate the Process Air Heat Recovery Unit (PAHR) at the minimum temperature and by failing to meet control requirements for vent streams; and 30 TAC §115.126(a)(1) and the Act, §382.085(b), by failing to maintain continuous records of exhaust gas temperature of the PAHR; PENALTY: \$18,535; ENFORCEMENT COORDINATOR: Miriam Hall, (512) 239-1044; REGIONAL OFFICE: 5425 Polk Avenue, Suite H, Houston, Texas 77023-1486, (713) 767-3500.

(6)COMPANY: Segovia Enterprises, Inc.; DOCKET NUMBER: 97-0910-PST-E; IDENTIFIER: Petroleum Storage Tank Facility Identification Number 48709; LOCATION: Junction, Kimble County, Texas; TYPE OF FACILITY: retail service station; RULE VIOLATED: 30 TAC §334.54(d)(1)(B), by failing to properly upgrade or permanently remove from service underground storage tanks which have been temporarily out of service for longer than 12 months; PENALTY: \$2,600; ENFORCEMENT COORDINATOR: Carolyn Lind, (512) 239-0417; REGIONAL OFFICE: 301 West Beauregard Avenue, Suite 202, San Angelo, Texas 76903-6326, (915) 655-9479.

(7)COMPANY: Shintech Inc.; DOCKET NUMBER: 97-0935-AIR-E; IDENTIFIER: Account Number BL-0051-F; LOCATION: Freeport, Brazoria County, Texas; TYPE OF FACILITY: petrochemical plant; RULE VIOLATED: 30 TAC §116.115(a), Permit Number 20014, and the Act, §382.085(b), by failing to annually test boiler for nitrogen oxides emissions; PENALTY: \$1,440; ENFORCEMENT COORDINATOR: Miriam Hall, (512) 239-1044; REGIONAL OFFICE: 5425 Polk Avenue, Suite H, Houston, Texas 77023-1486, (713) 767-3500.

(8)COMPANY: U.S. Rentals, Incorporated; DOCKET NUMBER: 97-1109-AIR-E; IDENTIFIER: Account Number EE-1203-U; LOCATION: El Paso, El Paso County, Texas; TYPE OF FACILITY: equipment rentals; RULE VIOLATED: 30 TAC §115.252(1) and the Act, §382.085(b), by placing, storing, or holding in any stationary tank, reservoir, or other container any gasoline which may ultimately be used in a motor vehicle in the El Paso area with a Reid Vapor Pressure greater than 7.0 pounds per square inch absolute; and 30 TAC §114.13(a) and the Act, §382.085(b), by offering for sale gasoline for use as motor vehicle fuel with an oxygen content of less than 2.7% by weight; PENALTY: \$2,500; ENFORCEMENT COORDINATOR: Stacey Young, (512) 239-1899; REGIONAL OFFICE: 7500 Viscount Boulevard, Suite 147, El Paso, Texas 79925-5633, (915) 778-9634.

TRD-9805930

Kevin McCalla

Director, Legal Division

Texas Natural Resource Conservation Commission

Filed: April 28, 1998



Notice of Proposed Delisting - Bestplate, Inc. State Superfund Site

The Executive Director of the Texas Natural Resource Conservation Commission (TNRCC) by this notice is issuing a public notice of intention to delete (delist) a facility from the State Registry (State Superfund List) of sites which may constitute an imminent

and substantial endangerment to public health and safety or the environment due to a release or threatened release of hazardous substances into the environment.

The site proposed for delisting is the Bestplate, Inc. State Superfund Site which was originally placed on the State Superfund Registry list in the January 22, 1988, issue of the *Texas Register* (13 Tex Reg 427).

The Bestplate, Inc. State Superfund site occupies approximately three acres at 1090 South Interstate 45 in the city of Hutchins, Dallas County, Texas. The site is a former nickel and chrome plating facility and is in an area zoned as light industrial by the city of Hutchins. The adjoining properties are light industrial or commercial in nature.

Bestplate, Inc., a metal plating business, operated from 1976 to 1986 manufacturing and plating metal accessories for trucks. The operation consisted of several cleaning, stripping, and plating vats using nickel, chromium, caustic soda and various organic solvents. All the wastewater from each phase of the plating process was discharged to a ditch located along the north side of the site.

In 1987, a preliminary assessment was performed by a U.S. Environmental Protection Agency (EPA) field investigation team. In 1988, the U.S. EPA cleaned the site of waste products found in the vats under the authority of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA). The product and containers removed were disposed of as hazardous waste at a permitted hazardous waste treatment, storage, and disposal facilities. Liquid waste streams less than 1,000 gallons were pumped into drums, along with solids, and shipped to Chemical Waste Management, Inc. Liquid waste streams containing more than 1,000 gallons were bulked into liquid vacuum trucks and shipped to Empak, Inc.

Using site conditions and established assumptions on exposure, a risk assessment was conducted to estimate the potential adverse effects to human health and the environment resulting from exposure to the contaminants. The risk assessment for this site, completed in February 1995, included an evaluation of the health risk to trespassers, on-site workers, and on-site construction workers resulting from exposure to contaminants. The risk assessment determined that there were four metals found on the site that could pose a potential risk to individuals which might come in contact with them. The metals of concern at the site included arsenic, chromium, lead, and nickel. The exposure to these metals could conceivably increase the probability of developing cancer or other non-carcinogenic illnesses.

In December 1995, the Chairman of the TNRCC issued an Administrative Order to contract and conduct the Remedial Design and Remedial Action at the site using State Fund 550 money as authorized by the Texas Solid Waste Disposal Act, Texas Health & Safety Code Annotated §§361.188, .201 (Vernon 1992). The major components of the selected remedial action included decontamination of the concrete floor throughout the building on the property, removal and disposal of concrete in the plating line area that contains elevated levels of heavy metals, decontamination of the plating vats by acid treatment and disposal of the cleaning solution, and deed recordation.

From September through December 1997, the TNRCC conducted a remedial action in accordance with the Administrative Order. The remedial action included removal of approximately 100 tons of contaminated concrete, disposal of all debris and investigation derived wastes, and pressure washing of the interior of the main building. All removed materials were transported off-site to a permitted disposal facility. On January 6, 1998, a substantial completion inspection was held which confirmed that all remedial action activities instituted under the Administrative Order were completed.

Contaminants and waste deposited at the site have been remediated to meet non-residential (i.e., industrial/commercial) criteria in accordance with a plan designed to meet the requirements of 30 Texas Administrative Code (TAC) §335.561 (Risk Reduction Standard Number 3), which mandates that the remedy be designed to eliminate or reduce to the maximum extent practicable, substantial present or future risk. The remediation plan does not require continued post-closure care or engineering or institutional control measures. Future use of the property is considered appropriate for industrial use in accordance with risk reduction standards applicable at the time of this filing.

The Executive Director has determined that this site no longer presents an imminent and substantial endangerment to public health and safety and the environment and is therefore eligible for deletion from the list of sites proposed for the State Superfund Registry in accordance with 30 TAC §335.344(c).

In accordance with 30 TAC §335.344(b), the TNRCC shall hold a public meeting to receive comment. This meeting is not considered a contested case hearing within the meaning of Texas Government Code, Chapter 2001. This meeting shall be held upon initiation by the executive director or by requests filed with the executive director before 5:00 p.m., June 8, 1998. At least 30 days prior to the date set for the meeting, notice shall be provided by first class mail to all Potentially Responsible Parties and other interested persons, and by publication in a newspaper of general circulation in the county where the facility is located. The person submitting the request shall bear the cost of the publication of the notice.

The Bestplate, Inc. State Superfund site will be delisted from the State Superfund Registry if a public meeting challenging this determination by the executive director is not requested by any interested person(s) before the designated date.

All inquiries regarding the Bestplate, Inc. State Superfund site should be directed to Alvie L. Nichols, Project Manager, at (800) 633-9363 (within Texas only). A portion of the record for this site, including documents pertinent to the executive director's determination, is available for inspection and copying at the Hutchins Atwell Library, 300 North Denton, Hutchins, Texas 75141, telephone (972) 225-4711. Copies of the complete public file may be obtained during regular business hours at the TNRCC, Central Records, Building D, North Entrance, Room 190, 12100 Park 35 Circle, Austin, Texas 78753, telephone (800) 633-9363 or (512) 239-2920. Copying of file information is subject to payment of a fee.

TRD-9806018  
Kevin McCalla  
Director, Legal Division  
Texas Natural Resource Conservation Commission  
Filed: April 29, 1998



#### Notice of Public Hearing

Notice is hereby given that under the requirements of Texas Health and Safety Code, §382.017 and Texas Government Code, Subchapter B, Chapter 2001, the Texas Natural Resource Conservation Commission (TNRCC or commission) will conduct a public hearing to receive testimony concerning revisions to 30 TAC Chapter 90.

The commission proposes new Chapter 90, concerning Regulatory Flexibility, to implement the provisions of Senate Bill 1591, 75th Legislature, 1997. Senate Bill 1591 allows the commission to authorize an alternative method or standard for the control or abatement of pollution if it is at least as protective of public health and the environment as the current method or standard.

A public hearing on the proposal will be held June 2, 1998, at 2:00 p.m. in Room 2210 of TNRCC Building F, located at 12100 Park 35 Circle, Austin. The hearing is structured for the receipt of oral or written comments by interested persons. Individuals may present oral statements when called upon in order of registration. Open discussion will not occur during the hearing; however, an agency staff member will be available to discuss the proposal 30 minutes prior to the hearing and answer questions before and after the hearing.

Comments may be submitted to Lisa Martin, TNRCC Office of Policy and Regulatory Development, MC 205, P.O. Box 13087, Austin, Texas 78711-3087, or faxed to (512) 239-4808. Comments must be received by 5:00 p.m., June 8, 1998, and should reference Rule Log Number 97166-090-AD. For further information, please contact Sherman Krause, Office of Pollution Prevention and Recycling, (512) 239-4746, or Jim Dodds, Office of Policy and Regulatory Development, (512) 239-1119.

Persons with disabilities who have special communication or other accommodation needs who are planning to attend the hearing should contact the agency at (512) 239-4900. Requests should be made as far in advance as possible.

TRD-9805746  
Kevin McCalla  
Director, Legal Division  
Texas Natural Resource Conservation Commission  
Filed: April 24, 1998



#### Notice of Public Hearing

Notice is hereby given that pursuant to the requirements of the Texas Health and Safety Code Annotated, §382.017 (Vernon's 1992); Texas Government Code Annotated, Subchapter B, Chapter 2001 (Vernon's 1993); and 40 Code of Federal Regulations, §60.23, of the United States Environmental Protection Agency (EPA) regulations concerning State Plans, the Texas Natural Resource Conservation Commission (commission) will conduct three public hearings to receive testimony regarding revisions to 30 TAC Chapter 113 and to the State Plan concerning municipal solid waste (MSW) landfills.

The proposed rules would establish regulations for air emissions from existing MSW landfills, where existing MSW landfills are defined as those landfills that have accepted waste at any time since October 9, 1993, or have additional design capacity available for future waste deposition. Landfills that are already subject to the federal New Source Performance Standards that were effective on March 12, 1996, for all states are not subject to the proposed rules. The State Plan would be revised to include emission standards and control plan requirements for non-methane organic compounds (NMOC) at MSW landfills. These revisions are required under §111(d) of the Federal Clean Air Act (FCAA).

The proposed rules and state plan revisions would require existing landfills with a design capacity greater than or equal to 2.5 million megagrams (approximately 2.75 million tons) to annually calculate estimated NMOC emissions from the landfill. When the estimated annual NMOC emission rate reaches 50 megagrams per year, the landfill owner or operator must install a gas collection system and route the gas to a control device (e.g., a flare), an energy recovery device (e.g., a gas turbine or internal combustion engine), or a gas purification system. Once the gas collection system is operating, the owner or operator must monitor the landfill surface quarterly for methane leaks.

Public hearings on this proposal will be held in Irving on May 29, 1998, at 2:00 p.m. at the City of Irving Central Library Auditorium, located at 801 West Irving Boulevard; in Austin on June 1, 1998, at 2:00 p.m. in Building F, Room 5108, at the commission complex, located at 12100 North IH-35, Park 35 Circle; and in Houston on June 4, 1998, at 7:00 p.m. at the City of Houston Pollution Control Building Auditorium, 7411 Park Place Boulevard. Individuals may present oral statements when called upon in order of registration. Open discussion will not occur during the hearings; however, an agency staff member will be available to discuss the proposal 30 minutes prior to each hearing and will answer questions before and after the hearings.

Written comments may be mailed to Ms. Heather Evans, Office of Policy and Regulatory Development, MC 205, P.O. Box 13087, Austin, Texas 78711-3087, or faxed to (512) 239-4808. Comments must be received by 5:00 p.m., June 8, 1998. For further information on this proposal, please contact Mr. Beecher Cameron, Air Policy and Regulations Division, at (512) 239-1495.

Persons with disabilities who have special communication or other accommodation needs who are planning to attend the hearing should contact the agency at (512) 239-4900. Requests should be made as far in advance as possible.

