

TEXAS REGISTER

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Bullard High School

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OFFICE OF THE ATTORNEY GENERAL

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 records 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, please fax your request to (512) 462-0548 or call (512) 936-1730. To inquire about pending requests for opinions, phone (512) 936-1730.

Letter Opinions

LO-#98-039. The Honorable Rodney Ellis Chair, Senate Jurisprudence Committee, Texas State Senate, P.O. Box 12068, Austin, Texas, 78711-2068, regarding whether a legislator may employ local public officials (RQ-1078).

SUMMARY. A legislator is not prohibited from employing local elected officials. Legislative employees who are members of the governing boards of most local governmental districts may not receive a salary for their local service, except that county commissioners are not barred from doing so.

LO-#98-040. The Honorable David Sibley Chair, Committee on Economic Development, Texas State Senate, P.O. Box 12068, Austin, Texas 78711-2068, regarding whether a nonprofit water supply corporation that is not exempt from ad valorem taxation is subject to the Open Meetings Act (RQ-1071).

SUMMARY. If the North Bosque Water Supply Corporation is not the kind of "nonprofit water supply corporation" embraced by section 551.001(3)(I) of the Open Meetings Act, nor is included within the ambit of sections 15.006, 16.002, or 17.002 of the Water Code, it is not subject to the Open Meetings Act.

LO-#98-041. The Honorable Ren, O. Oliveira Chair, Committee on Economic Development, Texas House of Representatives, P.O. Box

2910, Austin, Texas 78768-2910, regarding authority of a home-rule city to increase the statutory penalty for failure to restrict access to aerosol paint (RQ-1074).

SUMMARY. The City of Brownsville may not adopt an ordinance modeled after section 485.019 of the Health and Safety Code, which proscribes the failure of a business establishment to restrict access to aerosol paint, if the ordinance sets a maximum penalty for violation of the ordinance at a fine of more than one hundred dollars.

LO-#98-042. Ms. Eliza May, Executive Director, Texas Funeral Service Commission, 510 South Congress Avenue, Suite 206, Austin, Texas 78704-1716, regarding whether the Texas Funeral Service Commission may by rule allow an embalmer or a funeral director to provide personal supervision to a provisional licensee by being present on the premises (RQ-1010).

SUMMARY. The Texas Funeral Service Commission cannot by rule allow a licensed embalmer or funeral director to provide personal supervision to a provisional licensee merely by being present on the premises.

TRD-9808282

TEXAS ETHICS COMMISSION

The Texas Ethics Commission is authorized by the Government Code, §571.091, to issue advisory opinions in regard to the following statutes: the Government Code, Chapter 302; the Government Code, Chapter 305; the Government Code, Chapter 572; the Election Code, Title 15; the Penal Code, Chapter 36; and the Penal Code, Chapter 39.

Requests for copies of the full text of opinions or questions on particular submissions should be addressed to the Office of the Texas Ethics Commission, P.O. Box 12070, Austin, Texas 78711-2070, (512) 463-5800.

Opinions

EAO-397. Whether the revolving door provision in Government Code section 572.054(b) applies to a former employee of a regulatory agency who, as an agency employee, participated in choosing a contractor to perform a feasibility study on a project. The former employee's current employer has contracted to perform an environmental study in connection with the same project. (AOR-435).

SUMMARY. Separate contracts are separate "matters" for purposes of the revolving door provision in Government Code section 572.054(b). The conclusion that a specific work activity constitutes "participation in" one matter, however, does not necessarily preclude

the conclusion that the same work also constitutes "participation in" another matter. Questions on particular submissions should be addressed to the Texas Ethics Commission, P.O. Box 12070, Capitol Station, Austin, Texas 78711-2070, (512) 463-5800.

TRD-9808540
Tom Harrison
Executive Director
Texas Ethics Commission
Filed: May 26, 1998



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.

TITLE 4. AGRICULTURE

Part I. Texas Department of Agriculture

Chapter 3. Boll Weevil Eradication Program

Subchapter E. Creation of Eradication Zones

4 TAC §3.114

The Texas Department of Agriculture (the department) proposes new §3.114, concerning the creation of a nonstatutory boll weevil eradication zone. The new section is proposed to establish a new nonstatutory boll weevil eradication zone consisting of counties not currently located in a statutory zone created under Chapter 74, Subchapter D, §74.1021. New §3.114 proposes, upon the request of the Blacklands Area Boll Weevil Advisory Committee, the designation of the Southern Blacklands Boll Weevil Eradication Zone, in accordance with the Texas Agriculture Code, §74.1042. This proposed new section replaces the proposal published in the *Texas Register* on April 10, 1998 (23 TexReg 3642). That previous proposal for establishing a Southeastern Blacklands Boll Weevil Eradication Zone as new §3.114 has been withdrawn because based upon comment received on that proposal during the comment period from various individual and organizations including the Commissioner's Blacklands Area Interim Advisory Committee, the South Texas Cotton and Grain Association and the Texas Boll Weevil Eradication Foundation, the department has determined that the boundaries originally proposed should be modified to include a larger geographic area and the name of the zone changed to more accurately reflect the area proposed to be covered.

Katie Dickie Stavinoha, special assistant for producer relations, 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.

Ms. Stavinoha 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 sections will be the ability to address cotton growers' desires to have efficient, responsive eradication zones to facilitate boll weevil eradication in Texas. There will be no effect on small businesses. The anticipated

economic cost to persons who will be required to comply with the new sections, as proposed, is not determinable at this time. If the proposed zone is designated as an eradication program and an assessment is approved by the zone's cotton growers, those cotton growers will be assessed annually to cover costs of an eradication program in that zone. The costs to individual growers will depend on voter approval of an eradication program and assessment, and the amount of the assessment established for the zone once a program is approved.

Comments on the proposal may be submitted to Katie Dickie Stavinoha, Special Assistant for Producer Relations, P. O. Box 12847, Austin, Texas 78711, and must be received no later than 30 days from the date of the publication of this proposal in the *Texas Register*.

The new section is proposed under the Texas Agriculture Code, §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.

The codes affected by the proposal are the Texas Agriculture Code, Chapter 74.

§3.114. Southern Blacklands Boll Weevil Eradication Zone.

The Southern Blacklands Boll Weevil Eradication Zone shall consist of the following area: all of Anderson, Brazos, Burleson, Freestone, Grimes, Harris, Houston, Leon, Liberty, Madison, Robertson, Walker, Camp, Wood, Upshur, Marion, Harrison, Gregg, Smith, Cherokee, Rusk, Panola, Shelby, Nacogdoches, San Augustine, Sabine, Angelina, Trinity, San Jacinto, Polk, Tyler, Jasper, Newton, Hardin, Orange, Jefferson, Chambers, Galveston, Washington, Montgomery, Coryell, Mills, Lampasas, San Saba, Llano, Gillespie, Kendall, Blanco, Burnet, Bell, Williamson, Travis, Hays, Comal, Guadalupe, Gonzales, Fayette, Caldwell, Bastrop, Lee, Milam, and Falls counties; that part of Limestone County south of Highway 84 from the McLennan County line east to the Freestone County line; that part of Waller County north of Highway 159 from the Austin County line north and east to Hempstead, then east on Highway 6/290 to the Harris County line; and that part of McLennan County south of Highway 84.

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 May 22, 1998.

TRD-9808467

Dolores Alvarado Hibbs

Deputy General Counsel

Texas Department of Agriculture

Earliest possible date of adoption: July 5, 1998

For further information, please call: (512) 463-7541



Part III. Office of the Texas State Chemist/ Texas Feed and Fertilizer Control Service

Chapter 65. Commercial Fertilizer Rules

Subchapter B. Permitting and Registration

4 TAC §65.11

The Office of the Texas State Chemist, Texas Feed and Fertilizer Control Service, proposes to amend §65.11, concerning Application for Registration to take effect September 1, 1998. The amendment is being proposed to ensure compliance with §76.041(f) of the Texas Pesticide Law.

Dr. George W. Latimer, Jr. has determined that for the first five-year period the section is in effect, there will be no financial implications for the Office, state or local government as a result of enforcing or administering the section.

Dr. Latimer has also determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the rule will be to ensure non-registered pesticides are not incorporated into fertilizer. 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.

Comments on the proposed changes may be submitted to Dr. George W. Latimer, Jr., by mail at Office of the Texas State Chemist, P.O. Box 3160, College Station, TX 77841-3160 or FAX (409) 845-1389.

The amendment is proposed under the Texas Agriculture Code, Chapter 63, §63.004, which provides the Texas Feed and Fertilizer Control Service with the authority to adopt rules relating to the distribution of commercial fertilizers.

The Texas Agricultural Code, Texas Commercial Fertilizer Control Act, 4 TAC Chapter 63, Subchapter C, §63.034, is affected by the proposed amendment.

§65.11. Application for Registration.

(a) - (e) (No change.)

(f) All applications for registration of pesticide/fertilizer mixtures must be accompanied by appropriate certification from the Texas Department of Agriculture that the pesticide is approved for use.

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 May 22, 1998.

TRD-9808404

Dr. George W. Latimer, Jr.

Assistant to the Associate Vice Chancellor of Agriculture

Office of the Texas State Chemist/Texas Feed and Fertilizer Control Service

Proposed date of adoption: September 1, 1998

For further information, please call: (409) 845-1121



4 TAC §65.13

The Office of the Texas State Chemist, Texas Feed and Fertilizer Control Service, proposes §65.13, concerning Waste Products Distributed as Fertilizers. This new section is proposed to allow for the safe and appropriate use of sewage, sludge and septage either as fertilizers or as components in fertilizers.

Dr. George W. Latimer, Jr. has determined that for the first five-year period the section is in effect, there will be no financial implications for the Office, state or local government as a result of enforcing or administering the section.

Dr. Latimer has also determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the new rule will be that sewage, sludge and septage used as fertilizers meet the same standards as other commercial fertilizers and can be safely used. 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 other than providing information. This information must be developed and provided to other state agencies if the material is applied to the soil in other ways.

Comments on the proposed changes may be submitted to Dr. George W. Latimer, Jr., by mail at Office of the Texas State Chemist, P.O. Box 3160, College Station, TX 77841-3160 or FAX (409) 845-1389.

The new rule is proposed under the Texas Agriculture Code, Chapter 63, §63.004, which provides the Texas Feed and Fertilizer Control Service with the authority to adopt rules relating to the distribution of commercial fertilizers.

The Texas Agricultural Code, Texas Commercial Fertilizer Control Act, 4 TAC Chapter 63, Subchapter H, §63.142 and §63.143 are affected by the proposed new rule.

§65.13. Waste Products Distributed as Fertilizers.

(a) No person shall sell, offer or expose for sale, or distribute in this state, any industrial or municipal product originally designated as a waste by any governmental agency – federal, state or local – intended for, promoted or represented, advertised as or distributed as a fertilizer as defined in the Texas Agriculture Code, Chapter 63, §63.002 prior to registering the same as specified in §63.031.

(b) In addition to other requirements of the Law and the Rules, applications for registration of sewage, sludge and septage or mixed fertilizer containing same shall be accompanied by the following:

(1) A detailed description of the facilities, equipment and method of manufacture to be used in processing, manufacturing and testing of the product.

(2) A sampling schedule, a full description of all tests made prior to application for registration and the results of such tests which shall include, but not necessarily be limited to, the following as appropriate:

(A) Herbicides or pesticides;

(B) Arsenic, cadmium, lead, mercury and selenium;

(C) Parasitic larva or ova or pathogenic organisms.

(3) A schedule for periodic testing which initially shall be conducted on each production run no less than once (1) each calendar quarter.

(A) Less frequent testing may be allowed where data show continued uniformity and a consistent margin of compliance.

(B) More frequent testing shall be required where the data show the process is not under control.

(C) Sequential testing shall again be required when periodic analysis or any other information available to the manufacturer indicates that:

(i) changes are made in the manufacturing process;

or

(ii) new or expanded sources of the raw ingredients are used.

(4) A statement that any product consisting in whole or in part of sewage, septage or sludge meets the CFR Part 503 and specifically it meets the requirements of 503.15(b)(5), 503.32(a) and one of the vector attraction reduction requirements in 503.33(b)(1) – 503.33(b)(8).

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 May 22, 1998.

TRD-9808405

Dr. George W. Latimer, Jr.

Assistant to the Associate Vice Chancellor of Agriculture

Office of the Texas State Chemist/Texas Feed and Fertilizer Control Service

Proposed date of adoption: September 1, 1998

For further information, please call: (409) 845-1121



Subchapter C. Labeling

4 TAC §65.17

The Office of the Texas State Chemist, Texas Feed and Fertilizer Control Service, proposes §65.17, concerning Labeling - General Requirements. The new section is being proposed to require all fertilizer distributed in Texas to provide information about components of the fertilizer and instructions about appropriate use of the fertilizer.

Dr. George W. Latimer, Jr. has determined that for the first five-year period the section is in effect, there will be no financial implications for the Office, state or local government as a result of enforcing or administering the section.

Dr. Latimer has also determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be that the users can exercise their judgements about which fertilizers they believe will be most appropriately applied to their crops and have access to information which will permit them to apply the fertilizers at rates protective of the environment. There are economic cost to persons required to comply with the new section. These costs are (1) the printing of new bags to conform to the new rule, (2) the retention of required documentation relating to the lot of fertilizer should they choose not to provide the information

on the label, (3) the cost of responding to public inquiries if they choose not to provide the information on the label. The economic impact of replacing bags will be lessened because the distributors will be permitted to use bags printed before September 1, 1998 until September 1, 1999.

Comments on the proposed changes may be submitted to Dr. George W. Latimer, Jr., by mail at Office of the Texas State Chemist, P.O. Box 3160, College Station, TX 77841-3160 or FAX (409) 845-1389.

The new section is proposed under the Texas Agriculture Code, Chapter 63, §63.004, which provides the Texas Feed and Fertilizer Control Service with the authority to adopt rules relating to the distribution of commercial fertilizers.

The Texas Agricultural Code, Texas Commercial Fertilizer Control Act, 4 TAC Chapter 63, Subchapter D, §63.054 and Subchapter H, §63.143 are affected by the proposed new section.

§65.17. General Requirements.

(a) Primary Plant Nutrients

(1) Nitrogen, phosphorus and potassium shall be guaranteed on the label of a commercial fertilizer in either of the following forms:

(A) Abbreviated Label or

Figure: 4 TAC §65.17(a)(1)(A)

(B) Expanded Label

Figure: 4 TAC §65.17(a)(1)(B)

(2) Plant nutrients other than nitrogen, available phosphorus, and potassium, when mentioned in any form or manner on the label of a fertilizer product, shall be guaranteed.

(A) Guarantees other than nitrogen, phosphorus, and potassium shall be expressed on an elemental basis as a percentage by weight.

(B) Any guarantees or claims for plant nutrients shall appear in the order given, shall immediately follow the guarantees for the nitrogen, available phosphorus, and potassium. Absent evidence that an unlisted nutrient fulfills the requirement of subsection (e)(3)-(4) of this section, the only guarantees are as follows:

(i) Inorganic: Calcium (Ca), Magnesium (Mg), Sulfur (S), Boron (B), Chlorine (Cl), Cobalt (Co), Copper (Cu), Iron (Fe), Manganese (Mn), Molybdenum (Mo), Sodium (Na), Selenium (Se), Vanadium (V), Zinc (Zn).

(ii) Organic: Humic acid.

(b) The label shall

(1) list all components of the fertilizer alphabetically; or

(2) bear a statement which says in effect, "Information about the components of this lot of fertilizer may be obtained by writing to (name and address of manufacturer/guarantor) and giving the lot number which is found (statement notes location on package); or

(3) conform to §65.26(2) of this title (relating to Requirements for Fertilizers Suitable for Use in Organic Production Programs).

(c) The component of a fertilizer must be denoted by its usual or common name or by a name

(1) as accepted by the United States Department of Agriculture's National Organic Program; or

(2) as defined by a term promulgated by the Association of American Plant Food Control Officials; or

(3) as approved by the Texas Department of Agriculture's Organic Certification Program; or

(4) as approved by the Service. .

(d) The label shall display

(1) directions for use which include both an amount to be applied per unit area and a frequency of use per year; or

(2) a statement which says in effect, ""For the agronomic application rates suitable for your geographical area or the maximum allowable non-nutrient application rates per acre, consult a trained soil specialist or write to (name and address of manufacturer/guarantor)."

(e) The registrant of a fertilizer shall furnish to the Service upon request:

(1) the proposed label;

(2) the source of the elements guaranteed;

(3) proof that any non-traditional fertilizer components or additives guaranteed or claimed on the label provide:

(A) long-term safety to animals, plants, and the environment; and

(B) availability and efficacy;

(4) a method acceptable to the Service for determining any component at 50% of the level guaranteed on the label; and

(5) the levels of arsenic, cadmium, cobalt, mercury, molybdenum, nickel, lead and selenium in the product.

(f) Registrants who elect to have their labels conform to subsection (b)(2) and/or subsection (d)(2) of this section shall keep the requisite production and formulation records by customer, by invoice, by lot/batch numbers for 18 months from the production date and make such available to the public on written request and to the Service at any time.

(g) Registrants who elect to have their labels conform to subsection (d)(2) of this section shall not distribute any lot of fertilizer when any one of the elements listed in Table 1 exceeds the limiting value shown.

Figure: 4 TAC 65.17(g)

(h) Any guarantee of the degree of fineness of unacidulated phosphatic materials stated on the label of a fertilizer product shall be stated in terms of the percentage of the material that will pass the United States standard sieve series number 200 (200 mesh, dry sieve method), adopted by reference under §65.51 of this title (relating to Sampling and Analytical Procedures).

(i) Any guarantee of the degree of fineness of basic slag stated on the label of a fertilizer product shall be stated in terms of the percentage of the material that will pass the United States standard sieve series number 100 (100 mesh, dry sieve method), adopted by reference under §65.51 of this title.

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 May 22, 1998.

TRD-9808406

Dr. George W. Latimer, Jr.

Assistant to the Associate Vice Chancellor of Agriculture

Office of the Texas State Chemist/Texas Feed and Fertilizer Control Service

Proposed date of adoption: September 1, 1998

For further information, please call: (409) 845-1121



4 TAC §65.21

(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 Office of the Texas State Chemist/Texas Feed and Fertilizer Control Service or in the Texas Register office, Room 245, James Earl Rudder Building, 1019 Brazos Street, Austin.)

The Office of the Texas State Chemist, Texas Feed and Fertilizer Control Service, proposes to repeal §65.21, concerning Primary Plant Nutrients effective September 1, 1998. The repeal is made to incorporate the text into §65.17 - General Requirements - to accommodate new labeling requirements.

Dr. George W. Latimer, Jr. has determined that for the first five-year period the repeal is in effect, there will be no financial implications for the Office, state or local government as a result of enforcing or administering the section.

Dr. Latimer has also determined that for each year of the first five years the repeal is in effect the public benefit anticipated is that the user of fertilizer will have more complete information. There will be no effect on small businesses. There is no anticipated economic cost to persons as a result of repealing this section.

Comments on the proposed changes may be submitted to Dr. George W. Latimer, Jr., by mail at Office of the Texas State Chemist, P.O. Box 3160, College Station, TX 77841-3160 or FAX (409) 845-1389.

The repeal is proposed under the Texas Agriculture Code, Chapter 63, §63.004, which provides the Texas Feed and Fertilizer Control Service with the authority to adopt rules relating to the distribution of commercial fertilizers.

The Texas Agricultural Code, Texas Commercial Fertilizer Control Act, 4 TAC Chapter 63, Subchapter D, §63.054, is affected by the proposed repeal.

§65.21. *Plant Nutrients.*

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 May 22, 1998.

TRD-9808410

Dr. George W. Latimer, Jr.

Assistant to the Associate Vice Chancellor of Agriculture
Office of the Texas State Chemist/Texas Feed and Fertilizer Control Service

Proposed date of adoption: September 1, 1998

For further information, please call: (409) 845-1121



4 TAC §65.24

The Office of the Texas State Chemist, Texas Feed and Fertilizer Control Service, proposes to amend §65.24, concerning Warnings or Cautionary Statements to include an additional warning statement for acceptable levels of trace elements and a list of these elements and to include editorial changes to ensure con-

sistency throughout the section. The amendment is necessary to ensure that the section is consistent with new §65.17.

Dr. George W. Latimer, Jr. has determined that for the first five-year period the section is in effect, there will be no financial implications for the Office, state or local government as a result of enforcing or administering the section.

Dr. Latimer has also determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the rule will be to provide additional information. 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.

Comments on the proposed changes may be submitted to Dr. George W. Latimer, Jr., by mail at Office of the Texas State Chemist, P.O. Box 3160, College Station, TX 77841-3160 or FAX (409) 845-1389.

The amendment is proposed under the Texas Agriculture Code, Chapter 63, §63.004, which provides the Texas Feed and Fertilizer Control Service with the authority to adopt rules relating to the distribution of commercial fertilizers.

The Texas Agricultural Code, Texas Commercial Fertilizer Control Act, 4 TAC Chapter 63, Subchapter D, §63.054, and Subchapter H, §63.143, are affected by the proposed amendment.

§65.24. Warnings or Cautionary Statements Required.

A warning or cautionary statement [~~of the following form~~] is required on any fertilizer product which [~~containing~~]:

(1) contains 0.10% or more boron in water soluble form. The statement shall include:

(A) the word "Warning" or "Caution" conspicuously displayed;

(B) [~~a statement of~~] the crop(s) for which the fertilizer is recommended; and

(C) [~~a statement~~] that the use of the fertilizer on any crop(s) other than those recommended may result in serious injury to the crop(s);

(2) contains 0.001% or more of molybdenum. The statement shall include:

(A) the word "Warning" or "Caution" conspicuously displayed; and

(B) [~~a statement~~] that the application of fertilizers containing molybdenum may result in forage crops containing levels of molybdenum which are toxic to ruminant animals;

(3) when applied according to the directions for use adds to the land levels of trace elements exceeding the limits set forth in Table 2, subparagraph (B) of this paragraph.

(A) The statement, conspicuously displayed, shall read "WARNING: Application according to the directions for use EXCEEDS the allowable limits of certain trace elements which can be applied to one acre of land in a calendar year."

(B) Table 2, Cumulative Element Lading Rate.
Figure: 4 TAC §65.24(3)(B)

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 May 22, 1998.

TRD-9808407

Dr. George W. Latimer, Jr.

Assistant to the Associate Vice Chancellor of Agriculture
Office of the Texas State Chemist/Texas Feed and Fertilizer Control Service

Proposed date of adoption: September 1, 1998

For further information, please call: (409) 845-1121

4 TAC §65.25

(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 Office of the Texas State Chemist/Texas Feed and Fertilizer Control Service or in the Texas Register office, Room 245, James Earl Rudder Building, 1019 Brazos Street, Austin.)

The Office of the Texas State Chemist, Texas Feed and Fertilizer Control Service, proposes to repeal §65.25, concerning Degree of Fineness of Unacidulated Phosphatic Materials and Basic Slag effective September 1, 1998. The repeal is made to incorporate the text into §65.17 - General Requirements - to accommodate new labeling requirements.

Dr. George W. Latimer, Jr. has determined that for the first five-year period the repeal is in effect, there will be no financial implications for the Office, state or local government as a result of enforcing or administering the section.

Dr. Latimer has also determined that for each year of the first five years the repeal is in effect the public benefit anticipated is a clarification of the rules. There will be no effect on small businesses. There is no anticipated economic cost to persons as a result of repealing this section.

Comments on the proposed repeal may be submitted to Dr. George W. Latimer, Jr., by mail at Office of the Texas State Chemist, P.O. Box 3160, College Station, TX 77841-3160 or FAX (409) 845-1389.

The repeal is proposed under the Texas Agriculture Code, Chapter 63, §63.004, which provides the Texas Feed and Fertilizer Control Service with the authority to adopt rules relating to the distribution of commercial fertilizers.

The Texas Agricultural Code, Texas Commercial Fertilizer Control Act, 4 TAC Chapter 63, Subchapter D, §63.054, is affected by the proposed repeal.

§65.25. Degree of Fineness of Unacidulated Phosphatic Materials and Basic Slag.

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 May 22, 1998.

TRD-9808411

Dr. George W. Latimer, Jr.

Assistant to the Associate Vice Chancellor of Agriculture
Office of the Texas State Chemist/Texas Feed and Fertilizer Control Service

Proposed date of adoption: September 1, 1998

For further information, please call: (409) 845-1121

4 TAC §65.26

The Office of the Texas State Chemist, Texas Feed and Fertilizer Control Service, proposes to amend §65.26, concerning Requirements for Fertilizers Suitable for use in Organic Production Programs. The amendment is proposed (1) to clarify the section and to delete that portion of §65.26(2) which has been moved to §65.17(c).

Dr. George W. Latimer, Jr. has determined that for the first five-year period the rule is in effect, there will be no financial implications for the Office, state or local government as a result of enforcing or administering the section.

Dr. Latimer has also determined that for each year of the first five years the rule is in effect the public benefit anticipated as a result of enforcing the rule will be clarification and consistency with other rules. 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.

Comments on the proposed changes may be submitted to Dr. George W. Latimer, Jr., by mail at Office of the Texas State Chemist, P.O. Box 3160, College Station, TX 77841-3160 or FAX (409) 845-1389.

The amendment is proposed under the Texas Agriculture Code, Chapter 63, §63.004, which provides the Texas Feed and Fertilizer Control Service with the authority to adopt rules relating to the distribution of commercial fertilizers.

The Texas Agricultural Code, Texas Commercial Fertilizer Control Act, 4 TAC Chapter 63, Subchapter D, §63.054, is affected by the proposed amendment.

§65.26. *Requirements for Fertilizers Suitable for Use in Organic Production Programs.*

In addition to conforming to all other aspects of the rules, fertilizers claiming or implying suitability for use in an organic food or fiber production program shall:

(1) (No change.)

(2) list each component in order of predominance by weight [~~each ingredient by its usual or common name or by a name accepted by the United States Department of Agriculture's National Organic Program or as defined by a term or definition promulgated by the Association of American Plant Food Control Officials or by the Texas Department of Agriculture's Organic Certification Program~~];

(3) not contain any ingredient, raw material or filler prohibited by the organizations listed in §65.17(c) of this title (relating to General Requirements) [~~paragraph (2) of this section~~] for use in these fertilizers.

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 May 22, 1998.

TRD-9808408

Dr. George W. Latimer, Jr.

Assistant to the Associate Vice Chancellor of Agriculture

Office of the Texas State Chemist/Texas Feed and Fertilizer Control Service

Proposed date of adoption: September 1, 1998

For further information, please call: (409) 845-1121

◆ ◆ ◆
4 TAC §65.28

The Office of the Texas State Chemist, Texas Feed and Fertilizer Control Service, proposes to amend §65.28, concerning Trademarks, Trade Names, Common Names, Emphasis on a Particular Component. The amendment being proposed is only editorial in nature. §65.28(3) has the word "and" and it is being removed from the text.

Dr. George W. Latimer, Jr. has determined that for the first five-year period the section is in effect, there will be no financial implications for the Office, state or local government as a result of enforcing or administering the section.

Dr. Latimer has also that 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.

Comments on the proposed changes may be submitted to Dr. George W. Latimer, Jr., by mail at Office of the Texas State Chemist, P.O. Box 3160, College Station, TX 77841-3160 or FAX (409) 845-1389.

The amendment is proposed under the Texas Agriculture Code, Chapter 63, §63.004, which provides the Texas Feed and Fertilizer Control Service with the authority to adopt rules relating to the distribution of commercial fertilizers.

The Texas Agricultural Code, Texas Commercial Fertilizer Control Act, 4 TAC Chapter 63, Subchapter D, §63.054, is affected by the proposed amendment.

§65.28. *Trademarks, Trade Names, Common Names, Emphasis on a Particular Component.*

The trademark, trade name, or common name of a component and/or emphasis on one or more components or ingredients may form part of the label of a commercial fertilizer provided that:

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

(3) the common name and percentage of the component is given, and the percentage is determinable by accepted laboratory methods; [~~and~~]

(4) (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 May 22, 1998.

TRD-9808409

Dr. George W. Latimer, Jr.

Assistant to the Associate Vice Chancellor of Agriculture

Office of the Texas State Chemist/Texas Feed and Fertilizer Control Service

Proposed date of adoption: September 1, 1998

For further information, please call: (409) 845-1121

◆ ◆ ◆
Appeals and Rehearings

4 TAC §65.85

(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 Office of the Texas State Chemist/Texas Feed and Fertilizer Control Service or in the Texas Register office, Room 245, James Earl Rudder Building, 1019 Brazos Street, Austin.)

The Office of the Texas State Chemist, Texas Feed and Fertilizer Control Service, proposes to repeal §65.85, concerning Notice

of Opportunity for Appeals and Rehearings effective September 1, 1998. The repeal is proposed because this section simply recapitulates §63.128 of the Fertilizer Law.

Dr. George W. Latimer, Jr. has determined that for the first five-year period the repeal is in effect, there will be no financial implications for the Office, state or local government as a result of enforcing or administering the section.

Dr. Latimer has also determined that for each year of the first five years the repeal is in effect the public benefit anticipated is an elimination of redundancies. There will be no effect on small businesses. There is no anticipated economic cost to persons as a result of repealing this section.

Comments on the proposed changes may be submitted to Dr. George W. Latimer, Jr., by mail at Office of the Texas State Chemist, P.O. Box 3160, College Station, TX 77841-3160 or FAX (409) 845-1389.

The repeal is proposed under the Texas Agriculture Code, Chapter 63, §63.004, which provides the Texas Feed and Fertilizer Control Service with the authority to adopt rules relating to the distribution of commercial fertilizers.

The Texas Agricultural Code, Texas Commercial Fertilizer Control Act, 4 TAC Chapter 63, Subchapter G, §63.128, is affected by the proposed repeal.

§65.85. *Notice of Opportunity for Appeals and Rehearings.*

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 May 22, 1998.

TRD-9808412

Dr. George W. Latimer, Jr.

Assistant to the Associate Vice Chancellor of Agriculture
Office of the Texas State Chemist/Texas Feed and Fertilizer Control Service

Proposed date of adoption: September 1, 1998

For further information, please call: (409) 845-1121

TITLE 13. CULTURAL RESOURCES

Part I. Texas State Library and Archives Commission

Chapter 1. Library Development

Standards for Accreditation of a Major Resource System of Libraries in the Texas Library System

13 TAC §1.68

(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 §1.68. The repealed section removes an outdated policy for library materials and equipment purchased with grant funds. The repeal brings commission policy into compliance with statutory changes that require it to conform to the Uniform Grant

Management Standards, 1 TAC 5.141 - 5.167. The new policy for library materials and equipment purchased with grant funds is found in the Uniform Grant Management Standards (UGMS) which is being proposed for adoption by the Commission in §2.118. The policy in UGMS has two distinctions from the policy being repealed in §1.68.

1) UGMS distinguishes between equipment and supplies differently than §1.68. Typically equipment is defined as an article of nonexpendable, tangible personal property that (a) has an estimated useful life of more than a specific time period and (b) has an acquisition cost above the capitalization level. Tangible personal property not meeting both of these criteria are considered supplies.

Both §1.68 and UGMS set the estimated useful life as being more than one year. However §1.68 sets the capitalization level as \$300 while UGMS sets the capitalization level as the lesser of \$1,000 or the level established by the governmental unit for financial statement purposes. Therefore, tangible personal property with an estimated useful life of more than one year and with an acquisition cost of less than \$1,000 will no longer be defined as equipment, but as supplies.

2) UGMS is also different from §1.68 regarding which entity has title to equipment purchased with grant funds. Section 1.68 gave title to the commission while UGMS gives title to the grant recipient.

Although grant recipients will have title to property, UGMS requires recipients to follow certain regulations about safeguarding and reporting on the equipment. Title will be held by the entity with which the commission entered into a grant agreement.

Both of these distinctions between UGMS and §1.68 are effective retroactively. Thus tangible personal property that has been categorized as equipment, but was acquired for less than \$1,000 will be categorized as supplies and will no longer have to be inventoried. The commission will no longer hold title to such property or to property that continues to be categorized as equipment.

Edward Seidenberg, Director of Administration Division, has determined that for each year of the first five years after the section is repealed, there will be no fiscal implications for state and local government except that the time to maintain and report an equipment inventory will be reduced.

There will be no fiscal implications for small businesses or individuals as a result of enforcing or administering the section.

Edward Seidenberg also has determined that for each of the first five years after the section is repealed the public benefits anticipated as a result of removing the outdated policy from the administrative code is that the public will more easily understand and implement current commission policy.

Comments may be submitted to Linda Maska, Manager of Accounting and Grants, Texas State Library and Archives Commission, P.O. Box 12927, Austin, Texas 78711-2927.

The repeal is proposed under the Government Code, §441.136.

The repeal affects the Government Code, 783.

§1.68. *Nonexpendable Personal Property.*

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 May 22, 1998.

TRD-9808420

Raymond Hitt

Assistant State Librarian

Texas State Library and Archives Commission

Earliest possible date of adoption: July 5, 1998

For further information, please call: (512) 463-5440



TITLE 16. ECONOMIC REGULATION

Part I. Railroad Commission of Texas

Chapter 3. Oil and Gas Division

16 TAC §3.9, §3.46

The Railroad Commission of Texas (commission) proposes to amend §3.9, relating to disposal wells, and §3.46, relating to fluid injection into productive reservoirs, to expand and clarify the notice requirements for disposal and injection well permit applications. The commission also proposes to amend mechanical integrity testing requirements in both §§3.9 and 3.46 by adding specific requirements for pressure tests.

The commission proposes to amend both §§3.9(a)(3) and 3.46(b)(1) to require submission of the statutorily prescribed fee for a disposal or injection well with the application.

The commission proposes to add the following definition for "commercial disposal well" in §§3.9(a)(4) and 3.46(b)(2): "a well whose owner or operator receives compensation from others for the disposal of oil field fluids and oil and gas wastes that are wholly or partially trucked or hauled to the well, and the primary business purpose for the well is to provide these services for compensation."

The commission also proposes to add a requirement in both §§3.9(a)(4) and 3.46(b)(2) that an applicant for a commercial disposal well specifically indicate on the application and in the published notice of application that it is for a commercial disposal well.

The commission proposes to amend notification requirements in both §§3.9 and 3.46 to clarify that affected persons required to receive notice of a disposal or injection well application include those listed in the rule. The commission also proposes to add language to clarify that surface owner for the purpose of notification means surface owner "of record."

The commission also proposes to change notice to adjacent offset operators to notice to commission-designated operators of wells located within one-half mile of the proposed disposal or injection well.

The commission also proposes to define "of record" as "recorded in the real property or probate records of the county in which the property is located."

The commission proposes to add §§3.9(a)(5)(B) and 3.46(c)(2) to require that an applicant for a commercial disposal well permit give notice to adjoining surface tract owners.