TRD-9805853  
Kevin McCalla  
Director, Legal Division  
Texas Natural Resource Conservation Commission  
Filed: April 27, 1998



#### Proposal for Decision

The State Office Administrative Hearing has issued Proposal for Decision and Order to the Texas Natural Resource Conservation Commission on April 20, 1998 Enforcement action against David Lopez; SOAH Docket Number 582-97-2125; TNRCC Docket Number 96-0633-PST-E; In the matter to be considered by the Texas Natural Resource Conservation Commission on a date and time to be determined by the Chief Clerk's Office in Room 201S of Building E, 12118 N. Interstate 35, Austin Texas. This posting is Notice of Opportunity to comment on Proposal for Decision and Order. Comment period will end 30 days from date of publication.

The State Office Administrative Hearing has issued Proposal for Decision and Order to the Texas Natural Resource Conservation Commission of April 20, 1998 Executive Director's Preliminary Report Assessing Administrative Penalties against John Blanton dba TRI-B Industries; SOAH Docket Number 582-97-2174; TNRCC Docket Number 96-1260-AIR-E; In the matter to be considered by the Chief Clerk's Office in Room 201S of Building E, 12118 N. Interstate 35, Austin, Texas. This posting is Notice of Opportunity to comment on Proposal for Decision and Order. Comment period will end 30 days from date of publication.

TRD-9805736  
Douglas A. Kitts  
Agenda Coordinator  
Texas Natural Resource Conservation Commission  
Filed: April 24, 1998



#### North Central Texas Council of Governments

Request for Proposals

This request by the North Central Texas Council of Governments (NCTCOG) for consultant services is filed under the provisions of Government Code, Chapter 2254.

NCTCOG intends to select a consultant firm to conduct data collection and pavement evaluation work as part of the 1998 Transportation Improvement Program Call for Urban Street Projects. The purpose of this project is to assist NCTCOG with collection and evaluation of data needed for one of the three criteria on which candidate projects will be evaluated and selected for funding.

#### **Due Date**

Proposals must be submitted no later than 5:00 p.m. Central Time on Monday, May 18, 1998, to Mr. Dan Rocha, North Central Texas Council of Governments, 616 Six Flags Drive, Second Floor, or P.O. Box 5888, Arlington, Texas 76005-5888. For more information and copies of the Request for Proposals, contact Lynette Renner, (817) 695-9240.

#### **Contract Award Procedures**

The firm selected to perform this study will be recommended by a Project Review Committee. The PRC will use evaluation criteria and methodology consistent with the scope of services contained in the Request for Proposals. The NCTCOG Executive Board will review the PRC's recommendations and, if found acceptable, will issue a contract award.

#### **Regulations**

NCTCOG, in accordance with Title VI of the Civil Rights Act of 1964, 78 Statute 252, 41 United State Code, 2000d to 2000d-4; and Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, Part 1, Nondiscrimination in Federally Assisted Programs of the Department of Transportation issued pursuant to such act, hereby notifies all proposers that it will affirmatively assure that in regard to any contract entered into pursuant to this advertisement, disadvantaged business enterprises will be afforded full opportunity to submit proposals in response to this invitation and will not be discriminated against on the grounds of race, color, sex, age, national origin, or disability in consideration of an award.

TRD-9805981

R. Michael Eastland  
Executive Director

North Central Texas Council of Governments  
Filed: April 29, 1998



## **North Texas Local Workforce Development Board**

### **Request for Proposals**

North Texas Local Workforce Development Board is seeking proposals for the management of its Workforce Centers, incorporating at a minimum: Job Training Partnership Act (JTPA), Temporary Assistance for Needy Families/Choices (TANF/Choices) and Food Stamp Employment and Training (FSE & T). Proposals will be accepted until 4:00 p.m., Friday, June 5, 1998 at 4309 Jacksboro Highway, Suite 106, Wichita Falls, 76302.

A Bidders' Conference will be held Tuesday, May 12, 1998, 9:00 a.m. at Nortex Regional Planning Commission, large conference room, 4309 Jacksboro Highway, Suite 200, Wichita Falls, to respond to questions concerning this RFP and its procurement process.

Request for Proposals may be obtained by written or faxed requests to Barbara A. Young, Administrative Technician, North Texas LWDB, address above, Fax (940) 322-2683. North Texas Local Workforce Development reserves the right to accept or reject any or all proposals.

TRD-9805709

Mona Williams Statser  
Executive Director

North Texas Local Workforce Development Board  
Filed: April 23, 1998



## **Texas State Board of Pharmacy**

### **Notification of Meeting of Task Force on Pharmacists' Working Conditions and Their Impact on the Public Health**

The Texas State Board of Pharmacy announces that the Task Force on Pharmacists' Working Conditions and Their Impact on the Public Health will meet Wednesday, May 13, 1998. The meeting will be held in Tower 2, Room 2-225, William P. Hobby, Jr. State Office Building, 333 Guadalupe Street, Austin, Texas at 9:30 a.m. Any questions regarding this meeting should be directed to Allison Benz, R.Ph., Enforcement Officer, at (512) 305-8037.

TRD-9805674

Gay Dodson, R.Ph.  
Executive Director/Secretary  
Texas State Board of Pharmacy  
Filed: April 22, 1998



## **Texas Planning Council for Developmental Disabilities**

### **Intent to Award Grant**

The Texas Rehabilitation Commission announces its intention to award a grant on behalf of the Texas Planning Council for Developmental Disabilities to the Walsh Company, to continue support to the Program for the activity "Partners in Policymaking."

**Background:** The Walsh Company submitted a proposal in response to a Request for Proposals for Support for Training Activities reposted in the August 9, 1991, issue of the *Texas Register* (16 TexReg 4376). That RFP invited proposals for a grant project that would provide support and assistance to the Program for coordination of the activity entitled "Partners in policymaking". Pursuant to the aforementioned RFP, in August 1992, a replacement award was made to the Walsh Company due to an emergency. Subsequent awards were granted in July 1994 and July 1995. The Council voted to approve funding for an additional year at its August 1997 Quarterly Council Meeting. The Texas Planning Council for Developmental Disabilities intends to award a grant to the Walsh Company, to continue their support of the "Partners in Policymaking" training activity because of their experience and contributions towards the success of that program.

**Description of Project:** The project will provide support and assistance to the Program for coordination of the activity entitled "Partners in Policymaking". The project will provide support functions related to training sessions and special assignments for people with developmental disabilities and their family members. The Program will maintain final authority for dates, content, and agendas of each event, determination of topics and presenters, and approval of all payments. The grantee will provide staff resources for training coordination and presentations, as well as support activities, such

as acquiring meeting space and facilities, coordinating registration, coordinating equipment needs, processing timely reimbursements to participants, facilities, and presenters, and arranging travel and transportation for presenters and participants.

**Terms and Funding:** Funding for this grant will begin June 1, 1998 and end August 31, 1999. Estimated funding will not exceed \$475,000 during this period.

For information on any aspect of this announcement, contact: Lester Sanders, Texas Planning Council for Developmental Disabilities, 4900 North Lamar Boulevard, Austin, Texas 78751-2399, (512) 424-4084.

TRD-9805903  
Charles Schiesser  
Chief of Staff  
Texas Planning Council for Developmental Disabilities  
Filed: April 27, 1998



## Texas Department of Protective and Regulatory Services

Request for Proposal-Texas Families: "Together and Safe"

The Texas Department of Protective and Regulatory Services is requesting proposals (RFP) to operate family support services in several Texas counties. This project will maintain the operation of collaborative, community-based programs to serve families with children through new contracts with either current providers or new providers based upon evaluation of the response. Such programs or systems will focus on the strengths and needs of the whole family, be designed in partnership with the families they serve, streamline and coordinate access to services, insure that the safety of the children served is of paramount concern, be highly collaborative among all public, private, state, federal, and local service providers, and enable children and youth to safely remain in their own home. Emphasis will be on services to teen parents, first-time parents, parents with young children, and parents with children determined to be at risk of abuse, neglect, developmental delay or disability, or emotional, school, or health problems. **The request is issued subject to availability of state and federal appropriations. The Department reserves the right to reject any and all offers received in response to this RFP and to cancel this RFP if it is deemed in the best interest of the Department.**

**Deadlines:** All proposals to be considered for funding through this RFP must be received by 4:00 p.m., June 30, 1998. Proposals received by mail after this deadline will be accepted only if mailed via next day mail no later than June 27, 1998. Modifications to the original proposal must also be received prior to the closing date of June 30, 1998.

**Eligible Applicants:** Eligible applicants are selected fund managers for Collaborative Community Groups with experience operating similar services in the following Texas communities: Abilene, Austin, Brownwood, Bryan, Burnet, Collin County, Dallas, El Paso, Fort Worth, Galveston County, Houston, Longview, McAllen, San Angelo, and San Antonio. Applicants must be represented by a broad-based collaborative group which reflects the population of the community. Eligible offerors include government entities and other agencies designated by the community. Historically Underutilized Businesses are encouraged to submit proposals.

**Limitations:** Funding of the selected proposal will be dependent upon available federal and/or state appropriations. The Department

reserves the right to reject any and all offers received in response to this RFP and to cancel this RFP if it is deemed in the best interest of the Department.

**Term:** The effective dates of any contract awarded under this RFP will be September 1, 1998, through August 31, 1999.

**Evaluation and Selection:** An evaluation committee will rank and score the proposals. The evaluation method and criteria will be specified in advance. Considerations are the past experience of the collaborative community committee in developing and operating family support or similar services, review of project goals and outcomes by the committee, service description, previous relevant experience of the fund manager, and budget information including local financial participation of twenty five percent of the total budget (25%).

**Contact Person:** To obtain a complete copy of the RFP, please contact RAY WORSHAM, Protective Services for Families and Children, Texas Department of Protective and Regulatory Services (MC E-541, P. O. Box 149030, Austin, TX 78714-9030, 512/438-3362.

**Written Inquiries:** Please submit inquiries regarding this Request for Proposals in writing no later than May 29, 1998, to the Department's designated contact person, RAY WORSHAM, at the address stated in this notice.

TRD-9805890  
C. Ed Davis  
Deputy Commissioner for Legal Services  
Texas Department of Protective and Regulatory Services  
Filed: April 27, 1998



## Public Utility Commission of Texas

Application in Compliance with Substantive Rule §23.67

Notice is given to the public of the filing with the Public Utility Commission of Texas (the commission) an application on January 22, 1998, by Magic Valley Electric Cooperative, Inc. for approval of transmission cost of service and wholesale tariff in compliance with Substantive Rule §23.67.

Docket Title and Number: Magic Valley Electric Cooperative, Inc. Request for Approval of Transmission Cost of Service and Wholesale Tariff in Compliance with Substantive Rule §23.67. Docket Number 18716.

The Application: In Docket Number 18716, Magic Valley Electric Cooperative, Inc. requests approval to revise its transmission tariff by correcting the transmission cost of service approved in Docket Number 15842 of \$4,157,426, to \$2,322,983, and by correcting the facilities charges to \$.035670763 per kW of the Electric Reliability Council of Texas CP demand and \$52.07717704 per MW miles of impact. Magic Valley Electric Cooperative, Inc. asserts that the difference is due to a data error in the spreadsheets used to calculate its transmission cost of service in Docket Number 15842.

Persons who wish to intervene in the proceeding, or comment upon the action sought, should contact the Public Utility Commission of Texas, 1701 North Congress Avenue, P. O. Box 13326, Austin, Texas 78711-3326, or call the commission's Office of Customer Protection at (512) 936- 7120 within 15 days of this notice. Hearing and speech-impaired individuals with text telephone (TTY) may contact the commission at (512) 936-7136.

TRD-9805711

Rhonda Dempsey  
Rules Coordinator  
Public Utility Commission of Texas  
Filed: April 23, 1998



#### Application in Compliance with Substantive Rule §23.67 and §23.70

Notice is given to the public of the filing with the Public Utility Commission of Texas (the commission) an application on January 30, 1998, by Houston Lighting and Power Company for approval of terms and conditions of wholesale transmission interconnection, pursuant to Substantive Rule §23.67 and §23.70.

Docket Title and Number: Houston Lighting and Power Company's Request for Approval of Terms and Conditions of Wholesale Transmission Interconnection, Pursuant to Substantive Rule §23.67 and §23.70. Docket Number 18755.

The Application: In Docket Number 18755, Houston Lighting and Power Company requests approval to revise Tariff Sheet Number E4.4, Terms and Conditions for Wholesale Transmission Interconnection. Houston Lighting and Power asserts that the proposed tariff revision would affect only qualifying facilities and independent power producers in Houston Lighting and Power Company's service territory as well as other transmission providers and customers taking service under Houston Lighting and Power Company's Rate Schedules PTS, UTS, or DVS. Houston Lighting and Power state that no rate change would occur as a result of this policy.

Persons who wish to intervene in the proceeding, or comment upon the action sought, should contact the Public Utility Commission of Texas, 1701 North Congress Avenue, P. O. Box 13326, Austin, Texas 78711-3326, or call the commission's Office of Customer Protection at (512) 936- 7120 within 15 days of this notice. Hearing and speech-impaired individuals with text telephone (TTY) may contact the commission at (512) 936-7136.

TRD-9805712  
Rhonda Dempsey  
Rules Coordinator  
Public Utility Commission of Texas  
Filed: April 23, 1998



#### Notice of Application for Amendment to Service Provider Certificate of Operating Authority

On April 22, 1998, Kero Communications, Inc., filed an application with the Public Utility Commission of Texas (PUC) to amend its service provider certificate of operating authority (SPCOA), Certificate Number 60098, which currently authorizes resale of telecommunications services within the geographic area of Texas served by GTE Southwest, Inc., and Southwestern Bell Telephone Company in the Dallas Local Access and Transport Area. Applicant intends to expand its geographic area to include the entire state of Texas.