The commission also proposes to add §§3.9(a)(5)(C) and 3.46(c)(3), requiring notice to any additional class of persons that the commission or its delegate deems appropriate in connection with a particular application.

The commission proposes to amend the definition of "affected person" to exclude competitors. The amendment clarifies commission policy that "affected person" does not include competitors not otherwise affected by an application.

The commission proposes the addition of §3.9(a)(6)(A)(vi) and §3.46(d)(1)(F) to add "waste of oil, gas, or geothermal resources is occurring or is likely to occur as a result of the permitted operations" as a basis for modifying, suspending, or terminating a permit issued under §3.9 or §3.46.

The commission proposes to delete the reference to January 1, 1983, as the compliance deadline for pressure valve requirements in §3.9(a)(8)(B) [renumbered as §3.9(a)(9)(B)] and §3.46(g)(2). The provision is no longer necessary.

The commission proposes to amend current mechanical integrity test requirements by striking §3.9(a)(11)(A) and (B) and adding §3.9(a)(12)(A)-(D); by striking §3.46(j)(1) and (2) and adding §3.46(j)(1)-(4); and by renumbering the remaining provisions in §§3.9(a)(11) and 3.46(j). The pressure test requirements in proposed §§3.9(a)(12) and 3.46(j) are currently utilized by the commission in the administration of its pressure test program for disposal and injection wells.

The commission proposes to add §§3.9(a)(12)(A) and 3.46(j)(1). These provisions provide that the purpose of mechanical integrity testing is to determine whether any leak in the well tubing, packer, or casing exists, by either conducting pressure tests or by using alternative testing methods authorized by the commission.

The commission proposes the addition of §§3.9(a)(12)(B) and 3.46(j)(2). The provisions require that the mechanical integrity of each disposal or injection well be demonstrated in accordance with §3.9(a)(12)(D) and (E) or §3.46(j)(4) and (5) prior to initial use. Additionally, the provisions require that mechanical integrity be tested periodically thereafter in accordance with proposed §3.9(a)(12)(C) and §3.46(j)(3).

The commission proposes to add §3.9(a)(12)(C)(i) and §3.46(j)(3)(A), which incorporate requirements in §3.9(a)(11) and §3.46(j)(2) that each disposal or injection well be tested once every five years.

The commission also proposes the addition of §§3.9(a)(12)(C)(ii) and 3.46(j)(3)(B) to clarify that mechanical integrity testing is required after every workover of a disposal or injection well.

The commission proposes the addition of §3.9(a)(12)(C)(iii) and §3.46(j)(3)(C) to clarify that the five-year testing schedule is not applicable to a disposal or injection well that is completed without surface casing set and cemented through the entire interval of protected usable-quality ground water. Wells completed without surface casing set and cemented through the entire interval of protected usable-quality ground water must be tested at a greater frequency as prescribed in the disposal or injection well permit.

The commission proposes to add §3.9(a)(12)(C)(iv) and §3.46(j)(3)(D) which incorporate §3.9(a)(12)(B) and §3.46(j)(2), authorizing the commission or its delegate to prescribe a schedule for testing and to mail notification of the schedule to operators. The schedule prescribed by the commission is not applicable to a disposal or injection well for which a disposal or injection permit has been issued when the well covered by

the permit has not been drilled or converted to disposal or injection.

The commission proposes to incorporate the requirements of §§3.9(a)(11)(A) and 3.46(j)(1) in §§3.9(a)(12)(D)(i) and 3.46(j)(4)(A). The provisions require that test pressure for wells equipped to dispose or inject through tubing and packer must equal the maximum authorized injection pressure or 500 psig, whichever is less, but must be at least 200 psig, and the test pressure for wells that are permitted for disposal or injection through casing must equal the maximum permitted injection pressure or 200 psig, whichever is greater.

The commission proposes to add §§3.9(a)(12)(D)(ii) and 3.46(j)(4)(B) to require that test pressure stabilize within 10 percent of the required test pressure prior to commencement of the test.

The commission proposes to add §§3.9(a)(12)(D)(iii) and 3.46(j)(4)(C) to require maintenance of a pressure differential of at least 200 psig between the test pressure on the tubing-casing annulus and the tubing pressure.

The commission proposes to add §§3.9(a)(12)(D)(iv) and 3.46(j)(4)(D) to require that a pressure test be conducted for a duration of 30 minutes when the test medium is liquid, and 60 minutes when the test medium is air or gas.

The commission proposes to add §§3.9(a)(12)(D)(v) and 3.46(j)(4)(E) to require, except in cases where the test is witnessed by the commission, that a pressure recorder be used to monitor and record the tubing-casing annulus pressure. The provisions also provide that the recorder clock can not exceed 24 hours and that the recorder scale must be set so that the test pressure is 30 to 70 percent of full scale, unless otherwise authorized by the commission or its delegate.

The commission proposes to add §§3.9(a)(12)(D)(vi) and 3.46(j)(4)(F) to require that the tubing-casing annulus fluid used in a pressure test be liquid for wells that inject liquid unless some other fluid is specifically authorized by the commission or its delegate for good cause. The provisions also require that the tubing-casing annulus fluid contain no additives that affect the sensitivity or otherwise reduce the effectiveness of a test.

The commission proposes to add §§3.9(a)(12)(D)(vii) and 3.46(j)(4)(G). The provisions provide that the commission or its delegate will consider, in evaluating the results of a test, the level of pollution risk that loss of well integrity would cause. Factors that will be taken into account in assessing pollution risk include injection pressure, frequency of testing and monitoring, and whether there is sufficient casing to cover all zones containing usable-quality water. The provisions also authorize the commission to reject a pressure test after consideration of the following factors: the degree of pressure change during the test, if any; the level of risk to usable-quality water if mechanical integrity of the well is lost; and whether circumstances surrounding the administration of the test make the test inconclusive.

The commission proposes to amend alternative testing provisions in §§3.9(a)(11)(C) and 3.46(j)(3), renumbered as §§3.9(a)(12)(E)(ii) and 3.46(j)(5)(B), to reflect current commission practice of requiring alternative tests or surveys as a permit condition.

The commission proposes to amend §3.9(a) by deleting paragraph (14) which provides that the section takes effect on April 1, 1982. The provision is no longer necessary.

The commission proposes to amend §3.46 by deleting subsection (m), which provides that the section takes effect on April 1, 1982. The provision is no longer necessary.

The commission proposes to renumber §3.46(o) as §3.46(k).

The commission proposes to amend §3.46(o)(2), renumbered as §3.46(k)(2), to clarify that the surface owner, for the purposes of notification, means the surface owner "of record." Amendments to the provision also require notice to commission designated operators of wells located within one-half mile of the permit area.

The commission proposes to renumber §3.46(n) as §3.46(l) and §§3.46(k) and (l) as §§3.46(m) and (n).

Robin Robinson, staff attorney, Office of General Counsel, has determined that for each year of the first five years the amendments are in effect, there will be minimal or no additional costs to small businesses, individuals, and other affected operators, as a result of complying with the amended notification provisions. Under current notification provisions, notice must be given to all adjacent operators. The amendments revise this requirement and provide that notice will be given to operators of wells within one-half mile of the proposed disposal or injection well. In some cases this change will mean a decrease in the number of operators required to receive notice. For instance, on large units and in areas where production wells are widely scattered, there may not be any well within one-half mile of the proposed disposal or injection well even though there is production on mineral leases that offset the disposal or injection well tract. Currently, those operators offsetting productive leases would be required to receive notice; under the new proposal, no notice to operators would be specifically required under the rule. In other cases, there may be an increase in costs. For instance, where leases are small and there is a high well density, an applicant may have to notify operators of wells that are not located on offsetting leases but are nevertheless within one-half mile of the proposed disposal or injection well. But any cost increase to notify these operators should be minimal because maps showing offset wells within one-half mile radius are readily available from the commission at minimal cost, and the costs of printing and mailing additional copies of notice information are also minimal.

Ms. Robinson has also determined that for each year of the first five years the amendments to §3.9 and §3.46 are in effect, there will be minimal additional costs for commercial facilities to comply with the amended notification provisions. The amendments require additional notice to owners of surface tracts that adjoin the proposed disposal or injection tract if the application is for a commercial disposal well. Costs associated with the additional notice will include identifying adjacent surface owners, and printing and mailing the copies of the notice, but these costs should be minimal. In most cases, the adjacent surface owners are readily identifiable through county tax records. An estimate of the time to search the records to identify these owners is approximately one hour per application. An estimate of the cost of printing and mailing the notice to adjoining surface owners is approximately \$5.00 per application.

Ms. Robinson has determined that for each year of the first five years the amendments are in effect, there will be no additional

costs associated with the added mechanical integrity testing requirements. The mechanical integrity testing requirements reflect current commission practices. If anything, costs of mechanical integrity tests may decrease because an increased awareness of test standards will result in fewer tests being rejected for failure to follow accepted test methods.

Ms. Robinson has also determined that the cost of compliance with the amendments will be comparable for small and large operators. As costs of these regulations are minimal, the commission does not anticipate that small operators will suffer disproportional economic impact as compared to larger operators.

Ms. Robinson has also determined that the public benefit from the adoption of the proposed amendments will be increased assurance that potentially affected persons receive notification of a proposed disposal or injection well, and better dissemination of information regarding acceptable mechanical integrity test procedures.

The commission has not requested a local employment impact statement pursuant to Tex. Gov't Code, §2001.022(h).

Comments on the proposed amendments should be submitted to Richard Ginn, Railroad Commission of Texas, P.O. Box 12967, Austin, Texas 78711-12967. Comments will be accepted until 5:00 p.m. on the thirtieth day after publication in the *Texas Register*.

The amendments to §3.9 and §3.46 are proposed under Texas Water Code, Chapter 27, which authorizes the commission to adopt and enforce rules relating to oil and gas waste disposal wells and Texas Natural Resources Code, §81.052, which authorizes the commission to adopt all necessary rules for governing persons and their operations under the jurisdiction of the commission under §81.051; §85.042(b), which authorizes the commission to adopt and enforce rules for the prevention of operations in the field dangerous to life or property; §85.201, which authorizes the commission to make and enforce rules for the conservation of oil and gas and prevention of waste of oil and gas; §85.202, which authorizes the commission to adopt rules to prevent waste of oil and gas in producing operations and to require wells to be operated in a manner that will prevent injury to adjoining property; and §91.101, which authorizes the commission to adopt rules for the prevention of pollution of surface or subsurface water associated with the disposal of oil and gas waste.

Texas Water Code, Chapter 27 and Texas Natural Resources Code, §§81.052, 85.042(b), 85.201, 85.202, and 91.101 are affected by these amendments.

§3.9. Disposal Wells.

Any person who disposes of saltwater or other oil and gas waste by injection into a porous formation not productive of oil, gas, or geothermal resources shall be responsible for complying with this section, Texas Water Code, Chapter 27, and Title 3 of the Natural Resources Code.

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

(3) Application. The application to dispose of saltwater or other oil and gas waste by injection into a porous formation not productive of oil, gas, or geothermal resources shall be filed with the commission in Austin accompanied by the prescribed fee. On the same date, one copy shall be filed with the appropriate district office.

(4) Commercial disposal well. An applicant for a permit to dispose of oil and gas waste in a commercial disposal well shall clearly indicate on the application and in the published notice of application that the application is for a commercial disposal well permit. For the purposes of this rule, "commercial disposal well" means a well whose owner or operator receives compensation from others for the disposal of oil field fluids or oil and gas wastes that are wholly or partially trucked or hauled to the well, and the primary business purpose for the well is to provide these services for compensation.

(5) [(4)] Notice and opportunity for hearing.

(A) The applicant shall give notice by mailing or delivering a copy of the application to affected persons who include the owner of record of the surface tract on which the well is located; [;] ~~to~~ each commission-designated [adjoining offset] operator of any well located within one-half mile of the proposed disposal well; [;] ~~to~~ the county clerk of the county in which the well is located; [;] and [to] the city clerk or other appropriate city official of any city where the well is located within the municipal boundaries of the city, on or before the date the application is mailed to or filed with the commission. For the purposes of this section, the term "of record" means recorded in the real property or probate records of the county in which the property is located.

(B) In addition to the requirements of subsection (a)(5)(A) of this section, a commercial disposal well permit applicant shall give notice to owners of record of each surface tract that adjoins the proposed disposal tract by mailing or delivering a copy of the application to each such surface owner.

(C) If, in connection with a particular application, the commission or its delegate determines that another class of persons should receive notice of the application, the commission or its delegate may require the applicant to mail or deliver a copy of the application to members of that class. Such classes of persons could include adjacent surface owners or underground water districts.

(D) [(B)] In order to give notice to other local governments, interested, or affected persons, notice of the application shall be published once by the applicant in a newspaper of general circulation for the county where the well will be located in a form approved by the commission or its delegate. The applicant shall file with the commission in Austin proof of publication prior to the hearing or administrative approval.

(E) [(C)] Protested applications:

(i) If a protest from an affected person or local government is made to the commission within 15 days of receipt of the application or of publication, whichever is later, or if the commission or its delegate determines that a hearing is in the public interest, then a hearing will be held on the application after the commission provides notice of hearing to all affected persons, local governments, or other persons, who express an interest, in writing, in the application.

(ii) For purposes of this section, "affected person" means a person who has suffered or will suffer actual injury or economic damage other than as a member of the general public or as a competitor, and includes surface owners of property on which the well is located and commission-designated operators of wells located within one-half mile of the proposed disposal well [adjoining offset operators].

(F) [(D)] If no protest from an affected person is received by the commission, the commission's delegate may adminis-

tratively approve the application. If the commission's delegate denies administrative approval, the applicant shall have a right to a hearing upon request. After hearing, the examiner shall recommend a final action by the commission.

(6) ~~(5)~~ Subsequent commission action.

(A) A permit for saltwater or other oil and gas waste disposal may be modified, suspended, or terminated by the commission for just cause after notice and opportunity for hearing, if:

(i) a material change of conditions occurs in the operation or completion of the disposal well, or there are material changes in the information originally furnished;

(ii) freshwater is likely to be polluted as a result of continued operation of the well;

(iii) there are substantial violations of the terms and provisions of the permit or of commission rules;

(iv) the applicant has misrepresented any material facts during the permit issuance process; ~~[or]~~

(v) injected fluids are escaping from the permitted disposal zone ; or [-]

(vi) waste of oil, gas, or geothermal resources is occurring or is likely to occur as a result of the permitted operations.

(B) A disposal well permit may be transferred from one operator to another operator provided that the commission's delegate does not notify the present permit holder of an objection to the transfer prior to the date the lease is transferred on Commission records.

(7) ~~(6)~~ Area of Review.

(A) Except as otherwise provided in this paragraph, the applicant shall review the date of public record for wells that penetrate the proposed disposal zone within a 1/4 mile radius of the proposed disposal well to determine if all abandoned wells have been plugged in a manner that will prevent the movement of fluids from the disposal zone into freshwater strata. The applicant shall identify in the application any wells which appear from such review of public records to be unplugged or improperly plugged and any other unplugged or improperly plugged wells of which the applicant has actual knowledge.

(B) The commission or its delegate may grant a variance from the area-of-review requirements of subparagraph (A) of this paragraph upon proof that the variance will not result in a material increase in the risk of fluid movement into freshwater strata or to the surface. Such a variance may be granted for an area defined both vertically and laterally (such as a field) or for an individual well. An application for an areal variance need not be filed in conjunction with an individual permit application or application for permit amendment. Factors that may be considered by the commission or its delegate in granting a variance include:

(i) the area affected by pressure increases resulting from injection operations;

(ii) the presence of local geological conditions that preclude movement of fluid that could endanger freshwater strata or the surface; or

(iii) other compelling evidence that the variance will not result in a material increase in the risk of fluid movement into freshwater strata or to the surface.

(C) Persons applying for a variance from the area-of-review requirements of subparagraph (A) of this paragraph on the basis of factors set out in subparagraph (B)(ii) or (iii) of this paragraph for an individual well shall provide notice of the application to those persons given notice under the provisions of paragraph ~~(5)(A)~~ ~~[(4)(A)]~~ of this subsection. The provisions of paragraph ~~(5)(D)~~ and ~~(E)~~ ~~[(4)(C)~~ and ~~(D)]~~ shall apply in the case of an application for a variance from the area-of-review requirements for an individual well.

(D) Notice of an application for an areal variance from the area- of-review requirements under subparagraph (A) of this paragraph shall be given on or before the date the application is filed with the commission:

(i) by publication once in a newspaper having general circulation in each county, or portion thereof, where the variance would apply. Such notice shall be in a form approved by the commission or its delegate prior to publication and must be at least three inches by five inches in size. The notice shall state that protests to the application may be filed with the commission during the 15-day period following the date of publication. The notice shall appear in a section of the newspaper containing state or local news items;

(ii) by mailing or delivering a copy of the application, along with a statement that any protest to the application should be filed with the commission within 15 days of the date of the application is filed with the commission, to the following:

(I) the manager of each underground water conservation district(s) in which the variance would apply, if any;

(II) the city clerk or other appropriate official of each incorporated city in which the variance would apply, if any;

(III) the county clerk of each county in which the variance would apply; and

(IV) any other person or persons that the commission or its delegate determine should receive notice of the application.

(E) If a protest to an application for an areal variance is made to the commission by an affected person, local government, underground water conservation district, or other state agency within 15 days of receipt of the application or of publication, whichever is later, or if the commission's delegate determines that a hearing on the application is in the public interest, then a hearing will be held on the application after the commission provides notice of the hearing to all local governments, underground water conservation districts, state agencies, or other persons, who express an interest, in writing, in the application. If no protest from an affected person is received by the commission, the commission's delegate may administratively approve the application. If the application is denied administratively, the person(s) filing the application shall have a right to hearing upon request. After hearing, the examiner shall recommend a final action by the commission.

(F) An areal variance granted under the provisions of this paragraph may be modified, terminated, or suspended by the commission after notice and opportunity for hearing is provided to each person shown on commission records to operate an oil or gas lease in the area in which the proposed modification, termination, or suspension would apply. If a hearing on a proposal to modify, terminate, or suspend an areal variance is held, any applications filed subsequent to the date notice of hearing is given must include the area-of-review information required under subparagraph (A) of this paragraph pending issuance of a final order.

(8) ~~[(7)]~~ Casing. Disposal wells shall be cased and the casing cemented in compliance with §3.13 of this title (relating to Casing, Cementing, Drilling, and Completion Requirements) in such a manner that the injected fluids will not endanger oil, gas, geothermal resources, or freshwater resources.

(9) ~~[(8)]~~ Special equipment.

(A) Tubing and packer. Wells drilled or converted for disposal shall be equipped with tubing set on a mechanical packer. Packers shall be set no higher than 100 feet above the top of the permitted interval. For purposes of this section, the term "tubing" refers to a string of pipe through which injection may occur and which is neither wholly nor partially cemented in place. A string of pipe that is wholly or partially cemented in place is considered casing for purposes of this section.

(B) Pressure valve. The wellhead shall be equipped with a pressure observation valve on the tubing and for each annulus of the well. ~~[Operators of existing disposal wells shall comply with this requirement by no later than January 1, 1983.]~~

(C) Exceptions. The director may grant an exception to any provision of this paragraph upon proof of good cause. If the director denies an exception, the operator shall have a right to a hearing upon request. After hearing, the examiner shall recommend a final action by the commission.

(10) ~~[(9)]~~ Well record. Within 30 days after the completion or conversion of a disposal well, the operator shall file in duplicate in the district office a complete record of the well on the appropriate form which shows the current completion.

(11) ~~[(10)]~~ Monitoring and reporting.

(A) The operator shall monitor the injection pressure and injection rate of each disposal well on at least a monthly basis.

(B) The results of the monitoring shall be reported annually to the commission on the prescribed form.

(C) All monitoring records shall be retained by the operator for at least five years.

(D) The operator shall report to the appropriate District Office within 24 hours any significant pressure changes or other monitoring data indicating the presence of leaks in the well.

(12) ~~[(11)]~~ Testing.

(A) Purpose. The mechanical integrity of a disposal well shall be evaluated by conducting pressure tests to determine whether the well tubing, packer, or casing have sufficient mechanical integrity to meet the performance standards of this rule, or by alternative testing methods under subparagraph (E) of this paragraph.

(B) Applicability. Mechanical integrity of each disposal well shall be demonstrated in accordance with provisions of subparagraph (D) and subparagraph (E) of this paragraph prior to initial use. In addition, mechanical integrity shall be tested periodically thereafter as described in subparagraph (C) of this paragraph.

(C) Frequency.

(i) Each disposal well completed with surface casing set and cemented through the entire interval of protected usable-quality water shall be tested for mechanical integrity at least once every five years.

(ii) In addition to testing required under clause (i), each disposal well shall be tested for mechanical integrity after every workover of the well.

(iii) A disposal well that is completed without surface casing set and cemented through the entire interval of protected usable-quality ground water shall be tested at the frequency prescribed in the disposal well permit.

(iv) The commission or its delegate may prescribe a schedule and mail notification to operators to allow for orderly and timely compliance with the requirements in clauses (i) and (ii) of this subparagraph. Such testing schedule shall not apply to a disposal well for which a disposal well permit has been issued but the well has not been drilled or converted to disposal.

(D) Pressure tests.

(i) Test pressure.

(I) The test pressure for wells equipped to dispose through tubing and packer shall equal the maximum authorized injection pressure or 500 psig, whichever is less, but shall be at least 200 psig.

(II) The test pressure for wells that are permitted for disposal through casing shall equal the maximum permitted injection pressure or 200 psig, whichever is greater.

(iii) Pressure stabilization. The test pressure shall stabilize within 10 percent of the test pressure required in clause (i) of this subparagraph prior to commencement of the test.

(iii) Pressure differential. A pressure differential of at least 200 psig shall be maintained between the test pressure on the tubing-casing annulus and the tubing pressure.

(iv) Test duration. A pressure test shall be conducted for a duration of 30 minutes when the test medium is liquid or for 60 minutes when the test medium is air or gas.

(v) Pressure recorder. Except for tests witnessed by a commission representative or wells permitted for disposal through casing, a pressure recorder shall be used to monitor and record the tubing-casing annulus pressure during the test. The recorder clock shall not exceed 24 hours. The recorder scale shall be set so that the test pressure is 30 to 70 percent of full scale, unless otherwise authorized by the commission or its delegate.

(vi) Test fluid.

(I) The tubing-casing annulus fluid used in a pressure test shall be liquid for wells that inject liquid unless the commission or its delegate authorizes the use of a different test fluid for good cause.

(II) The tubing-casing annulus fluid used in a pressure test shall contain no additives that may affect the sensitivity or otherwise reduce the effectiveness of the test.

(vii) Pressure test results. The commission or its delegate will consider, in evaluating the results of a test, the level of pollution risk that loss of well integrity would cause. Factors that may be taken into account in assessing pollution risk include injection pressure, frequency of testing and monitoring, and whether there is sufficient surface casing to cover all zones containing usable-quality water. A pressure test may be rejected by the commission or its delegate after consideration of the following factors:

(I) the degree of pressure change during the test, if any;

(II) the level of risk to usable-quality water if mechanical integrity of the well is lost; and

(III) whether circumstances surrounding the administration of the test make the test inconclusive.

~~[(A) Before beginning disposal operations, the operator shall pressure-test the long string casing. The test pressure for wells equipped to inject through tubing and packer must equal the maximum authorized injection pressure or 500 psig, whichever is less, but must be at least 200 psig. The test pressure for wells that are permitted for injection through casing must equal the maximum permitted injection pressure or 200 psig, whichever is greater.]~~

~~[(B) Each disposal well shall be pressure-tested in the manner provided in subparagraph (A) of this paragraph at least once every five years to determine if there are leaks in the casing, tubing, or packer. The commission's delegate may prescribe a schedule and mail notification to operators to allow for orderly and timely compliance with this requirement.]~~

(E) Alternative testing methods.

(i) [(C)] As an alternative to the testing required in subparagraph (B) of this paragraph, the tubing-casing annulus pressure may be monitored and included on the annual monitoring report required by paragraph (11) [(4)] of this section, with the authorization of the commission or its delegate and provided that there is no indication of problems with the well. Wells that are approved for tubing-casing annulus monitoring under this paragraph shall be tested in the manner provided under subparagraph (B) [(A)] of this paragraph at least once every ten years after January 1, 1990.

(ii) The commission or its delegate may grant an exception for viable alternative tests or surveys or may require alternative tests or surveys as a permit condition.

~~[(D)]~~ (F) The operator shall notify the appropriate district office at least 48 hours prior to the testing. Testing shall not commence before the end of the 48-hour period unless authorized by the district office.

~~[(E)]~~ (G) A complete record of all tests shall be filed in duplicate in the district office on the appropriate form within 30 days after the testing.

~~[(F)]~~ (H) In the case of permits issued under this section prior to the effective date of this amendment which require pressure testing more frequently than once every five years, the commission's delegate may, by letter of authorization, reduce the required frequency of pressure tests, provided that such tests are required at least once every three years. The commission shall consider the permit to have been amended to require pressure tests at the frequency specified in the letter of authorization.

~~[(12)]~~ (13) ~~[(12)]~~ Plugging. Disposal wells shall be plugged upon abandonment in accordance with §3.14 of this title (relating to Plugging).

~~[(13)]~~ (14) ~~[(13)]~~ Penalties.

(A) Violations of this section may subject the operator to penalties and remedies specified in the Texas Water Code, Chapter 27, and the Natural Resources Code, Title 3.

(B) The certificate of compliance for any oil, gas, or geothermal resource well may be revoked in the manner provided in 3.68 of this title (relating to Pipeline Connection and Severance) for violation of this section.

~~[(14) Effective date. This section shall take effect on April 1, 1982.]~~

§3.46. *Fluid Injection into Productive Reservoirs.*

(a) (No change.)

(b) Filing of application.

(1) Application. An application to conduct fluid injection operations in a reservoir productive of oil, gas, or geothermal resources shall be filed in Austin on the form prescribed by the commission accompanied by the prescribed fee. On the same date, one copy shall be filed with the appropriate district office. The form shall be executed by a party having knowledge of the facts entered on the form. The applicant shall file the freshwater injection data form if fresh water is to be injected.

(2) Commercial disposal well. An applicant for a permit to dispose of oil and gas waste in a commercial disposal well shall clearly indicate on the application and in the notice of application that the application is for a commercial disposal well permit. For the purposes of this rule, "commercial disposal well" means a well whose owner or operator receives compensation from others for the disposal of oil field fluids or oil and gas wastes that are wholly or partially trucked or hauled to the well, and the primary business purpose for the well is to provide these services for compensation.

(c) Notice and opportunity for hearing.

(1) The applicant shall give notice by mailing or delivering a copy of the application to affected persons who include the owner of record of the surface tract on which the well is located; [; ¶] each commission-designated [adjoining offset] operator of any well located within one half mile of the proposed injection well; [; ¶] the county clerk of the county in which the well is located; [; ¶] and [¶] the city clerk or other appropriate city official of any city where the well is located within the corporate limits of the city, on or before the date the application is mailed to or filed with the commission. For the purposes of this section, the term "of record" means recorded in the real property or probate records of the county in which the property is located.

(2) In addition to the requirements of subsection (c)(1), a commercial disposal well permit applicant shall give notice to owners of record of each surface tract that adjoins the proposed injection tract by mailing or delivering a copy of the application to each such surface owner.

(3) If, in connection with a particular application, the commission or its delegate determines that another class of persons should receive notice of the application, the commission or its delegate may require the applicant to mail or deliver a copy of the application to members of that class. Such classes of persons could include adjacent surface owners or underground water conservation districts.

(4) [(2)] In order to give notice to other local governments, interested, or affected persons, notice of the application shall be published once by the applicant in a newspaper of general circulation for the county where the well will be located in a form approved by the commission or its delegate. The applicant shall file with the commission in Austin proof of publication prior to the hearing or administrative approval.

(5) [(3)] Protested applications:

(A) If a protest from an affected person or local government is made to the commission within 15 days of receipt of the application or of publication, whichever is later, or if the

commission or its delegate determines that a hearing is in the public interest, then a hearing will be held on the application after the commission provides notice of hearing to all affected persons, local governments, or other persons, who express an interest, in writing, in the application.

(B) For purposes of this section, "affected person" means a person who has suffered or will suffer actual injury or economic damage other than as a member of the general public or as a competitor, and includes surface owners of property on which the well is located and commission-designated operators of wells located within one-half mile of the proposed disposal well [adjoining offset operators].

(6) [(4)] If no protest from an affected person is received by the commission, the commission's delegate may administratively approve the application. If the commission's delegate denies administrative approval, the applicant shall have a right to a hearing upon request. After hearing, the examiner shall recommend a final action by the commission.

(d) Subsequent commission action.

(1) An injection well permit may be modified, suspended, or terminated by the commission for just cause after notice and opportunity for hearing, if:

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

(D) the applicant has misrepresented any material facts during the permit issuance process; ~~or~~

(E) injected fluids are escaping from the permitted injection zone; or [-]

(F) waste of oil, gas, or geothermal resources is occurring or is likely to occur as a result of the permitted operations.

(2) (No change.)

(e)-(f) (No change.)

(g) Special equipment.

(1) (No change.)

(2) Pressure valve. The wellhead shall be equipped with a pressure observation valve on the tubing and for each annulus of the well. ~~[Operators of existing injection wells shall comply with this requirement by no later than January 1, 1983.]~~

(3) (No change.)

(h)-(i) (No change.)

(j) Testing.

(1) Purpose. The mechanical integrity of an injection well shall be evaluated by conducting pressure tests to determine whether the well tubing, packer, or casing have sufficient mechanical integrity to meet the performance standards of this rule, or by alternative testing methods under paragraph (5) of this subsection.

(2) Applicability. Mechanical integrity of each injection well shall be demonstrated in accordance with provisions of paragraphs (4) and (5) of this subsection prior to initial use. In addition, mechanical integrity shall be tested periodically thereafter as described in paragraph (3) of this subsection.

(3) Frequency.

(A) Each injection well completed with surface casing set and cemented through the entire interval of protected usable-

quality water shall be tested for mechanical integrity at least once every five years.

(B) In addition to testing required under subparagraph (A), each injection well shall be tested for mechanical integrity after every workover of the well.

(C) An injection well that is completed without surface casing set and cemented through the entire interval of protected usable-quality ground water shall be tested at the frequency prescribed in the injection permit.

(D) The commission or its delegate may prescribe a schedule and mail notification to operators to allow for orderly and timely compliance with the requirements in subparagraph (A) and subparagraph (B) of this paragraph. Such testing schedule shall not apply to an injection well for which an injection well permit has been issued but the well has not been drilled or converted to injection.

(4) Pressure tests.

(A) Test pressure.

(i) The test pressure for wells equipped to inject through tubing and packer shall equal the maximum authorized injection pressure or 500 psig, whichever is less, but shall be at least 200 psig.

(ii) The test pressure for wells that are permitted for injection through casing shall equal the maximum permitted injection pressure or 200 psig, whichever is greater.

(B) Pressure stabilization. The test pressure shall stabilize within 10 percent of the test pressure required in subparagraph (A) of this paragraph prior to commencement of the test.

(C) Pressure differential. A pressure differential of at least 200 psig shall be maintained between the test pressure on the tubing-casing annulus and the tubing pressure.

(D) Test duration. A pressure test shall be conducted for a duration of 30 minutes when the test medium is liquid or for 60 minutes when the test medium is air or gas.

(E) Pressure recorder. Except for tests witnessed by a commission representative or wells permitted for injection through casing, a pressure recorder shall be used to monitor and record the tubing-casing annulus pressure during the test. The recorder clock shall not exceed 24 hours. The recorder scale shall be set so that the test pressure is 30 to 70 percent of full scale, unless otherwise authorized by the commission or its delegate.

(F) Test fluid.

(i) The tubing-casing annulus fluid used in a pressure test shall be liquid for wells that inject liquid unless the commission or its delegate authorizes use of a different test fluid for good cause.

(ii) The tubing-casing annulus fluid used in a pressure test shall contain no additives that may affect the sensitivity or otherwise reduce the effectiveness of the test.

(G) Pressure test results. The commission or its delegate will consider, in evaluating the results of a test, the level of pollution risk that loss of well integrity would cause. Factors that may be taken into account in assessing pollution risk include injection pressure, frequency of testing and monitoring, and whether there is sufficient surface casing to cover all zones containing usable-quality water. A pressure test may be rejected by the commission or its delegate after consideration of the following factors:

(i) the degree of pressure change during the test, if any;

(ii) the level of risk to usable-quality water if mechanical integrity of the well is lost; and

(iii) whether circumstances surrounding the administration of the test make the test inconclusive.

~~[(1) Before beginning injection operations, the operator shall pressure-test the long string casing. The test pressure for wells equipped to inject through tubing and packer must equal the maximum authorized injection pressure or 500 psig, whichever is less, but must be at least 200 psig. The test pressure for wells that are permitted for injection through casing must equal the maximum permitted injection pressure or 200 psig, whichever is greater.]~~

~~[(2) Each injection well shall be pressure-tested in the manner provided in paragraph (1) of this subsection at least once every five years to determine if there are leaks in the casing, tubing, or packer. The commission's delegate may prescribe a schedule and mail notification to operators to allow for orderly and timely compliance with this requirement.]~~

(5) Alternative testing methods.

~~[(A) [(3)] As an alternative to the testing required in paragraph (2) of this subsection, the tubing-casing annulus pressure may be monitored and included on the annual monitoring report required by subsection (i) of this section, with the authorization of the commission or its delegate and provided that there is no indication of problems with the well. Wells that are approved for tubing-casing annulus monitoring under this paragraph shall be tested in the manner provided under paragraph (3) [(2)] of this subsection at least once every ten years after January 1, 1990.~~

~~[(B) The commission or its delegate grant an exception for viable alternative tests or surveys or may require alternative tests or surveys as a permit condition.~~

~~[(6) [(4)] The operator shall notify the appropriate district office at least 48 hours prior to the testing. Testing shall not commence before the end of the 48-hour period unless authorized by the district office.~~

~~[(7) [(5)] A complete record of all tests shall be filed in duplicate in the district office within 30 days after the testing.~~

~~[(8) [(6)] In the case of permits issued under this section prior to the effective date of this amendment which require pressure testing more frequently than once every five years, the commission's delegate may, by letter of authorization, reduce the required frequency of pressure tests, provided that such tests are required at least once every three years. The commission shall consider the permit to have been amended to require pressure tests at the frequency specified in the letter of authorization.~~

~~[(k) Plugging. Injection wells shall be plugged upon abandonment in accordance with §3.14 of this title (relating to Plugging).]~~

~~[(l) Penalties.]~~

~~[(1) Violations of this section may subject the operator to penalties and remedies specified in Title 3 of the Natural Resources Code and any other statutes administered by the commission.]~~

~~[(2) The certificate of compliance for any oil, gas, or geothermal resource well may be revoked in the manner provided in §3.68 of this title (relating to Pipeline Connection and Severance) for violation of this section.]~~

~~[(m) Effective date. This section shall take effect on April 1, 1982.]~~

~~[(n) Gas storage operations. Storage of gas in productive or depleted reservoirs shall be subject to the provisions of §3.96 of this title (relating to Underground Storage of Gas in Productive or Depleted Reservoirs).]~~

~~[(k) [(e)] Area Permits. A person may apply for an area permit that authorizes injection into new or converted wells located within the area specified in the area permit. For purposes of this subsection, the term "permit area" shall mean the area covered or proposed to be covered by an area permit. Except as specifically provided in this subsection, the provisions of subsections (a) through (j) [(n)] of this section shall apply in the case of an area permit and all injection wells converted, completed, operated, or maintained in accordance with that permit. Area permits will specify requirements for injection well construction, operation, monitoring, and reporting. Except as otherwise specified in the area permit, once an area permit has been issued, the operator may apply to operate individual wells within the permit area as injection wells as specified in paragraph (3) of this subsection.~~

~~[(1) An application for an area permit must be accompanied by an application for at least one injection well. The applicant must:~~

~~[(A) identify the depth(s) of usable-quality water within the permit area, as determined by the Texas Natural Resource Conservation Commission;~~

~~[(B) for each existing well in the permit area that may be converted to injection under the area permit, provide a wellbore diagram that specifies the casing and liner sizes and depths, packer setting depth, types and volumes of cement, and the cement tops for the well. A single wellbore diagram may be submitted for multiple wells that have the same configuration, provided that each well with that type of configuration is identified on the wellbore diagram and the diagram identifies the deepest cement top for each string of casing among all the wells covered by that diagram.~~

~~[(C) provide a wellbore diagram(s) showing the type(s) of completion(s) that will be used for injection wells drilled after the date the application for the area permit is filed, including casing and liner sizes and depths and a statement indicating that such wells will be cemented in accordance with the cementing requirements of §13 of this chapter (§3.13 of this title (relating to Casing, Cementing, Drilling, and Completion Requirements));~~

~~[(D) identify the type or types of fluids that are proposed to be injected into any well within the permit area;~~

~~[(E) identify the depths from top to bottom of the injection interval throughout the permit area;~~

~~[(F) specify the maximum surface injection pressure for any well in the permit area covered by the area permit;~~

~~[(G) specify the maximum amount of fluid that will be injected daily in the permit area;~~

~~[(H) in lieu of the area-of-review required under subsection (e) of this section and subject to the area-of-review variance provisions of subsection (e) of this section, review the data of public record for wells that penetrate the proposed injection interval within the permit area and the area 1/4 mile beyond the outer boundary of the permit area to determine if all abandoned wells have been plugged in a manner that will prevent the movement of fluids from the injection interval into freshwater strata. The applicant shall~~

identify in the application the wells which appear from the review of such public records to be unplugged or improperly plugged and any other unplugged or improperly plugged wells of which the applicant has knowledge. The applicant shall also identify in the application the date of plugging of each abandoned well within the permit area and the area 1/4 mile beyond the outer boundary of the permit area; and

(I) furnish a map showing the location of each existing well that may be converted to injection under the area permit. The map shall be keyed to identify the configuration of all such wells as described in subparagraph (B) of this paragraph.

(2) In lieu of the notice required under subsection (c)(1) of this section, notice of an area permit shall be given by providing a copy of the area permit application to each surface owner of record within the permit area; each commission-designated operator of a well located within one-half mile of the permit area [adjoining offset operator]; the county clerk of each county in which all or part of the permit area is located; and the city clerk or other appropriate city official of any incorporated city which is located wholly or partially within the permit area, on or before the date the application is mailed to or filed with the commission. Notice of an application for an area permit shall also be given in accordance with the requirements of subsection (c)(2). If, in connection with a particular application, the commission or its delegate determines that another class of persons, such as adjacent surface owners or an appropriate underground water conservation district, should receive notice of the application, the commission or its delegate may require the applicant to mail or deliver a copy of the application to members of that class.

(3) Once an area permit has been issued and except as otherwise provided in the permit, no notice shall be required when an application for an individual injection well permit for any well covered by the area permit is filed.

(4) Prior to commencement of injection operations in any well within the permit area, the operator shall file an application for an individual well permit with the commission in Austin. The individual well permit application shall include the following:

(A) the well identification and, for a new well, a location plat;

(B) a description of the well configuration, including casing and liner sizes and setting depths, the type and amount of cement used to cement each casing string, depth of cement tops, and tubing and packer setting depths;

(C) an application fee in the amount of \$100.00 per well; and

(D) any other information required by the area permit.

(5) An individual well permit may be issued by the commission or its delegate in writing or, if no objection to the application is made by the commission or its delegate within 20 days of receipt of the application, the individual well permit shall be deemed issued.

(6) All individual injection wells covered by an area permit must be permitted in accordance with the requirements of this subsection and converted or completed, operated, maintained, and plugged in accordance with the requirements of this section and the area permit.

(l) Gas storage operations. Storage of gas in productive or depleted reservoirs shall be subject to the provisions of §3.96 of

this title (relating to Underground Storage of Gas in Productive or Depleted Reservoirs).

(m) Plugging. Injection wells shall be plugged upon abandonment in accordance with §3.14 of this title (relating to Plugging).

(n) Penalties.

(1) Violations of this section may subject the operator to penalties and remedies specified in Title 3 of the Natural Resources Code and any other statutes administered by the commission.

(2) The certificate of compliance for any oil, gas, or geothermal resource well may be revoked in the manner provided in §3.68 of this title (relating to Pipeline Connection and Severance) for violation 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 May 21, 1998.

TRD-9808376

Mary Ross McDonald

Deputy General Counsel

Railroad Commission of Texas

Earliest possible date of adoption: July 5, 1998

For further information, please call: (512) 463-7008



Part II. Public Utility Commission of Texas

Chapter 23. Substantive Rules

Subchapter I. Universal Service Fund

16 TAC §23.134

The Public Utility Commission of Texas (PUC or commission) proposes an amendment to §23.134 relating to Small and Rural Incumbent Local Exchange Carrier (ILEC) Universal Service Plan. Project Number 19293 has been assigned to this proceeding. The proposed amendment modifies the language in §23.134(e)(1)(B) so that small or rural ILEC recovery for access/toll revenue reductions from the Texas Universal Service Fund (TUSF) are based upon a reasonable amount determined by the commission and are no longer tied to the access/toll reductions of ILECs receiving support under §23.133 of this title (Texas High Cost Universal Service Plan (THCUSP)).

PUC Docket Number 18515 is the compliance proceeding to implement §23.133. PUC Docket Number 18516 is the compliance proceeding to implement §23.134. As currently written, §23.134(e)(1)(B) cannot be implemented until the proceeding in Docket Number 18515 is completed. During the Open Meeting held on May 6, 1998, the commission voted to delay implementation of the TUSF until January 1, 1999. The commission also instructed staff to initiate a rulemaking proceeding to investigate severing the link between §23.133 and §23.134 so that the two compliance proceedings may be completed concurrently rather than consecutively.

Diana Zake, chief policy analyst, and Eric White, assistant general counsel, have 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 adopting the proposed amendment. Ms. Zake and Mr. White also have determined that for each year of the first five years the section is in effect, the public benefit anticipated as a result of adopting the proposed amendment will be the efficient and more timely implementation of §23.134.

There is no anticipated economic cost to persons who are required to comply with the section as amended. For each year of the first five years the section is in effect, there will be no effect on small businesses as a result of adopting the proposed amendment.

Ms. Zake and Mr. White have further determined that for the first five years the proposed amendment is in effect there will be no impact on the opportunities for employment in the geographic areas of Texas affected by implementing the requirements of the proposed amendment.

Comments on the proposed rule (16 copies) may be submitted to the Filing Clerk, Public Utility Commission of Texas, 1701 N. Congress Avenue, P.O. Box 13326, Austin, Texas, 78701-3326, within 20 days after publication. Reply comments may be submitted within 30 days after publication. All comments should refer to Project Number 19293. 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 July 10, 1998, at 9:00 a.m.

This amendment is proposed under the Public Utility Regulatory Act, Texas Utilities Code Annotated §§14.002, 51.001, and 56.021-56.026 (Vernon 1998) (PURA). 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 51.001 sets forth the state's policy regarding telecommunications. Sections 56.021-56.026 set forth the requirements for the Universal Service Fund.

Cross Index to Statutes: Public Utility Regulatory Act §§14.002, 51.001, and 56.021- 56.026.

§23.134. *Small and Rural Incumbent Local Exchange Carrier (ILEC) Universal Service Plan.*

(a) - (d) (No change.)

(e) Small and Rural ILEC Universal Service Plan monthly per-line support. A monthly per-line amount of support for each small or rural ILEC study area shall be determined in a one-time calculation using data from such small or rural ILEC's test year that has been audited by an independent auditor in conformance with generally accepted accounting principles (GAAP).

(1) Calculation of the monthly per-line amount of support for each small or rural ILEC. The toll pool amounts and access/toll revenue reductions determined in accordance with subparagraphs (A) and (B) of this paragraph shall be added together. To calculate the per-line amount of support, the resulting sum will then be divided by the average number of eligible lines served by such small or rural ILEC during the test year. To calculate the monthly per-line amount of support, the result shall be divided by 12.

(A) (No change.)

(B) Access/toll revenue reduction. At the time this section is implemented, a small or rural ILEC may set new carrier common line (CCL), residual interconnection charge (RIC), and/or intraLATA toll rates. Upon commission approval a small or rural ILEC may recover a reasonable amount of the difference between the previous rates and the new rates, computed on the basis of minutes of use in the test year. This amount is calculated by multiplying the difference between the previous rates and the new rates by the test year minutes of use.

~~[(B) Access/toll revenue reduction. If at the time this section is implemented:]~~

~~[(i) a small or rural ILEC reduces its common carrier line (CCL) charge, residual interconnection charge (RIC) and/or intraLATA toll rates to match the reduction in CCL, RIC and/or intraLATA toll rates of one of the ILECs receiving support under §23.133 of this title; such small or rural ILEC may recover the difference between the previous rates and the new rates, computed on the basis of minutes of use in the test year. This amount is calculated by multiplying the difference between the previous and the new rates by the test year minutes of use; or]~~

~~[(ii) a small or rural ILEC reduces its CCL, RIC, and/or intraLATA toll rates to the revised rate level of one of the ILECs receiving support under §23.133 of this title; such small or rural ILEC may, upon commission approval, recover the difference between the previous rates and the revised rates, computed on the basis of minutes of use in a test year. This amount is calculated by multiplying the difference between the previous and the revised rates by the test year minutes of use.]~~

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

(f) - (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 May 21, 1998.

TRD-9808384

Rhonda Dempsey

Rules Coordinator

Public Utility Commission of Texas

Earliest possible date of adoption: July 5, 1998

For further information, please call: (512) 936-7308



Chapter 26. Substantive Rules Applicable to Telecommunications Service Providers

Subchapter O. 9-1-1 Issues

16 TAC §26.431

The Public Utility Commission of Texas proposes new §26.431, relating to Monitoring Certain 9-1-1 Fees. The proposed rule will establish a procedure to monitor and review the appropriateness of certain 9-1-1 fees and the revenue from such fees. This rule is responsive to recent amendments to Texas Health and Safety Code, §§771.071, 771.072, 771.0725 and 771.076. Project Number 18008 has been assigned to this proposed rule.

Ms. Linda Hymans, senior utility analyst, Office of Regulatory Affairs-Telephone Industry Analysis Division, has determined that, although the enabling legislation may have fiscal impli-

cations for state or local government, there are no additional fiscal implications as a result of enforcing or administering this section.

Mr. Eric White, assistant general counsel, Office of Regulatory Affairs-Legal Division has determined that for each year of the first five years the proposed section is in effect the public benefit anticipated as a result of enforcing the section will be to assure the appropriate allocation and levying of certain fees to promote 9-1-1 service statewide. It is unlikely there will be an effect on small businesses as result of enforcing this section. The proposed rule imposes no additional economic costs to persons who are required to comply with this rule as proposed over and above those imposed by the enabling legislation.

Mr. White has determined that there is no impact on employment in the geographic area affected by implementing the requirements of this section.

Comments on the new section (16 copies) may be submitted to the Filing Clerk, Public Utility Commission of Texas, 1701 N. Congress Avenue, P.O. Box 13326, Austin, Texas 78711-13326, no later than June 22, 1998. Reply comments shall be filed no later than July 3, 1998. All comments should refer to Project Number 18008.

This section is proposed under the Public Utility Regulatory Act, Texas Utilities Code Annotated §14.002 (Vernon 1998) (PURA), which provides the Public Utility Commission with the authority to make and enforce rules reasonably required in the exercise of its powers and jurisdiction; and Texas Health and Safety Code (1998), §§771.071, 771.072, 771.0725 and 771.076 which authorizes the Public Utility Commission to monitor and review the rates and allocation of certain 9-1-1 fees.

Cross Index to Statutes: Public Utility Regulatory Act, §14.002 and Texas Health and Safety Code (1998), §§771.071, 771.072, 771.0725 and 771.076.

§26.431. Monitoring of Certain 911 Fees.

(a) Purpose. The purpose of this section is to implement the commission's statutory requirement to monitor the fees the Advisory Commission on State Emergency Communications (ACSEC) establishes and the allocation of the revenues from such fees pursuant to Texas Health and Safety Code (1998), §§771.071, 771.072, 771.0725 and 771.076.

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

(1) 9-1-1 Service - The meaning established in Texas Health and Safety Code (1998), §771.001(6).

(2) Regional Planning Commission - The meaning established in Texas Health and Safety Code (1998), §771.001(10).

(c) ACSEC shall:

(1) provide documentation to the commission regarding the rate for the fees authorized in Texas Health and Safety Code (1998), §771.071 and §771.072, and the allocation of revenue pursuant to §771.072(d) and (e) including, but not limited to, documentation from each regional planning commission or other public agency designated by the regional planning commission to provide 9-1-1 service;

(2) complete direct mail notice, no later than the fifteenth day after providing its documentation to the commission, to the

municipalities and counties whose 9-1-1 service fees are established by ACSEC; and

(3) publish in the Texas Register notice of its proposed rates and allocation of revenue, no later than the fifteenth day after ACSEC provides its documentation to the commission.

(d) Interested parties shall file, no later than 45 days after ACSEC publishes notice in the Texas Register, comments on ACSEC's documentation and on the appropriateness of the rates for each fee and the allocation of the revenue from such fees.

(e) The commission will review the documentation provided by ACSEC as well as the allocations derived therefrom and also identified by ACSEC, no later than 120 days after ACSEC files its documentation. If the commission determines that a recommended rate or allocation is not appropriate, the commission shall provide comments to ACSEC, the governor, and the Legislative Budget Board regarding appropriate rates and the basis for that 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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Rhonda Dempsey

Rules Coordinator

Public Utility Commission of Texas

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For further information, please call: (512) 936-7308



Part VIII. Texas Racing Commission

Chapter 303. General Provisions

Subchapter B. Powers and Duties of the Commission

16 TAC §303.35

The Texas Racing Commission proposes new §303.35, concerning access to the commission's programs. The Texas Racing Act was revised by sunset legislation effective September 1, 1997, and in that legislation, the Commission is required to develop a plan which describes how persons with disabilities or who do not speak English can have access to Commission programs. This rule implements the sunset legislation.

Roselyn Marcus, General Counsel for the Texas Racing Commission, has determined that for the first five-year period the new section is in effect there will be no fiscal implications for local government as a result of enforcing the proposal. Ms. Marcus has also determined there may be fiscal implications for state government as a result of providing interpreters for persons who need interpreters for access to services. The exact cost of these services cannot be determined at this time, however, because it will depend on the number of persons requiring the services.

Ms. Marcus has also determined that for each of the first five years the new section is in effect the public benefit anticipated as a result of enforcing the proposal will be that persons with disabilities and persons who do not speak English will have the ability to access all the Commission programs. There

will be no fiscal implications for small businesses. There is no anticipated economic cost to an individual required to comply with the proposal. The proposal has no effect on the state's agricultural, horse breeding, horse training, greyhound breeding, or greyhound training industries.

Comments on the proposal may be submitted on or before July 15, 1998, to Roselyn Marcus, General Counsel for the Texas Racing Commission, P.O. Box 12080, Austin, Texas 78711-2080.

The new section is proposed under the Texas Civil Statutes, Article 179e, §3.02, which authorize the Commission to adopt rules for conducting racing with wagering and for administering the Texas Racing Act; and §2.22, which require a written plan to describe how persons with disabilities and who do not speak English can be provided reasonable access to the Commission's programs and services.

The proposal implements Texas Civil Statutes, Article 179e.

§303.35. Access to Commission Programs.

(a) Persons who do not speak English or who have a physical, mental, or developmental disability will be provided reasonable access to the Commission and to the Commission's programs.

(b) All Commission facilities, including facilities on association grounds, will comply with Texas Civil Statutes, Article 9102, concerning architectural barriers and the policy of the State of Texas to encourage and promote the rehabilitation of handicapped or disabled citizens. Each association licensed by the Commission is required to ensure accessibility to its facilities for disabled persons, pursuant to §309.14 of this title (concerning Accessibility by Disabled Persons.)

(c) All testing, whether oral, in sign language, or in a foreign language, will be arranged when an examination is required for licensure. A hearing before the Board of Stewards/Judges or the State Office of Administrative Hearings will be arranged as needed if a question of fitness for a particular license should arise.

(d) Complaints against a person or entity regulated by the Commission will be accepted in all forms under all circumstances and the Commission will provide an interpreter with and investigator should a language problem arise. The Commission welcomes citizen input and communications at Commission meetings and on prior reasonable notice to the Commission, an interpreter will be provided to assist citizens in making presentations 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.

Filed with the Office of the Secretary of State, on May 22, 1998.

TRD-9808446

Roselyn Marcus

General Counsel

Texas Racing Commission

Earliest possible date of adoption: July 5, 1998

For further information, please call: (512) 833-6699



Chapter 305. Licenses for Pari-mutuel Racing

Subchapter B. Individual Licenses

Division 2. Specific Licensees

16 TAC §305.49

The Texas Racing Commission proposes an amendment to §305.49, concerning the issuance of an emergency license. The proposal establishes a presumption that an incomplete application for an owner's license submitted to the Austin office for processing is also a request for an emergency license. This will ensure compliance with the three-day deposit requirement for license fees submitted to the Austin office and will streamline the licensing process.

Roselyn Marcus, General Counsel for the Texas Racing Commission, has determined that for the first five-year period the amendment is in effect there will be no fiscal implications for local government as a result of enforcing the proposal. Ms. Marcus has also determined for the first five-year period the amendment is in effect there will be a positive fiscal implication for state government as a result of enforcing the proposal. The Commission estimates the state will earn interest on the license fees that will be more rapidly deposited because of this proposal. The exact amount of the increase cannot be determined at this time, however, because it will depend on the number of incomplete applications which are received.

Ms. Marcus has also determined that for each of the first five years the amendment is in effect the public benefit anticipated as a result of enforcing the proposal will be that full notice of this new procedure should expedite licensing for most applicants. There is no anticipated cost to an individual who acquires an emergency license and who completes the full licensing process within 21 days. An individual who fails to complete the licensing process within 21 days will be required to pay an additional \$75 license fee to obtain an owner's license. The proposal has no effect on the state's agricultural, horse breeding, horse training, greyhound breeding, or greyhound training industries.

Comments on the proposal may be submitted on or before July 15, 1998, to Roselyn Marcus, General Counsel for the Texas Racing Commission, P.O. Box 12080, Austin, Texas 78711-2080.

The amendment is proposed under the Texas Civil Statutes, Article 179e, §3.02, which authorize the Commission to adopt rules for conducting racing with wagering and for administering the Texas Racing Act; §7.02, which authorizes the commission to adopt categories of occupational licenses and to establish the criteria for those licenses; and §7.09, which authorizes the commission to issue temporary licenses pending investigation of an applicant's qualifications.

The proposed amendment implements Texas Civil Statutes, Article 179e.

§305.49. Emergency License.

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

(d) An application for an owner's license submitted to the Commission's main office in Austin that is incomplete will be presumed to be a request for an emergency license and an emergency license may be granted.

(e) [(d)] A license issued under this section expires on the 21st day after the date the emergency owner's license is issued. An owner may obtain only one emergency owner's license per year.

(f) [(e)] An owner granted an emergency license is prohibited from withdrawing any funds from his/her horseman's bookkeeper account until the owner complies with all licensing procedures provided by §305.42 of this title (relating to Owners).

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 May 22, 1998.

TRD-9808447

Roselyn Marcus
General Counsel

Texas Racing Commission

Earliest possible date of adoption: July 5, 1998

For further information, please call: (512) 833-6699



Chapter 309. Operation of Racetracks

Subchapter A. General Provisions

Division 2. Facilities and Equipment

16 TAC §309.28

The Texas Racing Commission proposes an amendment to §309.28, concerning photofinish equipment. The amendment updates the rule to keep pace with the new technology used at racetracks. The amendment clarifies how and where the public can view a copy of a photofinish.

Roselyn Marcus, General Counsel for the Texas Racing Commission, has determined that for the first five-year period the amendment is in effect there will be no fiscal implications for state or local government as a result of enforcing the proposal.

Ms. Marcus has also determined that for each of the first five years the amendment is in effect the public benefit anticipated as a result of enforcing the proposal will be that pari-mutuel racing will be of the highest integrity and will be fair to all participants. There will be no negative fiscal implications for small businesses as a result of enforcing this proposal. For most racetracks, the proposal should result in minimal savings due to the elimination of the automatic posting of each photofinish picture. There is no anticipated economic cost to an individual required to comply with the proposal. The proposal has no effect on the state's agricultural, horse breeding, horse training, greyhound breeding, or greyhound training industries.

Comments on the proposal may be submitted on or before July 15, 1998, to Roselyn Marcus, General Counsel, for the Texas Racing Commission, P.O. Box 12080, Austin, Texas 78711-2080.

The amendment is proposed under the Texas Civil Statutes, Article 179e, §3.02, which authorize the Commission to adopt rules for conducting racing with wagering and for administering the Texas Racing Act; and §6.06, which authorize the Commission to adopt rules on all matters relating to the operation of racetracks.

The proposed amendment implements Texas Civil Statutes, Article 179e.

§309.28. *Photofinish Equipment.*

(a)-(d) (No change.)

(e) The association shall, upon request, make available for viewing the ~~promptly post a photograph of each~~ photofinish of each race for win, place, or show in a designated [~~an~~] area accessible to the public.

(f) (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 May 22, 1998.

TRD-9808448

Roselyn Marcus
General Counsel

Texas Racing Commission

Earliest possible date of adoption: July 5, 1998

For further information, please call: (512) 833-6699



Chapter 313. Officials and Rules of Horse Racing

Subchapter E. Training Facilities

16 TAC §313.503

The Texas Racing Commission proposes an amendment to §313.503, concerning the physical plant of training facilities. The amendment includes the requirement that the training facility obtain approval from the commission or executive secretary for the composition of the racing surface. This will help determine if unsafe conditions exist at the training facility. The amendment changes the approval authority from commission staff to the executive secretary.

Roselyn Marcus, General Counsel for the Texas Racing Commission, has determined that for the first five-year period the amendment is in effect there will be no fiscal implications for state or local government as a result of enforcing the proposal.

Ms. Marcus has also determined that for each of the first five years the amendment is in effect the public benefit anticipated as a result of enforcing the proposal will be that the public will have accurate information regarding the racing surface and the safety of training facilities. There will be no fiscal implications for small businesses as a result of enforcing this proposal. There is no anticipated economic cost to an individual required to comply with the proposal. The proposal has no effect on the state's agricultural, horse breeding, horse training, greyhound breeding or greyhound training industries.

Comments on the proposal may be submitted on or before July 15, 1998, to Roselyn Marcus, General Counsel, for the Texas Racing Commission, P.O. Box 12080, Austin, Texas 78711-2080.

The amendment is proposed under the Texas Civil Statutes, Article 179e, §3.02, which authorize the Commission to adopt rules for conducting racing with wagering and for administering the Texas Racing Act; and §3.021, which authorize the Commission to protect the safety of race animals and adopt rules for the licensing and regulation of races and workouts at racetracks that do not offer pari-mutuel wagering.

The proposed amendment implements Texas Civil Statutes, Article 179e.

§313.503. *Physical Plant.*

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

(d) A training facility shall provide an inside contour rail and an outside rail, both of which must be approved by the commission or the executive secretary [~~commission staff~~]. The turns on the

racetrack must be banked to a degree approved by the commission or the executive secretary [~~commission staff~~]. The composition of the racing surface must be approved by the commission or executive secretary. A training facility shall provide a padded starting gate approved by the commission or the executive secretary [~~commission staff~~]. The training facility shall provide timing equipment that is capable of recording the time of a horse in at least hundredths of a second. The timing equipment is subject to testing and approval by the commission or the executive secretary [~~commission staff~~].

(e)-(f) (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 May 22, 1998.

TRD-9808449

Roselyn Marcus

General Counsel

Texas Racing Commission

Earliest possible date of adoption: July 5, 1998

For further information, please call: (512) 833-6699



16 TAC §313.504

The Texas Racing Commission proposes an amendment to §313.504, concerning the operational requirements of training facilities. The amendment includes the determination of inappropriate or unsafe conditions at the training facility as grounds for the suspension of a training facility license. It allows the executive secretary to notify the pari-mutuel racetracks in this state and requires notification to the officials of the training facility.

Roselyn Marcus, General Counsel for the Texas Racing Commission, has determined that for the first five-year period the amendment is in effect there will be no fiscal implications for state or local government as a result of enforcing the proposal.

Ms. Marcus has also determined that for each of the first five years the amendment is in effect the public benefit anticipated as a result of enforcing the proposal will be that the public will have accurate information regarding the conditions and safety of training facilities. There may be fiscal implications for small businesses as a result of enforcing this proposal. A training facility may suffer lost earnings if the official status of workouts is removed. Any lost earnings will vary depending on the type of condition that caused the removal of the official status and the length of time required to remedy the condition. Therefore, the exact amount of the fiscal implications for a training facility cannot be determined at this time. There is no anticipated economic cost to an individual required to comply with the proposal. The proposal has no effect on the state's agricultural, horse breeding, greyhound breeding or greyhound training industries. The proposal may affect the state's horse training industry in that the removal of official status of workouts obtained at a licensed training facility may affect a trainer's ability to enter a horse in a particular race.

Comments on the proposal may be submitted on or before July 15, 1998, to Roselyn Marcus, General Counsel, for the Texas Racing Commission, P.O. Box 12080, Austin, Texas 78711-2080.

The amendment is proposed under the Texas Civil Statutes, Article 179e, §3.02, which authorize the Commission to adopt rules for conducting racing with wagering and for administering the Texas Racing Act; and §3.021, which authorize the Commission to protect the safety of race animals and adopt rules for the licensing and regulation of races and workouts at racetracks that do not offer pari-mutuel wagering.

The proposed amendment implements Texas Civil Statutes, Article 179e.

§313.504. *Operational Requirements.*

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

(g) The facilities and operations of a licensed training facility are subject to inspection and verification by the commission or its staff at any time. If the executive secretary determines that inappropriate or unsafe conditions exist at the training facility or that the integrity of workouts obtained at the facility are in question, the executive secretary may immediately notify the pari-mutuel racetracks in this state that workouts obtained at the facility may not be accepted as official workouts. The executive secretary shall notify the general manager or chief executive officer of the licensed training facility of the executive secretary's findings and specifically describe the corrective action necessary to make the facility's workouts official, to rectify the inappropriate condition, or to make the conditions safe. The training facility may take the necessary corrective action or request a hearing on the executive secretary's findings.

(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 May 22, 1998.

TRD-9808450

Roselyn Marcus

General Counsel

Texas Racing Commission

Earliest possible date of adoption: July 5, 1998

For further information, please call: (512) 833-6699



Chapter 321. Pari-mutuel Wagering

Subchapter A. Regulation and Totalisator Operations

Regulation of Wagering

16 TAC §321.70

(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 Racing Commission or in the Texas Register office, Room 245, James Earl Rudder Building, 1019 Brazos Street, Austin.)

The Texas Racing Commission proposes the repeal of §321.70, concerning tip sheets. This rule was adopted before simulcasting was introduced. This rule is now unworkable with the number of races being offered for wagering each day through simulcasting at the racetracks. The conflict of interest provision regarding horse ownership by a tip sheet vendor is also contained in §311.158.

Roselyn Marcus, General Counsel for the Texas Racing Commission, has determined that for the first five-year period the repeal is in effect there will be no fiscal implications for state or local government as a result of enforcing the proposal.

Ms. Marcus has also determined that for each of the first five years the repeal is in effect the public benefit anticipated as a result of enforcing the proposal will be that the commission rules will be effective and enforceable without any detriment to the integrity of horse racing. There will be no fiscal implications for small businesses. There is no anticipated economic cost to an individual required to comply with the proposal. The proposal has no effect on the state's agricultural, horse breeding, horse training, greyhound breeding, or greyhound training industries.

Comments on the proposal may be submitted on or before July 15, 1998, to Roselyn Marcus, General Counsel for the Texas Racing Commission, P.O. Box 12080, Austin, Texas 78711-2080.

The repeal is proposed under the Texas Civil Statutes, Article 179e, §3.02, which authorize the Commission to adopt rules for conducting racing with wagering and for administering the Texas Racing Act; §6.06, which authorizes the Commission to adopt rules on all matters relating to the operation of racetracks; and §11.01, which authorizes the commission to adopt rules to regulate pari-mutuel wagering.

The proposal implements Texas Civil Statutes, Article 179e.

§321.70. *Tip Sheets.*

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 May 22, 1998.

TRD-9808451

Roselyn Marcus
General Counsel

Texas Racing Commission

Earliest possible date of adoption: July 5, 1998

For further information, please call: (512) 833-6699



Subchapter C. Simulcast Wagering

Division 1. General Provisions

16 TAC §321.210

The Texas Racing Commission proposes new §321.210, concerning the escrowed purse account. The proposal establishes a procedure for distributing the escrowed purse account generated from simulcasts of horse races at greyhound racetracks.

Roselyn Marcus, General Counsel for the Texas Racing Commission, has determined that for the first five-year period the new section is in effect there will be no fiscal implications for state or local government as a result of enforcing the proposal.

Ms. Marcus has also determined that for each of the first five years the new section is in effect the public benefit anticipated as a result of enforcing the proposal will be that there will be an established procedure to distribute escrowed purse accounts and that this procedure is flexible so as to allow distributions on a quarterly basis. There is no anticipated economic cost to an individual required to comply with the proposal. The proposal

has no effect on the state's agricultural, horse breeding, horse training, greyhound breeding, or greyhound training industries.

Comments on the proposal may be submitted on or before July 15, 1998, to Roselyn Marcus, General Counsel for the Texas Racing Commission, P.O. Box 12080, Austin, Texas 78711-2080.

The new section is proposed under the Texas Civil Statutes, Article 179e, §3.02, which authorize the Commission to adopt rules for conducting racing with wagering and for administering the Texas Racing Act; §6.06, which authorizes the commission to adopt rules on all matters relating to the operation of racetracks; §6.091, which authorizes the commission to distribute money accrued in the escrowed purse account; §11.01, which authorizes the commission to adopt rules to regulate pari-mutuel wagering; and §11.011, which authorizes the commission to adopt rules to regulate pari-mutuel wagering on simulcast races.

The proposal implements Texas Civil Statutes, Article 179e.

§321.210. *Escrowed Purse Account.*

(a) At least once a year, the Commission shall distribute all funds accrued in the escrowed purse account created by the Act, §6.091(e). The executive secretary shall establish a deadline for receiving requests for a distribution from the account and publicize that deadline to the horse racetrack associations at least 30 days before the deadline.

(b) The Commission shall determine the amount of the distribution to each racetrack in accordance with the standards set forth in the Act, §6.091(e) and (f).

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 May 22, 1998.

TRD-9808452

Roselyn Marcus
General Counsel

Texas Racing Commission

Earliest possible date of adoption: July 5, 1998

For further information, please call: (512) 833-6699



Division 2. Simulcasting at Horse Racetracks

16 TAC §321.234

The Texas Racing Commission proposes an amendment to §321.234, concerning the allocation of purses and funds for the Texas Bred Incentive Programs. The proposal provides a procedure for determining how purse revenues and Texas Bred Incentive money generated from simulcast wagering will be allocated among the various breeds of horses. The procedure allows all interested parties to have input into the determination and ensures fairness to all by requiring final approval from the Commission.

Roselyn Marcus, General Counsel for the Texas Racing Commission, has determined that for the first five-year period the amendment is in effect there will be no fiscal implications for state or local government as a result of enforcing the proposal.

Ms. Marcus has also determined that for each of the first five years the amendment is in effect the public benefit anticipated

as a result of enforcing the proposal will be that this procedure will ensure fairness in the decision-making process and that the decision can be timely made. There will be no fiscal implications for small businesses as a result of enforcing this proposal. There is no anticipated economic cost to an individual required to comply with the proposal. The proposal has no effect on the state's agricultural, horse breeding, horse training, greyhound breeding, or greyhound training industries.

Comments on the proposal may be submitted on or before July 15, 1998, to Roselyn Marcus, General Counsel, for the Texas Racing Commission, P.O. Box 12080, Austin, Texas 78711-2080.

The amendment is proposed under the Texas Civil Statutes, Article 179e, §3.02, which authorize the Commission to adopt rules for conducting racing with wagering and for administering the Texas Racing Act; §3.021, which authorize the Commission to regulate all aspects of horse racing in this state; §6.06, which authorizes the commission to adopt rules on all matters relating to the operation of racetracks; §11.01, which authorizes the commission to adopt rules to regulate pari-mutuel wagering; and §11.011, which authorizes the commission to adopt rules to regulate pari-mutuel wagering on simulcast races.

The proposed amendment implements Texas Civil Statutes, Article 179e.

§321.234. Allocation of Purses and Funds for Texas Bred Incentive Programs.

(a) Purses

(1) An association shall recommend the percentages by which it will divide the purse revenue generated from simulcasting among the various breeds of horses. The percentages are subject to the approval of the commission.

(2) Before recommending the percentages, the association shall receive information from the organizations recognized by the commission or in the Act as representatives of horse owners, trainers, and/or breeders.

(3) When requesting commission approval of the percentages, the association shall present studies, statistics, or other documentation to support its proposed allocation of funds.

(b) Texas Bred Incentive Program Funds.

(1) The commission shall determine the percentages by which Texas Bred Incentive Program funds generated from simulcasting are divided among the various breeds of horses.

(2) Before determining the percentages, the commission shall receive information from the official breed registries designated in the Act and the associations.

(3) In determining the percentages the commission shall consider the effect of the proposed percentages on the state's agricultural horse breeding and horse training industry.

[(a) The funds derived by an association from a simulcast that are dedicated to purses and the Texas Bred Incentive programs shall be allocated among the various breeds of animals in a manner determined by the association, subject to the approval of the commission. On request by the commission, the association shall provide documentation, formulae, or other evidence to support its proposed allocation of funds.]