The Application: Application of Kero Communications, Inc. for an Amendment to its Service Provider Certificate of Operating Authority, Docket Number 19141.

Persons with questions about this docket, or who wish to intervene or otherwise participate in these proceedings should make appropriate filings or comments to the commission at the Public Utility Commission of Texas, at P.O. Box 13326, Austin, Texas 78711-3326 no later

than May 13, 1998. You may contact the PUC Office of Customer Protection at (512) 936-7120. Hearing and speech-impaired individuals with text telephone (TTY) may contact the commission at (512) 936-7136. All correspondence should refer to Docket Number 19141.

TRD-9805919  
Rhonda Dempsey  
Rules Coordinator  
Public Utility Commission of Texas  
Filed: April 27, 1998



#### Notice of Application for Approval of IntraLATA Equal Access Implementation Plan Pursuant to P.U.C. Substantive Rule §23.103

Notice is given to the public of the filing with the Public Utility Commission of Texas (commission) an application on April 10, 1998, pursuant to P.U.C. Substantive Rule §23.103 for approval of an intraLATA equal access implementation plan.

Project Number: Application of Teligent, Inc. for Approval of IntraLATA Equal Access Implementation Plan Pursuant to P.U.C. Substantive Rule §23.103. Project Number 19156.

The Application: Teligent, Inc. (Teligent) is a facilities based provider and reseller of local exchange service in Texas with no existing customer base. Teligent plans to begin providing local exchange service in several Texas markets in May 1998. Teligent's intraLATA equal access implementation plan will adopt a two-PIC methodology which will allow a telephone subscriber to select one primary interexchange carrier (PIC) for all 1+ and 0+ interLATA toll calls and either the same carrier or a different carrier for all 1+ and 0+ intraLATA toll calls. Teligent, Inc. will implement intraLATA equal access simultaneously in all exchanges.

Persons who wish to comment upon the action sought should contact the Public Utility Commission of Texas, by mail at P.O. Box 13326, Austin, Texas, 78711-3326, or call the Public Utility Commission Office of Customer Protection at (512) 936-7120 on or before May 15, 1998. Hearing and speech-impaired individuals with text telephones (TTY) may contact the commission at (512) 936-7136. All comments should reference Project Number 19156.

TRD-9805710  
Rhonda Dempsey  
Rules Coordinator  
Public Utility Commission of Texas  
Filed: April 23, 1998



#### Notices of Application to Amend Certificate of Convenience and Necessity

Notice is given to the public of the filing with the Public Utility Commission of Texas an application on April 17, 1998, to amend a certificate of convenience and necessity pursuant to §§14.001, 32.001, 36.001, 37.051, and 37.054, 37.056, 37.057, 37.058 of the Public Utility Regulatory Act, Texas Utilities Code Annotated (Vernon 1998) (PURA). A summary of the application follows.

Docket Title and Number: Application of Lower Colorado River Authority (LCRA) to Amend Certificated Service Area Boundaries within Guadalupe County, Docket Number 19181 before the Public Utility Commission of Texas.



The Application: In Docket Number 19181, LCRA requests the service area exception in order to construct the Seguin West substation on 2.868 acres located in the singly-certificated area of the City of Seguin. The proposed substation will provide wholesale power delivery to the City of Seguin and to Guadalupe Valley Electric Cooperative, Inc. to adequately serve the increasing load demands in their service areas and will also provide Guadalupe Valley Electric Cooperative, Inc. with a new distribution source to provide an important backup to critical loads in the area.

Persons who wish to comment upon the action sought should contact the Public Utility Commission of Texas, at P.O. Box 13326, Austin, Texas 78711-3326, or call the commission's Office of Customer Protection at (512)936-7120 within 15 days of this notice. Hearing and speech-impaired individuals with text telephone (TTY) may contact the commission at (512) 936-7136.

TRD-9805713  
Rhonda Dempsey  
Rules Coordinator  
Public Utility Commission of Texas  
Filed: April 23, 1998



Notice is given to the public of the filing with the Public Utility Commission of Texas of an application on April 21, 1998, to amend a certificate of convenience and necessity pursuant to §§14.001, 32.001, 36.001, 37.051, and 37.054, 37.056, 37.057, 37.058 of the Public Utility Regulatory Act, Texas Utilities Code Annotated (Vernon 1998) (PURA). A summary of the application follows.

Docket Title and Number: Application of West Texas Utilities Company (WTU) to Amend a Certificate of Convenience and Necessity to Construct a Proposed Transmission Line within Upton County, Docket Number 19201 before the Public Utility Commission of Texas.

The Application: In Docket Number 19201, WTU requests approval to construct approximately 2.7 miles of 138-kV double-circuit transmission line and a proposed substation to be known as the Southwest Mesa substation in Upton County. The proposed transmission line is being constructed in order for WTU to connect its transmission system to the new 75-megawatt wind generation facility that will be built southeast of McCamey, Texas by West Texas Wind Energy Partners, LLC.

Persons who wish to comment upon the action sought should contact the Public Utility Commission of Texas, at P.O. Box 13326, Austin, Texas 78711-3326, or call the commission's Office of Customer Protection at (512)936-7120 within 15 days of this notice. Hearing and speech-impaired individuals with text telephone (TTY) may contact the commission at (512) 936-7136.

TRD-9805921  
Rhonda Dempsey  
Rules Coordinator  
Public Utility Commission of Texas  
Filed: April 27, 1998



Notice of Petition for a Good Cause Exemption to P.U.C. Substantive Rules §23.11(q)(3) and §23.12(b)(2)

Notice is given to the public of the filing with the Public Utility Commission of Texas (commission) an application on April 17, 1998,

for a good cause exemption to P.U.C. Substantive Rules §23.11(q)(3) and §23.12(b)(2).

Project Title and Number: Application of the Lower Colorado River Authority for a Good Cause Exemption to P.U.C. Substantive Rules §23.11(q)(3) and §23.12(b)(2). Project Number 19175.

The Application: The Lower Colorado River Authority (LCRA) requests exemption to the requirements of P.U.C. Substantive Rules §23.11(q)(3) and §23.12(b)(2) regarding the filing of an annual earnings report. LCRA requests an exemption because it has only eight retail customers and believes the cost of preparing an earnings monitoring report to reflect such an insignificant amount of service is unwarranted. LCRA petitions to be indefinitely exempted from filing annual earnings reports provided LCRA does not add anymore retail customers.

Persons who wish to comment upon the action sought should contact the Public Utility Commission of Texas, by mail at P.O. Box 13326, Austin, Texas, 78711-3326, or call the Public Utility Commission Office of Customer Protection at (512) 936-7120 on or before May 15, 1998. Hearing and speech-impaired individuals with text telephones (TTY) may contact the commission at (512) 936-7136. All comments should reference Project Number 19175.

TRD-9805920  
Rhonda Dempsey  
Rules Coordinator  
Public Utility Commission of Texas  
Filed: April 27, 1998



Notice of Workshop on 1999 Telecommunications Scope of Competition Report

The Public Utility Commission of Texas (PUCT) plans to hold a staff-level workshop on Thursday, May 28, 1998, in Project Number 17962, to answer questions regarding the 1999 Telecommunications Scope of Competition Report data request forms mailed out to all certificated telecommunications providers in Texas on April 15, 1998. The workshop will be held from 1:00 p.m. to 5:00 p.m. in the PUCT Robert W. Gee Hearing Room on the seventh floor of the William B. Travis Building at 1701 N. Congress, Austin, TX 78701.

In order for staff to address parties' concerns more efficiently, each party is encouraged to file a list of questions the party has regarding the data request forms. These questions should be filed in Project Number 17962 by Friday, May 15, 1998. In the workshop, staff will address issues related to the pre-filed questions first. If any time remains, staff will address issues raised at the workshop.

Persons who plan to attend the workshop should register with Teresa Kirk at (512) 936-7249. If there are any questions, contact Nelson Parish at (512) 936-7257.

TRD-9805944  
Rhonda Dempsey  
Rules Coordinator  
Public Utility Commission of Texas  
Filed: April 28, 1998



Public Notice of Amendment to Interconnection Agreement

On April 15, 1998, Southwestern Bell Telephone Company and MFS Communications Company, Inc., collectively referred to as applicants, filed a joint application for approval of an amendment

to an existing interconnection agreement under §252(i) of the federal Telecommunications Act of 1996, Public Law Number 104-104, 110 Statute 56, (codified as amended in scattered sections of 15 and 47 United States Code) (FTA) and the Public Utility Regulatory Act, Texas Utilities Code Annotated §§ 11.001-63.063 (Vernon 1998) (PURA). The joint application has been designated Docket Number 19172. The joint application and the underlying interconnection agreement are available for public inspection at the commission's offices in Austin, Texas.

The commission must act to approve the interconnection agreement within 35 days after it is submitted by the parties.

The commission finds that additional public comment should be allowed before the commission issues a final decision approving or rejecting the amendment to the interconnection agreement. Any interested person may file written comments on the joint application by filing 13 copies of the comments with the commission's filing clerk. Additionally, a copy of the comments should be served on each of the applicants. The comments should specifically refer to Docket Number 19172. As a part of the comments, an interested person may request that a public hearing be conducted. The comments, including any request for public hearing, shall be filed by May 18, 1998, and shall include:

- 1) a detailed statement of the person's interests in the agreement, including a description of how approval of the agreement may adversely affect those interests;
- 2) specific allegations that the agreement, or some portion thereof:
  - a) discriminates against a telecommunications carrier that is not a party to the agreement; or
  - b) is not consistent with the public interest, convenience, and necessity; or
  - c) is not consistent with other requirements of state law; and
- 3) the specific facts upon which the allegations are based.

After reviewing any comments, the commission will issue a notice of approval, denial, or determine whether to conduct further proceedings concerning the joint application. The commission shall have the authority given to a presiding officer pursuant to P.U.C. Procedural Rule §22.202. The commission may identify issues raised by the joint application and comments and establish a schedule for addressing those issues, including the submission of evidence by the applicants, if necessary, and briefing and oral argument. The commission may conduct a public hearing. Interested persons who file comments are not entitled to participate as intervenors in the public hearing.

Persons with questions about this project or who wish to comment on the joint application should contact the Public Utility Commission of Texas, 1701 North Congress Avenue, P. O. Box 13326, Austin, Texas 78711-3326. You may call the Public Utility Commission Office of Customer Protection at (512) 936-7120. Hearing and speech-impaired individuals with text telephones (TTY) may contact the commission at (512) 936-7136. All correspondence should refer to Docket Number 19172.

TRD-9805912  
Rhonda Dempsey  
Rules Coordinator  
Public Utility Commission of Texas  
Filed: April 27, 1998



Public Notices of Interconnection Agreement

On April 17, 1998, Southwestern Bell Telephone Company and Faithnet Telecommunications, Inc., collectively referred to as applicants, filed a joint application for approval of an interconnection agreement under the federal Telecommunications Act of 1996, Public Law Number 104-104, 110 Statute 56, (codified as amended in scattered sections of 15 and 47 United States Code) (FTA) and the Public Utility Regulatory Act, Texas Utilities Code Annotated §§11.001-63.063 (Vernon 1998) (PURA). The joint application has been designated Docket Number 19179. The joint application and the underlying interconnection agreement are available for public inspection at the commission's offices in Austin, Texas.

The FTA authorizes the commission to review and approve any interconnection agreement adopted by negotiation of the parties. Pursuant to FTA §252(e)(2) the commission may reject any agreement if it finds that the agreement discriminates against a telecommunications carrier not a party to the agreement, or that implementation of the agreement, or any portion thereof, is not consistent with the public interest, convenience, and necessity. Additionally, under FTA §252(e)(3), the commission may establish or enforce other requirements of state law in its review of the agreement, including requiring compliance with intrastate telecommunications service quality standards or requirements. The commission must act to approve the agreement within 90 days after it is submitted by the parties. The parties have requested expedited review of this application.

The commission finds that additional public comment should be allowed before the commission issues a final decision approving or rejecting the interconnection agreement. Any interested person may file written comments on the joint application by filing 13 copies of the comments with the commission's filing clerk. Additionally, a copy of the comments should be served on each of the applicants. The comments should specifically refer to Docket Number 19179. As a part of the comments, an interested person may request that a public hearing be conducted. The comments, including any request for public hearing, shall be filed by May 22, 1998, and shall include:

- 1) a detailed statement of the person's interests in the agreement, including a description of how approval of the agreement may adversely affect those interests;
- 2) specific allegations that the agreement, or some portion thereof:
  - a) discriminates against a telecommunications carrier that is not a party to the agreement; or
  - b) is not consistent with the public interest, convenience, and necessity; or
  - c) is not consistent with other requirements of state law; and
- 3) the specific facts upon which the allegations are based.

After reviewing any comments, the commission will determine whether to conduct further proceedings concerning the joint application. The commission shall have the authority given to a presiding officer pursuant to P.U.C. Procedural Rule §22.202. The commission may identify issues raised by the joint application and comments and establish a schedule for addressing those issues, including the submission of evidence by the applicants, if necessary, and briefing and oral argument. The commission may conduct a public hearing. Interested persons who file comments are not entitled to participate as intervenors in the public hearing.

Persons with questions about this docket or who wish to comment on the application should contact the Public Utility Commission of Texas, 1701 North Congress Avenue, P. O. Box 13326, Austin, Texas 78711-3326. You may call the Public Utility Commission Office of Customer Protection at (512) 936-7120. Hearing and speech-impaired

individuals with text telephones (TTY) may contact the commission at (512) 936-7136. All correspondence should refer to Docket Number 19179.

TRD-9805913  
Rhonda Dempsey  
Rules Coordinator  
Public Utility Commission of Texas  
Filed: April 27, 1998



On April 17, 1998, Southwestern Bell Telephone Company and Cellufone of Texas, Inc., collectively referred to as applicants, filed a joint application for approval of an interconnection agreement under the federal Telecommunications Act of 1996, Public Law Number 104-104, 110 Statute 56, (codified as amended in scattered sections of 15 and 47 United States Code) (FTA) and the Public Utility Regulatory Act, Texas Utilities Code Annotated §§11.001-63.063 (Vernon 1998) (PURA). The joint application has been designated Docket Number 19180. The joint application and the underlying interconnection agreement are available for public inspection at the commission's offices in Austin, Texas.

The FTA authorizes the commission to review and approve any interconnection agreement adopted by negotiation of the parties. Pursuant to FTA §252(e)(2) the commission may reject any agreement if it finds that the agreement discriminates against a telecommunications carrier not a party to the agreement, or that implementation of the agreement, or any portion thereof, is not consistent with the public interest, convenience, and necessity. Additionally, under FTA §252(e)(3), the commission may establish or enforce other requirements of state law in its review of the agreement, including requiring compliance with intrastate telecommunications service quality standards or requirements. The commission must act to approve the agreement within 90 days after it is submitted by the parties. The parties have requested expedited review of this application.

The commission finds that additional public comment should be allowed before the commission issues a final decision approving or rejecting the interconnection agreement. Any interested person may file written comments on the joint application by filing 13 copies of the comments with the commission's filing clerk. Additionally, a copy of the comments should be served on each of the applicants. The comments should specifically refer to Docket Number 19180. As a part of the comments, an interested person may request that a public hearing be conducted. The comments, including any request for public hearing, shall be filed by May 22, 1998, and shall include:

- 1) a detailed statement of the person's interests in the agreement, including a description of how approval of the agreement may adversely affect those interests;
- 2) specific allegations that the agreement, or some portion thereof:
  - a) discriminates against a telecommunications carrier that is not a party to the agreement; or
  - b) is not consistent with the public interest, convenience, and necessity; or
  - c) is not consistent with other requirements of state law; and
- 3) the specific facts upon which the allegations are based.

After reviewing any comments, the commission will determine whether to conduct further proceedings concerning the joint application. The commission shall have the authority given to a presiding officer pursuant to P.U.C. Procedural Rule §22.202. The commission may identify issues raised by the joint application and comments and

establish a schedule for addressing those issues, including the submission of evidence by the applicants, if necessary, and briefing and oral argument. The commission may conduct a public hearing. Interested persons who file comments are not entitled to participate as intervenors in the public hearing.

Persons with questions about this docket or who wish to comment on the application should contact the Public Utility Commission of Texas, 1701 North Congress Avenue, P. O. Box 13326, Austin, Texas 78711-3326. You may call the Public Utility Commission Office of Customer Protection at (512) 936-7120. Hearing and speech-impaired individuals with text telephones (TTY) may contact the commission at (512) 936-7136. All correspondence should refer to Docket Number 19180.

TRD-9805914  
Rhonda Dempsey  
Rules Coordinator  
Public Utility Commission of Texas  
Filed: April 27, 1998



On April 20, 1998, United Telephone Company of Texas, Inc. doing business as Sprint, Central Telephone Company of Texas doing business as Sprint (collectively, Sprint) and 360 Communications Company, collectively referred to as applicants, filed a joint application for approval of an interconnection agreement under the federal Telecommunications Act of 1996, Public Law Number 104-104, 110 Statute 56, (codified as amended in scattered sections of 15 and 47 United States Code) (FTA) and the Public Utility Regulatory Act, Texas Utilities Code Annotated §§11.001-63.063 (Vernon 1998) (PURA). The joint application has been designated Docket Number 19185. The joint application and the underlying interconnection agreement are available for public inspection at the commission's offices in Austin, Texas.

The FTA authorizes the commission to review and approve any interconnection agreement adopted by negotiation of the parties. Pursuant to FTA §252(e)(2) the commission may reject any agreement if it finds that the agreement discriminates against a telecommunications carrier not a party to the agreement, or that implementation of the agreement, or any portion thereof, is not consistent with the public interest, convenience, and necessity. Additionally, under FTA §252(e)(3), the commission may establish or enforce other requirements of state law in its review of the agreement, including requiring compliance with intrastate telecommunications service quality standards or requirements. The commission must act to approve the agreement within 90 days after it is submitted by the parties. The parties have requested expedited review of this application.

The commission finds that additional public comment should be allowed before the commission issues a final decision approving or rejecting the interconnection agreement. Any interested person may file written comments on the joint application by filing 13 copies of the comments with the commission's filing clerk. Additionally, a copy of the comments should be served on each of the applicants. The comments should specifically refer to Docket Number 19185. As a part of the comments, an interested person may request that a public hearing be conducted. The comments, including any request for public hearing, shall be filed by May 22, 1998, and shall include:

- 1) a detailed statement of the person's interests in the agreement, including a description of how approval of the agreement may adversely affect those interests;
- 2) specific allegations that the agreement, or some portion thereof:

- a) discriminates against a telecommunications carrier that is not a party to the agreement; or
  - b) is not consistent with the public interest, convenience, and necessity; or
  - c) is not consistent with other requirements of state law; and
- 3) the specific facts upon which the allegations are based.

After reviewing any comments, the commission will determine whether to conduct further proceedings concerning the joint application. The commission shall have the authority given to a presiding officer pursuant to P.U.C. Procedural Rule §22.202. The commission may identify issues raised by the joint application and comments and establish a schedule for addressing those issues, including the submission of evidence by the applicants, if necessary, and briefing and oral argument. The commission may conduct a public hearing. Interested persons who file comments are not entitled to participate as intervenors in the public hearing.

Persons with questions about this docket or who wish to comment on the application should contact the Public Utility Commission of Texas, 1701 North Congress Avenue, P. O. Box 13326, Austin, Texas 78711-3326. You may call the Public Utility Commission Office of Customer Protection at (512) 936-7120. Hearing and speech-impaired individuals with text telephones (TTY) may contact the commission at (512) 936-7136. All correspondence should refer to Docket Number 19185.

TRD-9805916  
 Rhonda Dempsey  
 Rules Coordinator  
 Public Utility Commission of Texas  
 Filed: April 27, 1998



On April 20, 1998, United Telephone Company of Texas, Inc. doing business as Sprint, Central Telephone Company of Texas doing business as Sprint (collectively, Sprint) and Buy-Tel Communications, Inc., collectively referred to as applicants, filed a joint application for approval of an interconnection agreement under the federal Telecommunications Act of 1996, Public Law Number 104-104, 110 Statute 56, (codified as amended in scattered sections of 15 and 47 United States Code) (FTA) and the Public Utility Regulatory Act, Texas Utilities Code Annotated §§11.001-63.063 (Vernon 1998) (PURA). The joint application has been designated Docket Number 19184. The joint application and the underlying interconnection agreement are available for public inspection at the commission's offices in Austin, Texas.

The FTA authorizes the commission to review and approve any interconnection agreement adopted by negotiation of the parties. Pursuant to FTA §252(e)(2) the commission may reject any agreement if it finds that the agreement discriminates against a telecommunications carrier not a party to the agreement, or that implementation of the agreement, or any portion thereof, is not consistent with the public interest, convenience, and necessity. Additionally, under FTA §252(e)(3), the commission may establish or enforce other requirements of state law in its review of the agreement, including requiring compliance with intrastate telecommunications service quality standards or requirements. The commission must act to approve the agreement within 90 days after it is submitted by the parties. The parties have requested expedited review of this application.

The commission finds that additional public comment should be allowed before the commission issues a final decision approving or rejecting the interconnection agreement. Any interested person may

file written comments on the joint application by filing 13 copies of the comments with the commission's filing clerk. Additionally, a copy of the comments should be served on each of the applicants. The comments should specifically refer to Docket Number 19184. As a part of the comments, an interested person may request that a public hearing be conducted. The comments, including any request for public hearing, shall be filed by May 22, 1998, and shall include:

- 1) a detailed statement of the person's interests in the agreement, including a description of how approval of the agreement may adversely affect those interests;
- 2) specific allegations that the agreement, or some portion thereof:
  - a) discriminates against a telecommunications carrier that is not a party to the agreement; or
  - b) is not consistent with the public interest, convenience, and necessity; or
  - c) is not consistent with other requirements of state law; and
- 3) the specific facts upon which the allegations are based.

After reviewing any comments, the commission will determine whether to conduct further proceedings concerning the joint application. The commission shall have the authority given to a presiding officer pursuant to P.U.C. Procedural Rule §22.202. The commission may identify issues raised by the joint application and comments and establish a schedule for addressing those issues, including the submission of evidence by the applicants, if necessary, and briefing and oral argument. The commission may conduct a public hearing. Interested persons who file comments are not entitled to participate as intervenors in the public hearing.

Persons with questions about this docket or who wish to comment on the application should contact the Public Utility Commission of Texas, 1701 North Congress Avenue, P. O. Box 13326, Austin, Texas 78711-3326. You may call the Public Utility Commission Office of Customer Protection at (512) 936-7120. Hearing and speech-impaired individuals with text telephones (TTY) may contact the commission at (512) 936-7136. All correspondence should refer to Docket Number 19184.

TRD-9805915  
 Rhonda Dempsey  
 Rules Coordinator  
 Public Utility Commission of Texas  
 Filed: April 27, 1998



On April 20, 1998, Southwestern Bell Telephone Company and Frontier Local Services, Inc., collectively referred to as applicants, filed a joint application for approval of an interconnection agreement under the federal Telecommunications Act of 1996, Public Law Number 104-104, 110 Statute 56, (codified as amended in scattered sections of 15 and 47 United States Code) (FTA) and the Public Utility Regulatory Act, Texas Utilities Code Annotated §§11.001-63.063 (Vernon 1998) (PURA). The joint application has been designated Docket Number 19194. The joint application and the underlying interconnection agreement are available for public inspection at the commission's offices in Austin, Texas.

The FTA authorizes the commission to review and approve any interconnection agreement adopted by negotiation of the parties. Pursuant to FTA §252(e)(2) the commission may reject any agreement if it finds that the agreement discriminates against a telecommunications carrier not a party to the agreement, or that implementation of the agreement, or any portion thereof, is not consistent with the

public interest, convenience, and necessity. Additionally, under FTA §252(e)(3), the commission may establish or enforce other requirements of state law in its review of the agreement, including requiring compliance with intrastate telecommunications service quality standards or requirements. The commission must act to approve the agreement within 90 days after it is submitted by the parties. The parties have requested expedited review of this application.

The commission finds that additional public comment should be allowed before the commission issues a final decision approving or rejecting the interconnection agreement. Any interested person may file written comments on the joint application by filing 13 copies of the comments with the commission's filing clerk. Additionally, a copy of the comments should be served on each of the applicants. The comments should specifically refer to Docket Number 19194. As a part of the comments, an interested person may request that a public hearing be conducted. The comments, including any request for public hearing, shall be filed by May 22, 1998, and shall include:

- 1) a detailed statement of the person's interests in the agreement, including a description of how approval of the agreement may adversely affect those interests;
- 2) specific allegations that the agreement, or some portion thereof:
  - a) discriminates against a telecommunications carrier that is not a party to the agreement; or
  - b) is not consistent with the public interest, convenience, and necessity; or
  - c) is not consistent with other requirements of state law; and
- 3) the specific facts upon which the allegations are based.

After reviewing any comments, the commission will determine whether to conduct further proceedings concerning the joint application. The commission shall have the authority given to a presiding officer pursuant to P.U.C. Procedural Rule §22.202. The commission may identify issues raised by the joint application and comments and establish a schedule for addressing those issues, including the submission of evidence by the applicants, if necessary, and briefing and oral argument. The commission may conduct a public hearing. Interested persons who file comments are not entitled to participate as intervenors in the public hearing.

Persons with questions about this docket or who wish to comment on the application should contact the Public Utility Commission of Texas, 1701 North Congress Avenue, P. O. Box 13326, Austin, Texas 78711-3326. You may call the Public Utility Commission Office of Customer Protection at (512) 936-7120. Hearing and speech-impaired individuals with text telephones (TTY) may contact the commission at (512) 936-7136. All correspondence should refer to Docket Number 19194.

TRD-9805917  
Rhonda Dempsey  
Rules Coordinator  
Public Utility Commission of Texas  
Filed: April 27, 1998



On April 21, 1998, Southwestern Bell Telephone Company and Stargate Communications, Inc., collectively referred to as applicants, filed a joint application for approval of an interconnection agreement under the federal Telecommunications Act of 1996, Public Law Number 104-104, 110 Statute 56, (codified as amended in scattered sections of 15 and 47 United States Code) (FTA) and the Public Utility Regulatory Act, Texas Utilities Code Annotated §§11.001-63.063

(Vernon 1998) (PURA). The joint application has been designated Docket Number 19202. The joint application and the underlying interconnection agreement are available for public inspection at the commission's offices in Austin, Texas.