(c) [(b)] Effective January 1, 2001, an association shall set aside for the Texas Bred Incentive program at least 10% of the gross

amount paid by an out-of-state receiving location to receive simulcasts of the association's races. An association shall allocate funds set aside under this subsection to the various breed registries in accordance with subsection (a) of this section. A breed registry shall distribute funds received under this subsection in the same manner as funds received pursuant to the Act, §6.08(f).

(d) [(e)] Prior to January 1, 2001, the funds described by subsection (c) [(b)] of this section shall be allocated between the association exporting the simulcast signal and purses at the association in the percentages specified in §321.233(a) of this title (relating to Purses), provided the association can demonstrate to the commission a continuing financial need for such funds. An affected breed registry may petition the commission to have a racetrack receiving funds under subsection (c) [(b)] of this section demonstrate such financial need. If an association cannot demonstrate such financial need to the commission, the funding described by subsection (c) [(b)] of this section shall revert to the distribution called for effective January 1, 2001.

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 May 22, 1998.

TRD-9808453

Roselyn Marcus

General Counsel

Texas Racing Commission

Earliest possible date of adoption: July 5, 1998

For further information, please call: (512) 833-6699

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TITLE 19. EDUCATION

Part I. Texas Higher Education Coordinating Board

Chapter 5. Program Development

Subchapter A. General Provisions

19 TAC §5.11

The Texas Higher Education Coordinating Board proposes new §5.11, concerning General Provisions (Common Admission Application). Senate Bill 150, passed by the 75th Legislature, requires that the Coordinating Board, in consultation with the universities, develop a common application form to be used by the general academic teaching institutions in Texas for admission beginning with the 1999-2000 academic year. The proposed new rule will provide adoption of the common admission application; the effective date the institutions should begin accepting the common admission application; reporting requirements; coordination of distributing copies of the common admission application to high schools; and development and payment provisions for the electronic application system.

Sharon Cobb, Assistant Commissioner for Student Services has determined that for the first five-year period the rule is in effect the fiscal implications will result in additional costs to the universities of approximately \$150,000 a year for the development and maintenance of the electronic system; however, because only one electronic system will be developed and shared by all institutions, the cost is substantially less than would be in-

curred if each university system or institution developed its own system. There will also be additional costs for the paper application because of the need to include majors and other information in the instructions for each institution. Additional costs of the paper form, to be determined when the bids are received are estimated to be approximately \$40,000 a year. The cost of supplying applications to the high schools will be shared by the institutions and the Coordinating Board.

Ms. Cobb also has determined that for the first five years the rule is in effect the public benefit will be that the proposed form will allow university officials to select which sections they want their applicants to fill out, allowing for a more "customized" application form. There will be no effect on state or local government or small businesses. There is no anticipated economic costs to persons who are required to comply with the rule as proposed.

Comments on the proposed new rule may be submitted to Dr. Don W. Brown, Commissioner of Higher Education, Texas Higher Education Coordinating Board, P.O. Box 12788, Capitol Station, Austin, Texas 78711.

The new rule is proposed under Texas Education Code, §51.762, which provides the Texas Higher Education Coordinating Board with the authority to adopt rules concerning General Provisions (Common Admission Application).

There were no other sections or articles affected by the proposed amendments.

§5.11. Common Admission Application.

(a) A common application form for freshman and undergraduate transfer applications is hereby adopted by the Coordinating Board pursuant to Texas Education Code, Section 51.762. The form is adopted in both a printed format and in an electronic format. The Board, with the assistance of an advisory committee composed of representatives of general academic teaching institutions, will review the form and recommend any changes for subsequent academic years.

(b) A general academic teaching institution as defined in Texas Education Code, Section 61.003, must accept freshman applications using the common admission application form beginning with applications for admission for the 1999-2000 academic year. Institutions must accept freshman and undergraduate transfer applications using the common electronic admission application form beginning with applicants for admission for the 1999-2000 academic year.

(c) Each institution shall collect information regarding gender, race/ethnicity, and date of birth as part of the application process and report this information to the Board.

(d) The Coordinating Board shall ensure that copies of the freshman common admission application form and information for its use are available for distribution to appropriate personnel at each public high school. The Coordinating Board will work with institutions and high schools to ensure that all high schools have access to either the printed or electronic common application form. An institution of higher education may charge a reasonable fee for the filing of a common application form.

(e) The Coordinating Board shall enter into a memorandum of understanding with a public institution of higher education to design and implement an electronic common application system for use by the public in applying for admission to Texas general academic teaching institutions and for distribution of the electronic application system to the university(s) designated by the applicant. After the system is implemented, operating costs of the system will be paid

for by participating institutions. Each institution will pay a portion of the cost based on the percentage of their enrollment or number of applications received compared to the total statewide public higher education enrollment averaged over the previous five years of certified data. The Coordinating Board will monitor the cost of the system and notify the institutions on an annual basis of their share of the cost. Billings for the services for the coming year will be calculated and sent to the institutions in December and payments must be received by September 1. This agency hereby certifies that the proposed rule has been reviewed by legal counsel and found to be within the agency's authority to adopt. Issued in Austin, Texas on May 20, 1998

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 May 20, 1998.

TRD-9808286

James McWhorter

Assistant Commissioner for Administration

Texas Higher Education Coordinating Board

Proposed date of adoption: July 17, 1998

For further information, please call: (512) 483-6162



Subchapter I. Approval of General Academic Courses for State Appropriations to Public Community and Junior Colleges and Other Appropriate Public Institutions Offering Lower Division General Academic Courses

19 TAC §§5.171-5.175

(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 Higher Education Coordinating Board or in the Texas Register office, Room 245, James Earl Rudder Building, 1019 Brazos Street, Austin.)

The Texas Higher Education Coordinating Board proposes the repeal of §§5.171 - §5.175, concerning Approval of General Academic Courses for State Appropriations to Public Community and Junior Colleges and Other Appropriate Public Institutions Offering Lower Division General Academic Courses. The repeal of the rules are as a result of a complete review, rewriting, and restructuring of current Board rules affecting public two-year degree granting institutions. The proposed repeal of the rules will provide uniformity and consistency and the proposed restructuring of the rules will repeal rules for which the Board no longer has statutory authority and propose new rules to address legislation not previously included in Board rules. The proposed repeal of the rules will not substantially change the operation of public two-year degree granting institutions since many of the functions not previously addressed by Board rules were in place.

Glenda Barron, Assistant Commissioner for Community and Technical Colleges has determined that for the first five-year period the rule is in effect there will be no fiscal implications as a result of enforcing or administering the rule.

Dr. Barron also has determined that for the first five years the rule is in effect the public benefit will be that the changes will eliminate oversight by the Board that is not statutorily autho-

rized, allowing local control to be effective where appropriate while providing the appropriate level of state supervision. There will be no effect on state or local government or small businesses. There is no anticipated economic costs to persons who are required to comply with the rule as proposed.

Comments on the proposed repeal of the rules may be submitted to Dr. Don W. Brown, Commissioner of Higher Education, Texas Higher Education Coordinating Board, P.O. Box 12788, Capitol Station, Austin, Texas 78711.

The repeal of the rules is proposed under Texas Education Code, §§61.061, 61.062, 130.001, and 130.087, which provides the Texas Higher Education Coordinating Board with the authority to adopt rules concerning Approval of General Academic Courses for State Appropriations to Public Community and Junior Colleges and Other Appropriate Public Institutions Offering Lower Division General Academic Courses.

There were no other sections or articles affected by the proposed amendments.

§5.171. *General Provisions.*

§5.172. *Unique Need Courses.*

§5.173. *Compensatory (Including Developmental and Remedial) Education Courses.*

§5.174. *Guidelines for Obtaining Course Approval.*

§5.175. *Utilization of Compensatory (Including Developmental and Remedial) Education Courses to Satisfy Degree Requirements.*

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 May 20, 1998.

TRD-9808287

James McWhorter

Assistant Commissioner for Administration

Texas Higher Education Coordinating Board

Proposed date of adoption: July 17, 1998

For further information, please call: (512) 483-6162



Subchapter M. Approval and Operation of Community/Junior College Branch Campuses

19 TAC §§5.261-5.267

(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 Higher Education Coordinating Board or in the Texas Register office, Room 245, James Earl Rudder Building, 1019 Brazos Street, Austin.)

The Texas Higher Education Coordinating Board proposes the repeal of §§5.261 - §5.267, concerning Approval and Operation of Community/Junior College Branch Campuses. The repeal of the rules are as a result of a complete review, rewriting, and restructuring of current Board rules affecting public two-year degree granting institutions. The proposed repeal of the rules will provide uniformity and consistency and the proposed restructuring of the rules will repeal rules for which the Board no longer has statutory authority and propose new rules to address legislation not previously included in Board rules. The proposed repeal of the rules will not substantially change the operation of public two-year degree granting institutions since many of

the functions not previously addressed by Board rules were in place.

Glenda Barron, Assistant Commissioner for Community and Technical Colleges has determined that for the first five-year period the rule is in effect there will be no fiscal implications as a result of enforcing or administering the rule.

Dr. Barron also has determined that for the first five years the rule is in effect the public benefit will be that the changes will eliminate oversight by the Board that is not statutorily authorized, allowing local control to be effective where appropriate while providing the appropriate level of state supervision. There will be no effect on state or local government or small businesses. There is no anticipated economic costs to persons who are required to comply with the rule as proposed.

Comments on the proposed repeal of the rules may be submitted to Dr. Don W. Brown, Commissioner of Higher Education, Texas Higher Education Coordinating Board, P.O. Box 12788, Capitol Station, Austin, Texas 78711.

The repeal of the rules is proposed under Texas Education Code, Sections 61.061, 61.062, 130.001, and 130.087, which provides the Texas Higher Education Coordinating Board with the authority to adopt rules concerning Approval and Operation of Community/Junior College Branch Campuses.

There were no other sections or articles affected by the proposed amendments.

§5.261. *Purpose.*

§5.262. *Authority.*

§5.263. *Definition of "Out-of-District Unit".*

§5.264. *Conversion Provisions.*

§5.265. *Application and Approval Procedures.*

§5.266. *Continuing Coordinating Board Supervision.*

§5.267. *Reclassification.*

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 May 20, 1998.

TRD-9808288

James McWhorter

Assistant Commissioner for Administration

Texas Higher Education Coordinating Board

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Subchapter S. Transfer of Lower Division Course Credit

19 TAC §5.393

The Texas Higher Education Coordinating Board proposes amendments to §5.393, concerning Transfer of Lower Division Course Credit (Resolution of Transfer Disputes for Lower-Division Courses). The proposed amendments would carry out the provisions of Senate Bill 148 of the 75th Legislature, directing the Coordinating Board to develop a recommended core curriculum of at least 42 semester credit hours, including

a statement of the content, component areas, and objectives of the core curriculum. The proposed amendments to the rule offer those guiding principles but do not prescribe specific courses, a responsibility designated in the bill to each individual college and university.

Bill Sanford, Assistant Commissioner for Universities has determined that for the first five- year period the rule is in effect there will be no fiscal implications as a result of enforcing or administering the rule.

Dr. Sanford also has determined that for the first five years the rule is in effect the public benefit will be that it will provide for a common academic core of lower-division courses that could be readily transferred among public higher education institutions as individual courses or as a completed block; it will reduce obstacles to transfer and provide a more comprehensive procedure for the resolution of transfer disputes; it will provide for the evaluation and monitoring of each institution's transfer practices; and it will remove the problem of the state paying twice for the same courses. There will be no effect on state or local government or small businesses. There is no anticipated economic costs to persons who are required to comply with the rule as proposed.

Comments on the proposed amendments may be submitted to Dr. Don W. Brown, Commissioner of Higher Education, Texas Higher Education Coordinating Board, P.O. Box 12788, Capitol Station, Austin, Texas 78711.

The amendments to the rule are proposed under Texas Education Code, Subchapter S, §61.822, which provides the Texas Higher Education Coordinating Board with the authority to adopt rules concerning Transfer of Lower Division Course Credit (Resolution of Transfer Disputes for Lower-Division Courses).

There were no other sections or articles affected by the proposed amendments.

§5.393. *Resolution of Transfer Disputes for Lower-Division Courses.*

(a) The following procedures shall be followed by public institutions of higher education in the resolution of credit transfer disputes involving lower-division courses:

(1) If an institution of higher education does not accept course credit earned by a student at another institution of higher education, the receiving institution shall give written notice to the student and to the sending institution that transfer of the course credit is denied. A receiving institution shall also provide written notice of the reasons for denying credit for a particular course or set of courses at the request of the sending institution.

(2) A student who receives notice as specified in Subsection (1) may dispute the denial of credit by contacting a designated official at either the sending or the receiving institution.

(3) [(2)] The two institutions and the student shall attempt to resolve the transfer of the course credit in accordance with Board rules and [~~and/or~~] guidelines.

(4) [(3)] If the transfer dispute is not resolved to the satisfaction of the student or the sending institution within 45 days after the date the student received written notice of denial, the institution that denies the course credit [~~whose credit is denied~~] for transfer shall notify the Commissioner of its [~~the~~] denial and the reasons for the denial.

(b) The Commissioner of Higher Education or the Commissioner's designee shall make the final determination about a [~~the~~] dispute concerning the transfer of course credit and give written notice of the determination to the involved student and institutions.

(c) Each institution [All public institutions] of higher education shall publish in its course catalogs the procedures specified [described] in subsections (a), (b) , (d), and (e) [and] of this section [in their undergraduate course catalogs].

(d) The Board shall collect data on the types of transfer dispute that are reported and the disposition of each case that is considered by the Commissioner or the Commissioner's designee. [All public institutions of higher education shall furnish data to the Board on transfer disputes as the Board may require in accord with its statutory responsibilities under Section 61.078(e) of the Education Code].

(e) If a receiving institution has cause to believe that a course being presented by a student for transfer from another school is not of an acceptable level of quality, it should first contact the sending institution and attempt to resolve the problem. In the event that the two institutions are unable to come to a satisfactory resolution, the receiving institution may notify the Commissioner of Higher Education, who. The Commissioner may investigate the course. If its quality is found to be unacceptable, the Board may discontinue funding for the course.

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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James McWhorter

Assistant Commissioner for Administration
Texas Higher Education Coordinating Board

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For further information, please call: (512) 483-6162

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19 TAC §§5.400-5.405

The Texas Higher Education Coordinating Board proposes to Chapter 5, Subchapter S, new §§5.400-5.405, concerning Transfer of Lower Division Course Credit. The new proposed amendments would carry out the provisions of Senate Bill 148 of the 75th Legislature, directing the Coordinating Board to develop a recommended core curriculum of at least 42 semester credit hours, including a statement of the content, component areas, and objectives of the core curriculum. The proposed rules offer those guiding principles but do not prescribe specific courses, a responsibility designated in the bill to each individual college and university.

Bill Sanford, Assistant Commissioner for Universities has determined that for the first five- year period the rule is in effect there will be no fiscal implications as a result of enforcing or administering the rule.

Dr. Sanford also has determined that for the first five years the rule is in effect the public benefit will be that it will provide for a common academic core of lower-division courses that could be readily transferred among public higher education institutions as individual courses or as a completed block; it will reduce obstacles to transfer and provide a more comprehensive procedure for the resolution of transfer disputes; it will provide

for the evaluation and monitoring of each institution's transfer practices; and it will remove the problem of the state paying twice for the same courses. There will be no effect on state or local government or small businesses. There is no anticipated economic costs to persons who are required to comply with the rule as proposed.

Comments on the proposed amendments may be submitted to Dr. Don W. Brown, Commissioner of Higher Education, Texas Higher Education Coordinating Board, P.O. Box 12788, Capitol Station, Austin, Texas 78711.

The new amendments to the rules are proposed under Texas Education Code, Subchapter S, Section 61.822, which provides the Texas Higher Education Coordinating Board with the authority to adopt rules concerning Transfer of Lower Division Course Credit.

There were no other sections or articles affected by the proposed amendments.

§5.400. Definitions.

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

(1) Core Curriculum – the curriculum in the liberal arts, humanities, sciences, and political, social, and cultural history, that all undergraduates of an institution of higher education are required to complete before receiving a baccalaureate degree.

(2) Field of Study Curriculum – a set of courses that will satisfy the lower- division requirements for a baccalaureate degree in a specific academic area at a general academic teaching institution.

(3) Consistent with the Texas Common Course Numbering System (TCCNS) a lower-division course that meets one of three conditions:

(A) it has an assigned a TCCNS number;

(B) a TCCNS number has been requested for the course; or

(C) the institution which offers the course has specified at least one TCCNS course that will be accepted in transfer in lieu of the course.

§5.401. General Provisions.

(a) Nothing in this subchapter restricts the authority of an institution of higher education to adopt its own admission standards in compliance with this section or its own grading policies so long as it treats transfer students and native students in the same manner.

(b) Institutional policies regarding acceptance of credit for correspondence courses, credit-by-examination, and other credit-earning instruments must be consistent with Southern Association of Colleges and Schools' guidelines and must treat transfer students and native students in the same manner.

§5.402. Core Curriculum.

(a) In accordance with Texas Education Code, Chapter 61, Subchapter S, each general academic institution and community/technical college shall design and implement a core curriculum, including specific courses comprising the curriculum, of no less than 42 lower- division semester credit hours. No institution may require a core curriculum of more than 42 semester credit hours without Board approval.

(b) Each institution's core curriculum must be designed to satisfy the exemplary educational objectives specified for the

component areas of the "Core Curriculum: Assumptions and Defining Characteristics" adopted by the Board; must include only lower-division courses included in the "Texas Common Course Numbering System;" and must be consistent with the framework identified in Charts I and II of this subsection. Chart I specifies the minimum number of semester credit hours required in each of five major component areas that a core curriculum must include (with sub-areas noted in parentheses). Chart II specifies options available to institutions for the remaining 6 semester credit hours.

(c) Institutions shall begin to honor student transfer of core courses and core curricula beginning in fall 1998, and must implement the core curriculum requirement by fall 1999.

(d) If a student successfully completes the 42 semester credit hour core curriculum at an institution of higher education, that block of courses may be transferred to any other institution of higher education and must be substituted for the receiving institution's core curriculum. A student shall receive academic credit for each of the courses transferred and may not be required to take additional core curriculum courses at the receiving institution unless the board has approved a larger core curriculum at that institution.

Figure: 1 19TAC§5.402(d)

Figure: 2 19TAC§5.402(d)

(e) Except as specified in subsection (f) of this section, a student who transfers from one institution of higher education to another without completing the core curriculum of the sending institution shall receive academic credit within the core curriculum of the receiving institution for each of the courses that the student has successfully completed in the core curriculum of the sending institution. Following receipt of credit for these courses, the student may be required to satisfy the remaining course requirements in the core curriculum of the receiving institution.

(f) Each student must meet the minimum number of semester credit hours in each component area; however, an institution receiving a student in transfer is not required to accept component core course semester credit hours beyond the maximum specified in a core component area.

(g) An institution may include within its core curriculum a course or courses that combine exemplary educational objectives from two or more component areas of the exemplary educational objectives defined in this section.

(h) Each institution must note core courses on the transcript of students as recommended by the Texas Association of Registrars and Admissions Officers.

(i) Each institution must publish and make readily available to students its core curriculum requirements stated in terms consistent with the "Texas Common Course Numbering System."

§5.403. Core Curricula Larger than 42 Semester Credit Hours.

The board will consider approval of a core curriculum from a general academic institution, community college, or technical college if it has been previously approved by the institution's Board of Regents or Board of Directors and is consistent with the following:

(1) The institution must provide a narrative justification of the need and appropriateness of a larger core curriculum that is consistent with its role and mission.

(2) The proposed core does not include more than 45 lower-division semester credit hours.

(3) No proposed upper-division core course is substantially comparable in content or depth of study to a lower-division course listed in the "Texas Common Course Numbering System."

§5.404. Criteria for Evaluation of Core Curricula.

(a) Each institution must review and evaluate its core curriculum at intervals specified by the board and shall report the results of that review to the board. The evaluation should include:

(1) the extent to which the curriculum is consistent with the elements of the core curriculum recommended by the Board;

(2) the extent to which the curriculum is consistent with the "Texas Common Course Numbering System";

(3) the extent to which the curriculum is consistent with the elements of the core curriculum component areas, intellectual competencies, and perspectives as expressed in "Core Curriculum: Assumptions and Defining Characteristics" adopted by the Board; and

(4) the extent to which the institution's educational goals and the exemplary educational objectives of the core curriculum recommended by the Board are being achieved.

(b) Each institution's evaluation report must contain the following:

(1) a table that compares the institution's core curriculum with the core component areas and exemplary educational objectives of the core curriculum recommended by the Board;

(2) a brief description of the purpose and substance of the institution's core curriculum;

(3) a description of the processes and procedures used to evaluate the institution's core curriculum; and

(4) a description of the ways in which the evaluation results are utilized to improve the core curriculum at the institution.

§5.405. Field of Study Curricula.

(a) If a student successfully completes a field of study curriculum developed by the Board, that block of courses may be transferred to a general academic teaching institution and must be substituted for that institution's lower-division requirements for the degree program for the field of study into which the student transfers, and the student shall receive full academic credit toward the degree program for the block of courses transferred.

(b) A student who transfers from one institution of higher education to another without completing the field of study curriculum of the sending institution shall receive academic credit in the field of study curriculum of the receiving institution for each of the courses that the student has successfully completed in the field of study curriculum of the sending institution. Following receipt of credit for these courses, the student may be required to satisfy the remaining course requirements in the field of study curriculum of the receiving institution.

(c) Each institution must review and evaluate its procedures for complying with field of study curricula at intervals specified by the Board and shall report the results of that review to the Board.

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 May 20, 1998.

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James McWhorter

Assistant Commissioner for Administration
Texas Higher Education Coordinating Board
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For further information, please call: (512) 483-6162

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Chapter 8. Creation, Expansion, Dissolution, or Conservatorship of Public Community/Junior College Districts

Subchapter D. Formation of a Branch Campus

19 TAC §§8.71-8.76

The Texas Higher Education Coordinating Board proposes new §§8.71 - 8.76 concerning Creation, Expansion, Dissolution, or Conservatorship of Public Community/Junior College Districts (Formation of a Branch Campus). The proposed new rules are as a result of a complete review, rewriting, and restructuring of current Board rules affecting public two-year degree granting institutions. The proposed new rules will replace repealed rules to improve readability, consistency, and uniformity, and will add new rules to address legislation not previously included in Board rules. The proposed new rules will not substantially change the operation of public two-year degree granting institutions since many of the functions not previously addressed by Board rules were in place.

Glenda Barron, Assistant Commissioner for Community and Technical Colleges has determined that for the first five-year period the rule is in effect there will be no fiscal implications as a result of enforcing or administering the rule.

Dr. Barron also has determined that for the first five years the rule is in effect the public benefit will be that the changes will eliminate oversight by the Board that is not statutorily authorized, allowing local control to be effective where appropriate while providing the appropriate level of state supervision. There will be no effect on state or local government or small businesses. There is no anticipated economic costs to persons who are required to comply with the rule as proposed.

Comments on the proposed new rules may be submitted to Dr. Don W. Brown, Commissioner of Higher Education, Texas Higher Education Coordinating Board, P.O. Box 12788, Capitol Station, Austin, Texas 78711.

The new rules are proposed under Texas Education Code, §§61.061, 61.062, 130.001, and 130.087, which provides the Texas Higher Education Coordinating Board with the authority to adopt rules concerning Creation, Expansion, Dissolution, or Conservatorship of Public Community/Junior College Districts (Formation of a Branch Campus).

There were no other sections or articles affected by the proposed amendments.

§8.71. Purpose.

This subchapter provides rules and regulations for requesting approval from the Coordinating Board to establish, authorize, and operate a branch campus.

§8.72. Authority.

Texas Education Code, §§61.051(c), 61.053, 61.061, 61.062(c)-(d), 130.001(b)(3)-(4), 130.086, and 130.087, authorize the Coordinating Board to adopt policies, enact regulations, and establish rules to define, establish, and authorize a branch campus and to provide

rules and regulations for a public community/junior college district to operate such a campus.

§8.73. Provisions for Conversion of an Out-of-District Extension Center or Extension Facility to a Branch Campus.

The governing board of a community/junior college district may establish and operate a branch campus through conversion of an extension center or extension facility, provided that each course and program has been approved and is subject to the continuing approval of the Coordinating Board.

§8.74. Application and Approval Procedures.

(a) The governing board of a community college district requesting authority to convert an out- of-district center/facility to a branch campus must submit a Letter of Application to the Commissioner.

(b) A self-study must be performed by the district to assess whether the proposed branch campus meets the criteria outlined below. The self-study and the extension center or extension facility shall be reviewed by a Board-appointed team, a majority of which should be community college presidents, for the purposes of documenting that it meets the following standards and criteria for quality instruction and support services, as required by the Commission on Colleges of the Southern Association of Colleges and Schools and Coordinating Board rules and regulations:

(1) Role and Mission; Purpose. In its program aspects, a branch campus shall be equivalent to a public community/junior college. Therefore, the branch campus must provide:

(A) technical programs up to two years in length leading to associate degrees or certificates;

(B) vocational programs leading directly to employment in semi-skilled and skilled occupations;

(C) freshman and sophomore courses in arts and sciences, including the state-mandated core curriculum;

(D) continuing adult education programs for occupational or cultural upgrading;

(E) compensatory education programs designed to fulfill the commitment of an admissions policy allowing enrollment of disadvantaged students;

(F) a continuing program of counseling and guidance designed to assist students in achieving their individual educational goals;

(G) work force development programs designed to meet local and statewide needs;

(H) adult literacy and other basic skills programs for adults; and

(I) such other purposes as may be prescribed by the Coordinating Board or local governing boards in the best interest of postsecondary education in Texas.

(2) Programs and Courses. All courses, programs, and degrees shall be offered in the name of the parent district, and shall be subject to the following criteria:

(A) Courses and programs must meet the role, mission, and purposes described in paragraph (1) of this subsection.

(B) Courses and programs must be developed and operated with the on-going assistance and involvement of the parent district faculty and staff.

(C) Instructional faculty credentials, full-time/part-time faculty ratios, teaching loads, faculty performance evaluation and effectiveness, student accessibility to faculty, etc., must be reviewed to ensure that these elements contribute to the quality of courses and programs offered.

(3) Description of Staffing Plan. There must be sufficient academic and student support staff to meet the needs of faculty and students at the branch campus.

(4) Funding.

(A) The branch campus shall be supported either by means of a branch campus maintenance tax as set forth in Chapter 8, Subchapter E, of this title (relating to Branch Campus Maintenance Tax), or by local sources of community and/or economic support.

(B) If a local tax is not levied, local sources of support must be furnished at a level sufficient to provide adequate facilities needed at the proposed branch campus location. "Facilities" include the operation and maintenance of the physical plant including any rehabilitation and repairs. Local sources of support may be "in kind."

(C) Appropriate accounts which comply with generally accepted accounting principles for the branch campus must be kept and financial reports submitted as required for community/junior college districts.

(D) State aid shall be earned according to appropriated formula rates.

(5) Regional Higher Education Council Review and Certification. The Regional Higher Education Council within which the proposed branch campus is to be located must review the branch campus request only if the proposed branch campus is within a shared service area designated by statute. Member institutions must discuss the proposal with all Councils affected and the minutes shall reflect the discussions. If appropriate, a recommendation for approval or disapproval shall be submitted to the Commissioner, but shall not be binding on the Commissioner or the Board.

(c) The Board's Committee on Community and Technical Colleges may conduct one or more public hearings on the proposed branch campus to:

(1) assess public sentiment regarding the proposed branch campus;

(2) determine whether programs in the proposed branch campus will create unnecessary duplication or seriously harm programs in existing community/junior college districts or other institutions of higher education in the area; and

(3) assess the potential impact of the proposed branch campus on existing community/junior colleges or other institutions of higher education in the area and on the State of Texas.

(d) After the self-study as outlined in subsection (b) of this section, has been reviewed and a site visit conducted by Board staff, a report from the Board staff shall be submitted to the Commissioner indicating whether the criteria as set out in subsection (b) of this section, have been met. The report shall include a recommendation for approval or denial of the request for the establishment of the proposed branch campus, but shall not be binding on the Commissioner or the Board.

§8.75. Action and Order of the Board.

(a) Board action on the request for approval for establishment of the branch campus shall be taken at the next regularly scheduled quarterly Board meeting. In making its decision, the Board shall

consider the needs of the district, the needs of the community served by the proposed branch campus, the potential impact on other institutions of higher education, and the welfare of the state as a whole.

(b) A resolution shall be entered in the minutes of the Board and conveyed in writing by the Commissioner to the governing board of the community/junior college district.

(c) Branch campus designation shall be used only upon approval by the Board.

(d) If the Board approves establishment of a branch campus, the governing board of the community/junior college district may accept or acquire by purchase or rent land and facilities in the name of said institution.

(e) Board-approved branch campus sites shall be considered as auxiliary locations for the purposes of the Board's distance learning rules and regulations as outlined under Chapter 5, Subchapter H, of this title (relating to Approval of Distance Learning for Public Colleges and Universities).

§8.76. Reclassification.

The Board may withdraw approval for a branch campus whenever the Board.

(1) approves the establishment of a community/junior college district which includes the site of the branch campus (Such local effort shall be reviewed by the Board according to the criteria as set forth in Subchapter B of this title {relating to the Creation of a Public Community/Junior College District} as to the feasibility of establishing a separate community/junior college district),

(2) approves the merger of the out-of-district area which includes the site of the branch campus with the parent district, or

(3) determines that the community/junior college district has failed to maintain the standards and criteria of Board rules and regulations at the branch campus.

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 May 20, 1998.

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James McWhorter

Assistant Commissioner for Administration

Texas Higher Education Coordinating Board

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Chapter 9. Program Development in Public Community/Junior College Districts and Technical Colleges

Subchapter A. Definitions

19 TAC §9.1

The Texas Higher Education Coordinating Board proposes new §9.1, concerning Program Development in Public Community/Junior College Districts and Technical Colleges (Definitions). The proposed new section of the rule is as a result of a complete review, rewriting, and restructuring of current Board rules affecting public two-year degree granting institutions. The proposed new section of the rule will provide uniformity and

consistency and the proposed restructuring of the rules will repeal rules for which the Board no longer has statutory authority and propose new rules to address legislation not previously included in Board rules. The proposed new section of the rule will not substantially change the operation of public two-year degree granting institutions since many of the functions not previously addressed by Board rules were in place.

Glenda Barron, Assistant Commissioner for Community and Technical Colleges has determined that for the first five-year period the rule is in effect there will be no fiscal implications as a result of enforcing or administering the rule.

Dr. Barron also has determined that for the first five years the rule is in effect the public benefit will be that the changes will eliminate oversight by the Board that is not statutorily authorized, allowing local control to be effective where appropriate while providing the appropriate level of state supervision. There will be no effect on state or local government or small businesses. There is no anticipated economic costs to persons who are required to comply with the rule as proposed.

Comments on the proposed new rule may be submitted to Dr. Don W. Brown, Commissioner of Higher Education, Texas Higher Education Coordinating Board, P.O. Box 12788, Capitol Station, Austin, Texas 78711.

The new rule is proposed under Texas Education Code, §§61.061, 61.062, 130.001, and 130.087, which provides the Texas Higher Education Coordinating Board with the authority to adopt rules concerning Program Development in Public Community/Junior College Districts and Technical Colleges (Definitions).

There were no other sections or articles affected by the proposed amendments.

§9.1. Definitions.

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

(1) Academic courses Semester or quarter hour credit courses as included or allowed under the provisions of the Community College Academic Course Guide Manual designed for college transfer to institutions of higher education in completion of associate and baccalaureate degree programs.

(2) Associate degree program A grouping of courses designed to lead the individual directly to employment in a specific career, or to transfer to an upper-level baccalaureate program. This specifically refers to the associate of arts, associate of science, associate of applied arts, associate of applied science, and the associate of occupational studies degrees. The term "applied" in an associate degree name indicates a program in which the content is primarily technical.

(3) Board or coordinating board The Texas Higher Education Coordinating Board.

(4) Certificate program – A grouping of courses designed for entry-level employment or for upgrading skills and knowledge within an occupation. Certificate programs serve as building blocks and exit points for AAS degree programs. This award is approved by the Coordinating Board at one of three levels, appears on the Workforce Program Clearinghouse Inventory, and is subject to the Coordinating Board program evaluation process.

(5) Commissioner of higher education or commissioner The chief executive officer of the Texas Higher Education Coordinating Board.

(6) Continuing education unit or CEU Ten (10) contact hours of participation in an organized continuing education experience under responsible sponsorship, capable direction, and qualified instruction, as outlined in the Guidelines for Instructional Programs in Workforce Education.

(7) Contractual agreements Agreements or contracts between public community/junior or technical colleges and one of the following:

(A) a non-SACS/COC-accredited organization, for postsecondary instructional services that could not be offered otherwise;

(B) a public secondary school, for instructional services that could not be offered otherwise; or

(C) another SACS/COC-accredited institution of higher education, whether public or independent.

(8) Contract instruction Postsecondary workforce education and training in which specific instruction is provided by a public community/junior or technical college or a non-SACS/COC-accredited organization to a contracting entity. This arrangement is utilized when conventional methodology or instructional systems are difficult or impossible to obtain.

(9) Distance education Instruction delivered to any single or multiple location(s)

(A) outside the boundaries of the taxing authority of a community/ junior college district; or

(B) via instructional telecommunications to any other distance location.

(10) Governing board The body charged with policy direction of any public community/junior college district, the technical college system, public senior college or university, or other educational agency including but not limited to boards of directors, boards of regents, boards of trustees, and independent school district boards.

(11) Independent institution of higher education A private or independent college or university that is:

(A) organized under the Texas Non-Profit Corporation Act;

(B) exempt from taxation under Article V, Section 2, of the Texas Constitution and Section 501(c)(3) of the Internal Revenue Code; and

(C) accredited by the Southern Association of Colleges and Schools Commission on Colleges.

(12) Postsecondary institutions Any public community/ junior college, public technical college, public senior college or university offering applied associate degree programs, and proprietary institutions offering applied associate degree programs.

(13) Related-instruction Organized off-the-job classroom instruction in theoretical or technical subjects required for the completion of an apprenticeship program.

(14) Remedial and Compensatory All courses designated as developmental or remedial in the Academic Course Guide Manual. These courses are designed to address academic deficiencies and may not be offered for college degree credit.

(15) SACS/COC The Southern Association of Colleges and Schools Commission on Colleges.

(16) Technical courses or programs Workforce education courses or programs for which semester/quarter credit hours are awarded.

(17) Unique need academic course an academic course created by a college to satisfy a unique need and designed to transfer into a baccalaureate program.

(18) Vocational courses or programs Workforce education courses or programs for which continuing education units (CEUs) are awarded.

(19) Workforce continuing education course A course offered for continuing education units (CEUs) with an occupationally specific objective and supported by state funding. A workforce continuing education course differs from a community service course offered for recreational or avocational purposes and is not supported by state funding.

(20) Workforce education Technical courses and programs for which semester/quarter credit hours are awarded, and vocational courses and programs for which continuing education units are awarded. Workforce education courses and programs prepare students for immediate employment or job upgrade within specific occupational categories.

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 B. General Provisions

19 TAC §§9.21-9.33

The Texas Higher Education Coordinating Board proposes new §§9.21 - 9.33, concerning Program Development in Public Community/Junior College Districts and Technical Colleges (General Provisions). The new proposed rules are as a result of a complete review, rewriting, and restructuring of current Board rules affecting public two-year degree granting institutions. The new proposed rules will provide uniformity and consistency and the proposed restructuring of the rules will repeal rules for which the Board no longer has statutory authority and propose new rules to address legislation not previously included in Board rules. The new proposed rules will not substantially change the operation of public two-year degree granting institutions since many of the functions not previously addressed by Board rules were in place.

Glenda Barron, Assistant Commissioner for Community and Technical Colleges has determined that for the first five-year period the rule is in effect there will be no fiscal implications as a result of enforcing or administering the rule.

Dr. Barron also has determined that for the first five years the rule is in effect the public benefit will be that the changes will

eliminate oversight by the Board that is not statutorily authorized, allowing local control to be effective where appropriate while providing the appropriate level of state supervision. There will be no effect on state or local government or small businesses. There is no anticipated economic costs to persons who are required to comply with the rule as proposed.

Comments on the new proposed rules may be submitted to Dr. Don W. Brown, Commissioner of Higher Education, Texas Higher Education Coordinating Board, P.O. Box 12788, Capitol Station, Austin, Texas 78711.

The new rules are proposed under Texas Education Code, §§61.061, 61.062, 130.001, and 130.087, which provides the Texas Higher Education Coordinating Board with the authority to adopt rules concerning Program Development in Public Community/Junior College Districts and Technical Colleges (General Provisions).

There were no other sections or articles affected by the proposed amendments.

§9.21. Purpose.

This subchapter outlines the rules and regulations the Coordinating Board shall use in various areas relating to program development and the general operation of a public community/junior or technical college.

§9.22. Authority.

The Texas Education Code, Chapter 51, Subchapter C, and §§51.308, 51.403(d)-(e), 51.911, 51.917, 61.051, 61.053, 61.059, 61.060-61.063, 61.084, 130.001(b)(3)-(4), 130.003, 130.005, 130.0051, 130.008, and 130.009, authorize the Coordinating Board to adopt policies, enact regulations, and establish rules for various functions relating to program development and the general operation of a public community/junior or technical college.

§9.23. Small Classes.

(a) Each public community/junior and technical college shall submit to the Board a small class report to include course number, title of course, and name of instructor for classes having fewer than 10 registrants. This report shall be submitted each semester. Individual instruction courses and courses taught via instructional telecommunications are exempt.

(b) Small classes may be offered according to the guidelines for public senior colleges and universities as prescribed under Chapter 5, Subchapter O, Section 5.301 of this title (relating to General Provisions).

§ 9.24. Student Performance.

(a) Each public community/junior and technical college shall report student performance as prescribed under subsection (b) of this section to the high school or public junior/community or technical college last attended during the first year a student is enrolled after graduation from high school.

(b) A student performance report includes initial assessment student test scores, as prescribed under Chapter 5, Subchapter P of this title (relating to Testing and Developmental Education), descriptions of developmental education courses required, and individual student grade point averages.

(c) Appropriate safeguards shall be implemented to ensure student privacy in these reports.

§9.25. Religious Holy Days.

Policies regarding religious holy day observances at public community/junior and technical colleges are subject to Chapter 5, Subchap-

ter A, Section 5.5 of this title (relating to General Provisions). This section provides particular requirements for determining acceptable student attendance policies relating to religious holy days.

§9.26. Faculty; Developmental Leave, Use of English.

(a) Developmental Leave.

(1) The governing board of each public community/junior and technical college shall establish a procedure and regulations granting faculty development leaves in accordance with the Texas Education Code, Section 51.917, and shall file a copy of these regulations with the Board.

(2) Amendments to the regulations shall be filed with the Board by the governing board no later than 30 days after the effective date of the amendment.

(b) Use of English.

(1) The governing board of each public community/junior and technical college shall establish a program and regulations for assuring the English proficiency of all faculty members and the availability of all credit courses taught in the English language in accordance with the Texas Education Code, Section 51.917.

(2) This shall not prohibit faculty teaching foreign language courses from conducting those courses in the appropriate foreign language. Nor does it prohibit faculty from providing individual assistance to a student in that student's native language.

(3) The governing board of each public community/junior and technical college shall submit to the Board a description of the program as described in paragraph (1) of this subsection.

(4) The Board shall approve and monitor the program established at each public community/junior and technical college.

(5) The Board shall determine the cost of the program described in subsection (1) of this section. The faculty member needing the course shall take the course until deemed proficient in English by his or her supervisor. The faculty member may pay the cost of the program through payroll deduction.

§ 9.27. Training for Governing Boards.

Chapter 1, Subchapter A, Section 1.9 of this title (relating to General Provisions) is herein applicable to public community/junior and technical colleges. This section provides for the training of members of governing boards and trustees for public institutions of higher education; however, members of community/junior college governing boards may not be required to attend a training session.

§9.28. Driver Education Courses.

Institutions of higher education shall be permitted to offer driver education courses for the purpose of preparing students to obtain a Texas driver's license if approved by the State Board of Education. Institutions of higher education shall be subject to the rules and regulations regarding driver education of the State Board of Education.

§9.29. Related-Instruction for Apprenticeship Programs.

Related-instruction in apprenticeship programs approved by the Bureau of Apprenticeship and Training are eligible for formula funding. Funding for all other components of apprenticeship programs is subject to the rules and regulations of the Texas Workforce Commission as prescribed under the Texas Education Code, Chapter 133.

§9.30. Appropriations.

To be eligible to receive its proportionate share of the biennial appropriations for support, maintenance, operation, and improvement, each public community/junior college must:

(1) be certified as a public community/junior college as prescribed by Section 9.31 of this title (relating to Certification);

(2) offer a minimum of 24 semester credit hours of workforce education courses;

(3) have complied with all existing laws, rules, and regulations governing the establishment and maintenance of public community/junior colleges;

(4) collect, from each full-time and part-time student enrolled, appropriate matriculation and other fees as required by law;

(5) grant, when properly applied for, the scholarships and tuition exemptions provided for in the Texas Education Code; and

(6) levy and collect ad valorem taxes as provided by law for the operation and maintenance of the institution.

§9.31. Certification.

The Commissioner shall file with the State Auditor and the State Comptroller on or before October 1 of each year a list of the public community/junior colleges in the state and certify the names of those colleges that have complied with the standards, rules, and regulations prescribed by the Board.

§9.32. Name Change.

(a) The governing board of any public community/junior college district may by a duly adopted resolution change the name of the district by substituting the word "community" for the word "junior" in the name, or by eliminating the word "community" or "junior" from the name of the district, unless the change would cause the district to have the same name as an existing district.

(b) A copy of the resolution duly certified by the secretary of the governing board must be filed with the Board.

(c) The name change shall become effective upon the filing of the resolution with the Board and thereafter all references to the district shall be by use of the new name.

§9.33. Uniform Dates for Adding/Dropping Courses Pertaining to Refunds.

(a) Courses at public community/junior colleges may be added by students within the first week of classes in each regular term. A student may not enroll in a course after that date.

(b) Courses at public community/junior colleges may be dropped and a student entitled to a refund of tuition and fees as outlined under Chapter 21, Subchapter A of this title (relating to General Provisions).

(c) Colleges using a term other than semesters may petition the Board for the establishment of different add/drop 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.

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James McWhorter

Assistant Commissioner for Administration

Texas Higher Education Coordinating Board

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For further information, please call: (512) 483-6162



Subchapter C. Purpose, Role, and Mission

19 TAC §§9.51-9.55

The Texas Higher Education Coordinating Board proposes new §§9.51 - 9.55, concerning Program Development in Public Community/Junior College Districts and Technical Colleges (Purpose, Role and Mission). The proposed new rules are as a result of a complete review, rewriting, and restructuring of current Board rules affecting public two-year degree granting institutions. The proposed new rules will provide uniformity and consistency and the proposed restructuring of the rules will repeal rules for which the Board no longer has statutory authority and propose new rules to address legislation not previously included in Board rules. The proposed new rules will not substantially change the operation of public two-year degree granting institutions since many of the functions not previously addressed by Board rules were in place.

Glenda Barron, Assistant Commissioner for Community and Technical Colleges has determined that for the first five-year period the rule is in effect there will be no fiscal implications as a result of enforcing or administering the rule.

Dr. Barron also has determined that for the first five years the rule is in effect the public benefit will be that the changes will eliminate oversight by the Board that is not statutorily authorized, allowing local control to be effective where appropriate while providing the appropriate level of state supervision. There will be no effect on state or local government or small businesses. There is no anticipated economic costs to persons who are required to comply with the rule as proposed.

Comments on the proposed new rules may be submitted to Dr. Don W. Brown, Commissioner of Higher Education, Texas Higher Education Coordinating Board, P.O. Box 12788, Capitol Station, Austin, Texas 78711.

The new rules are proposed under Texas Education Code, §§61.061, 61.062, 130.001, and 130.087, which provides the Texas Higher Education Coordinating Board with the authority to adopt rules concerning Program Development in Public Community/Junior College Districts and Technical Colleges (Purpose, Role and Mission).

There were no other sections or articles affected by the proposed amendments.

§9.51. Purpose.

This subchapter provides rules and regulations for public community/junior and technical colleges in establishing and publishing their purpose, role, and mission statements, and for the Board's review of these statements.

§9.52. Authority.

The Texas Education Code, Sections 61.051, 61.053, 61.0511, 61.060, 61.061, 61.062, 130.001, 130.003(e), 130.0011, and 135.01, authorize the Coordinating Board to adopt policies, enact regulations, and establish rules for the review of the purpose and role and mission statements of public community/junior and technical colleges.

§9.53. Role, Mission, and Purpose of Public Community/Junior and Technical Colleges.

(a) Each public community/junior and technical college must develop a statement regarding the purpose, role, and mission of the institution reflecting the three missions of higher education: teaching, research, and public service. The specialized nature of the role and mission of the technical college system is included in Chapter 11 of this title (relating to the Texas State Technical College System).

(b) Each public community/junior college shall include in its role and mission statement the purpose of the community/junior college as prescribed under Texas Education Code, Section 130.003(e), that it shall primarily serve its local taxing district and service area, offering vocational, technical, and academic courses for certificates or associate degrees. Continuing education, remedial and compensatory education consistent with open admission policies, and a program of counseling and guidance shall also be provided.

§9.54. Publication of Purpose, Role, and Mission Statements.

Each public community/junior and technical college must publish its purpose, role, and mission statement in its official publication for students, generally the college catalog.

§9.55. Board Review of Purpose, Role, and Mission Statements.

As a part of the institutional effectiveness review process prescribed in Chapter 10 of this title (relating to Institutional Effectiveness in Public Community/Junior College Districts and Technical Colleges), the Board staff shall determine if the purpose, role, and mission statement of each institution addresses the specific functions as prescribed by the Texas Education Code, Sections 61.0511, 130.003(e), 130.0011, and 135.01, for public community/junior colleges and technical colleges.

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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James McWhorter

Assistant Commissioner for Administration

Texas Higher Education Coordinating Board

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Chapter 9. Public Junior Colleges

Subchapter D. Basic Standards

19 TAC §§9.61-9.77

(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 Higher Education Coordinating Board or in the Texas Register office, Room 245, James Earl Rudder Building, 1019 Brazos Street, Austin.)

The Texas Higher Education Coordinating Board proposes the repeal of §§9.61-9.77, concerning Basic Standards. The repeal of the rules are as a result of a complete review, rewriting, and restructuring of current Board rules affecting public two-year degree granting institutions. The repeal of the rules will replace repealed rules to improve readability, consistency, and uniformity, and will add rules to address legislation not previously included in Board rules. The proposed repeal of the rules will not substantially change the operation of public two-year degree granting institutions since many of the functions not previously addressed by Board rules were in place.

Glenda Barron, Assistant Commissioner for Community and Technical Colleges has determined that for the first five-year period the rule is in effect there will be no fiscal implications as a result of enforcing or administering the rule.

Dr. Barron also has determined that for the first five years the rule is in effect the public benefit will be that the changes will

eliminate oversight by the Board that is not statutorily authorized, allowing local control to be effective where appropriate while providing the appropriate level of state supervision. There will be no effect on state or local government or small businesses. There is no anticipated economic costs to persons who are required to comply with the rule as proposed.

Comments on the proposed repeal of the rules may be submitted to Dr. Don W. Brown, Commissioner of Higher Education, Texas Higher Education Coordinating Board, P.O. Box 12788, Capitol Station, Austin, Texas 78711.

The repeal of the rules is proposed under Texas Education Code, §§61.061, 61.062, 130.001, and 130.087, which provides the Texas Higher Education Coordinating Board with the authority to adopt rules concerning Basic Standards.

There were no other sections or articles affected by the proposed amendments.

§ 9.61. *General Provisions.*

§9.62. *Organization and Purpose.*

§9.63. *Admission.*

§9.64. *Instructional Departments.*

§9.65. *Qualification and Professional Growth of Faculty.*

§9.66. *Salaries and Tenure.*

§9.67. *Classroom Load of Instructors.*

§9.68. *Student Class Load.*

§9.69. *Size of Classes.*

§9.70. *Local Financial Support.*

§ 9.71. *Library.*

§9.72. *Laboratories.*

§9.73. *Plant and General Facilities.*

§9.74. *Student Activities.*

§9.75. *Student Services.*

§9.76. *General Character of the Institution.*

§9.77. *Trustee Professional Development.*

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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James McWhorter

Assistant Commissioner for Administration

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Chapter 9. Program Development in Public Community/Junior College Districts and Technical Colleges

Subchapter D. Transferable Academic Courses

19 TAC §§9.71–9.77

The Texas Higher Education Coordinating Board proposes new §§9.71-9.77, concerning Program Development in Public Community/Junior College Districts and Technical Colleges (Transferable Academic Courses). The proposed new rules are as a result of a complete review, rewriting, and restructuring of current Board rules affecting public two-year degree granting institutions. The proposed new rules will provide uniformity and consistency and the proposed restructuring of the rules will repeal rules for which the Board no longer has statutory authority and propose new rules to address legislation not previously included in Board rules. The proposed new rules will not substantially change the operation of public two-year degree granting institutions since many of the functions not previously addressed by Board rules were in place.

Glenda Barron, Assistant Commissioner for Community and Technical Colleges has determined that for the first five-year period the rule is in effect there will be no fiscal implications as a result of enforcing or administering the rule.

Dr. Barron also has determined that for the first five years the rule is in effect the public benefit will be that the changes will eliminate oversight by the Board that is not statutorily authorized, allowing local control to be effective where appropriate while providing the appropriate level of state supervision. There will be no effect on state or local government or small businesses. There is no anticipated economic costs to persons who are required to comply with the rule as proposed.

Comments on the proposed new rules may be submitted to Dr. Don W. Brown, Commissioner of Higher Education, Texas Higher Education Coordinating Board, P.O. Box 12788, Capitol Station, Austin, Texas 78711.

The new rules are proposed under Texas Education Code, §§61.061, 61.062, 130.001, and 130.087, which provides the Texas Higher Education Coordinating Board with the authority to adopt rules concerning Program Development in Public Community/Junior College Districts and Technical Colleges (Transferable Academic Courses).

There were no other sections or articles affected by the proposed amendments.

§9.71. Purpose.

This subchapter provides rules and procedures for the approval and continuation of academic courses for public community/junior or technical colleges eligible for state appropriations.

§9.72. Authority.

The Texas Education Code, Sections 61.051(g), 61.053, 61.054, 61.060, 61.061, 61.062, 130.001(b)(3)-(4), and 130.003(e)(3), authorize the Coordinating Board to adopt policies, enact regulations, and establish rules for the coordination of transferable academic courses eligible for state appropriations.

§9.73. General Provisions.

(a) State funding shall be provided for lower-division level general academic courses in public community and junior colleges and other appropriate public institutions offering lower-division general academic courses if such courses:

- (1) are listed in the Academic Course Guide Manual; or
- (2) have been reviewed by the Board staff and have been approved in accordance with the unique need provision; and

(3) are consistent with the Texas Common Course Numbering System.

(b) A standing advisory committee composed of representatives from public community and junior colleges and other appropriate public institutions offering lower-division general academic courses will meet annually to recommend to the Coordinating Board staff appropriate courses to be added to, revised, or deleted from the Academic Course Guide Manual, as well as their proper assignment of Texas Common Course Numbers. The Coordinating Board staff shall provide the committee data regarding course enrollments and transferability for the purpose of considering revisions to the Academic Course Guide Manual.

(c) Criteria used to revise the Academic Course Guide Manual shall include the following:

(1) Courses offered by three or fewer community/junior colleges and other appropriate public institutions offering lower-division general academic courses during the previous academic year will be reviewed by the committee for deletion unless other factors indicate a need to retain such courses.

(2) Unique need courses which have been offered at several public community and junior colleges and other appropriate institutions offering lower-division general academic courses in different geographic regions of the state may be recommended for addition to the Academic Course Guide Manual upon request of a sponsoring institution.

(3) Revisions in course content may be considered upon request of a sponsoring institution.

(4) Courses included in the lower-division portion of an academic core curriculum at any public institution of higher education may be considered by the committee for inclusion in the Academic Course Guide Manual.

§9.74. Unique Need Courses.

(a) An academic course may be approved for unique need if it meets the following criteria:

(1) The course must be acceptable for transfer and apply toward a baccalaureate degree to satisfy general academic, major, or elective requirements at a minimum of two regional universities. Courses accepted to meet general academic or major requirements are strongly preferred. Copies of current letters signed by the universities' registrars documenting transferability must be included in the application.

(2) The course must have college-level rigor. A course designed to meet a community service, leisure, vocational, or avocational need are inappropriate for unique need approval and state funding.

(b) Procedures for unique need approval are as follows:

(1) The application for each unique need submitted must be accompanied by a statement of need for the course and a syllabus which includes a course description, detailed course outline, and objectives.

(2) Colleges must reapply for approval of unique need courses on an annual basis. At the institution's request upon the third consecutive approval, a course may be considered for continued placement in that institution's course inventory. The request must include the enrollments and frequency with which the course was offered over the preceding three years. Courses may be approved for continuing unique need if they have been offered at least three times

with an average enrollment of 10 students or greater. The Board staff shall review and evaluate continued need on a five-year cycle.

(c) Courses listed in the Academic Course Guide Manual but offered for a greater number of contact hours or semester credit hours than specified must be submitted for unique need approval.

§9.75. Compensatory (Including Developmental and Remedial) Education Courses.

Developmental/remedial courses approved for community and technical college instruction and eligible for state funding are listed in both the Academic Course Guide Manual and the Workforce Education Course Manual. Such courses should be used to support both academic and workforce education students as appropriate.

§9.76. Utilization of Compensatory (Including Developmental and Remedial) Education Courses to Satisfy Degree Requirements.

Courses designated as compensatory in the Academic Course Guide Manual may not be used to satisfy degree requirements. Such courses may be used as corequisites or prerequisites for degree courses as determined by local institutions.

§9.77. Disapproval of Courses; Noncompliance.

No funds appropriated to any public community/junior college or technical college may be expended for any unique need course which has not been approved by the Board staff.

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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James McWhorter

Assistant Commissioner for Administration

Texas Higher Education Coordinating Board

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Chapter 9. Public Junior Colleges

Subchapter E. Operational Provisions

19 TAC §§9.91, 9.92, 9.94-9.111

(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 Higher Education Coordinating Board or in the Texas Register office, Room 245, James Earl Rudder Building, 1019 Brazos Street, Austin.)

The Texas Higher Education Coordinating Board proposes the repeal of §§9.91, 9.92, 9.94- 9.111, concerning Operational Provisions. The repeal of the rules are as a result of a complete review, rewriting, and restructuring of current Board rules affecting public two-year degree granting institutions. The proposed repeal of the rules will provide uniformity and consistency and the proposed restructuring of the rules will repeal rules for which the Board no longer has statutory authority and propose new rules to address legislation not previously included in Board rules. The proposed repeal of the rules will not substantially change the operation of public two-year degree granting institutions since many of the functions not previously addressed by Board rules were in place.

Glenda Barron, Assistant Commissioner for Community and Technical Colleges has determined that for the first five-year

period the rule is in effect there will be no fiscal implications as a result of enforcing or administering the rule.

Dr. Barron also has determined that for the first five years the rule is in effect the public benefit will be that the changes will eliminate oversight by the Board that is not statutorily authorized, allowing local control to be effective where appropriate while providing the appropriate level of state supervision. There will be no effect on state or local government or small businesses. There is no anticipated economic costs to persons who are required to comply with the rule as proposed.

Comments on the proposed repeal of the rules may be submitted to Dr. Don W. Brown, Commissioner of Higher Education, Texas Higher Education Coordinating Board, P.O. Box 12788, Capitol Station, Austin, Texas 78711.

The repeal of the rules is proposed under Texas Education Code, §§61.061, 61.062, 130.001, and 130.087, which provides the Texas Higher Education Coordinating Board with the authority to adopt rules concerning Operational Provisions

There were no other sections or articles affected by the proposed amendments.

§9.91. *General Provisions.*

§9.92. *Eligibility of Students.*

§9.94. *New Colleges.*

§9.95. *Combined Courses.*

§9.96. *Library.*

§9.97. *Local Support.*

§9.98. *Separate Accounting.*

§9.99. *Out-of-District Courses.*

§9.100. *Part-time Instructors.*

§9.101. *Length of Course.*

§9.102. *New Courses or Classes.*

§9.103. *Reporting for State Reimbursement.*

§9.104. *Courses Approved for Appropriations Purposes.*

§9.105. *Criteria for Similarity of General Academic Courses.*

§9.106. *Physical Education Classes.*

§9.107. *Bible Classes.*

§9.108. *Music and Art Classes.*

§9.109. *Technical Courses.*

§9.110. *Records and Reports.*

§9.111. *Violation of Rules.*

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 9. Program Development in Public Community/Junior College Districts and Technical Colleges

Subchapter E. Certificate and Associate Degree Programs

19 TAC §§9.91–9.97

The Texas Higher Education Coordinating Board proposes new §§9.91-9.97, concerning Program Development in Public Community/Junior College Districts and Technical Colleges (Certificate and Associate Degree Programs). The proposed new rules are as a result of a complete review, rewriting, and restructuring of current Board rules affecting public two-year degree granting institutions. The proposed new rules will provide uniformity and consistency and the proposed restructuring of the rules will repeal rules for which the Board no longer has statutory authority and propose new rules to address legislation not previously included in Board rules. The proposed new rules will not substantially change the operation of public two-year degree granting institutions since many of the functions not previously addressed by Board rules were in place.

Glenda Barron, Assistant Commissioner for Community and Technical Colleges has determined that for the first five-year period the rule is in effect there will be no fiscal implications as a result of enforcing or administering the rule.

Dr. Barron also has determined that for the first five years the rule is in effect the public benefit will be that the changes will eliminate oversight by the Board that is not statutorily authorized, allowing local control to be effective where appropriate while providing the appropriate level of state supervision. There will be no effect on state or local government or small businesses. There is no anticipated economic costs to persons who are required to comply with the rule as proposed.

Comments on the proposed new rules may be submitted to Dr. Don W. Brown, Commissioner of Higher Education, Texas Higher Education Coordinating Board, P.O. Box 12788, Capitol Station, Austin, Texas 78711.

The new rules are proposed under Texas Education Code, §§61.061, 61.062, 130.001, and 130.087, which provides the Texas Higher Education Coordinating Board with the authority to adopt rules concerning Program Development in Public Community/Junior College Districts and Technical Colleges (Certificate and Associate Degree Programs).

There were no other sections or articles affected by the proposed amendments.

§9.91. Purpose.

This subchapter provides rules and procedures for the approval and continuation of certificate and associate degree programs in public community/junior and technical colleges eligible for state appropriations.

§9.92. Authority.

The Texas Education Code, Section 61.003, 61.051(e)(f), 61.0513, 61.053, 61.054, 61.055, 61.061, 61.062(c)-(d), 61.075, 130.001(b)(3)-(4), 130.003(e)(1)(2)(3) and (7) and 135.04, authorize the Coordinating Board to adopt policies, enact regulations, and establish rules for

the coordination of postsecondary technical and vocational certificate and associate degree programs eligible for state appropriations.

§9.93. Application, Approval, and Revision Procedures for Instructional Programs in Workforce Education.

(a) In accordance with the Guidelines for Instructional Programs in Workforce Education as approved by the Board, each institution wishing to offer a new certificate or applied associate degree program must have completed the following procedures:

(1) Completion of the Application for the Approval of a New Technical or Continuing Education Program. Completed application forms must be approved by the governing board and the chief executive officer of the institution, and forwarded to the Board's Community and Technical Colleges Division.

(2) Completion of Staff Review Process. The Board staff shall review the application for satisfactory fulfillment of the new program requirements and procedures as outlined in the Board-approved Guidelines for Instructional Programs in Workforce Education. The staff shall confer with the institution when additional information or clarification is needed.

(3) Completion of Formal Program Review.

(A) Once the program requirements have been met, the Board staff shall schedule the program for formal program review. This review process shall include representatives from the institution, the Board staff, and other appropriate agencies and institutions of higher education.

(B) The Assistant Commissioner for Community and Technical Colleges Division shall recommend applied associate degree programs to the Commissioner for approval or disapproval by the Board.

(4) New Program Approval.

(A) The Board delegates to the Commissioner final approval authority for all certificate programs.

(B) Applied associate degree programs shall be approved by the Board or if such a program has been approved by the Commissioner on an emergency basis as outlined under Section 9.94 of this title (relating to Provisions for Emergency Approval of Associate Degree Programs), the Board may ratify or reject such approval as provided in that section.

(b) Each institution wishing to revise an existing certificate or applied associate degree program must complete the procedures as outlined in the Board-approved Guidelines for Instructional Programs in Workforce Education.

(c) Administrative Officers. All programs must be under the direction of an administrator having appropriate authority to ensure that quality is maintained and that programs are conducted in compliance with all applicable laws and rules. Administrative officers must possess credentials, work experience, and/or demonstrated competence appropriate to their areas of responsibility as specified by the Southern Association of Colleges and Schools Commission on Colleges.

(d) Faculty and Staff. Faculty and staff must be approved by the postsecondary institution. Each individual must meet the minimum qualifications established by the Board.

§9.94. Provisions for Emergency Approval of Associate Degree Programs.

Due to local needs of a postsecondary institution that may arise between Coordinating Board meetings, the following provisions are made for emergency approval of associate degree programs:

(1) The Board delegates to the Commissioner the authority to approve workforce education applied associate degree program requests between scheduled meetings of the Board in cases where delay would seriously impair the ability of the institution to offer a program for which there is an immediate need.

(2) The Board shall retain the authority to reject approval of a program that has been approved under these emergency provisions. If the Board rejects a program, the institution shall have one year to phase out the program or to make necessary revisions acceptable to the Board.

§9.95. Action and Order of the Board.

(a) Board action on the request for approval of a new applied associate degree program in a postsecondary institution shall be taken at the next quarterly Board meeting.

(b) A resolution shall be entered in the minutes of the Board and conveyed in writing by the Commissioner to the governing board or the chief executive officer of the postsecondary institution.

§ 9.96. Reporting to the Board.

(a) Contact hours for courses in approved workforce education certificate and applied associate degree programs from public postsecondary institutions must be determined and reported in compliance with Board rules and policy as outlined in the Workforce Education Course Manual and state law.

(b) Contact hours for courses in approved academic certificate and associate degree programs at public postsecondary institutions must be determined and reported in compliance with Board policy as outlined in the Academic Course Guide Manual and state law.

§9.97. Disapproval of Programs; Noncompliance.

No funds appropriated to any public postsecondary institution shall be expended for any program which has not been approved by the Board.

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 May 20, 1998.

TRD-9808312

James McWhorter

Assistant Commissioner for Administration

Texas Higher Education Coordinating Board

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For further information, please call: (512) 483-6162



Subchapter F. Workforce Continuing Education Courses

19 TAC §§9.111-9.117

The Texas Higher Education Coordinating Board proposes new §§9.111 - 9.117, concerning Program Development in Public Community/Junior College Districts and Technical Colleges (Workforce Continuing Education Courses). The proposed new rules are as a result of a complete review, rewriting, and restructuring of current Board rules affecting public two-year degree granting institutions. The proposed new rules will provide uni-

formity and consistency and the proposed restructuring of the rules will repeal rules for which the Board no longer has statutory authority and propose new rules to address legislation not previously included in Board rules. The proposed new rules will not substantially change the operation of public two-year degree granting institutions since many of the functions not previously addressed by Board rules were in place.

Glenda Barron, Assistant Commissioner for Community and Technical Colleges has determined that for the first five-year period the rule is in effect there will be no fiscal implications as a result of enforcing or administering the rule.

Dr. Barron also has determined that for the first five years the rule is in effect the public benefit will be that the changes will eliminate oversight by the Board that is not statutorily authorized, allowing local control to be effective where appropriate while providing the appropriate level of state supervision. There will be no effect on state or local government or small businesses. There is no anticipated economic costs to persons who are required to comply with the rule as proposed.

Comments on the proposed new rules may be submitted to Dr. Don W. Brown, Commissioner of Higher Education, Texas Higher Education Coordinating Board, P.O. Box 12788, Capitol Station, Austin, Texas 78711.

The new rules are proposed under Texas Education Code, §§61.061, 61.062, 130.001, and 130.087, which provides the Texas Higher Education Coordinating Board with the authority to adopt rules concerning Program Development in Public Community/Junior College Districts and Technical Colleges (Workforce Continuing Education Courses).

There were no other sections or articles affected by the proposed amendments.

§9.111. Purpose.

This subchapter provides rules and procedures for the review and approval of workforce continuing education courses as taught by public community/junior or technical colleges.

§9.112. Authority.

The Texas Education Code, Sections 54.051(n), 54.545, 61.051(j), 61.053, 61.054, 61.060, 61.061, 61.062, 130.001(b)(3)-(4), 130.003(e)(4), and 130.006, authorize the Coordinating Board to adopt policies, enact regulations, and establish rules for public community/junior and technical colleges for the coordination of workforce continuing education courses eligible for state appropriations.

§9.113. General Provisions.

(a) Tuition and fees for state-funded workforce continuing education courses shall be assessed according to policies established by the Board. The governing board of the institution shall establish tuition and fees for workforce continuing education courses not eligible for state reimbursement.

(b) Workforce continuing education courses shall be approved for five years from the beginning of the quarter following the approval date. The termination date for each course shall be reflected on the approved course list. Any course not offered within a five year period shall be deleted from the approved course list.

(c) Any workforce continuing education program meeting or exceeding 360 contact hours shall be subject to all of the requirements for work force education programs for state appropriations as outlined in Chapter 9, Subchapter E of this title (relating to New Certificate and Associate Degree Programs).

(d) Any workforce continuing education program meeting or exceeding 780 contact hours in length must result in the award of semester or quarter credit hours and be applicable to a certificate and an applied associate degree program.

§9.114. Application and Approval Procedures for Workforce Continuing Education Courses.

(a) Any workforce continuing education course listed in the Continuing Education Guidelines and Common Course Manual (CCM) or the Workforce Education Course Manual (WECM) may be offered by any public community/junior or technical college without prior approval by the Board. Courses in the current CCM or WECM are valid until revised or deleted by subsequent updates of the CCM or WECM.

(b) All workforce continuing education courses shall meet the guidelines outlined in the Guidelines for Instructional Programs in Workforce Education as approved by the Board, the Continuing Education Guidelines and Common Course Manual, and the Workforce Education Course Manual.

§9.115. Funding.

(a) Contact hours reported for workforce education courses which result in continuing education units (CEUs) shall be eligible for formula funding.

(b) All workforce continuing education courses shall include no fewer than seven (7) contact hours of instruction for institutions to receive state funding.

§9.116. Reporting to the Board.

Contact hours for workforce continuing education courses from public community/junior and technical colleges must be determined and reported in compliance with Board policy as outlined in the Guidelines for Instructional Programs in Workforce Education as approved by the Board, the Continuing Education Guidelines and Common Course Manual, Workforce Education Course Manual, and state law.

§9.117. Disapproval of Courses; Noncompliance.

No funds appropriated to any public community/junior college or technical college may be expended for any workforce continuing education course which has not been approved by the Board staff.

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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James McWhorter

Assistant Commissioner for Administration

Texas Higher Education Coordinating Board

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For further information, please call: (512) 483-6162



Chapter 9. Public Junior Colleges

Subchapter F. Approval of Partnership Agreements Between Community/Junior Colleges and Upper-Level Universities or Centers

19 TAC §§9.131-9.137

(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 Higher Education Coordinating Board or in the Texas Register office, Room 245, James Earl Rudder Building, 1019 Brazos Street, Austin.)

The Texas Higher Education Coordinating Board proposes the repeal of §§9.131-9.137, concerning Approval of Partnership Agreements Between Community/Junior Colleges and Upper-Level Universities or Centers. The repeal of the rules are as a result of a complete review, rewriting, and restructuring of current Board rules affecting public two-year degree granting institutions. The proposed repeal of the rules will provide uniformity and consistency and the proposed restructuring of the rules will repeal rules for which the Board no longer has statutory authority and propose new rules to address legislation not previously included in Board rules. The proposed repeal of the rules will not substantially change the operation of public two-year degree granting institutions since many of the functions not previously addressed by Board rules were in place.

Glenda Barron, Assistant Commissioner for Community and Technical Colleges has determined that for the first five-year period the rule is in effect there will be no fiscal implications as a result of enforcing or administering the rule.

Dr. Barron also has determined that for the first five years the rule is in effect the public benefit will be that the changes will eliminate oversight by the Board that is not statutorily authorized, allowing local control to be effective where appropriate while providing the appropriate level of state supervision. There will be no effect on state or local government or small businesses. There is no anticipated economic costs to persons who are required to comply with the rule as proposed.

Comments on the proposed repeal of the rules may be submitted to Dr. Don W. Brown, Commissioner of Higher Education, Texas Higher Education Coordinating Board, P.O. Box 12788, Capitol Station, Austin, Texas 78711.

The repeal of the rules is proposed under Texas Education Code, §§61.061, 61.062, 130.001, and 130.087, which provides the Texas Higher Education Coordinating Board with the authority to adopt rules concerning Approval of Partnership Agreements Between Community/Junior Colleges and Upper-Level Universities or Centers.

There were no other sections or articles affected by the proposed amendments.

§9.131. Purpose.

§9.132. Advisory Committee.