The FTA authorizes the commission to review and approve any interconnection agreement adopted by negotiation of the parties. Pursuant to FTA §252(e)(2) the commission may reject any agreement if it finds that the agreement discriminates against a telecommunications carrier not a party to the agreement, or that implementation of the agreement, or any portion thereof, is not consistent with the public interest, convenience, and necessity. Additionally, under FTA §252(e)(3), the commission may establish or enforce other requirements of state law in its review of the agreement, including requiring compliance with intrastate telecommunications service quality standards or requirements. The commission must act to approve the agreement within 90 days after it is submitted by the parties. The parties have requested expedited review of this application.

The commission finds that additional public comment should be allowed before the commission issues a final decision approving or rejecting the interconnection agreement. Any interested person may file written comments on the joint application by filing 13 copies of the comments with the commission's filing clerk. Additionally, a copy of the comments should be served on each of the applicants. The comments should specifically refer to Docket Number 19202. As a part of the comments, an interested person may request that a public hearing be conducted. The comments, including any request for public hearing, shall be filed by May 22, 1998, and shall include:

- 1) a detailed statement of the person's interests in the agreement, including a description of how approval of the agreement may adversely affect those interests;
- 2) specific allegations that the agreement, or some portion thereof:
  - a) discriminates against a telecommunications carrier that is not a party to the agreement; or
  - b) is not consistent with the public interest, convenience, and necessity; or
  - c) is not consistent with other requirements of state law; and
- 3) the specific facts upon which the allegations are based.

After reviewing any comments, the commission will determine whether to conduct further proceedings concerning the joint application. The commission shall have the authority given to a presiding officer pursuant to P.U.C. Procedural Rule §22.202. The commission may identify issues raised by the joint application and comments and establish a schedule for addressing those issues, including the submission of evidence by the applicants, if necessary, and briefing and oral argument. The commission may conduct a public hearing. Interested persons who file comments are not entitled to participate as intervenors in the public hearing.

Persons with questions about this docket or who wish to comment on the application should contact the Public Utility Commission of Texas, 1701 North Congress Avenue, P. O. Box 13326, Austin, Texas 78711-3326. You may call the Public Utility Commission Office of Customer Protection at (512) 936-7120. Hearing and speech-impaired individuals with text telephones (TTY) may contact the commission at (512) 936-7136. All correspondence should refer to Docket Number 19202.

TRD-9805918  
Rhonda Dempsey  
Rules Coordinator

*The rules proposed for repeal in 40 Texas Administrative Code (TAC) Chapters 510 - 513 are hereby proposed in 22 TAC Chapter 810. The rules are proposed in 22 TAC Chapter 810 in order to be regrouped with other boards administratively attached to the department and are renumbered under one chapter instead of four chapters. This conversion chart shows the repealed rules and new rules contemporaneously proposed in this issue of the Texas Register.*

◆ ◆ ◆  
**Council on Sex Offender Treatment**

Rule Conversion Chart for Council on Sex Offender Treatment

**Rule Conversion Chart for Council on Sex Offender Treatment**

**40 TAC, Part XVI, Chapter 510-513  
SOCIAL SERVICES AND ASSISTANCE  
COUNCIL ON SEX OFFENDER TREATMENT**

**22 TAC, Part XXXVI, Chapter 810  
EXAMINING BOARDS  
COUNCIL ON SEX OFFENDER  
TREATMENT**

**Chapter 510. Sex Offender Treatment Provider  
Treatment Registry**

**Subchapter A. Sex Offender  
Provider Registry**

40 TAC §510.1  
40 TAC §510.2  
40 TAC §510.3  
40 TAC §510.4  
40 TAC §510.5  
40 TAC §510.6  
40 TAC §510.7  
40 TAC §510.8  
40 TAC §510.9

22 TAC §810.1  
22 TAC §810.2  
22 TAC §810.3  
22 TAC §810.4  
22 TAC §810.5  
22 TAC §810.6  
22 TAC §810.7  
22 TAC §810.8  
22 TAC §810.9

**Chapter 511. Criminal Background Check Security Check**

**Subchapter B. Criminal Background Security**

**40 TAC §511.1**

**22 TAC §810.31**

**40 TAC §511.2**

**22 TAC §810.32**

**40 TAC §511.3**

**22 TAC §810.33**

**40 TAC §511.4**

**22 TAC §810.34**

**Chapter 512. Standards of Practice**

**Subchapter C. Standards of Practice**

**40 TAC §512.1**

**22 TAC §810.61**

**40 TAC §512.2**

**22 TAC §810.62**

**40 TAC §512.3**

**22 TAC §810.63**

**Chapter 512. Code of Professional Ethics Ethics**

**Subchapter D. Code of Professional**

**40 TAC §513.1**

**22 TAC §810.91**

**40 TAC §513.2**

**22 TAC §810.92**

TRD-9805884  
Collier M. Cole, Ph.D.  
Chairperson  
Council on Sex Offender Treatment

Filed: April 27, 1998

◆ ◆ ◆  
**Teacher Retirement System of Texas**  
Consultant Contract Award

This consultant contract information is filed in compliance with the notice requirement under the Government Code, §2254.030.

The Teacher Retirement System of Texas (TRS) has contracted with a private consultant to conduct a study of TRS' domestic and global equities portfolio trading costs.

TRS has executed a contract with Elkins/McSherry Co., Inc. whose address is 555 Madison Avenue, 17th Floor, New York, New York 10022.

The agreed compensation set forth in the contract is \$40,000, payable quarterly in arrears. In addition, consultant will be compensated at a fixed, one time payment price of \$10,000 for the preparation of an analysis of trading costs for the 1997 calendar year. The contract is effective January 1, 1998, and will expire on December 31, 1998. Thereafter, the contract shall renew automatically at the end of each calendar year for an additional calendar year, not to exceed four years in any event.

Written quarterly reports regarding the analyses of TRS' domestic and global equity investments are required to be delivered to TRS not later than thirty days after the end of the sixth calendar week following the immediately preceding calendar quarter. Consultant may be requested to attend one TRS Board meeting per year to deliver an oral and written report to the Board. An executive summary of such report shall be delivered to TRS fifteen days prior to the date of the meeting the consultant is to attend.

TRD-9805785  
Charles Dunlap  
Executive Director  
Teacher Retirement System of Texas  
Filed: April 24, 1998

## Texas Department of Transportation

### Correction of Error

A Notice of Intent to prepare an Environmental Impact Statement (EIS) for I.H. 10, from Houston's Central Business District to the Brazos River, was published in the January 23, 1998, issue of the *Texas Register*, (23 TexReg 668). The following information is being published in order to correct two errors that were contained in that notice.

The Notice stated that vibration studies would be conducted as part of the environmental studies performed for the project. Vibration studies will not be performed for this project. Vibration studies for TxDOT projects are not typically performed as there are no Federal requirements directed specifically to traffic-induced vibration. "All studies the State Highway Agencies have done to assess the impact of operational traffic-induced vibrations have shown that both measured and predicted vibration levels are less than any known criteria for structural damage to buildings. In fact, normal living activities (e.g., closing doors, walking across floors, operating appliances) within a building have been shown to create greater levels of vibration than highway traffic. Vibration concerns are addressed on a case-by-case basis as deemed appropriate" (FHWA - Highway Traffic Noise Policy, June 1995).

The notice also stated that, "Because public meetings were held during the MIS process as described, the MIS process itself will serve as the Public Scoping meeting for the I.H. 10 Katy Freeway Corridor proposal." The MIS process cannot take the place of a scoping meeting in the EIS process. A scoping meeting must be held for any EIS project after the NOI has been published. Therefore, a

scoping meeting will be held for this project in the near future in addition to several public meetings.

TRD-9805996  
Bob Jackson  
Acting General Counsel  
Texas Department of Transportation  
Filed: April 29, 1998

### Notice of Invitation—Contract Number 02-845P5002

The Fort Worth District of the Texas Department of Transportation (TxDOT) intends to enter a contract with a professional engineer, pursuant to Texas Government Code, Chapter 2254, Subchapter A, and 43 TAC §§9.30-9.43, to provide the following services. To be considered, a prime provider and any subproviders proposed on the team must be precertified by the deadline date for receiving the letter of interest for each of the advertised work category(s), unless the work category is a non-listed work category. To qualify for contract award a selected prime engineer must perform a minimum of 30% of the actual contract work. Please be advised, a prime provider or subprovider currently employing former TxDOT employees needs to be aware of the revolving door laws, including Government Code, Chapter 572 and Article IX, Section 52, of the General Appropriations Bill. To be considered, the proposed team must demonstrate that they have a professional engineer registered in Texas that will sign and seal the work to be performed on the contract.

Contract Number 02-845P5002 - The precertified work categories and the percent of work per category are: 4.3.1 Complex Highway Design (40%); 5.2.1 Major Bridge Design (5%); 8.1.1 Signing, Pavement Marking and Channelization (5%); 8.3.1 Signalization (4%); 10.3.1 Complex Hydraulic Design (16%); 15.2.1 Design Survey (20%); 15.3.1 Aerial Mapping (10%). The work to be performed shall consist of the preparation of the plan, specifications and estimate (PS&E) document, bridge and retaining wall layouts, bridge and retaining wall details, and signalization for US 67 (Northeast Bypass), from SH 174 to 0.9 Km West of Spur 102.

Historically Underutilized Business (HUB) Goal: The assigned HUB goal for participation in the work to be performed under this contract is 20% of the contract amount.

Long List Criteria: TxDOT will consider the following criteria in its review of all interested providers.

1. Past Performance Scores: Minimum requirements - Must have two good written references from entities. One reference for a similar type project either presently under contract or completed. One separate reference for a similar type project that has been completed in the past five years. Preferred requirements - Must have three good written references from entities. One reference for a similar type project either presently under contract or completed. Two references for two similar type projects that have been completed in the past five years.

2. Project Requirements (Team Capability/Experience):

Complex Highway Design (4.3.1): Minimum Requirements as established by the minimum precertification standards. Preferred Requirements - In addition to the minimum requirements, the nominated engineer must satisfactorily explain or demonstrate his/her understanding of developing rural type roadways using the design guidance developed in AASHTO's "A Policy on Geometric Design of Highways and Streets" specifically concerning the design of rural roadways.



Major Bridge Design (5.2.1): Minimum Requirements as established by the minimum precertification standards. Preferred Requirements - In addition to the minimum requirements, the nominated engineer must explain and adequately demonstrate his/her experience in regard to preparing bridge layouts and bridge details.

Signing, Pavement Markings, & Channelization (8.1.1): Minimum Requirements as established by the minimum precertification standards. Preferred Requirements - In addition to the minimum requirements, the nominated engineer must explain and adequately demonstrate his/her experience in applying design guidance developed in the "National Manual on Uniform Traffic Control Devices" for two major roadway designs within the past five years.

Signalization (8.3.1): Minimum Requirements as established by the minimum precertification standards. Preferred Requirements - In addition to the minimum requirements, the nominated engineer must explain and adequately demonstrate his/her knowledge or experience applying design guidance with regard to traffic signalization.

Complex Hydraulic Design (10.3.1): Minimum Requirements as established by the minimum precertification standards. Preferred Requirements - In addition to the minimum requirements the nominated engineer must explain and adequately demonstrate his/her experience sizing culverts and determining bridge design through hydraulic data analysis.

Design Survey (15.2.1): Minimum Requirements - The nominated surveyor must explain and adequately demonstrate his/her experience in determining and managing cost effective survey requirements. Preferred Requirements - In addition to the minimum requirements of this work task, the nominated surveyor must explain and adequately demonstrate his/her experience developing Digital Terrain Models that are functional in an interactive GEOPAK and Microstation automation environment.

Aerial Mapping (15.3.1): Minimum Requirements as established by the minimum precertification standards. Preferred Requirements - In addition to the minimum requirements, the nominated surveyor must explain and adequately demonstrate his/her experience developing aerial mapping for the production of P.S.&E.

### 3. Special Project (Similar) Related Experience of Project Manager and Team Members:

Complex Highway Design (4.3.1): Minimum Requirements - One Registered Professional Engineer with four years related roadway design experience on two separate projects. Preferred Requirements - Five years of experience on three separate projects.

Major Bridge Design (5.2.1): Minimum Requirements - One Registered Professional Engineer with five years structural bridge design experience on two projects. Preferred Requirements - Six years of experience on three separate projects.

Signing, Pavement Markings, & Channelization (8.1.1): Minimum Requirements - One Registered Professional Engineer with two years experience. Preferred Requirements - Four years of experience.

Signalization (8.3.1): Minimum Requirements - One Registered Professional Engineer with two years of experience in the design and production of traffic signalization. Preferred Requirements - One Registered Professional Engineer with four years of experience preferred.

Complex Hydraulic Design (10.3.1): Minimum Requirements - One Registered Professional Engineer with two years of related experience, with two years in hydrologic analysis, hydraulic design, and storm water quality evaluation. Preferred Requirements - Four

years of experience with three years in hydrologic analysis, hydraulic design and storm water quality evaluation.

Design Survey (15.2.1): Minimum Requirements - One Registered Professional Land Surveyor with one year of related experience along with sufficient staff to perform this type of work, as well as the proper equipment. Preferred Requirements - Two years of experience.