§9.133. Approval by Coordinating Board.

§9.134. Criteria for Approval of Partnership Agreements.

§9.135. Prohibitions.

§9.136. State Funding.

§9.137. Continuing Responsibilities.

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 May 20, 1998.

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James McWhorter

Assistant Commissioner for Administration

Texas Higher Education Coordinating Board

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Chapter 9. Program Development in Public Community/Junior College Districts and Technical Colleges

Subchapter G. Contractual Agreements

19 TAC §§9.121-9.128

The Texas Higher Education Coordinating Board proposes new §§9.121-9.128, concerning Program Development in Public Community/Junior College Districts and Technical Colleges (Contractual Agreements). The proposed new rules are as a result of a complete review, rewriting, and restructuring of current Board rules affecting public two-year degree granting institutions. The proposed new rules will provide uniformity and consistency and the proposed restructuring of the rules will repeal rules for which the Board no longer has statutory authority and propose new rules to address legislation not previously included in Board rules. The proposed new rules will not substantially change the operation of public two-year degree granting institutions since many of the functions not previously addressed by Board rules were in place.

Glenda Barron, Assistant Commissioner for Community and Technical Colleges has determined that for the first five-year period the rule is in effect there will be no fiscal implications as a result of enforcing or administering the rule.

Dr. Barron also has determined that for the first five years the rule is in effect the public benefit will be that the changes will eliminate oversight by the Board that is not statutorily authorized, allowing local control to be effective where appropriate while providing the appropriate level of state supervision. There will be no effect on state or local government or small businesses. There is no anticipated economic costs to persons who are required to comply with the rule as proposed.

Comments on the proposed new rules may be submitted to Dr. Don W. Brown, Commissioner of Higher Education, Texas Higher Education Coordinating Board, P.O. Box 12788, Capitol Station, Austin, Texas 78711.

The new rules are proposed under Texas Education Code, §§61.061, 61.062, 130.001, and 130.087, which provides the Texas Higher Education Coordinating Board with the authority to adopt rules concerning Program Development in Public Community/Junior College Districts and Technical Colleges (Contractual Agreements).

There were no other sections or articles affected by the proposed amendments.

§9.121. *Purpose.*

This subchapter shall provide rules and regulations to enable public community/junior colleges and technical colleges to enter into contractual agreements with other institutions of higher education or non-SACS/COC-accredited organizations (which include but are not limited to public secondary schools and business and industry) to improve the articulation, quality, and efficiency of educational programs and services.

§9.122. *Authority.*

The Texas Education Code, Subchapter N of Chapter 51, and Sections 51.923, 61.051(o), 61.053, 61.054, 61.055, 61.060, 61.061, 61.062, 61.064, 61.067, 130.001(b)(3)-(4), 130.006, 130.008, and 130.090, authorize the Coordinating Board to adopt policies, enact regulations, and establish rules for the public community/junior and technical colleges to enter into agreements with other entities to provide for appropriate educational services.

§9.123. *General Provisions.*

(a) The Board recognizes that to prepare a literate and trained workforce to be available for economic stability and development requires a true joint partnership between private and public sectors. Accordingly, the Board encourages contractual agreements between institutions of higher education, business, industry, and other agencies to forge a common partnership of joint planning, facilities, laboratories, delivery systems, and evaluation efforts. The Board policy intends to provide institutional incentives for colleges to work with business, industry, and government in the development of an educated workforce for Texas.

(b) Each community and technical college may classify workforce continuing education and other courses as earning semester/quarter credit hours or continuing education units (CEUs). Contact hours reported for workforce education courses which result in either credit hours or CEUs shall be eligible for formula funding. A course or program that meets or exceeds 360 hours in length must be approved as a technical certificate program except by special justification and approval by Board staff. A course or program that meets or exceeds 780 hours in length must result in the award of appropriate semester/quarter credit hours and be applicable to a certificate and an applied associate degree program.

(c) General enrollment or contract training courses that are non-credit and do not result in the award of CEUs are not eligible for any state apportionment funding, but a community and technical college is free to market such non-credit or non-CEU training to business, industry, and government at whatever rate can be negotiated with the contracting organization. Exceptions regarding programs serving incarcerated students must be submitted to the Coordinating Board staff for review and approval.

(d) Courses earning CEUs shall be subject to the guidelines published by the Southern Association of Colleges and Schools Commission on Colleges as a condition of eligibility for formula funding.

(e) All student enrollments for semester/quarter hour credit are subject to the provisions of the Texas Academic Skills Program as applicable.

(f) Public community/junior or technical colleges providing courses to organizations for which semester/quarter hour credits or CEUs are earned must charge out-of-state tuition to non-resident students who are brought from out-of-state for such contract courses.

§ 9.124. *Contractual Agreements for Instruction with Non-SACS/COC-Accredited Organizations Other than Public Secondary Schools.*

(a) *General Policy Guidelines.*

(1) Contractual agreements for instruction by public community/junior or technical colleges with non-SACS/COC accredited organizations must comply with all current guidelines of the Southern Association of Colleges and Schools Commission on Colleges.

(2) Courses and programs offered under contractual agreements must be consistent with the educational purpose, mission, and goals of the institution.

(3) Courses and programs offered and requested for state reimbursement must remain under the sole and direct control of the sponsoring public community/junior or technical college.

(b) Regulations.

(1) Board Approval.

(A) All programs and courses must be approved through the established procedures of the Board.

(B) Requirements. Courses offered must remain under the sole and direct control of the sponsoring public community/junior or technical college which exercises ultimate and continuing responsibility for the performance of the functions reflected in the contract. Instructors of courses must meet qualifications as stipulated by the public community/junior or technical college. The public community/junior or technical college must employ at least one full-time faculty member per degree program and specify in the contract the institutional procedures by which the contracted courses or programs meet the standards of regular programs as disclosed fully in the publications of the institution, specifically including the following:

(i) recruitment and counseling of students;

(ii) admission of students to courses and/or to the sponsoring institution where certificate and associate degree programs are pursued;

(iii) development and evaluation of the curriculum;

(iv) evaluation of student progress;

(v) record keeping;

(vi) tuition and/or fee charges, receipts and disbursement of funds, and refund policy;

(vii) appointment, supervision, and evaluation of faculty; and

(viii) instruction and learning resources.

(2) The Contractual Agreement.

(A) The contractual agreement must be executed by designated officers of the public community/junior or technical college and their counterparts in the contracting organization.

(B) The contractual agreement shall establish a definite understanding between the public community/junior or technical college and the contracting agency to include each of the items required by this subsection.

(C) The agreement shall specify the work to be performed, the period of the agreement, and the conditions under which any renewal or renegotiation must occur.

§9.125. Contractual Agreements for Instruction with Public Secondary Schools.

(a) General Policy Guidelines.

(1) Public community/junior and technical colleges may contract to provide instruction for public secondary schools.

(2) Provision of instruction for public secondary schools by public community/junior and technical colleges must be in accordance with rules and guidelines established by the State Board of Education.

(3) Instruction provided under a contractual agreement under this section may include only coursework necessary for students

to complete high school. It does not apply to early admission programs for high school students entering college.

(b) Regulations.

(1) Instructors in contract programs with public secondary schools must meet qualifications required by the public community/junior or technical college as well as the minimum guidelines approved by the State Board of Education.

(2) An agreement between the public community/junior or technical college and the public secondary school must be approved by both governing boards.

(3) Funding for this type of instruction must flow to the public secondary school as the contracting agency. An agreed cost for instruction must be negotiated between the public community/junior or technical college and the public secondary school.

§9.126. Contractual Agreements for Instruction with Other SACS/COC-Accredited Institutions of Higher Education.

(a) Public community/junior and technical colleges may enter into cooperative undertakings or contractual agreements with other Texas' public community/junior or technical colleges as permitted by law.

(b) Public community/junior and technical colleges may enter into cooperative undertakings or contractual agreements with other Texas public institutions of higher education as part of a multi-institution teaching center as outlined under Chapter 5, Subchapter L, Section 5.245 of this title (relating to Multi-Institution Teaching Centers).

(c) Public community/junior and technical colleges may enter into cooperative undertakings or contractual agreements with SACS/COC-accredited independent institutions of higher education as part of a multi-institution teaching center as outlined under Chapter 5, Subchapter L, Section 5.245 of this title (relating to Multi-Institution Teaching Centers) or other partnership agreements on a shared-cost basis as permitted by law.

§9.127. Reporting to the Board.

Contact hours for contract instruction eligible for state reimbursement must be determined and reported in compliance with state law and Board rules and policy.

§9.128. Disapproval of Courses; Noncompliance.

No funds appropriated to any public community/junior college district or technical college may be expended for any course taught under a contractual agreement which has not been approved by the Board.

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 May 20, 1998.

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James McWhorter

Assistant Commissioner for Administration

Texas Higher Education Coordinating Board

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Chapter 9. Public Junior Colleges

Subchapter G. Approval of Postsecondary Technical and Vocational Programs for State Ap-

propriations to Community and Junior Colleges and Texas State Technical College

19 TAC §§9.151–9.156

(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 Higher Education Coordinating Board or in the Texas Register office, Room 245, James Earl Rudder Building, 1019 Brazos Street, Austin.)

The Texas Higher Education Coordinating Board proposes the repeal of §§9.151-9.156, concerning Approval of Postsecondary Technical and Vocational Programs for State Appropriations to Community & Junior Colleges & Texas State Technical College. The repeal of the rules are as a result of a complete review, rewriting, and restructuring of current Board rules affecting public two-year degree granting institutions. The proposed repeal of the rules will provide uniformity and consistency and the proposed restructuring of the rules will repeal rules for which the Board no longer has statutory authority and propose new rules to address legislation not previously included in Board rules. The proposed repeal of the rules will not substantially change the operation of public two-year degree granting institutions since many of the functions not previously addressed by Board rules were in place.

Glenda Barron, Assistant Commissioner for Community and Technical Colleges has determined that for the first five-year period the rule is in effect there will be no fiscal implications as a result of enforcing or administering the rule.

Dr. Barron also has determined that for the first five years the rule is in effect the public benefit will be that the changes will eliminate oversight by the Board that is not statutorily authorized, allowing local control to be effective where appropriate while providing the appropriate level of state supervision. There will be no effect on state or local government or small businesses. There is no anticipated economic costs to persons who are required to comply with the rule as proposed.

Comments on the proposed repeal of the rules may be submitted to Dr. Don W. Brown, Commissioner of Higher Education, Texas Higher Education Coordinating Board, P.O. Box 12788, Capitol Station, Austin, Texas 78711.

The repeal of the rules is proposed under Texas Education Code, §§61.061, 61.062, 130.001, and 130.087, which provides the Texas Higher Education Coordinating Board with the authority to adopt rules concerning Approval of Postsecondary Technical and Vocational Programs for State Appropriations to Community & Junior Colleges & Texas State Technical College.

There were no other sections or articles affected by the proposed amendments.

§9.151. *Purpose.*

§9.152. *Authority.*

§9.153. *Definitions.*

§9.154. *Procedures.*

§9.155. *Provisions for Emergency Approval and Ratification.*

§9.156. *Evaluation and Sunset Review.*

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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James McWhorter

Assistant Commissioner for Administration

Texas Higher Education Coordinating Board

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Chapter 9. Program Development in Public Community/Junior College Districts and Technical Colleges

Subchapter I. Distance Education

19 TAC §§9.161–9.163

The Texas Higher Education Coordinating Board proposes new §§9.161-9.163, concerning Program Development in Public Community/Junior College Districts and Technical Colleges (Distance Education). The proposed new rules are as a result of a complete review, rewriting, and restructuring of current Board rules affecting public two-year degree granting institutions. The proposed new rules will provide uniformity and consistency and the proposed restructuring of the rules will repeal rules for which the Board no longer has statutory authority and propose new rules to address legislation not previously included in Board rules. The proposed new rules will not substantially change the operation of public two-year degree granting institutions since many of the functions not previously addressed by Board rules were in place.

Glenda Barron, Assistant Commissioner for Community and Technical Colleges has determined that for the first five-year period the rule is in effect there will be no fiscal implications as a result of enforcing or administering the rule.

Dr. Barron also has determined that for the first five years the rule is in effect the public benefit will be that the changes will eliminate oversight by the Board that is not statutorily authorized, allowing local control to be effective where appropriate while providing the appropriate level of state supervision. There will be no effect on state or local government or small businesses. There is no anticipated economic costs to persons who are required to comply with the rule as proposed.

Comments on the proposed new rules may be submitted to Dr. Don W. Brown, Commissioner of Higher Education, Texas Higher Education Coordinating Board, P.O. Box 12788, Capitol Station, Austin, Texas 78711.

The new rules are proposed under Texas Education Code, §§61.061, 61.062, 130.001, and 130.087, which provides the Texas Higher Education Coordinating Board with the authority to adopt rules concerning Program Development in Public Community/Junior College Districts and Technical Colleges (Distance Education).

There were no other sections or articles affected by the proposed amendments.

§9.161. Purpose.

This subchapter provides rules and regulations for public community/junior colleges for the delivery of courses and programs via instructional telecommunications or to locations out-of-district, out-of-state, and out-of-country.

§9.162. Authority.

The Texas Education Code, Sections 61.051(j), 61.053, 61.054, 61.060, 61.061, 61.062, 130.001(b)(3)-(4), and 130.086(d), authorize the Coordinating Board to adopt policies, enact regulations, and establish rules for public community/junior colleges for the delivery of courses and programs out-of-district, out-of-state, and out-of-country.

§9.163. Courses and Programs Offered through Distance Education.

(a) Chapter 5, Subchapter H of this title (relating to Approval of Distance Learning for Public Colleges and Universities) are hereby applicable to public community/junior colleges. These sections provide particular requirements and procedures for the offering of courses and programs by public community/junior colleges at out-of-district, out-of-state, and out-of-country locations.

(b) Courses and programs not eligible for state reimbursement and offered in out-of-district, out-of-state, and out-of-country locations shall meet the same rules, regulations, and guidelines established by the Board for courses and programs eligible for state reimbursement.

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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James McWhorter

Assistant Commissioner for Administration

Texas Higher Education Coordinating Board

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For further information, please call: (512) 483-6162



Chapter 9. Public Junior Colleges

Subchapter H. Postsecondary Apprenticeship Training Programs

19 TAC §§9.171-9.174

(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 Higher Education Coordinating Board or in the Texas Register office, Room 245, James Earl Rudder Building, 1019 Brazos Street, Austin.)

The Texas Higher Education Coordinating Board proposes the repeal of §§9.171-9.174, concerning Postsecondary Apprenticeship Training Programs. The repeal of the rules are as a result of a complete review, rewriting, and restructuring of current Board rules affecting public two-year degree granting institutions. The proposed repeal of the rules will provide uniformity and consistency and the proposed restructuring of the rules will repeal rules for which the Board no longer has statutory authority and propose new rules to address legislation not previously included in Board rules. The proposed repeal of the rules will not substantially change the operation of public two-year degree granting institutions since many of the functions not previously addressed by Board rules were in place.

Glenda Barron, Assistant Commissioner for Community and Technical Colleges has determined that for the first five-year period the rule is in effect there will be no fiscal implications as a result of enforcing or administering the rule.

Dr. Barron also has determined that for the first five years the rule is in effect the public benefit will be that the changes will eliminate oversight by the Board that is not statutorily authorized, allowing local control to be effective where appropriate while providing the appropriate level of state supervision. There will be no effect on state or local government or small businesses. There is no anticipated economic costs to persons who are required to comply with the rule as proposed.

Comments on the proposed repeal of the rules may be submitted to Dr. Don W. Brown, Commissioner of Higher Education, Texas Higher Education Coordinating Board, P.O. Box 12788, Capitol Station, Austin, Texas 78711.

The repeal of the rules is proposed under Texas Education Code, §§61.061, 61.062, 130.001, and 130.087, which provides the Texas Higher Education Coordinating Board with the authority to adopt rules concerning Postsecondary Apprenticeship Training Programs.

There were no other sections or articles affected by the proposed amendments.

§9.171. Definitions.

§9.172. Approval.

§9.173. Procedures.

§9.174. Funding

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 May 20, 1998.

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James McWhorter

Assistant Commissioner for Administration

Texas Higher Education Coordinating Board

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For further information, please call: (512) 483-6162



Subchapter I. Contractual Agreements

19 TAC §§9.191-9.194

(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 Higher Education Coordinating Board or in the Texas Register office, Room 245, James Earl Rudder Building, 1019 Brazos Street, Austin.)

The Texas Higher Education Coordinating Board proposes the repeal of §§9.191-9.194, concerning Contractual Agreements. The repeal of the rules are as a result of a complete review, rewriting, and restructuring of current Board rules affecting public two-year degree granting institutions. The proposed repeal of the rules will provide uniformity and consistency and the proposed restructuring of the rules will repeal rules for which the Board no longer has statutory authority and propose new rules to address legislation not previously included in Board rules. The proposed repeal of the rules will not substantially change the operation of public two-year degree granting institutions since many of the functions not previously addressed by Board rules were in place.

Glenda Barron, Assistant Commissioner for Community and Technical Colleges has determined that for the first five-year

period the rule is in effect there will be no fiscal implications as a result of enforcing or administering the rule.

Dr. Barron also has determined that for the first five years the rule is in effect the public benefit will be that the changes will eliminate oversight by the Board that is not statutorily authorized, allowing local control to be effective where appropriate while providing the appropriate level of state supervision. There will be no effect on state or local government or small businesses. There is no anticipated economic costs to persons who are required to comply with the rule as proposed.

Comments on the proposed repeal of the rules may be submitted to Dr. Don W. Brown, Commissioner of Higher Education, Texas Higher Education Coordinating Board, P.O. Box 12788, Capitol Station, Austin, Texas 78711.

The repeal of the rules is proposed under Texas Education Code, §§61.061, 61.062, 130.001, and 130.087, which provides the Texas Higher Education Coordinating Board with the authority to adopt rules concerning Contractual Agreements.

There were no other sections or articles affected by the proposed amendments.

§9.191. *Definitions.*

§9.192. *Contractual Agreements for Instruction with Non-Regionally Accredited Organizations.*

§9.193. *Contractual Agreements for Instruction Provided by a Post-secondary Institution for Public Secondary Schools.*

§9.194. *Continuing Education.*

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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James McWhorter

Assistant Commissioner for Administration

Texas Higher Education Coordinating Board

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Subchapter J. Approval of Continuing Education Courses for State Appropriations to Public Community Colleges and Texas State Technical College

19 TAC §§9.211-9.216

(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 Higher Education Coordinating Board or in the Texas Register office, Room 245, James Earl Rudder Building, 1019 Brazos Street, Austin.)

The Texas Higher Education Coordinating Board proposes the repeal of §§9.211-9.216, concerning Approval of Continuing Education Courses for State Appropriations to Public Community Colleges and Texas State Technical College. The repeal of the rules are as a result of a complete review, rewriting, and restructuring of current Board rules affecting public two-year degree granting institutions. The proposed repeal of the rules will provide uniformity and consistency and the proposed restructuring of the rules will repeal rules for which the Board no longer has

statutory authority and propose new rules to address legislation not previously included in Board rules. The proposed repeal of the rules will not substantially change the operation of public two-year degree granting institutions since many of the functions not previously addressed by Board rules were in place.

Glenda Barron, Assistant Commissioner for Community and Technical Colleges has determined that for the first five-year period the rule is in effect there will be no fiscal implications as a result of enforcing or administering the rule.

Dr. Barron also has determined that for the first five years the rule is in effect the public benefit will be that the changes will eliminate oversight by the Board that is not statutorily authorized, allowing local control to be effective where appropriate while providing the appropriate level of state supervision. There will be no effect on state or local government or small businesses. There is no anticipated economic costs to persons who are required to comply with the rule as proposed.

Comments on the proposed repeal of the rules may be submitted to Dr. Don W. Brown, Commissioner of Higher Education, Texas Higher Education Coordinating Board, P.O. Box 12788, Capitol Station, Austin, Texas 78711.

The repeal of the rules is proposed under Texas Education Code, §§61.061, 61.062, 130.001, and 130.087, which provides the Texas Higher Education Coordinating Board with the authority to adopt rules concerning Approval of Continuing Education Courses for State Appropriations to Public Community Colleges and Texas State Technical College.

There were no other sections or articles affected by the proposed amendments.

§9.211. *Purpose.*

§9.212. *Authority.*

§9.213. *Definitions.*

§9.214. *Approval.*

§9.215. *Procedures.*

§9.216. *Reporting.*

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 May 20, 1998.

TRD-9808298

James McWhorter

Assistant Commissioner for Administration

Texas Higher Education Coordinating Board

Proposed date of adoption: July 17, 1998

For further information, please call: (512) 483-6162



Subchapter L. Approval of Credit Courses and Programs not Receiving State Funds Offered at Out-of-State and Foreign Locations

19 TAC §§9.251-9.255

(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 Higher Education Coordinating Board or in the Texas Register office, Room 245, James Earl Rudder Building, 1019 Brazos Street, Austin.)

The Texas Higher Education Coordinating Board proposes the repeal of §§9.251 - 9.255, concerning Approval of Credit Courses and Programs not Receiving State Funds Offered at Out-of-State and Foreign Locations. The repeal of the rules are as a result of a complete review, rewriting, and restructuring of current Board rules affecting public two-year degree granting institutions. The proposed repeal of the rules will provide uniformity and consistency and the proposed restructuring of the rules will repeal rules for which the Board no longer has statutory authority and propose new rules to address legislation not previously included in Board rules. The proposed repeal of the rules will not substantially change the operation of public two-year degree granting institutions since many of the functions not previously addressed by Board rules were in place.

Glenda Barron, Assistant Commissioner for Community and Technical Colleges has determined that for the first five-year period the rule is in effect there will be no fiscal implications as a result of enforcing or administering the rule.

Dr. Barron also has determined that for the first five years the rule is in effect the public benefit will be that the changes will eliminate oversight by the Board that is not statutorily authorized, allowing local control to be effective where appropriate while providing the appropriate level of state supervision. There will be no effect on state or local government or small businesses. There is no anticipated economic costs to persons who are required to comply with the rule as proposed.

Comments on the proposed repeal of the rules may be submitted to Dr. Don W. Brown, Commissioner of Higher Education, Texas Higher Education Coordinating Board, P.O. Box 12788, Capitol Station, Austin, Texas 78711.

The repeal of the rules is proposed under Texas Education Code, §§61.061, 61.062, 130.001, and 130.087, which provides the Texas Higher Education Coordinating Board with the authority to adopt rules concerning Approval of Credit Courses and Programs not Receiving State Funds Offered at Out-of-State and Foreign Locations.

There were no other sections or articles affected by the proposed amendments.

§9.251. *Purpose.*

§ 9.252. *Authority.*

§9.253. *Criteria and Procedures.*

§9.254. *Evaluation and Auditing.*

§9.255. *Reports.*

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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James McWhorter

Assistant Commissioner for Administration

Texas Higher Education Coordinating Board

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For further information, please call: (512) 483-6162



Subchapter M. Integrated Vocational-Technical Education and Training Delivery System for a Quality Work Force

19 TAC §§9.270-9.283

(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 Higher Education Coordinating Board or in the Texas Register office, Room 245, James Earl Rudder Building, 1019 Brazos Street, Austin.)

The Texas Higher Education Coordinating Board proposes the repeal of §§9.270-9.283, concerning Integrated Vocational-Technical Education and Training Delivery System for a Quality Work Force. The repeal of the rules are as a result of a complete review, rewriting, and restructuring of current Board rules affecting public two-year degree granting institutions. The proposed repeal of the rules will provide uniformity and consistency and the proposed restructuring of the rules will repeal rules for which the Board no longer has statutory authority and propose new rules to address legislation not previously included in Board rules. The proposed repeal of the rules will not substantially change the operation of public two-year degree granting institutions since many of the functions not previously addressed by Board rules were in place.

Glenda Barron, Assistant Commissioner for Community and Technical Colleges has determined that for the first five-year period the rule is in effect there will be no fiscal implications as a result of enforcing or administering the rule.

Dr. Barron also has determined that for the first five years the rule is in effect the public benefit will be that the changes will eliminate oversight by the Board that is not statutorily authorized, allowing local control to be effective where appropriate while providing the appropriate level of state supervision. There will be no effect on state or local government or small businesses. There is no anticipated economic costs to persons who are required to comply with the rule as proposed.

Comments on the proposed repeal of the rules may be submitted to Dr. Don W. Brown, Commissioner of Higher Education, Texas Higher Education Coordinating Board, P.O. Box 12788, Capitol Station, Austin, Texas 78711.

The repeal of the rules is proposed under Texas Education Code, §§61.061, 61.062, 130.001, and 130.087, which provides the Texas Higher Education Coordinating Board with the authority to adopt rules concerning Integrated Vocational-Technical Education and Training Delivery System for a Quality Work Force.

There were no other sections or articles affected by the proposed amendments.

§9.270. *Statutory Law and Background.*

§ 9.271. *Purpose.*

§9.272. *Regional Boundaries.*

§9.273. *Partnership.*

§9.274. *Quality Work Force Planning Committees.*

§9.275. *Establishment of Committees.*

§9.276. *Regional Labor Market Information System.*

§9.277. *Regional Program and Economic Development Inventories.*

§9.278. *Regional Inventory of Vocational-Technical Education and Training Programs for Targeted Occupations.*

§9.279. *Service Delivery Plan.*

§9.280. *Committee Membership.*

§9.281. *Committee Bylaws.*

§9.282. *Executive/Steering Committee.*

§9.283. *Tri-agency Partnership.*

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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James McWhorter

Assistant Commissioner for Administration

Texas Higher Education Coordinating Board

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For further information, please call: (512) 483-6162



Chapter 11. Texas State Technical College

Subchapter A. Purpose and Authority

19 TAC §§11.1-11.6

(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 Higher Education Coordinating Board or in the Texas Register office, Room 245, James Earl Rudder Building, 1019 Brazos Street, Austin.)

The Texas Higher Education Coordinating Board proposes the repeal of §§11.1-11.6, concerning Purpose and Authority. The repeal of the rules are as a result of a complete review, rewriting, and restructuring of current Board rules affecting public two-year degree granting institutions. The proposed repeal of the rules will replace repealed rules to improve readability, consistency, and uniformity, and will add rules to address legislation not previously included in Board rules. The proposed repeal of the rules will not substantially change the operation of public two-year degree granting institutions since many of the functions not previously addressed by Board rules were in place.

Glenda Barron, Assistant Commissioner for Community and Technical Colleges has determined that for the first five-year period the rule is in effect there will be no fiscal implications as a result of enforcing or administering the rule.

Dr. Barron also has determined that for the first five years the rule is in effect the public benefit will be that the changes will eliminate oversight by the Board that is not statutorily authorized, allowing local control to be effective where appropriate while providing the appropriate level of state supervision. There will be no effect on state or local government or small businesses. There is no anticipated economic costs to persons who are required to comply with the rule as proposed.

Comments on the proposed repeal of the rules may be submitted to Dr. Don W. Brown, Commissioner of Higher Education, Texas Higher Education Coordinating Board, P.O. Box 12788, Capitol Station, Austin, Texas 78711.

The repeal of the rules is proposed under Texas Education Code, §§61.061, 61.062, 130.001, and 130.087, which provides the Texas Higher Education Coordinating Board with the authority to adopt rules concerning Purpose and Authority.

There were no other sections or articles affected by the proposed amendments.

§11.1. *Governance.*

§11.2. *Role and Mission.*

§11.3. *Campuses.*

§11.4. *Extension Centers.*

§11.5. *Other Instructional Activities.*

§11.6. *Funding.*

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-9808304

James McWhorter

Assistant Commissioner for Administration

Texas Higher Education Coordinating Board

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For further information, please call: (512) 483-6162



Chapter 11. Texas State Technical College System

Subchapter A. Purpose, Authority, and Definitions

19 TAC §§11.1-11.3

The Texas Higher Education Coordinating Board proposes new §§11.1-11.3, concerning Texas State Technical College System (Purpose, Authority and Definitions). The proposed new rules are as a result of a complete review, rewriting, and restructuring of current Board rules affecting public two-year degree granting institutions. The proposed new rules will provide uniformity and consistency and the proposed restructuring of the rules will repeal rules for which the Board no longer has statutory authority and propose new rules to address legislation not previously included in Board rules. The proposed new rules will not substantially change the operation of public two-year degree granting institutions since many of the functions not previously addressed by Board rules were in place.

Glenda Barron, Assistant Commissioner for Community and Technical Colleges has determined that for the first five-year period the rule is in effect there will be no fiscal implications as a result of enforcing or administering the rule.

Dr. Barron also has determined that for the first five years the rule is in effect the public benefit will be that the changes will eliminate oversight by the Board that is not statutorily authorized, allowing local control to be effective where appropriate while providing the appropriate level of state supervision. There will be no effect on state or local government or small businesses. There is no anticipated economic costs to persons who are required to comply with the rule as proposed.

Comments on the proposed new rules may be submitted to Dr. Don W. Brown, Commissioner of Higher Education, Texas Higher Education Coordinating Board, P.O. Box 12788, Capitol Station, Austin, Texas 78711.

The new rules are proposed under Texas Education Code, §§61.061, 61.062, 130.001, and 130.087, which provides the Texas Higher Education Coordinating Board with the authority to adopt rules concerning Texas State Technical College System (Purpose, Authority, and Definitions).

There were no other sections or articles affected by the proposed amendments.

§11.1. Purpose.

The purpose of this chapter is to prescribe rules and regulations for the Texas State Technical College System in the general operation of its campuses, extension facilities, and programs.

§11.2. Authority.

Texas Education Code, Sections 61.051, 61.053, 61.056, 61.058, 61.0583, 135.01, 135.04, 135.02, and 135.06, authorize the Coordinating Board to adopt policies, enact regulations, and establish rules for the Texas State Technical College System relating to the review of its role and mission statement, new program approval, approval and operation of extension centers, approval of land acceptance or acquisition, and the audit of its facilities.

§11.3. Definitions.

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

(1) Board or coordinating board The Texas Higher Education Coordinating Board.

(2) Campus A residential unit of the Texas State Technical College System that grants certificate and associate of applied science degrees.

(3) Commissioner of higher education or commissioner The chief executive officer of the Texas Higher Education Coordinating Board.

(4) Governing board The board of regents of the Texas State Technical College System.

(5) Extension center A site, operating under the administration of a campus, that has an extension program.

(6) Extension program Credit and non-credit instruction in technical and vocational education offered at an extension center.

(7) System The Texas State Technical College System.

(8) Technical courses or programs Workforce education courses or programs for which semester/quarter credit hours are awarded.

(9) Vocational courses or programs Workforce education courses or programs for which continuing education units (CEUs) are awarded.

(10) Workforce education Technical courses and programs for which semester/quarter credit hours are awarded, and vocational courses and programs for which continuing education units are awarded. Workforce education courses and programs prepare students for immediate employment or job upgrade within specific occupational categories.

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 May 20, 1998.

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James McWhorter

Assistant Commissioner for Administration

Texas Higher Education Coordinating Board

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Chapter 11. Texas State Technical College

Subchapter B. Basic Standards

19 TAC §§11.21-11.27

The Texas Higher Education Coordinating Board proposes the repeal of §§11.21-11.27, concerning Basic Standards. The repeal of the rules are as a result of a complete review, rewriting, and restructuring of current Board rules affecting public two-year degree granting institutions. The proposed repeal of the rules will replace repealed rules to improve readability, consistency, and uniformity, and will add rules to address legislation not previously included in Board rules. The proposed repeal of the rules will not substantially change the operation of public two-year degree granting institutions since many of the functions not previously addressed by Board rules were in place.

Glenda Barron, Assistant Commissioner for Community and Technical Colleges has determined that for the first five-year period the rule is in effect there will be no fiscal implications as a result of enforcing or administering the rule.

Dr. Barron also has determined that for the first five years the rule is in effect the public benefit will be that the changes will eliminate oversight by the Board that is not statutorily authorized, allowing local control to be effective where appropriate while providing the appropriate level of state supervision. There will be no effect on state or local government or small businesses. There is no anticipated economic costs to persons who are required to comply with the rule as proposed.

Comments on the proposed repeal of the rules may be submitted to Dr. Don W. Brown, Commissioner of Higher Education, Texas Higher Education Coordinating Board, P.O. Box 12788, Capitol Station, Austin, Texas 78711.

The repeal of the rules is proposed under Texas Education Code, §§61.061, 61.062, 130.001, and 130.087, which provides the Texas Higher Education Coordinating Board with the authority to adopt rules concerning Basic Standards.

There were no other sections or articles affected by the proposed amendments.

§11.21. *General Provisions.*

§11.22. *Approval of Courses and Programs.*

§11.23. *Admission.*

§11.24. *Qualification and Professional Growth of Faculty.*

§11.25. *Plant and General Facilities.*

§11.26. *Student Activities and Services.*

§11.27. *General Character of the Institutions.*

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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James McWhorter

Assistant Commissioner for Administration

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Chapter 11. Texas State Technical College System

Subchapter B. General Provisions

19 TAC §§11.21–11.30

The Texas Higher Education Coordinating Board proposes new §§11.21-11.30, concerning Texas State Technical College System (General Provisions). The proposed new rules are as a result of a complete review, rewriting, and restructuring of current Board rules affecting public two-year degree granting institutions. The proposed new rules will provide uniformity and consistency and the proposed restructuring of the rules will repeal rules for which the Board no longer has statutory authority and propose new rules to address legislation not previously included in Board rules. The proposed new rules will not substantially change the operation of public two-year degree granting institutions since many of the functions not previously addressed by Board rules were in place.

Glenda Barron, Assistant Commissioner for Community and Technical Colleges has determined that for the first five-year period the rule is in effect there will be no fiscal implications as a result of enforcing or administering the rule.

Dr. Barron also has determined that for the first five years the rule is in effect the public benefit will be that the changes will eliminate oversight by the Board that is not statutorily authorized, allowing local control to be effective where appropriate while providing the appropriate level of state supervision. There will be no effect on state or local government or small businesses. There is no anticipated economic costs to persons who are required to comply with the rule as proposed.

Comments on the proposed new rules may be submitted to Dr. Don W. Brown, Commissioner of Higher Education, Texas Higher Education Coordinating Board, P.O. Box 12788, Capitol Station, Austin, Texas 78711.

The new rules are proposed under Texas Education Code, §§61.061, 61.062, 130.001, and 130.087, which provides the Texas Higher Education Coordinating Board with the authority to adopt rules concerning Texas State Technical College System (General Provisions).

There were no other sections or articles affected by the proposed amendments.

§11.21. Role and Mission.

(a) Texas Education Code, Section 135.01, creates the Texas State Technical College System and provides that it shall be a coeducational two-year institution of higher education offering courses of study in technical-vocational education for which there is demand within the State of Texas.

(b) Texas State Technical College System shall contribute to the educational and economic development of the State of Texas by offering occupationally oriented programs with supporting academic course work, emphasizing highly specialized advanced and emerging technical and vocational areas for certificates or associate degrees. The Texas State Technical College System is authorized to serve the State of Texas through excellence in instruction, public service, faculty and manpower research, and economic development. The system's economic development efforts to improve the competitiveness of Texas business and industry include exemplary centers of excellence in technical program clusters on the system's campuses and support of educational research commercialization initiatives. Through close collaboration with business, industry, governmental agencies, and communities, including public and private secondary and post-

secondary educational institutions, the system shall facilitate and deliver an articulated and responsive technical education system.

(c) In developing and offering highly specialized technical programs with related supportive coursework, primary consideration shall be placed on industrial and technological manpower needs of the state. The emphasis of each Texas State Technical College System campus shall be on advanced or emerging technical programs not commonly offered by public junior colleges.

(d) Role and mission statements are subject to the provisions of Chapter 9, Subchapter C of this title (relating to Purpose, Role, and Mission).

§11.22. Establishing Additional Campuses.

(a) The Board shall review any proposed legislation establishing an additional Texas State Technical College campus. The review shall consider the state's need for the new campus. The Board shall report its findings to the Governor and the Legislature.

(b) The Board shall make a recommendation regarding the need for a new campus. The recommendation shall require a favorable vote of at least two-thirds of the members of the Board.

(c) A favorable recommendation by the Board is not required for the Legislature to establish a new campus.

§11.23. Approval and Operation of Extension Programs and Centers.

(a) The system may establish an extension program in accordance with Texas Education Code, Section 135.06, and by approval of the Board.

(b) The system may operate an extension center in accordance with Texas Education Code, Section 135.02, and under continuing review by the Board as outlined in Chapter 10 of this title (relating to Institutional Effectiveness in Public Community/Junior College Districts and Technical Colleges).

§11.24. Approval of Land Acceptance or Acquisition.

The governing board may accept, acquire by purchase, lease, sell, transfer, or exchange land in the name of the State of Texas and make improvement to facilities in any of the counties in which a campus or extension center is located according to procedures outlined in Chapter 17, Subchapter C of this title (relating to Requesting Coordinating Board Endorsement of Real Property Acquisitions).

§11.25. Audit of Facilities.

The Board shall periodically conduct a comprehensive audit of all educational and general facilities on the campuses of the Texas State Technical College System as outlined in Chapter 17, Subchapter D of this title (relating to Audits of Educational and General Facilities).

§11.26. TSTC-Marshall Prohibitions.

The Texas State Technical College extension center in Marshall shall not offer general academic or technical courses or programs that duplicate the general academic or technical courses and programs offered by Panola College, Northeast Texas Community College, and Kilgore College. The Board shall determine whether proposed courses and programs are duplicative.

§11.27. New Program and Course Approval.

(a) Courses and programs wholly or partially financed from state funds are subject to the prior approval and continuing review of the Board.

(b) Before any new course or program may be offered by a campus or extension center within the taxing district of a public

community/junior college, it must be established that the public community/junior college is not capable of offering or chooses not to offer the program. The campus or extension center must present evidence to the Board that the public community/junior college is not capable of offering the program. After it has demonstrated to the Board that the need for the program exists and that the program is not locally available, the campus or extension center may offer the program, provided approval is secured from the Board. Approval of technical and vocational programs under this section does not apply to McLennan, Cameron, and Potter counties.

(c) Where a local government, business, or industry located in a county or a portion of a county that is not operating a public community/junior college district requests that the campus or extension center offer a program, the campus or extension center must request approval from the Board to offer the program.

(d) Approval of any courses or programs offered at a campus or extension center under subsections (a), (b), and (c) of this section must be requested from the Board according to procedures prescribed in Chapter 9, Subchapter E of this title (relating to New Certificate and Associate Degree Programs), and Chapter 9, Subchapter F of this title (relating to Workforce Continuing Education Courses).

(e) Partnership agreements between any Texas State Technical College and public or independent institutions of higher education are permissible but are subject to the provisions of Chapter 9, Subchapter G of this title (relating to Contractual Agreements).

§11.28. Other Provisions Related to the System.

The Texas State Technical College System is subject to additional provisions of this title as prescribed in Chapter 9, Subchapters B, C, H, and I of this title (relating to Program Development in Public Community/Junior College Districts and Technical Colleges).

§11.29. Action and Order of the Board.

(a) Board action on the approval of additional campuses or extension centers, acquisition of land, or new program requests shall be taken at the quarterly Board meeting after the request has been submitted.

(b) A resolution shall be entered in the minutes of the Board and conveyed in writing by the Commissioner to the governing board of the Texas State Technical College System.

§11.30. Funding.

(a) The Board shall develop formulas by which administration, instruction, and physical plant operations and utilities are supported for each campus and extension program created prior to September 1, 1991.

(b) The Board shall develop formulas by which administration and instruction are supported for each extension program created after September 1, 1991.

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 May 20, 1998.

TRD-9808328

James McWhorter

Assistant Commissioner for Administration

Texas Higher Education Coordinating Board

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For further information, please call: (512) 483-6162



Chapter 11. Texas State Technical College

Subchapter C. Operational Provisions

19 TAC §§11.41-11.45, 11.47-11.55

(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 Higher Education Coordinating Board or in the Texas Register office, Room 245, James Earl Rudder Building, 1019 Brazos Street, Austin.)

The Texas Higher Education Coordinating Board proposes the repeal of §§11.41-11.45, 11.47-11.55, concerning Operational Provisions. The repeal of the rules are as a result of a complete review, rewriting, and restructuring of current Board rules affecting public two-year degree granting institutions. The proposed repeal of the rules will replace repealed rules to improve readability, consistency, and uniformity, and will add rules to address legislation not previously included in Board rules. The proposed repeal of the rules will not substantially change the operation of public two-year degree granting institutions since many of the functions not previously addressed by Board rules were in place.

Glenda Barron, Assistant Commissioner for Community and Technical Colleges has determined that for the first five-year period the rule is in effect there will be no fiscal implications as a result of enforcing or administering the rule.

Dr. Barron also has determined that for the first five years the rule is in effect the public benefit will be that the changes will eliminate oversight by the Board that is not statutorily authorized, allowing local control to be effective where appropriate while providing the appropriate level of state supervision. There will be no effect on state or local government or small businesses. There is no anticipated economic costs to persons who are required to comply with the rule as proposed.

Comments on the proposed repeal of the rules may be submitted to Dr. Don W. Brown, Commissioner of Higher Education, Texas Higher Education Coordinating Board, P.O. Box 12788, Capitol Station, Austin, Texas 78711.

The repeal of the rules is proposed under Texas Education Code, §§61.061, 61.062, 130.001, and 130.087, which provides the Texas Higher Education Coordinating Board with the authority to adopt rules concerning Operational Provisions.

There were no other sections or articles affected by the proposed amendments.

§11.41. *General Provisions.*

§11.42. *Organization.*

§11.43. *Eligibility of Students.*

§11.44. *Instruction.*

§11.45. *Curriculum Design.*

§11.47. *Military Bases.*

§11.48. *Research and Studies.*

§11.49. *Enrollment Reporting.*

§11.50. *Postsecondary Technical-Vocational Program Approval.*

§11.51. *Continuing Education Course Approval.*

§11.52. *Apprenticeship Programs.*

§11.53. *Contractual Agreements.*

§11.54. *Off-Campus Instructional Activities.*

§11.55. *New Plant Start-Up and Plant Expansion Training 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 May 20, 1998.

TRD-9808306

James McWhorter

Assistant Commissioner for Administration

Texas Higher Education Coordinating Board

Proposed date of adoption: July 17, 1998

For further information, please call: (512) 483-6162



Part II. Texas Education Agency

Chapter 61. School Districts

Subchapter AA. Commissioner's Rules

Division 2. School Finance

19 TAC §61.1011

The Texas Education Agency (TEA) proposes new §61.1011, concerning Public Education Grant (PEG) supplemental payments.

The Texas Education Code (TEC), §29.203(b), as added by House Bill 318, 75th Texas Legislature, 1997, directs the commissioner to establish rules for the calculation of additional state aid for certain school districts that educate students under the PEG program.

The PEG program was created by Senate Bill 1, 74th Texas Legislature, 1995, and allows students assigned to certain campuses to attend school in a district other than that of the student's residence. Originally, students were eligible if they were assigned to a campus that had been rated *low-performing* in any three of the preceding years, or if they were assigned to a campus that, in all three previous years, had at least 50 percent of the students not performing satisfactorily on state assessment instruments.

House Bill 318, 75th Texas Legislature, 1997, amended the eligibility criteria by allowing students to attend school in another district if they were assigned to a campus that had been rated *low-performing* in any of the three preceding years, or if they were assigned to a campus that, in two of the three previous years, had at least 50 percent of the students not performing satisfactorily on state assessment instruments. House Bill 318, 75th Texas Legislature, 1997, also simplified the funding mechanism by creating an entitlement to the district educating a student under the PEG program equal to the adjusted basic allotment multiplied by a weight of 0.1.

However, for certain school districts, this new funding mechanism will not generate the same amount of state assistance that it would for most school districts. House Bill 318, 75th Texas Legislature, 1997, authorizes additional state assistance for districts whose wealth per student is greater than the guaranteed wealth level (currently \$210,000 per student) but less than the equalized wealth level (currently \$280,000 per student). Dis-

tricts with property wealth in this range are ineligible for state assistance under the guaranteed yield program (Tier 2).

Joe Wisnoski, coordinator for school finance and fiscal analysis, has determined that for the first five-year period the sections are in effect there will be fiscal implications for state or local government as a result of enforcing or administering the section. Since there are currently few PEG students being served and even fewer that are being served by districts whose wealth per student is greater than the guaranteed wealth level but less than the equalized wealth level, it is anticipated that the fiscal impact to the state will be minimal.

Mr. Wisnoski and Criss Cloudt, associate commissioner for policy planning and research, have determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be a consistent methodology for determining funding for PEG students in certain school districts. The methodology used will result in comparable state assistance for educating PEG students. There will not be an effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the section as proposed.

Comments on the proposal may be submitted to Criss Cloudt, Policy Planning and Research, 1701 North Congress Avenue, Austin, Texas 78701, (512) 463-9701, or faxed to (512) 475-3499. Comments may also be submitted electronically at <http://www.tea.state.tx.us/rules/commissioner>. All requests for a public hearing on the proposed sections submitted under the Administrative Procedure Act must be received by the commissioner of education not more than 15 calendar days after notice of a proposed change in the sections has been published in the *Texas Register*.

The new section is proposed under Texas Education Code, §29.203(b), as added by House Bill 318, 75th Texas Legislature, 1997, which authorizes the commissioner of education to establish rules for the calculation of additional state aid for certain school districts that educate students under the PEG program.

The proposed new section implements Texas Education Code, §29.203(b), as added by House Bill 318, 75th Texas Legislature, 1997.

§61.1011. Public Education Grant Supplemental Payments.

(a) Definitions. The following phrases, when used in the implementation of Texas Education Code, §29.203(b), or in this section, shall have the following meaning, unless the context clearly indicates otherwise.

(1) Cost to the district of providing services – The Foundation School Program cost per student, including the equalized state and local share of the guaranteed yield allotment at the district's tax effort for the applicable school year, as limited by Texas Education Code, §42.253(e).

(2) Net additional students – The number of students accepted by a district under the public education grant program minus the number of that district's resident students who are educated in other districts under the public education grant program. For purposes of this section, the number of net additional students cannot be less than zero.

(b) Computation methodology. A school district with property wealth per student greater than the guaranteed wealth level but less than the equalized wealth level is entitled to a supplemental

payment for the number of net additional students educated under the public education grant program. The amount of the supplemental payment shall be computed as the guaranteed level multiplied by the district enrichment and facilities tax rate as specified in Texas Education Code, §42.302(a), as limited by Texas Education Code, §42.253(e), multiplied by the number of net additional students.

(c) Payment method. The supplemental payment shall be made to the district in a lump sum in the subsequent school 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 May 22, 1998.

TRD-9808425

Criss Cloudt

Associate Commissioner, Policy Planning and Research

Texas Education Agency

Earliest possible date of adoption: July 5, 1998

For further information, please call: (512) 463-9701



Chapter 97. Planning and Accreditation

Subchapter BB. Memoranda of Understanding

19 TAC §97.1011, §97.1012,

The Texas Education Agency (TEA) proposes new §97.1011 and §97.1012, concerning memoranda of understanding. Section 97.1011 provides for a memorandum of understanding (MOU) with the Texas School for the Deaf related to accreditation and Public Education Information Management System (PEIMS) data reporting, authorized under Texas Education Code (TEC), §29.315, as added by Senate Bill 1918, 75th Texas Legislature, 1997. Section 97.1012 provides for a memorandum of understanding with the Texas School for the Blind and Visually Impaired related to PEIMS data reporting, authorized under TEC, §30.005, as added by Senate Bill 1919, 75th Texas Legislature, 1997.

Proposed new 19 TAC §97.1011 establishes the method for developing and reevaluating a set of quality of learning indicators at the Texas School for the Deaf and the process for the TEA to conduct and report on an annual evaluation of the school's performance on the indicators. The new section also provides for the school's board to publish, discuss, and disseminate an annual report describing the educational performance of the school; the process for the TEA to assign an accreditation status to the school, to reevaluate the status on an annual basis, and, if necessary, to make on-site accreditation investigations; and the type of information the school shall be required to provide through PEIMS. TEA staff held a series of meetings with representatives from the Texas School for the Deaf to draft and refine language proposed in the MOU.

Proposed new 19 TAC §97.1012 establishes the method for developing and reevaluating a set of quality of learning indicators at the Texas School for the Blind and Visually Impaired. The new section also provides for the process for the TEA to conduct and report on an annual evaluation of the school's performance on the indicators; the requirements for the school's board to publish, discuss, and disseminate an annual report describing the educational performance of the school; and the type of information the school shall be required to provide through PEIMS.

TEA staff held a series of meetings with representatives from the Texas School for the Blind and Visually Impaired to draft and refine language proposed in the MOU.

The proposed effective date for proposed new 19 TAC §97.1011 and §97.1012 is September 1, 1998.

Linda Mora, associate commissioner for accountability and school accreditation, 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 the section. However, the effect on state government cannot be assessed at this time. The fiscal impact of participation in PEIMS by the Texas School for the Deaf and the Texas School for the Blind and Visually Impaired will need to be assessed as part of the feasibility studies outlined in proposed new 19 TAC §97.1011(h) and §97.1012(f). Also, in the event that the Texas School for the Deaf receives a rating of "needing on-site review," it is possible for on-site investigations and sanctions to be applied that may have future fiscal implications for the school and the TEA. There are no fiscal implications for local government.

Ms. Mora and Criss Cloudt, associate commissioner for policy planning and research, have 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 ensuring students served by the Texas School for the Deaf and the Texas School for the Visually Impaired and their parents and/or guardians will annually receive information regarding the performance of the schools. There will not be an 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 Criss Cloudt, Policy Planning and Research, 1701 North Congress Avenue, Austin, Texas 78701, (512) 463-9701. Comments may also be submitted electronically to rules@tmail.tea.state.tx.us. All requests for a public hearing on the proposed sections submitted under the Administrative Procedure Act must be received by the commissioner of education not more than 15 calendar days after notice of a proposed change in the sections has been published in the *Texas Register*.

The new sections are proposed under the Texas Education Code, §29.315, as added by Senate Bill 1918, 75th Texas Legislature, 1997, which authorizes the commissioner of education to adopt by rule a memorandum of understanding jointly developed and agreed upon by the Texas Education Agency and the Texas School for the Deaf; and Texas Education Code, §30.005, as added by Senate Bill 1919, 75th Texas Legislature, 1997, which authorizes the commissioner of education to adopt by rule a memorandum of understanding jointly developed and agreed upon by the Texas Education Agency and the Texas School for the Blind and Visually Impaired.

The new sections implement the Texas Education Code, §29.315 and §30.005.

§97.1011. Memorandum of Understanding between the Texas Education Agency and the Texas School for the Deaf.

(a) Purpose. This memorandum of understanding (MOU) is a non-financial, mutual agreement between the Texas School for the Deaf, hereafter referred to as "the School," and the Texas Education Agency, hereafter referred to as "the Agency," established pursuant to the Texas Education Code (TEC), §29.315. This MOU will establish:

(1) the method for developing and reevaluating a set of indicators of the quality of learning at the School;

(2) the process for the Agency to conduct and report on an annual evaluation of the School's performance on the indicators;

(3) the requirements for the School's Board to publish, discuss, and disseminate an annual report describing the educational performance of the School;

(4) the process for the Agency to assign an accreditation status to the School, to reevaluate the status on an annual basis, and, if necessary, to make on-site accreditation investigations; and

(5) the type of information the School shall be required to provide through the Public Education Information Management System (PEIMS).

(b) Accountability compliance reviews.

(1) The Agency shall monitor the School's compliance with federal and state laws and regulations related to services for special populations by conducting a periodic on-site review. The Agency shall determine the schedule for the review.

(2) The Agency, with input from the School, shall develop a compliance monitoring instrument that itemizes compliance indicators that are the responsibility of the School. The instrument will be disseminated to the School and updated jointly as appropriate.

(c) Indicators of quality of learning for the School.

(1) No later than August 31, 1999, the Agency and the School shall jointly develop and agree upon a set of quality indicators that are appropriate to the characteristics of students served by the School.

(2) Annually, the commissioner of education shall approve indicators of performance that measure the quality of student learning at the School.

(3) The indicators shall include measures of academic and/or developmental performance as well as other measures appropriate to the characteristics of the student populations served.

(4) To the extent appropriate, the indicators shall incorporate academic excellence indicators and alternative assessment measures required under TEC, Chapter 39, Subchapter B.

(d) Annual performance evaluation.

(1) The School's annual performance evaluation shall be based on quality indicators selected annually from among the set of quality indicators developed and jointly agreed upon by the School and the Agency to address the characteristics of the student groups served.

(2) The selected quality indicators used for the annual performance evaluation shall measure, as appropriate, academic and/or non-academic performance on norm- or criterion-referenced instruments; progress in the attainment of student individualized education program goals and objectives; statewide criterion-referenced assessments; completion of courses or credits; or completion of graduation requirements. Additional non-academic indicators may be selected that measure dropout rates, attendance, or other appropriate measures of student success.

(3) The method for evaluating the School's annual performance shall be as follows.

(A) Annually, by September 1, the School shall submit to the commissioner an accountability proposal. The proposal shall be developed with input from the School's planning and decision-making committee and shall include the following information to be used to determine the current year accountability rating:

(i) quality indicators;

(ii) performance objectives within each indicator;

and

(iii) minimum standards for determining achievement of performance objectives.

(B) By September 15, the commissioner shall review the proposal and notify the School superintendent of approval, or needed modifications to obtain approval, of the proposed indicators and performance objectives to be used for determining an accountability rating.

(C) By November 1, the commissioner shall provide notification of final approval of the proposal indicators and performance objectives.

(D) By July 1 following the year for which the School's performance is being evaluated, the School shall submit to the Agency all complete and accurate data necessary to document performance with respect to the approved indicators and performance objectives selected for rating purposes under the accountability system.

(4) The schedule of activities related to the annual performance evaluation shall include the following activities.

(A) During the 1998-1999 school year, the School and the Agency shall determine methods of evaluating student performance for determining achievement of performance objectives.

(B) During the 1999-2000 school year, the School shall evaluate student performance in areas addressed by the quality indicators.

(C) Beginning with the 2000-2001 school year, the Agency shall perform an annual performance evaluation for the School.

(e) Accreditation status.

(1) By September 1, the commissioner shall assign the School a rating of "acceptable" or "needing on-site review."

(2) To attain a rating of "acceptable," the School shall attain all approved performance objectives established for each selected indicator.

(3) If the School receives a rating of "needing on-site review," the School may appeal the rating to the commissioner of education by October 1. The rating will be final by November 1.

(4) The determination of the performance rating may include consideration of the effectiveness of the special education program based on the Agency's most recent compliance review of the school and program for special populations.

(f) On-site investigation and sanctions. If the School does not receive an accreditation rating of "acceptable," the commissioner may take any of the following actions, listed in order of severity, to the extent the commissioner determines necessary:

(1) direct the Agency to conduct an on-site investigation, in accordance with the provisions of TEC, §39.074(c)-(e), and, raise or maintain the performance rating as a result of the investigation;

(2) order the preparation of a student achievement improvement plan that addresses each quality indicator for which the School's performance is unacceptable, the submission of the plan to the commissioner for approval, and implementation of the plan; or

(3) appoint a special campus intervention team, the criteria for membership of which shall be mutually agreed upon by the Agency and the School, the costs for which shall be paid for by the School, to:

(A) conduct a comprehensive on-site evaluation of the School to determine the cause for the School's low performance and lack of progress;

(B) recommend actions, including reallocation of resources and technical assistance; changes in school procedures or operations; staff development for instructional and administrative staff; intervention for individual administrators or teachers; waivers from state statute or rule; or other actions the team considers appropriate;

(C) assist in the development of a school plan for student achievement; and

(D) assist the commissioner in monitoring the progress of the School in implementing the School plan for improvement of student achievement.

(g) Annual performance report.

(1) The Governing Board of the School shall publish an annual report describing the educational performance of the School. The report shall include the School's performance objectives, progress toward these objectives, and the School's performance rating assigned by the Agency. Supplemental information to be included in the report shall be determined by the School's Governing Board.

(2) The Governing Board of the School will disseminate the annual performance report to parents of enrolled students, districts that have placed students at the School, and regional education service centers (RESCs). Additionally, the Governing Board will notify the parents of enrolled students, districts that have placed students at the School, and RESCs of an opportunity for public discussion of the annual performance report at a regularly scheduled board meeting. The School's planning and decision-making committee will hold at least one public meeting annually for the purpose of discussing the School's performance report.

(3) By December 1, the School shall disseminate the annual performance report.

(h) Reporting of data.

(1) The School will report PEIMS data according to the following schedule.

(A) The Agency and the School shall jointly develop separate action plans for the possible collection of organization, student, staff, and financial data. The action plan for organization and student data shall be completed by June 1998; for staff data by June 1999; and for financial data by June 2000.

(B) The Agency and the School shall conduct studies to determine the feasibility of collecting data for each information category according to the following schedule: organization and student data during the 1998-1999 school year; staff data during the 1999-2000 school year; and financial data during the 2000-2001 school year.

(C) In each information category for which it is determined that data collection is feasible, the Agency and the School shall pilot the collection as follows: organization and student data during the 1999-2000 school year; staff data during the 2000-2001 school year; and financial data during the 2001-2002 school year.

(D) Initial PEIMS collection shall be contingent on resolution of feasibility issues and modifications indicated by the pilot process.

(2) To the extent possible, the Agency shall assist the School in accessing available resources to implement this section of the MOU.

(i) Dispute resolution. Disputes between the School and the Agency concerning implementation of this MOU shall be resolved as follows.

(1) Staff of the School and the Agency shall identify and attempt to resolve the specific issues involved in the dispute.

(2) If staff of the School and the Agency are unable to resolve the dispute after a reasonable time period, the executive officers of the School and the Agency shall assist the staff in identifying a mutually agreeable resolution to the dispute.

(3) If the executive officers (or either of them) are unable to reach a mutually agreeable resolution, the School and the Agency shall pursue resolution through the use of mediation pursuant to the Governmental Dispute Resolution Act, Government Code, Chapter 2008. The mediator shall make such arrangements and decisions respecting the conduct of the proceedings as needed in the sole discretion of the mediator. The costs of mediation shall be borne equally by the School and the Agency.

(4) If the School and the Agency fail to reach agreement through mediation pursuant to the Governmental Dispute Resolution Act, Government Code, Chapter 2008, the following procedure shall be followed.

(A) The School and the Agency shall each select one impartial third party pursuant to Government Code, §2008.053.

(B) The impartial third parties selected by the School and the Agency shall jointly select another impartial third party, who must be a person eligible to serve as impartial third party pursuant to Government Code, §2008.053. The person selected shall be the arbitrator of the dispute.

(C) The arbitrator selected by the impartial third parties selected by the School and the Agency shall arbitrate the dispute pursuant to Texas Civil Practice and Remedies Code, §154.027. The arbitrator shall make such arrangements and decisions respecting the conduct of the proceedings as needed in the sole discretion of the arbitrator. The costs of arbitration shall be borne equally by the School and the Agency. The parties hereby stipulate in advance that the decision of the arbitrator shall be binding and enforceable against both parties pursuant to Texas Civil Practice and Remedies Code, §154.027(b).

(j) Other terms.

(1) This MOU shall be signed by the executive officers of the School and the Agency and shall be effective September 1, 1998.

(2) This MOU may be considered for expansion, modification, or amendment upon mutual agreement of the executive officers of the School and the Agency.

(3) In the event that federal and/or state laws should be amended, federally interpreted, or judicially interpreted so as to render continued implementation of this MOU unreasonable or impossible, the School and the Agency may agree to amend or terminate this MOU.

§97.1012. Memorandum of Understanding between the Texas Education Agency and the Texas School for the Blind and Visually Impaired.

(a) Purpose. This memorandum of understanding (MOU) is a non-financial, mutual agreement between the Texas School for the Blind and Visually Impaired, hereafter referred to as "the School," and the Texas Education Agency, hereafter referred to as "the Agency," established pursuant to the Texas Education Code (TEC), §30.005. This MOU will establish:

(1) the method for developing and reevaluating a set of indicators of the quality of learning at the School;

(2) the process for the Agency to conduct and report on an annual evaluation of the School's performance on the indicators;

(3) the requirements for the School's Board to publish, discuss, and disseminate an annual report describing the educational performance of the School; and

(4) the type of information the School shall be required to provide through the Public Education Information Management System (PEIMS).

(b) Accountability compliance reviews.

(1) The Agency shall monitor the School's compliance with federal and state laws and regulations related to services for special populations by conducting a periodic on-site review. The Agency shall determine the schedule for the review.

(2) The Agency, with input from the School, shall develop a compliance monitoring instrument that itemizes compliance indicators that are the responsibility of the School. The instrument will be disseminated to the School and updated jointly as appropriate.

(c) Indicators of quality of learning for the School.

(1) No later than August 31, 1999, the Agency and the School shall jointly develop and agree upon a set of quality indicators that are appropriate to the characteristics of students served by the School.

(2) Annually, the commissioner of education shall approve indicators of performance that measure the quality of student learning at the School.

(3) The indicators shall include measures of academic and/or developmental performance as well as other measures appropriate to the characteristics of the student populations served.

(4) To the extent appropriate, the indicators shall incorporate academic excellence indicators and alternative assessment measures required under TEC, Chapter 39, Subchapter B.

(d) Annual performance evaluation.

(1) The School's annual performance evaluation shall be based on quality indicators selected annually from among the set of quality indicators developed and jointly agreed upon by the School and the Agency to address the characteristics of the student groups served.

(2) The selected quality indicators used for the annual performance evaluation shall measure, as appropriate, academic and/or non-academic performance on norm- or criterion-referenced instruments; progress in the attainment of student individualized education program goals and objectives; statewide criterion-referenced assessments; completion of courses or credits; or completion of graduation requirements. Additional non-academic indicators may be selected

that measure dropout rates, attendance, or other appropriate measures of student success.

(3) The method for evaluating the School's annual performance shall be as follows.

(A) Annually, by September 1, the School shall submit to the commissioner an accountability proposal. The proposal shall be developed with input from the School's planning and decision-making committee and shall include the following information:

(i) quality indicators;

(ii) performance objectives within each indicator;

(iii) minimum standards for determining achievement of performance objectives.

(B) By September 15, the commissioner shall review the proposal and notify the School superintendent of approval, or needed modifications to obtain approval, of the proposed indicators and performance objectives.

(C) By November 1, the commissioner shall provide notification of final approval of the proposal indicators and performance objectives.

(D) By July 1 following the year for which the School's performance is being evaluated, the School shall submit to the Agency all complete and accurate data necessary to document performance with respect to the approved indicators and performance objectives.

(4) The schedule of activities related to the annual performance evaluation shall include the following activities.

(A) During the 1998-1999 school year, the School and the Agency shall determine methods of evaluating student performance for determining achievement of performance objectives.

(B) During the 1999-2000 school year, the School shall evaluate student performance in areas addressed by the quality indicators.

(C) Beginning with the 2000-2001 school year, the Agency shall perform an annual performance evaluation for the School.

(e) Annual performance report.

(1) The Governing Board of the School shall publish an annual report describing the educational performance of the School. The report shall include the School's performance objectives and progress toward these objectives. Supplemental information to be included in the report shall be determined by the School's Governing Board.

(2) The Governing Board of the School will disseminate the annual performance report to parents of enrolled students, districts that have placed students at the School, and regional education service centers (RESCs). Additionally, the Governing Board will notify the parents of enrolled students, districts that have placed students at the School, and RESCs of an opportunity for public discussion of the annual performance report at a regularly scheduled board meeting. The School's planning and decision-making committee will hold at least one public meeting annually for the purpose of discussing the School's performance report.

(3) By December 1, the School shall disseminate the annual performance report.

(f) Reporting of data.

(1) The School will report PEIMS data according to the following schedule.

(A) The Agency and the School shall jointly develop separate action plans for the possible collection of organization, student, staff, and financial data. The action plan for organization and student data shall be completed by June 1998; for staff data by June 1999; and for financial data by June 2000.

(B) The Agency and the School shall conduct studies to determine the feasibility of collecting data for each information category according to the following schedule: organization and student data during the 1998-1999 school year; staff data during the 1999-2000 school year; and financial data during the 2000-2001 school year.

(C) In each information category for which it is determined that data collection is feasible, the Agency and the School shall pilot the collection as follows: organization and student data during the 1999-2000 school year; staff data during the 2000-2001 school year; and financial data during the 2001-2002 school year.

(D) Initial PEIMS collection shall be contingent on resolution of feasibility issues and modifications indicated by the pilot process.

(2) To the extent possible, the Agency shall assist the School in accessing available resources to implement this section of the MOU.

(g) Dispute resolution. Disputes between the School and the Agency concerning implementation of this MOU shall be resolved as follows.

(1) Staff of the School and the Agency shall identify and attempt to resolve the specific issues involved in the dispute.

(2) If staff of the School and the Agency are unable to resolve the dispute after a reasonable time period, the executive officers of the School and the Agency shall assist the staff in identifying a mutually agreeable resolution to the dispute.

(3) If the executive officers (or either of them) are unable to reach a mutually agreeable resolution, the School and the Agency shall pursue resolution through the use of mediation pursuant to the Governmental Dispute Resolution Act, Government Code, Chapter 2008. The mediator shall make such arrangements and decisions respecting the conduct of the proceedings as needed in the sole discretion of the mediator. The costs of mediation shall be borne equally by the School and the Agency.

(4) If the School and the Agency fail to reach agreement through mediation pursuant to the Governmental Dispute Resolution Act, Government Code, Chapter 2008, the following procedure shall be followed.

(A) The School and the Agency shall each select one impartial third party pursuant to Government Code, §2008.053.

(B) The impartial third parties selected by the School and the Agency shall jointly select another impartial third party, who must be a person eligible to serve as impartial third party pursuant to Government Code, §2008.053. The person selected shall be the arbitrator of the dispute.

(C) The arbitrator selected by the impartial third parties selected by the School and the Agency shall arbitrate the dispute pursuant to Texas Civil Practice and Remedies Code, §154.027. The arbitrator shall make such arrangements and decisions

respecting the conduct of the proceedings as needed in the sole discretion of the arbitrator. The costs of arbitration shall be borne equally by the School and the Agency. The parties hereby stipulate in advance that the decision of the arbitrator shall be binding and enforceable against both parties pursuant to Texas Civil Practice and Remedies Code, §154.027(b).

(h) Other terms.

(1) This MOU shall be signed by the executive officers of the School and the Agency and shall be effective September 1, 1998.

(2) This MOU may be considered for expansion, modification, or amendment upon mutual agreement of the executive officers of the School and the Agency.

(3) In the event that federal and/or state laws should be amended, federally interpreted, or judicially interpreted so as to render continued implementation of this MOU unreasonable or impossible, the School and the Agency may agree to amend or terminate this MOU.

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 May 22, 1998.

TRD-9808468

Criss Cloudt

Associate Commissioner, Policy Planning and Research

Texas Education Agency

Earliest possible date of adoption: July 5, 1998

For further information, please call: (512) 463-9701

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TITLE 22. EXAMINING BOARDS

Part X. Texas Funeral Service Commission

Chapter 201. Licensing and Enforcement - Practice and Procedure

The Texas Funeral Service Commission proposes the repeal of §201.18 and new §201.18, concerning charges for providing copies of public information. The section is being repealed and replaced to be in compliance with the current General Services Commission rule 111.61 regarding charges for providing copies of public information.

Eliza May, Executive Director, 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.

Ms. May 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 current information regarding charges for providing copies of public information. There will be no effect on small businesses. There is no anticipated economic cost for persons who are required to comply with the section as proposed.

Comments on the proposal may be submitted to Eliza May, Executive Director, Texas Funeral Service Commission, 510 South Congress Avenue, Suite 206, Austin, Texas 78704-1716.

22 TAC §201.18

(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 Funeral Service Commission or in the Texas Register office, Room 245, James Earl Rudder Building, 1019 Brazos Street, Austin.)

The repeal is proposed under Texas Civil Statutes, Article 4582b, §5, which authorizes the Texas Funeral Service Commission to adopt rules to administer the statute.

No other statute, code, or article is affect by the proposed repeal.

§201.18. Charges for Providing Copies of Public Information.

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 May 22, 1998.

TRD-9808428

Eliza May, M.S.S.W.

Executive Director

Texas Funeral Service Commission

Earliest possible date of adoption: July 5, 1998

For further information, please call: (512) 479-7222



The new section is proposed under Texas Civil Statutes, Article 4582b, §5, which authorizes the Texas Funeral Service Commission to adopt rules to administer the statute.

No other statute, code, or article is affect by the proposed new section.

§201.18. Charges for Providing Copies of Public Information.

To determine the charges for providing public information pursuant to the Government Code, Chapter 552, Subchapter F (the "Public Information Act"), the Texas Funeral Service Commission will follow the rules promulgated by the General Services Commission and published at 1 TAC, §§111.61-111.70 effective September 18, 1996.

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 May 22, 1998.

TRD-9808429

Eliza May, M.S.S.W.

Executive Director

Texas Funeral Service Commission

Earliest possible date of adoption: July 5, 1998

For further information, please call: (512) 479-7222



Part XXII. Texas State Board of Public Accountancy

Chapter 505. The Board

22 TAC §505.10

The Texas State Board of Public Accountancy (Board) proposes an amendment to §505.10, concerning Board Committees.

The proposed amendment to §505.10 will function by expanding the Rules Committee's authority to consider any board rule

and by encouraging other board committees to consult with the Rules Committee.

The Board hereby certifies that the proposed amendment has been reviewed by its legal counsel and found to be within the Board's authority to adopt.

William Treacy, Executive Director of the Board, has determined that for the first five-year period the proposed amendment will be in effect there will be no costs incurred by any person or entity as a result of enforcing or administering this amendment.