Aerial Mapping (15.3.1): Minimum Requirements - Technical personnel with five years of experience in aerial mapping. Preferred Requirements - Seven years of experience.

4. Evidence of compliance with assigned HUB Goal: A provider receives three points for meeting the assigned goal or zero points for not meeting the assigned goal.

Deadline: A letter of interest notifying TxDOT of the provider's intent to submit a proposal will be accepted by fax at (817) 370-6759, or by hand delivery to TxDOT, Fort Worth District, Attention: Randy Burkett, 2501 SW Freeway, Fort Worth, Texas, or by mail addressed to TxDOT, Fort Worth District, Attention: Randy Burkett, P. O. Box 6868, Fort Worth, Texas 76115. Letters of interest will be received until 5:00 p.m. on May 22, 1998.

Letter of Interest Requirements: The letter of interest is limited in length to six 8 1/2 x 11 inch pages, 12 pitch font size, single sided with attachments or appendices, and must include the contract number 02-845P5002, an organizational chart containing the names, addresses, telephone and fax numbers of the prime provider and any subproviders proposed for the team and their contract responsibilities by work category; certification that the proposed team individuals are currently employed by either the prime provider or a subprovider; the prime provider's project manager and key personnel proposed for the contract; team capabilities; special project related experience; evidence of compliance with the assigned HUB goal through the prime provider or subprovider identified on the team, or a written commitment to make a good faith effort to meet the assigned goal; project related experience performed since pre-certification; and other pertinent information addressed in the notice, including references for related projects.

Agency Contact: Requests for additional information regarding this notice of invitation should be addressed to Randy Burkett at (817) 370-6804 or fax (817) 370-6759.

TRD-9805998  
Bob Jackson  
Acting General Counsel  
Texas Department of Transportation  
Filed: April 29, 1998



### Notice of Invitation—Contract Number 02-745P5003

The Fort Worth District of the Texas Department of Transportation (TxDOT) intends to enter a contract with a professional engineer, pursuant to Texas Government Code, Chapter 2254, Subchapter A, and 43 TAC §§9.30-9.43, to provide the following services. To be considered, a prime provider and any subproviders proposed on the team must be precertified by the deadline date for receiving the letter of interest for each of the advertised work category(s), unless the work category is a non-listed work category. To qualify for the contract award, a selected prime engineer must perform a minimum of 30% of the actual contract work. Please be advised, a prime provider or subprovider currently employing former TxDOT employees needs to be aware of the revolving door laws, including Government Code, Chapter 572 and Article IX, Section 52, of the General Appropriations

Bill. To be considered, the proposed team must demonstrate that they have a professional engineer registered in Texas that will sign and seal the work to be performed on the contract.

Contract Number 02-745P5003- The precertified work categories and the percent of work per category are: 2.14.1 Environmental Documentation Preparation (20%); 4.2.1 Major Roadway Design (30%); 5.1.1 Minor Bridge Design (5%); 8.1.1 Signing, Pavement Marking and Channelization (15%); 10.2.1 Basic Hydraulic Design (15%); 15.1.4 Right of Way Maps (10%); 15.2.1 Design Survey (5%). The work to be performed shall consist of the preparation of plan, specifications and estimate (PS&E) document, environmental documentation, ROW map preparation, bridge and retaining wall layouts, and public involvement for US 380 from Business 380F to the Denton County Line.

Historically Underutilized Business (HUB) Goal: The assigned HUB goal for participation in the work to be performed under this contract is 20% of the contract amount.

Long List Criteria: TxDOT will consider the following criteria in its review of all interested providers.

1. Past Performance Scores: Minimum Requirements - Must have two good written references from entities. One reference for a similar type project either presently under contract or complete. One separate reference for a similar type project that has been completed in the past five years. Preferred Requirements - Must have three good written references from entities. One reference for a similar type project either presently under contract or completed. Two references for two similar type projects that have been completed in the past five years.

2. Project Requirements (Team Capability/Experience):

Environmental Documentation Preparation (2.14.1): Minimum Requirements as established by the minimum precertification standards. Preferred Requirements - In addition to the minimum requirements, the Team member must satisfactorily demonstrate his/her knowledge of environmental concerns of a rural residential setting in the South-western United States (semi-arid to arid) natural environment.

Major Roadway Design (4.2.1): Minimum Requirements as established by the minimum precertification standards. Preferred Requirements - In addition to the minimum requirements, the nominated engineer must satisfactorily explain or demonstrate his/her understanding of developing rural type roadways using the design guidance developed in AASHTO's "A Policy on Geometric Design of Highways and Streets" specifically concerning the design of rural roadways.

Minor Bridge Design (5.1.1): Minimum Requirements as established by the minimum precertification standards. Preferred Requirements - In addition to the minimum requirements, the nominated engineer must explain and adequately demonstrate his/her experience in regard to preparing bridge layouts.

Signing, Pavement Markings, & Channelization (8.1.1): Minimum Requirements as established by the minimum precertification standards. Preferred Requirements - In addition to the minimum requirements, the nominated engineer must explain and adequately demonstrate his/her experience in applying design guidance developed in the National Manual on Uniform Traffic Control Devices for two major roadway designs within the past five years.

Basic Hydraulic Design (10.2.1): Minimum Requirements as established by the minimum precertification standards. Preferred Requirements - In addition to the minimum requirements, the nominated engineer must explain and adequately demonstrate his/her experience sizing culverts and determining bridge design through hydraulic data analysis.

Right of Way Maps (15.1.4): Minimum Requirements as established by the minimum precertification standards. Preferred Requirements - In addition to the Special Project Related Experience minimum requirements of this work task, the nominated surveyor must explain and adequately demonstrate his/her experience developing right-of-way maps that are functional in an interactive GEOPAK and Microstation automation environment.

Design Survey (15.2.1): Minimum Requirements - The nominated surveyor must explain and adequately demonstrate his/her experience in determining and managing cost effective survey requirements. Preferred Requirements - In addition to the minimum requirements of this work task, the nominated surveyor must explain and adequately demonstrate his/her experience developing Digital Terrain Models that are functional in an interactive GEOPAK and Microstation automation environment.

3. Special Project (Similar) Related Experience of Project Manager and Team Members:

Environmental Documentation Preparation (2.14.1): Minimum Requirements - One employee who has completed the environmental documentation through the issuance of the FONSI on two similar type transportation projects. Preferred Requirements - The completion of three similar projects.

Major Roadway Design (4.2.1): Minimum Requirements - One Registered Professional Engineer with three years related roadway design experience on two separate projects. Preferred Requirements - Five years of experience on three separate projects.

Minor Bridge Design (5.1.1): Minimum Requirements - One Registered Professional Engineer with two years structural bridge design experience on two projects. Preferred Requirements - Five years of experience on three separate projects.

Signing, Pavement Markings, & Channelization (8.1.1): Minimum Requirements - One Registered Professional Engineer with two years experience. Preferred Requirements - Four years of experience.

Basic Hydraulic Design (10.2.1): Minimum Requirements - One Registered Professional Engineer with two years of related experience, with two years in hydrologic analysis, hydraulic design, and storm water quality evaluation Preferred Requirements - Four years of experience with three years in hydrologic analysis, hydraulic design and storm water quality evaluation.

Right of Way Maps (15.1.4): Minimum Requirements - One Registered Professional Land Surveyor and two technical personnel with experience developing right of way maps. Preferred Requirements - Demonstrated ability to develop right-of-way maps on two similar type projects.

Design Survey (15.2.1): Minimum Requirements - One Registered Professional Land Surveyor with one year of related experience along with sufficient staff to perform this type of work, as well as the proper equipment. Preferred Requirements - Two years of experience.

4. Evidence of Compliance with assigned HUB Goal: A provider receives three points for meeting the assigned goal or zero points for not meeting the assigned goal.

Deadline: A letter of interest notifying TxDOT of the provider's intent to submit a proposal will be accepted by fax at (817) 370-6759, or by hand delivery to TxDOT, Fort Worth District, Attention: Randy Burkett, 2501 S.W. Freeway, Fort Worth, Texas, or by mail addressed to TxDOT, Fort Worth District, Attention: Randy Burkett, P. O. Box 6868, Fort Worth, Texas 76115. Letters of interest will be received until 5:00 p.m. on May22, 1998.

Letter of Interest Requirements: The letter of interest is limited in length to six 8 1/2 x 11 inch pages, 12 pitch font size, single sided with attachments or appendices, and must include the contract number 02-745P5003, an organizational chart containing the names, addresses, telephone and fax numbers of the prime provider and any subproviders proposed for the team and their contract responsibilities by work category; certification that the proposed team individuals are currently employed by either the prime provider or a subprovider; the prime provider's project manager and key personnel proposed for the contract; team capabilities; special project related experience; evidence of compliance with the assigned HUB goal through the prime provider or subprovider identified on the team, or a written commitment to make a good faith effort to meet the assigned goal; project related experience performed since pre-certification; and other pertinent information addressed in the notice, including references for related projects.

Agency Contact: Requests for additional information regarding this notice of invitation should be addressed to Randy Burkett at (817) 370-6804 or fax (817) 370-6759.

TRD-9805997

Bob Jackson

Acting General Counsel

Texas Department of Transportation

Filed: April 29, 1998



#### Notice of Invitation—Contract Number 02-745P5009

The Fort Worth District of the Texas Department of Transportation (TxDOT) intends to enter a contract with a professional engineer, pursuant to Texas Government Code, Chapter 2254, Subchapter A, and 43 TAC §§9.30-9.43, to provide the following services. To be considered, a prime provider and any subproviders proposed on the team must be precertified by the deadline date for receiving the letter of interest for each of the advertised work category(s), unless the work category is a non-listed work category. To qualify for contract award a selected prime engineer must perform a minimum of 30% of the actual contract work. Please be advised, a prime provider or subprovider currently employing former TxDOT employees needs to be aware of the revolving door laws, including Government Code, Chapter 572 and Section 52, Article IX, of the General Appropriations Bill. To be considered, the proposed team must demonstrate, that they have a professional engineer registered in Texas that will sign and seal the work to be performed on the contract.

Contract Number 02-745P5009 - The precertified work categories and the percent of work per category are: 3.5.1 Major Bridge Layout (20%); 4.1.1 Minor Roadway Design (30%); 8.1.1 Signing, Pavement Marking and Channelization (10%); 8.3.1 Signalization (10%); 10.2.1 Basic Hydraulic Design (10%); 15.1.4 Right of Way Surveys (10%); 15.2.1 Design Survey (10%). The work to be performed shall consist of the preparation of the plan, specifications and estimate (PS&E) document, ROW map preparation, bridge and retaining wall layouts, and signalization for US 287 at Riverside Drive in Fort Worth.

Historically Underutilized Business (HUB) Goal: The assigned HUB goal for participation in the work to be performed under this contract, is 20% of the contract amount.

Long List Criteria: TxDOT will consider the following criteria in its review of all interested providers.

#### 1. Past Performance Scores

Minimum requirements - Must have two good written references from entities. One reference for a similar type project either presently under contract or complete. One separate reference for a for a similar type project that has been completed in the past five years.

Preferred requirements - Must have three good written references from entities. One reference for a similar type project either presently under contract or completed. Two references for two similar type projects that have been completed in the past five years.

#### 2. Project Requirements (Team Capability/Experience)

##### Major Bridge Layout (3.5.1)

Minimum Requirements as established by the minimum precertification standards.

Preferred Requirements - In addition to the minimum requirements, the nominated engineer must satisfactorily explain or demonstrate his/her knowledge in regard to preparing bridge layouts.

##### Minor Roadway Design (4.1.1)

Minimum Requirements as established by the minimum precertification standards.

Preferred Requirements - In addition to the minimum requirements, the nominated engineer must satisfactorily explain or demonstrate his/her understanding of developing an urban type roadway using the design guidance developed in AASHTO's "A Policy on Geometric Design of Highways and Streets" specifically concerning the design of urban roadways.

##### Signing, Pavement Markings, & Channelization (8.1.1)

Minimum Requirements as established by the minimum precertification standards.

Preferred Requirements - In addition to the minimum requirements, the nominated engineer must explain and adequately demonstrate his/her experience in applying design guidance developed in the National Manual on Uniform Traffic Control Devices for two major roadway designs within the past five years.

##### Signalization (8.3.1)

Minimum Requirements as established by the minimum precertification standards.

Preferred Requirements - In addition to the minimum requirements, the nominated engineer must explain and adequately demonstrate his/her knowledge or experience applying design guidance with regard to traffic signalization.

##### Basic Hydraulic Design (10.2.1)

Minimum Requirements as established by the minimum precertification standards.

Preferred Requirements - In addition to the minimum requirements the nominated engineer must explain and adequately demonstrate his/her experience sizing culverts and determining bridge design through hydraulic data analysis.

##### Right of Way Map Survey (15.1.4)

Minimum Requirements as established by the minimum precertification standards.

Preferred Requirements - In addition to the Special Project Related Experience minimum requirements of this work task, the nominated surveyor must explain and adequately demonstrate his/her experience developing right-of-way maps that are functional in an interactive GEOPAK and Microstation automation environment.

#### Design Survey (15.2.1)

Minimum Requirements - The nominated registered surveyor must explain and adequately demonstrate his/her experience in determining and managing cost effective survey requirements.

Preferred Requirements - In addition to the minimum requirements of this work task, the nominated registered surveyor must explain and adequately demonstrate his/her experience developing Digital Terrain Models that are functional in an interactive GEOPAK and Microstation automation environment.

#### 3. Special Project (Similar) Related Experience of Project Manager and Team Members

##### Major Bridge Layout (3.5.1)

Minimum Requirements - One Registered Professional Engineer with three years experience in the design of roadways and one year experience in capacity and level of service analysis.

Preferred Requirements - Six years of experience on three separate projects.

##### Minor Roadway Design (4.1.1)

Minimum Requirements - One Registered Professional Engineer with three years related roadway design experience on two separate projects.

Preferred Requirements - Six years of experience on three separate projects.

##### Signing, Pavement Markings, & Channelization (8.1.1)

Minimum Requirements - One Registered Professional Engineer with two years experience.

Preferred Requirements - Four years of experience.

##### Signalization (8.3.1)

Minimum Requirements - One Registered Professional Engineer with two years of experience in the design and production of traffic signalization.

Preferred Requirements - One Registered Professional Engineer with four (4) years of experience preferred.

##### Basic Hydraulic Design (10.2.1)

Minimum Requirements - One Registered Professional Engineer with two years of related experience, with two years in hydrologic analysis, hydraulic design, and storm water quality evaluation

Preferred Requirements - Four (4) years of experience with three years in hydrologic analysis, hydraulic design and storm water quality evaluation.

##### Right of Way Map Survey (15.1.4)

Minimum Requirements - One Registered Professional Land Surveyor and two technical personnel with experience developing right-of-way maps.

Preferred Requirements - Demonstrated ability to develop right-of-way maps on two similar projects.

#### Design Survey (15.2.1)

Minimum Requirements - One Registered Professional Land Surveyor with one year of related experience along with sufficient staff to perform this type of work, as well as the proper equipment.

Preferred Requirements - Two years of experience.

#### 4. Evidence of compliance with assigned HUB Goal

A provider receives three points for meeting the assigned goal or zero points for not meeting the assigned goal.

Deadline: A letter of interest notifying TxDOT of the provider's intent to submit a proposal will be accepted by fax at (817) 370-6759, or by hand delivery to TxDOT, Fort Worth District, Attention: Randy Burkett, 2501 SW Freeway, Fort Worth, Texas, or by mail addressed to P. O. Box 6868, Fort Worth, Texas 76115. Letters of interest will be received until 5:00 p.m. on May 22, 1998.

Letter of Interest Requirements: The letter of interest is limited in length to six 8 1/2 X 11 pages, 12 pitch font size, single sided with attachments or appendices, and must include the contract number 02-745P5009, an organizational chart containing the names, addresses, telephone and fax numbers of the prime provider and any subproviders proposed for the team and their contract responsibilities by work category; certification that the proposed team individuals are currently employed by either the prime provider or a subprovider; the prime provider's project manager and key personnel proposed for the contract; team capabilities; special project related experience; evidence of compliance with the assigned HUB goal through the prime provider or subprovider identified on the team, or a written commitment to make a good faith effort to meet the assigned goal; project related experience performed since pre-certification; and other pertinent information addressed in the notice, including references for related projects.

Agency Contact: Requests for additional information regarding this notice of invitation should be addressed to Randy Burkett at (817) 370-6804 or fax (817) 370-6759.

TRD-9805999

Bob Jackson

Acting General Counsel

Texas Department of Transportation

Filed: April 29, 1998



#### Notice of Invitation—Contract Number 02-745P5011

The Fort Worth District of the Texas Department of Transportation (TxDOT) intends to enter a contract with a professional engineer, pursuant to Texas Government Code, Chapter 2254, Subchapter A, and 43 TAC §§9.30-9.43, to provide the following services. To be considered, a prime provider and any subproviders proposed on the team must be precertified by the deadline date for receiving the letter of interest for each of the advertised work category(s), unless the work category is a non-listed work category. To qualify for the contract award, a selected prime engineer must perform a minimum of 30% of the actual contract work. Please be advised, a prime provider or subprovider currently employing former TxDOT employees needs to be aware of the revolving door laws, including Government Code, Chapter 572 and Article IX, Section 52, of the General Appropriations Bill. To be considered, the proposed team must demonstrate that they have a professional engineer registered in Texas that will sign and seal the work to be performed on the contract.

Contract Number 02-745P5011 - The precertified work categories and the percent of work per category are: 3.5.1 Major Bridge Layout (10%); 4.1.1 Minor Roadway Design (10%); 8.1.1 Signing, Pavement Marking and Channelization (10%); 10.1.1 Hydrologic Studies (10%); 10.2.1 Basic Hydraulic Design (10%); 10.5.1 Bridge Scour Evaluations and Analysis (2%); 15.1.4 Right of Way Surveys (20%); 15.2.1 Design Survey (28%). The work to be performed shall consist of the preparation of the plan, specifications and estimate

(PS&E) document, ROW map preparation, bridge and retaining wall layouts, and signalization for US 67 at the Brazos River in Somervell County.

Historically Underutilized Business (HUB) Goal: The assigned HUB goal for participation in the work to be performed under this contract is 20% of the contract amount.

Long List Criteria: TxDOT will consider the following criteria in its review of all interested providers.

1. Past Performance Scores: Minimum Requirements - Must have two good written references from entities. One reference for a similar type project either presently under contract or complete. One separate reference for a similar type project with the same major functions that has been completed in the past five years. Preferred Requirements - Must have three good written references from entities. One reference for a similar type project either presently under contract or completed. Two references for two similar type projects that have been completed in the past five years.

2. Project Requirements (Team Capability/Experience):

Major Bridge Layout (3.5.1): Minimum Requirements as established by the minimum precertification standards. Preferred Requirements - In addition to the minimum requirements, the nominated engineer must satisfactorily explain or demonstrate his/her knowledge in regard to preparing bridge layouts.

Minor Roadway Design (4.1.1): Minimum Requirements as established by the minimum precertification standards. Preferred Requirements - In addition to the minimum requirements, the nominated engineer must satisfactorily explain or demonstrate his/her understanding of developing an urban type roadway using the design guidance developed in AASHTO's "A Policy on Geometric Design of Highways and Streets" specifically concerning the design of urban roadways.

Signing, Pavement Markings, & Channelization (8.1.1): Minimum Requirements as established by the minimum precertification standards. Preferred Requirements - In addition to the minimum requirements, the nominated engineer must explain and adequately demonstrate his/her experience in applying design guidance developed in the National Manual on Uniform Traffic Control Devices for two major roadway designs within the past five years.

Hydrologic Studies (10.1.1): Minimum Requirements as established by the minimum precertification standards. Preferred Requirements - In addition to the minimum requirements, the nominated engineer must explain and adequately demonstrate his/her knowledge or experience in the analysis of complex watersheds.

Basic Hydraulic Design (10.2.1): Minimum Requirements as established by the minimum precertification standards. Preferred Requirements - In addition to the minimum requirements, the nominated engineer must explain and adequately demonstrate his/her experience sizing culverts and determining bridge design through hydraulic data analysis.

Bridge Scour Evaluations and Analysis (10.5.1): Minimum Requirements as established by the minimum precertification standards. Preferred Requirements - In addition to the minimum requirements of this work task, the nominated engineer must explain and adequately demonstrate his/her experience in performing secondary and concise analysis.

Right of Way Map Survey (15.1.4): Minimum Requirements as established by the minimum precertification standards. Preferred Requirements - In addition to the Special Project Related Experience minimum requirements of this work task, the nominated surveyor

must explain and adequately demonstrate his/her experience developing right-of-way maps that are functional in an interactive GEOPAK and Microstation automation environment.

Design Survey (15.2.1): Minimum Requirements - The nominated registered surveyor must explain and adequately demonstrate his/her experience in determining and managing cost effective survey requirements. Preferred Requirements - In addition to the minimum requirements of this work task, the nominated registered surveyor must explain and adequately demonstrate his/her experience developing Digital Terrain Models that are functional in an interactive GEOPAK and Microstation automation environment.

3. Special Project (Similar) Related Experience of Project Manager and Team Members:

Major Bridge Layout (3.5.1): Minimum Requirements - One Registered Professional Engineer with three years experience in the design of roadways and one year experience in capacity and level of service analysis. Preferred Requirements - Six years of experience on three separate projects.

Minor Roadway Design (4.1.1): Minimum Requirements - One Registered Professional Engineer with three years related roadway design experience on two separate projects. Preferred Requirements - Six years of experience on three separate projects.

Signing, Pavement Markings, & Channelization (8.1.1): Minimum Requirements - One Registered Professional Engineer with two years experience. Preferred Requirements - Four years of experience.

Hydrologic Studies (10.1.1): Minimum Requirements - One Registered Professional Engineer with two years of experience in analysis of complex watersheds. Preferred Requirements - Four years of experience preferred with three years of experience in analysis of complex watersheds.

Basic Hydraulic Design (10.2.1): Minimum Requirements - One Registered Professional Engineer with two years of related experience, with two years in hydrologic analysis, hydraulic design, and storm water quality evaluation. Preferred Requirements - Four years of experience with three years in hydrologic analysis, hydraulic design and storm water quality evaluation.

Bridge Scour Evaluations and Analysis (10.5.1): Minimum Requirements - One Registered Professional Engineer with four years experience, two years of which consist of experience in river geomorphology, sediment transport, scour analysis, and flood plain analysis. Preferred Requirements - Six years experience, three years of which consist of experience in river geomorphology, sediment transport, scour analysis, and flood plain analysis.

Right of Way Map Survey (15.1.4): Minimum Requirements - One Registered Professional Land Surveyor and two technical personnel with experience developing right-of-way maps. Preferred Requirements - Demonstrated ability to develop right-of-way maps on two similar projects.

Design Survey (15.2.1): Minimum Requirements - One Registered Professional Land Surveyor with one year of related experience along with sufficient staff to perform this type of work, as well as the proper equipment. Preferred Requirements - Two years of experience.

4. Evidence of compliance with assigned HUB Goal: A provider receives three points for meeting the assigned goal or zero points for not meeting the assigned goal.

Deadline: A letter of interest notifying TxDOT of the provider's intent to submit a proposal will be accepted by fax at (817) 370-6759, or by hand delivery to TxDOT, Fort Worth District, Attention:

Randy Burkett, 2501 SW Freeway, Fort Worth, Texas, or by mail addressed to TxDOT, Fort Worth District, Attention: Randy Burkett, P. O. Box 6868, Fort Worth, Texas 76115. Letters of interest will be received until 5:00 p.m. on May 22, 1998.

Letter of Interest Requirements: The letter of interest is limited in length to six 8 1/2 x 11 inch pages, 12 pitch font size, single sided with attachments or appendices, and must include the contract number 02-745P5011, an organizational chart containing the names, addresses, telephone and fax numbers of the prime provider and any subproviders proposed for the team and their contract responsibilities by work category; certification that the proposed team individuals are currently employed by either the prime provider or a subprovider; the prime provider's project manager and key personnel proposed for the contract; team capabilities; special project related experience; evidence of compliance with the assigned HUB goal through the prime provider or subprovider identified on the team, or a written commitment to make a good faith effort to meet the assigned goal; project related experience performed since pre-certification; and other pertinent information addressed in the notice, including references for related projects.

Agency Contact: Requests for additional information regarding this notice of invitation should be addressed to Randy Burkett at (817) 370-6804 or fax (817) 370-6759.

TRD-9806001

Bob Jackson

Acting General Counsel

Texas Department of Transportation

Filed: April 29, 1998



#### Notice of Invitation—Contract Number 02-845P5003

The Fort Worth District of the Texas Department of Transportation (TxDOT) intends to enter a contract with a professional engineer, pursuant to Texas Government Code, Chapter 2254, Subchapter A, and 43 TAC §§9.30-9.43, to provide the following services. To be considered, a prime provider and any subproviders proposed on the team must be precertified by the deadline date for receiving the letter of interest for each of the advertised work category(s), unless the work category is a non-listed work category. To qualify for contract award, a selected prime engineer must perform a minimum of 30% of the actual contract work. Please be advised, a prime provider or subprovider currently employing former TxDOT employees needs to be aware of the revolving door laws, including Government Code, Chapter 572 and Article IX, Section 52, of the General Appropriations Bill. To be considered, the proposed team must demonstrate that they have a professional engineer registered in Texas that will sign and seal the work to be performed on the contract.

Contract Number 02-845P5003 - The precertified work categories and the percent of work per category are: 4.3.1 Complex Highway Design (40%); 5.2.1 Major Bridge Design (5%); 8.1.1 Signing, Pavement Marking and Channelization (5%); 8.3.1 Signalization (4%); 10.3.1 Complex Hydraulic Design (16%); 15.2.1 Design Survey (20%); 15.3.1 Aerial Mapping (10%). The work to be performed shall consist of the preparation of the plan, specifications and estimate (PS&E) document, bridge and retaining wall layouts, bridge and retaining wall details, and signalization for US 67 (Northwest Bypass), from 0.5 km East of Nolan River to SH 174.

Historically Underutilized Business (HUB) Goal: The assigned HUB goal for participation in the work to be performed under this contract is 20% of the contract amount.

Long List Criteria: TxDOT will consider the following criteria in its review of all interested providers.

1. Past Performance Scores: Minimum Requirements - Must have two good written references from entities. One reference for a similar type project either presently under contract or completed. One separate reference for a similar type project that has been completed in the past five years. Preferred requirements - Must have three good written references from entities. One reference for a similar type project either presently under contract or completed. Two references for two similar type projects that have been completed in the past five years.

2. Project Requirements (Team Capability/Experience):

Complex Highway Design (4.3.1): Minimum Requirements as established by the minimum precertification standards. Preferred Requirements - In addition to the minimum requirements, the nominated engineer must satisfactorily explain or demonstrate his/her understanding of developing rural type roadways using the design guidance developed in AASHTO's "A Policy on Geometric Design of Highways and Streets" specifically concerning the design of rural roadways.

Major Bridge Design (5.2.1): Minimum Requirements as established by the minimum precertification standards. Preferred Requirements - In addition to the minimum requirements, the nominated engineer must explain and adequately demonstrate his/her experience in regard to preparing bridge layouts and bridge details.

Signing, Pavement Markings, and Channelization (8.1.1): Minimum Requirements as established by the minimum precertification standards. Preferred Requirements - In addition to the minimum requirements, the nominated engineer must explain and adequately demonstrate his/her experience in applying design guidance developed in the "National Manual on Uniform Traffic Control Devices" for two major roadway designs within the past five years.

Signalization (8.3.1): Minimum Requirements as established by the minimum precertification standards. Preferred Requirements - In addition to the minimum requirements, the nominated engineer must explain and adequately demonstrate his/her knowledge or experience applying design guidance with regard to traffic signalization.

Complex Hydraulic Design (10.3.1): Minimum Requirements as established by the minimum precertification standards. Preferred Requirements - In addition to the minimum requirements the nominated engineer must explain and adequately demonstrate his/her experience sizing culverts and determining bridge design through hydraulic data analysis.

Design Survey (15.2.1): Minimum Requirements - The nominated surveyor must explain and adequately demonstrate his/her experience in determining and managing cost effective survey requirements. Preferred Requirements - In addition to the minimum requirements of this work task, the nominated surveyor must explain and adequately demonstrate his/her experience developing Digital Terrain Models that are functional in an interactive GEOPAK and Microstation automation environment.

Aerial Mapping (15.3.1): Minimum Requirements as established by the minimum precertification standards. Preferred Requirements - In addition to the minimum requirements, the nominated surveyor must explain and adequately demonstrate his/her experience developing aerial mapping for the production of P.S.&E.

3. Special Project (Similar) Related Experience of Project Manager and Team Members:

Complex Highway Design (4.3.1): Minimum Requirements - One Registered Professional Engineer with four years related roadway design experience on two separate projects. Preferred Requirements - Five years of experience on three separate projects.

Major Bridge Design (5.2.1): Minimum Requirements - One Registered Professional Engineer with five years structural bridge design experience on two projects. Preferred Requirements - Six years of experience on three separate projects.

Signing, Pavement Markings, & Channelization (8.1.1): Minimum Requirements - One Registered Professional Engineer with two years experience. Preferred Requirements - Four years of experience.

Signalization (8.3.1): Minimum Requirements - One Registered Professional Engineer with two years of experience in the design and production of traffic signalization. Preferred Requirements - One Registered Professional Engineer with four years of experience preferred.

Complex Hydraulic Design (10.3.1): Minimum Requirements - One Registered Professional Engineer with two years of related experience, with two years in hydrologic analysis, hydraulic design, and storm water quality evaluation. Preferred Requirements - Four years of experience with three years in hydrologic analysis, hydraulic design and storm water quality evaluation.

Design Survey (15.2.1): Minimum Requirements - One Registered Professional Land Surveyor with one year of related experience along with sufficient staff to perform this type of work, as well as the proper equipment. Preferred Requirements - Two years of experience.

Aerial Mapping (15.3.1): Minimum Requirements - Technical personnel with five years of experience in aerial mapping. Preferred Requirements - Seven years of experience.

4. Evidence of compliance with assigned HUB Goal: A provider receives three points for meeting the assigned goal or zero points for not meeting the assigned goal.

Deadline: A letter of interest notifying TxDOT of the provider's intent to submit a proposal will be accepted by fax at (817) 370-6759, or by hand delivery to TxDOT, Fort Worth District, Attention: Randy Burkett, 2501 SW Freeway, Fort Worth, Texas, or by mail addressed to TxDOT, Fort Worth District, Attention: Randy Burkett, P. O. Box 6868, Fort Worth, Texas 76115. Letters of interest will be received until 5:00 p.m. on May 22, 1998.

Letter of Interest Requirements: The letter of interest is limited in length to six 8 1/2 x 11 pages, 12 pitch font size, single sided with attachments or appendices, and must include the contract number 02-845P5003, an organizational chart containing the names, addresses, telephone and fax numbers of the prime provider and any subproviders proposed for the team and their contract responsibilities by work category; certification that the proposed team individuals are currently employed by either the prime provider or a subprovider; the prime provider's project manager and key personnel proposed for the contract; team capabilities; special project related experience; evidence of compliance with the assigned HUB goal through the prime provider or subprovider identified on the team, or a written commitment to make a good faith effort to meet the assigned goal; project related experience performed since pre-certification; and other pertinent information addressed in the notice, including references for related projects.

Agency Contact: Requests for additional information regarding this notice of invitation should be addressed to Randy Burkett at (817) 370-6804 or fax (817) 370-6759.

TRD-9806000

Bob Jackson  
Acting General Counsel  
Texas Department of Transportation  
Filed: April 29, 1998



### Public Notice- Dallas and Fort Worth Districts

In accordance with Title 43, Texas Administrative Code, §31.31, subsection (c) the Dallas and Fort Worth Districts of the Texas Department of Transportation are giving public notice of the availability of federal monies to nonprofit organizations involved in the transportation of the elderly or disabled. This District-specific program call is restricted to organizations providing service within the following counties: Dallas District: - Collin, Dallas, Denton, Ellis, Kaufman, Navarro, and Rockwall; Fort Worth District: - Erath, Hood, Jack, Johnson, Palo Pinto, Parker, Somervell, Tarrant, and Wise.

These monies provide a maximum of 80% of the purchase price of equipment to be used in a transportation program of a not-for-profit agency servicing the needs of the elderly or disabled persons. Eligible equipment includes vehicles such as ADA accessible buses and vans.

Applications for the Elderly and Disabled program may be obtained from the appropriate District Office of the Texas Department of Transportation as follows:

Dallas District Office at 9700 East R. L. Thornton Freeway, Dallas, Texas 75228 or by writing to Jay R. Nelson, P.E., District Engineer, PO Box 3067, Dallas, Texas 75221. Specific questions regarding the application may be directed to Christopher Anderson at (214) 320-6153. Applications will be available on or after May 28, 1998.

Fort Worth District Office at 2501 Southwest Loop 820, Fort Worth, Texas 76115 or by writing to Rondell G. Fagan, P.E., Acting District Engineer, PO Box 6868, Fort Worth, Texas 76115. Specific questions regarding the application may be directed to Mary Hobson at (817) 370-6534. Applications will be available on or after June 3, 1998.

Completed applications for the above districts must be received in the appropriate District Office by 5:00 p.m., July 10, 1998.

TRD-9805995  
Bob Jackson  
Acting General Counsel  
Texas Department of Transportation  
Filed: April 29, 1998



### Texas Workforce Commission

#### Request for Proposals – Microenterprise Development Pilot Program

The Texas Workforce Commission (TWC), as authorized by federal and state laws, plans to establish a microenterprise development pilot program to assist recipients of public assistance to start a business and become self-employed. This request for proposals (RFP) is to select a service provider that will offer TWC Choices participants self-employment assistance services in Bexar, Harris, Hidalgo, Willacy and Cameron Counties. TWC Choices services provide work-related activities and support to assist eligible participants to prepare for and retain employment and avoid becoming or remaining dependent on public assistance.

AUTHORIZATION OF FUNDING:

The funds for the Microenterprise Development Pilot Program are federal funds from the U.S. Department of Health and Human Services, Temporary Assistance for Needy Families (TANF). Funds are subject to the requirements of the Title VI Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA), 7 U.S.C. Sec. 201.1, et seq and state laws and regulations, including the state appropriations act.

The total cost to TWC for contracted services through this RFP will not exceed \$1,200,000.00 for the program period beginning July 1, 1998 and ending June 30, 2000.

#### SERVICE DESCRIPTION - GOALS AND OBJECTIVES:

The goals of the microenterprise development program are to increase earnings and opportunities of welfare recipients, reduce welfare caseloads and costs, and meet federal and state participation requirements.

The specific objectives of the microenterprise development program are:

(1) To invest in the long-term success of welfare recipients in their transition from welfare to self-sufficiency by providing services leading to the start-up and maintenance of a viable enterprise including: vocational training in business development and management, on-going business counseling, access to credit and technical assistance.

(2) To develop, implement and evaluate a model for providing self-employment assistance services to Choices participants that may be replicated by local workforce development boards throughout the state.

#### PROJECT DESIGN FEATURES:

The project design features include the following:

The program will require an innovative approach to microenterprise development that reconciles the time and support needs for growing a new business with the Choices participant's, or client's, need to move toward self-sufficiency as quickly as possible due to state and federally imposed time limits. Such an approach will necessarily be short-term and might include targeting two parent families, part-time workers or business partnerships of more than one client.

Because Texas has transferred decision making about providing welfare-to-work services to the local level, the pilot program must follow a flexible program design that can meet the service delivery priorities of different local workforce development boards and provide opportunities for integration with future state and local initiatives.

#### SCHEDULE OF MAJOR EVENTS:

Schedule of Major Events:

Release RFP 5/08/98

Mandatory Bidders Conference 5/15/98

Last date to submit written questions 5/20/98

Responses to written questions released 5/22/98

Proposal submission deadline 6/05/98

Proposal review, evaluation and validation complete 6/12/98

Tentative award decision announced 6/17/98

Contract negotiation begins 6/18/98

Contract signed 6/26/98

Contract effective date 7/01/98

Requests for debriefings submission deadline 7/01/98

Contract end date 6/30/00

#### LENGTH OF CONTRACT:

The pilot program will begin on July 1, 1998 and end on June 30, 2000. TWC may renew this contract at the beginning of each fiscal year during the pilot program period pending the availability of funds. TWC reserves the right to renew or extend the contract resulting from this award for up to 4 years without initiating procurement procedures.

#### SELECTION CRITERIA:

The selection criteria and their weights are:

20% - Contractor experience in program development and delivery of self-employment assistance services for low-income clients and recipients of public assistance.

10% - Contractor ability to leverage existing resources to offer services in the four target counties covered by this RFP. Contractor ability to leverage non-state and non-federal financial support for extending service coverage and enhancing service quality.

20% - Strength of contractor's program design for reconciling self-employment assistance services with a work first philosophy and short time limits.

20% - Strength of contractor's program design for providing access to credit and maximizing the effect of state funds used to provide that access.

10% - Strength of contractor's plan for providing training to TWC and local board staff in client screening and referral.

10% - Cost-effectiveness expressed in cost per participant in allowable work activities.

10% - Strength of proposed evaluation plan.

#### SELECTION, NOTIFICATION, AND NEGOTIATION PROCESS:

Proposals will be evaluated by a panel of Texas Workforce Commission and outside readers. Detailed evaluation criteria will be included in the RFP packet. The Texas Workforce Commission anticipates completing the selection and notifying applicants of their proposal status the week of June 17, 1998. The tentative selection will be based upon proposal scores. Negotiation, including financial terms, will take place immediately after tentative selection. A designated person from the selected entity must be readily available to respond to inquiries, prepare proposed amendments, and negotiate with TWC concerning budget and/or programmatic requested revisions between June 18-26, 1998. If a designated person is not readily available to promptly respond to requests for revisions, the applicant will not be considered for contract.

Final selection is contingent upon successful negotiation. TWC reserves the right to vary all provisions of this RFP prior to the execution of a contract and to execute amendments to contracts when TWC deems such variances and/or amendments are in the best interest of the State of Texas.

#### DUE DATE AND AGENCY CONTACT:

The deadline for receipt and consideration of the Microenterprise Development Pilot Program proposal is 5:00 P.M., Friday, June 05, 1998. For further information and to get an RFP Packet, contact Jeff Kaufman, Contract Specialist, Texas Workforce Commission, Welfare Reform Division, 101 E. 15th Street, Room 452T, Austin, TX 78778-0001. Phone: 512/936-3560, FAX: 512/463-9994.



A notice of the award decision will be published in the Texas Register following contract execution.

**TWC's OBLIGATIONS:**

TWC's obligations under this RFP are contingent upon the actual receipt by the Agency of funds from the U.S. Department of Health and Human Services. If adequate funds are not available to make payment under this grant, TWC shall terminate this RFP or the resulting contract and will not be liable for failure to make payments.

TRD-9805970  
J. Randel (Jerry) Hill  
General Counsel  
Texas Workforce Commission  
Filed: April 29, 1998



# *Texas Register*

## Services

The *Texas Register* offers the following services. Please check the appropriate box (or boxes).

### **Texas Natural Resource Conservation Commission, Title 30**

- Chapter 285** \$25     update service \$25/year (*On-Site Wastewater Treatment*)  
 **Chapter 290** \$25     update service \$25/year (*Water Hygiene*)  
 **Chapter 330** \$50     update service \$25/year (*Municipal Solid Waste*)  
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