Mr. Treacy has determined that for the first five-year period the amendment is in effect the public benefit expected as a result of adoption of the proposed rule amendment will be expanded authority of the Rules Committee to review any rule and other board committees taking advantage of the Rules Committee's expertise.

The probable economic cost to persons required to comply with the amendment will be zero because this amendment applies only to internal operations of board committees.

Mr. Treacy has determined that a Local Employment Impact Statement is not required because the proposed amendment will not affect a local economy.

The Board requests comments on the substance and effect of the proposed amendment from any interested person. Comments must be received at the Board no later than noon on June 26, 1998. Comments should be addressed to Amanda G. Birrell, General Counsel, Texas State Board of Public Accountancy, 333 Guadalupe, Tower III, Suite 900, Austin, Texas 78701 or faxed to her attention at (512) 305-7854.

Mr. Treacy has determined that the proposed rule amendment will not have an adverse economic effect on small businesses because the amendment applies only to internal operating procedures of board committees and requires no action by any small business. The Board specifically invites comments from the public on the issues of whether on not the proposed rule will have an adverse economic effect on small business; if the rule is believed to have such an effect, then how may the Board legally and feasibly reduce that effect considering the purpose of the statute under which the rule is to be adopted; and if the rule is believed to have such an effect, how the cost of compliance for a small business compares with the cost of compliance for the largest business affected by the rule under any of the following standards: (a) cost per employee; (b) cost for each hour of labor; or (c) cost for each \$100 of sales. See Tex Gov't Code Sec. 2006.002(c)

The amendment is proposed under the Public Accountancy Act, TEX. CIV. STAT., Article 41a-1, 6(a) (Vernon Supp. 1998), which authorizes the Board to adopt rules deemed necessary or advisable to effectuate the Act.

No other statutes, articles, or codes are affected by this proposal.

§505.10. Board Committees.

(a)-(d) (No change.)

(e) Standing committee structure and charge to committees.

The standing committees shall consist of the following individuals and shall be charged with the following responsibilities.

(1)-(7) (No change.)

(8) The board rules committee shall be comprised of at least two board members, one of whom shall serve as chairman, assisted by any number of non-board members who shall serve in an advisory capacity. The committee shall make recommendations to the board regarding board rules. All committees shall endeavor to consult with the board rules committee concerning proposed rules. [defined by the board chairman as requiring action.]

(9)-(11) (No change.)

(f)-(i) (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 May 20, 1998.

TRD-9808302

William Treacy

Executive Director

Texas State Board of Public Accountancy

Earliest possible date of adoption: July 5, 1998

For further information, please call: (512) 305-7848



22 TAC §505.11

The Texas State Board of Public Accountancy (Board) proposes statement of policy §505.11, concerning the Board's Peer Assistance Oversight Committee.

The proposed statement of policy will explain the Board's policy for addressing issues concerning licenses impaired by substance abuse or mental illness.

The Board hereby certifies that the proposed policy statement has been reviewed by its legal counsel and found to be within the Board's authority to adopt.

William Treacy, Executive Director of the Board, has determined that for the first five-year period the proposed policy statement will be in effect:

A. the additional estimated cost to the state expected as a result of enforcing or administering the statement of policy will be zero.

B. the estimated reductions in costs to the state and to local governments as a result of enforcing or administering the statement of policy will be none, and/or;

C. The estimated in revenue to the state as a result of enforcing or administering the policy will be none.

Mr. Treacy has determined that for the first five-year period the policy statement is in effect the public benefits expected as a result of adoption of the proposed statement of policy will be that impaired CPAs will have greater access to information concerning peer assistance programs.

The probable economic cost to persons required to comply with the statement of policy will be none.

Mr. Treacy has determined that a Local Employment Impact Statement is not required because the proposed statement of policy will not affect a local economy.

The Board requests comments on the substance and effect of the proposed statement of policy from any interested person. Comments must be received at the Board no later than noon on June 30, 1998. Comments should be addressed to Amanda

G. Birrell, General Counsel, Texas State Board of Public Accountancy, 333 Guadalupe, Tower III, Suite 900, Austin, Texas 78701 or faxed to her attention at (512) 305-7854.

Mr. Treacy has determined that the proposed statement of policy will not have an adverse economic effect on small businesses because the statement of policy affects only the dissemination of information by the Board. The Board specifically invites comments from the public on the issues of whether on not the proposed statement of policy will have an adverse economic effect on small business. If the statement of policy is believed to have such an effect, the Board requests comments on how the Board could legally and feasibly reduce that effect considering the purpose of the statutes under which the statement of policy is to be adopted; and if the statement of policy is believed to have such an effect, how the cost of compliance for a small business compares with the cost of compliance for the largest business affected by the statement of policy under any of the following standards: (a) cost per employee; (b) cost for each hour of labor; or (c) cost for each \$100 of sales. See Tex Gov't Code Sec. 2006.002(c)

The statement of policy is proposed under the Public Accountancy Act, TEX. CIV. STAT., Article 41a-1, 6(a) (Vernon Supp. 1998), which authorizes the Board to adopt rules deemed necessary or advisable to effectuate the Act, and Chapter 467 of the TEX. HEALTH SAFETY CODE (Vernon's 199) which authorizes professional licensing authorities to approve peer assistance programs.

No other statutes, articles, or codes are affected by this proposal.

§505.11. Texas State Board of Public Accountancy Policy Statement of the Peer Assistance Oversight Committee.

(a) The Texas State Board of Public Accountancy has established the Peer Assistance Oversight committee to oversee the activities of the Texas Society of Certified Public Accountants' peer assistance program as mandated under the Texas Health and Safety Code, Chapter 467.

(b) The Peer Assistance Oversight Committee operates under the premise that impairments caused by substance abuse and mental illness are treatable.

(c) The Peer Assistance Oversight Committee's responsibilities include, but are not limited to:

(1) protecting the public from CPAs whose ethical, behavioral, and technical violations due to chemical dependency and/or mental illness have harmed, or have the potential to harm, the public;

(2) encouraging CPAs, CPA examination candidates, and accounting students to seek assistance for impairment due to chemical dependency and/or mental illness;

(3) cooperating with the Texas Society of CPAs peer assistance program in promoting confidential assistance to CPAs, CPA examination candidates, and accounting students who suffer from chemical dependency and/or mental illness; and

(4) disseminating information about the peer assistance program to CPAs, CPA examination candidates, and accounting students.

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 May 20, 1998.

TRD-9808303

William Treacy

Executive Director

Texas State Board of Public Accountancy

Earliest possible date of adoption: July 5, 1998

For further information, please call: (512) 305-7848



Part XXV. Structural Pest Control Board

Chapter 591. General Provisions

22 TAC §591.21

The Texas Structural Pest Control Board proposes an amendment to §591.21, concerning Definition of Terms. The proposed amendment creates a definition of barrier which includes any area treated with a termiticide.

Benny M. Mathis, Executive Director has determined that there will not be fiscal implications as a result of enforcing or administering the rule. There will be no estimated additional cost, estimated reduction in cost or estimated loss or increase in revenue to state or local government for the first five year period the rule will be in effect. There will be no cost per employee, cost per hour of labor or cost per \$100 of sales to small or large businesses.

Roger B. Borgelt, General Counsel has determined that for each year of the first five years the rule as proposed is in effect, the public benefits anticipated as a result of enforcing the rule as proposed will be allowing the use of termite control products with a mode of action other than contact poisoning while remain consistent with the Structural Pest Control Board termite control standards. There is no anticipated economic cost to individuals who are required to comply with the rule as proposed.

Comments on the proposal may be submitted to Roger B. Borgelt, General Counsel, Structural Pest Control Board, 1106 Clayton Lane #100LW, Austin, Texas 78723.

The amendment is proposed under Article 135b-6, which provides the Structural Pest Control Board with the authority to license and regulate the structural pest control industry.

The following is the (statutes, articles or code) that are affected by this rule.

Rule Number Statute, Article or Code

22 TAC 599.2 Article 135b-6

22 TAC 599.3 Article 135b-6

§591.21. *Definition of Terms.*

In addition to the definitions set out in the Structural Pest Control Act, Section 2, the following words, names, and terms shall have the following meanings, unless the context clearly indicates otherwise.

(1) Act-The Texas Structural Pest Control Act, Texas Civil Statutes, Article 135b-6, as amended.

(2) Apprentice-A sales or service employee who has been registered with the Structural Pest Control Board, but has not yet passed a technician examination. An apprentice license is valid for a maximum of 12 months.

(3) Bait Process-The use of food or other requisite that may be treated with a pesticide and/or other mitigating agent that will adversely affect the pest.

(4) Barrier-For the purposes of a termite treatment, an area of soil or other material which has been treated with a termiticide.

(5) Board-Structural Pest Control Board.

(6) Category-The type of service or services a person or business entity is authorized to perform.

(7) Chairman-An individual appointed by the Governor, who presides at the Board meetings.

(8) Contract-A binding agreement between two or more persons or parties that spell out in writing, the terms and conditions or such agreement, and will include, but not limited to, warranties or guarantees for pest control work.

(9) Executive Director-The person employed by the Board who administers the provisions of this Act and the rules and regulations promulgated by the Board.

(10) Investigator-A structural pest control investigator employed by the Board.

(11) License-A document issued by the Board to a person authorizing the practicing and/or supervising of the professional service or services indicated thereon.

(12) Licensee-The holder of a valid license.

(13) Personal Contact- Physical presence at a work location.

(14) Revoke-To cancel a license issued under authority of the Structural Pest Control Act. When a business license is revoked, the holder of said license must acquire a new license by completing a new application, and paying the required fee. In the case of the certified applicator, the holder of such certified applicator's license must acquire a new license by completing a new application, paying the required fee, and being re-examined in each category desired by said person.

(15) Suspend-To cease operations for a period of time as specified by the Board.

(16) Vice-Chairman-An individual appointed Board member elected by the Board, who presides at the Board meeting in the absence of the Chairman.

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 May 12, 1998.

TRD-9807701

Benny M. Mathis, Jr.

Executive Director

Structural Pest Control Board

Earliest possible date of adoption: July 5, 1998

For further information, please call: (512) 451-7200



Chapter 595. Compliance and Enforcement

22 TAC §595.5

The Structural Pest Control Board proposes amendments of §595.5, concerning Contracts. The proposed amendment

adds the business name to the information required in all contracts, warranties and guarantees. It also expands the list of documents on which the information is required to include invoices and termite treatment disclosure documents.

Benny M. Mathis, Executive Director has determined that there will not be fiscal implications as a result of enforcing or administering the rule. There will be no estimated additional cost, estimated reduction in cost or estimated loss or increase in revenue to state or local government for the first five year period the rule will be in effect. There will be no cost per employee, cost per hour of labor or cost per \$100 of sales to small or large businesses.

Roger B. Borgelt, General Counsel has determined that for each year of the first five years the rule as proposed is in effect, the public benefits anticipated as a result of enforcing the rule as proposed will be more efficient contact between pest control customers and their service providers when customers are attempting to reach the service provider. The anticipated economic cost to individuals who are required to comply with the rule as proposed will be the cost of reprinting documents to include the required information not already included.

Comments on the proposal may be submitted to Roger B. Borgelt, General Counsel, Structural Pest Control Board, 1106 Clayton Lane #100LW, Austin, Texas 78723.

The amendment is proposed under Article 135b-6, which provides the Structural Pest Control Board with the authority to license and regulate the structural pest control industry.

The following is the (statutes, articles or code) that are affected by this rule.

Rule Number-Statute, Article or Code

22 TAC 599.4 Article 135b-6

§595.5. *Contracts.*

(a) Each written contract for service of a business regulated by the Structural Pest Control Board must contain the name, address and telephone number of the Board. It must also include the business name, location address, telephone number and the statement "Licensed and regulated under the Structural Pest Control Act".

(b) The requirement in subsection (a) of this section shall be on the face of any contract, warranty, invoice, termite treatment disclosure document or guarantee issued by the pest control operator.

(c) (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 May 12, 1998.

TRD-9807702

Benny M. Mathis, Jr.

Executive Director

Structural Pest Control Board

Earliest possible date of adoption: July 5, 1998

For further information, please call: (512) 451-7200

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Chapter 599. Treatment Standards

22 TAC §599.7

The Structural Pest Control Board proposes amendments of §599.7, concerning Posting Notice of Inspection. The proposed amendment conforms language to the language in the Texas Official Wood Destroying Insect Report. It also allows the inspection notice to be placed in the bath trap as a new alternative.

Benny M. Mathis, Executive Director has determined that there will not be fiscal implications as a result of enforcing or administering the rule. There will be no estimated additional cost, estimated reduction in cost or estimated loss or increase in revenue to state or local government for the first five year period the rule will be in effect. There will be no cost per employee, cost per hour of labor or cost per \$100 of sales to small or large businesses.

Roger B. Borgelt, General Counsel has determined that for each year of the first five years the rule as proposed is in effect, the public benefits anticipated as a result of enforcing the rule as proposed will be better understanding of allowable locations for the inspection notice and higher durability of notices placed in the new alternative bath trap access. There is no anticipated economic cost to individuals who are required to comply with the rule as proposed.

Comments on the proposal may be submitted to Roger B. Borgelt, General Counsel, Structural Pest Control Board, 1106 Clayton Lane #100 LW, Austin, Texas 78723.

The amendment is proposed under Article 135b-6, which provides the Structural Pest Control Board with the authority to license and regulate the structural pest control industry.

The following is the (statutes, articles, or code) that are affected by this rule.

Rule Number Statute, Article or Code

22 TAC 599.6 Article 135b-6

§599.7. *Posting Notice of Inspection.*

(a) Upon completion of an inspection for the purposes of completing the SPCB/T-3[~~SPCB/T-2~~] Form, the inspector shall post a durable sign adjacent to the [~~hot~~] water heater closet, interior of bath trap access or electric breaker box or beneath the kitchen sink giving the name and address of the licensee, the date of the inspection or treatment, and a statement that the notice should not be removed.

(b) (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 May 12, 1998.

TRD-9807703

Benny M. Mathis, Jr.

Executive Director

Structural Pest Control Board

Earliest possible date of adoption: July 5, 1998

For further information, please call: (512) 451-7200

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Part XXXV. Texas State Board of Examiners of Marriage and Family Therapists

Chapter 801. Licensure and Regulation of Marriage and Family Therapists

The Texas State Board of Examiners of Marriage and Family Therapists (board) proposes amendments to §§801.2, 801.19, 801.20, 801.143, 801.144, 801.203, 801.204, 801.263 – 801.266, and 801.268, concerning the regulation of marriage and family therapists. Specifically, the sections cover definitions, fees, processing applications, supervisor requirements, conditions for supervised experience, provisional license by endorsement, temporary license, clock hour requirements for continuing education, types of acceptable continuing education, continuing education sponsors, criteria for approval of continuing education activities, and submission of continuing education.

Section 801.2 is proposed for amendment to add new definitions, and to identify definitions by number in new *Texas Register* format to comply with Title 25, Texas Administrative Code, §91.1 effective February 17, 1998, for ease in reference and to clarify terms. Section 801.19 is proposed for amendment to increase the examination, renewal and late renewal fees and add new fees for continuing education sponsors and verification of license. The fee increases and new fees are necessary in order to cover the cost of administering the program. Section 801.20 is proposed for amendment to clarify language concerning lost, misdirected or undelivered correspondence. Section 801.143 is proposed for amendment to delete the requirement for supervisors to complete continuing education related to supervision. Section 801.144 is proposed for amendment to allow for disciplinary action to be taken against the supervisor and the associate, to clarify arrangements between an associate and an organization, and to limit the number of supervisors an associate may have during the supervised experience. Section 801.203 is proposed for amendment to require that individuals licensed by endorsement show documentation of education and experience. Section 801.204 is proposed for amendment to increase the allowable extension period of a temporary license. Section 801.263 is proposed for amendment to decrease the number of required annual continuing education hours. Section 801.264 is proposed for amendment to allow for distance learning types of continuing education activities. Section 801.265 is proposed for amendment to decrease the length of the certification period for continuing education sponsors and to clarify documentation that must be submitted by continuing education sponsors and to require a fee for continuing education sponsorship. Section 801.266 is proposed for amendment to clarify continuing education credit earned for supervision. Section 801.268 is proposed for amendment to decrease the number of required annual continuing education hours.

Bobby D. Schmidt, Executive Director, 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 enforcing or administering the sections. The new and increased fees are projected to generate additional revenues for state government, which will be used to offset the cost of administering the program. There will be no fiscal implication for state or local government.

Mr. Schmidt also has determined that for each year of the first five years the sections are in effect, the public benefit as a result of enforcing or administering these sections will be to clarify definitions, cover the cost of administering the program, clarify language for lost, misdirected or undelivered correspon-

dence, allow for disciplinary actions against supervisors and associates, clarify arrangements between associates and organizations, clarify requirements for licensure by endorsement, clarify extension periods for temporary licenses, clarify requirements for continuing education, types of acceptable continuing education and requirements for continuing education sponsors, clarify continuing education earned for supervision, and clarify the number of continuing education hours required for renewal of license. The sections assure that the regulation of marriage and family therapists continues to identify competent providers. Persons required to comply with these amendments will be required to pay increased fees for examination and licensure renewal. Small businesses will be minimally impacted in that continuing education sponsors will be required to pay a \$50.00 sponsor approval fee once every three years. There is no anticipated impact on local government.

Comments on the proposal may be submitted to Bobby D. Schmidt, Executive Director, Texas State Board of Examiners of Marriage and Family Therapists, 1100 West 49th Street, Austin, Texas 78756-3183, Telephone (512) 834-6657. Comments will be accepted for 30 days following the date of publication of this proposal in the *Texas Register*.

Subchapter A. Introduction

22 TAC §801.2

The amendment is proposed under Texas Civil Statutes, Article 4512c-1, which provides the Texas State Board of Examiners of Marriage and Family Therapists with the authority to adopt rules concerning the regulation of marriage and family therapists.

The proposed amendment affects Texas Civil Statutes, Article 4512c-1.

§801.2. Definitions.

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

(1) Act - The Licensed Marriage and Family Therapist Act relating to the relating to the licensing and regulation of marriage and family therapists, Texas Civil Statutes, Article 4512c-1. (2) Administrative Law Judge (ALJ) - A person within the State Office of Administrative Hearings who conducts hearings under this subchapter on behalf of the board.

(3) APA - The Administrative Procedure Act, of the Texas Government Code, Chapter 2001.

(4) Associate - A marriage and family therapy associate.

(5) Board - The Texas State Board of Examiners of Marriage and Family Therapists.

(6) Completed application - The official marriage and family therapy application form, fees and all supporting documentation which meets the criteria set out in §801.73 of this title (relating to Required Application Materials).

(7) Contested case - A proceeding in accordance with the APA and this chapter, including, but not limited to, rule enforcement and licensing, in which the legal rights, duties, or privileges of a party are to be determined by the board after an opportunity for an adjudicative hearing.

(8) Department - The Texas Department of Health

(9) Family systems - An open, on-going, goal-seeking, self-regulating, social system which shares features of all such systems. Certain features such as its unique structuring of gender,

race, nationality and generation set it apart from other social systems. Each individual family system is shaped by its own particular structural features (size, complexity, composition, life stage), the psychobiological characteristics of its individual members (age, race, nationality, gender, fertility, health and temperament) and its socio-cultural and historic position in its larger environment.

(10) Formal hearing - A hearing or proceeding in accordance with this chapter, including a contested case as defined in this section to address the issues of a contested case.

(11) Group supervision - Supervision that involves a minimum of three and no more than six marriage and family supervisees or associates in a clinical setting during the supervision hour. A supervision hour is sixty minutes.

(12) Individual supervision - Supervision of no more than two marriage and family therapy supervisees or associates in a clinical setting during the supervision hour. A supervision hour is sixty minutes.

(13) Investigator - A professional complaint investigator employed by the Texas Department of Health.

(14) License - A marriage and family therapist license, a temporary marriage and family therapist associate license, or a provisional marriage and family therapist license.

(15) Licensed marriage and family therapist - An individual who offers to provide marriage and family therapy for compensation.

(16) Licensee - Any person licensed by the Texas State Board of Examiners of Marriage and Family Therapists.

(17) Marriage and family therapist associate - A person who holds a temporary license issued by the Texas State Board of Examiners of Marriage and Family Therapists to practice marriage and family therapy under the supervision of a board-approved supervisor.

(18) Marriage and family therapy - The rendering of professional therapeutic services to individuals, families, or married couples, singly or in groups, and involves the professional application of family systems, theories, and techniques in the delivery of therapeutic services to those persons. The term includes the evaluation and remediation of cognitive, affective, behavioral, or relational dysfunction within the context of therapy. [~~marriage or family systems.~~]

(19) Month - A calendar month.

(20) Party - Each person, governmental agency, or officer or employee of a governmental agency named by the Administrative Law Judge (ALJ) as having a justiciable interest in the matter being considered, or any person, governmental agency, or officer or employee of a governmental agency meeting the requirements of a party as prescribed by applicable law.

(21) Person - An individual, corporation, partnership, or other legal entity.

(22) Pleading - Any written allegation filed by a party concerning its claim or position.

(23) Recognized religious practitioner - A rabbi, clergyman, or person of similar status who is a member in good standing of and accountable to a legally recognized denomination or legally recognizable religious denomination or legally recognizable religious organization and other individuals participating with them in pastoral counseling if:

(A) the therapy activities are within the scope of the performance of their regular or specialized ministerial duties and are performed under the auspices of sponsorship of an established and legally cognizable church, denomination or sect, or an integrated auxiliary of a church as defined in Federal Tax Regulations, 26, Code of Federal Regulation 1.6033-2(g)(5)(i), (1982);

(B) the individual providing the service remains accountable to the established authority of that church, denomination, sect, or integrated auxiliary; and

(C) the person does not use the title of or hold himself or herself out as a licensed marriage and family therapist.

(24) Regionally accredited institutions - An institution accredited by one of the following accreditation associations will be accepted for licensing purposes: Middle States Association of Colleges and Schools, New England Association of Schools and Colleges, North Central Association of Colleges and Schools, Northwest Association of Schools and Colleges, Southern Association of Colleges and Schools, and Western Association of Schools and Colleges.

(25) Rules - The rules in this chapter are covering the designated policies and procedures of operation for the board and for individuals affected by the Act.

(26) Supervision - The guidance or management of an associate in the provision of direct clinical services.

(27) Supervisor - A person meeting the requirements set out in §801.143 of this title (relating to Supervisor Requirements), to supervise an associate and/or marriage and family therapist.

(28) Texas Open Meetings Act - Government Code, Chapter 551.

(29) Texas Open Records Act - Government Code, Chapter 552.

(30) Therapist - For purposes of this chapter, a Texas licensed marriage and family therapist.

(31) Waiver - The suspension of educational, professional, and/or examination requirements for applicants who meet the criteria for licensure under special conditions.

(32) Year - A calendar year.

[~~Hearing Examiner - An attorney duly designated and appointed by the chairperson of the board or the commissioner of health who conducts hearings under this chapter on behalf of the board.~~]

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 May 22, 1998.

TRD-9808459

George Pulliam
Chairman

Texas State Board of Examiners of Marriage and Family Therapists

Earliest possible date of adoption: July 5, 1998

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

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Subchapter B. The Board

22 TAC §801.19, §801.20

The amendments are proposed under Texas Civil Statutes, Article 4512c-1, which provides the Texas State Board of Examiners of Marriage and Family Therapists with the authority to adopt rules concerning the regulation of marriage and family therapists.

The proposed amendments affect Texas Civil Statutes, Article 4512c-1.

§801.19. Fees.

(a) The Texas State Board of Examiners of Marriage and Family Therapists (board) has established the following fees for licenses, license renewals, examinations, and all other administrative expenses under the Licensed Marriage and Family Therapists Act (Act).

(b) The schedule of fees shall be as follows:

- (1) (No change.)
- (2) licensure examination - \$195; [~~\$125~~;]
- (3) (No change.)
- (4) renewal fee - \$65; [~~\$40~~;
- (5) late renewal fee - late renewal fees shall be set as follows:

(A) on or before 90 days - renewal fee plus one-half of the examination fee (\$162.50); [~~(\$102.50)~~]; and

(B) longer than 90 days but less than one year - renewal fee plus fee equal to the examination fee (\$260); [~~(\$165)~~; and]

- (6) - (9) (No change.)
- (10) continuing education sponsor fee - \$50;
- (11) [~~(40)~~] child support reinstatement fee - \$40; and
- (12) verification fee - \$10.

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

§801.20. Processing Applications.

(a) - (e) (No change.)

(f) The board is not responsible for lost, misdirected, or undelivered correspondence [if sent to the address last reported to the board].

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 May 22, 1998.

TRD-9808460
George Pulliam
Chairman

Texas State Board of Examiners of Marriage and Family Therapists
Earliest possible date of adoption: July 5, 1998
For further information, please call: (512) 458-7236



Subchapter G. Experience Requirements for Examination and Licensure

22 TAC §801.143, §801.144

The amendments are proposed under Texas Civil Statutes, Article 4512c-1, which provides the Texas State Board of

Examiners of Marriage and Family Therapists with the authority to adopt rules concerning the regulation of marriage and family therapists.

The proposed amendments affect Texas Civil Statutes, Article 4512c-1.

§801.143. Supervisor Requirements.

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

[~~(d) If licensed by the board, the supervisor must complete three annual clock hours of continuing education directly related to the supervision of associates.~~]

§801.144. Other Conditions for Supervised Experience.

(a) - (e) (No change.)

[~~(f) During the post graduate supervision, both the supervisor and the associate may have disciplinary actions taken against their licenses for violations of the rules.~~]

[~~(f) During internship, the full professional responsibility for the therapeutic activities of an associate shall rest with the associate's official supervisor.~~]

(g) (No change.)

(h) If an associate enters into contracts with both a supervisor and an organization with which the supervisor is employed or affiliated:

(1) the therapeutic services shall be performed on the site(s) of the organization; and

(2) client's records shall remain the property of the organization. [no payment for services shall be made directly by a client to the associate;]

[~~(3) client's records shall remain the property of the organization;~~]

[~~(4) there shall be no financial arrangements between the organization and associate that have been made that extend beyond the period of supervision of the associate by the supervisor.~~]

(i) - (k) (No change.)

(l) An associate may only have one board-approved supervisor at a time, unless given prior approval by the board [Board] or its designee. [An associate may have no more than two board-approved supervisors during the period of supervised experience unless additional supervisors are approved by the board.]

(m) (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 May 22, 1998.

TRD-9808461
George Pulliam
Chairman

Texas State Board of Examiners of Marriage and Family Therapists
Earliest possible date of adoption: July 5, 1998
For further information, please call: (512) 458-7236



Subchapter I. Issuance of a License

22 TAC §801.203, §801.204

The amendments are proposed under Texas Civil Statutes, Article 4512c-1, which provides the Texas State Board of Examiners of Marriage and Family Therapists with the authority to adopt rules concerning the regulation of marriage and family therapists.

The proposed amendments affect Texas Civil Statutes, Article 4512c-1.

§801.203. *Provisional License by Endorsement.*

(a) A provisional license may be granted to a person who:

(1) (No change.)

(2) has successfully passed a national examination relating to marriage and family therapy or an examination approved by the Texas State Board of Examiners of Marriage and Family Therapists (board); ~~and~~

(3) is sponsored by a licensed marriage and family therapist in Texas with whom the provisional license holder may practice under this section; [-]

(4) if licensed without examination, the applicant must submit official documentation of education and professional experience equivalent to the requirements in effect during the grandfather clause. Final approval will be made by the board or its designee;

(5) the provisional license holder provides documentation, on board prescribed forms, of the experience requirements set out in Subchapter G of this chapter (relating to Experience Requirements for Examination and Licensure); and

(6) the provisional license holder meets any other requirements set forth under the Licensed Marriage and Family Therapist Act (Act).

(b) Upon formal written request, the board or its designee may waive the requirement set out in subsection (a)(3) of this section if it is determined that compliance with subsection (a)(3) of this section would cause undue hardship to the applicant.

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

§801.204. *Temporary License.*

(a) (No change.)

(b) The temporary license will be issued for a period of 30 months and may be extended for 24 months [~~180 days~~] with the board's or its designee's approval.

(c) (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 May 22, 1998.

TRD-9808462

George Pulliam

Chairman

Texas State Board of Examiners of Marriage and Family Therapists

Earliest possible date of adoption: July 5, 1998

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



Subchapter K. Continuing Education Requirements

22 TAC §§801.263-801.266, 801.268

The amendments are proposed under Texas Civil Statutes, Article 4512c-1, which provides the Texas State Board of Examiners of Marriage and Family Therapists with the authority to adopt rules concerning the regulation of marriage and family therapists.

The proposed amendments affect Texas Civil Statutes, Article 4512c-1.

§801.263. *Clock Hour Requirements for Continuing Education.*

A licensee must complete 15 [~~20~~] clock hours of continuing education acceptable to the Texas State Board of Examiners of Marriage and Family Therapists (board) each year as described in §801.262(b) of this title (relating to Deadlines). On or after September 1, 1995, a three clock-hour marriage and family ethics course must be submitted every third year. A clock-hour shall be 60 minutes of attendance and participation in an acceptable continuing education experience.

§801.264. *Types of Acceptable Continuing Education.*

Continuing education undertaken by a therapist shall be acceptable to the board as credit hours if it is offered by an approved sponsor(s) in the following categories:

(1) - (6) (No change.)

(7) by teaching a graduate or undergraduate course in marriage and family therapy at a college or university (graduate work instruction may count for no more than one-half of annual continuing education); and [-]

(8) by completing correspondence courses, satellite or distance learning courses, and/or audio-video courses relative to marriage and family therapy (no more than four hours per year). Ethics may not be obtained in this manner.

§801.265. *Continuing Education Sponsor.*

The Texas State Board of Examiners of Marriage and Family Therapists (board) is not responsible for approving individual continuing education programs. The Texas State Board of Examiners of Marriage and Family Therapists (board) will approve an institute, agency, office, organization, association, or individual as a continuing education sponsor of continuing education units. The board will grant a three-year [~~five-year~~] certificate to organizations which shall permit the organizations to approve continuing education units for their marriage and family therapy courses, seminars, and conferences. These organizations must submit an annual list of their seminars, workshops and courses with the presenters name(s) to the board. [~~do not need prior permission from the board but must submit an annual list of their seminars, workshops, and courses with the individual's name to the board.~~] Any university, professional organization, or individual who meets the required criteria may advertise as approved sponsors of continuing education for licensed marriage and family therapists.

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

(4) Sponsors shall pay a continuing education sponsor fee which will be good for three years from receipt of said fee.

§801.266. *Criteria for Approval of Continuing Education Activities.*

Each continuing education experience submitted by a licensee or sponsor will be evaluated on the basis of the following criteria.

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

(4) Credit may be earned for clinical supervision of marriage and family therapy interns or associates. Supervision may count for no more than one-half [~~or ten hours~~] of annual continuing education.

(5) (No change.)

§801.268. *Submission of Continuing Education.*

Continuing education units of no less than 15 [20] hours must be reported annually by the licensee at the time of renewal. These hours will be reported on the form provided by the Texas State Board of Examiners of Marriage and Family Therapists (board). The board shall conduct an annual random audit requesting documentation of continuing education. Individual continuing education certificates of attendance shall not be submitted unless the licensee is requested to do so by the board.

(1) - (2) (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 May 22, 1998.

TRD-9808463

George Pulliam

Chairman

Texas State Board of Examiners of Marriage and Family Therapists

Earliest possible date of adoption: July 5, 1998

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

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TITLE 25. HEALTH SERVICES

Part I. Texas Department of Health

Chapter 313. Athletic Trainers

25 TAC §§313.3, 313.5, 313.15, 313.20

The Advisory Board of Athletic Trainers (board) proposes amendments to §§313.3, 313.5, 313.15 and new §313.20, concerning the regulation of licensed athletic trainers. Specifically, the sections cover fees, qualifications, guidelines for conduct, and scope of practice. Section 313.3 is proposed for amendment to increase the temporary license and license renewal fees and add a new application fee. The fee increases and the new fee are necessary in order to cover the cost of administering the program. Section 313.5 is proposed for amendment to delete unnecessary language; to provide for licensure from another state or national certification as an athletic trainer as one of the methods to be approved to take the Texas athletic trainer examination; to delete the requirement that a supervising athletic trainer be an employee of the college or university; to delete restrictions on the types of affiliated settings in which an applicant may earn apprenticeship hours, and to delete the requirement that an applicant must maintain enrollment at the same institution where he or she is completing the apprenticeship. Section 313.15 is proposed for amendment to prohibit a licensee from engaging in sexual contact with a person receiving athletic training services from the licensee. New §313.20 is proposed to set out the scope of athletic training practice.

Kathy Craft, Program Director, 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 enforcing or administering the sections. The new and increased licensing fees are projected to generate additional revenues of \$61,695 per year for state government, which will be used to offset the cost of administering the program. There will be no fiscal implications for local governments.

Ms. Craft has also determined that for each of the first five years the sections are in effect, the public benefit as a result of enforcing or administering the sections will be to cover the cost of administering the program, to clarify the qualifications for examination for licensure, to clarify acceptable standards of conduct for athletic trainers, and to set out what services may be performed by a licensed athletic trainer. The sections assure that the regulation of athletic trainers continues to identify competent providers. There will be no cost to small businesses. There will be no impact on local employment.

Comments on the proposal may be submitted to Kathy Craft, Program Director, Advisory Board of Athletic Trainers, 1100 West 49th Street, Austin, Texas 78756-3183, telephone (512) 834-6615. Comments will be accepted for 30 days following the date of publication of this proposal in the *Texas Register*.

The amendments and new section are proposed under Texas Civil Statutes, Article 4512d, §5(a), which provides the board with the authority to adopt rules consistent with the Act which are necessary for the performance of its duties; under Texas Civil Statutes, Article 4512d, §5(c) which provides the board with the authority to establish guideline for athletic trainers in the state; and under Texas Civil Statutes, Article 4512d, §7(a) which provides the board with the authority to set fees in amounts that are reasonable and necessary to collect sufficient revenue to cover the costs of administration of the Act.

The amendments and new section affects Texas Civil Statutes, Article 4512d.

§313.3. *Fees.*

(a) The schedule of fees of the board is as follows:

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

(4) renewal fee - \$75 [\$40];

(5) late renewal fee:

(A) \$100 [\$65] when renewed on or within 90 days of expiration plus \$10 if license certificate must be reissued;

(B) \$125 [\$90] when renewed later than 90 days, but less than one year after expiration plus \$10 if license certificate must be reissued [issued]; or

(C) \$165 [\$130] when renewed at least one year but less than two years after expiration plus \$10 if license certificate must be reissued;

(6) child support reinstatement fee - \$50; [and]

(7) temporary license fee - \$100; and [\$50]

(8) application fee - \$60.

(b)-(f) (No change.)

§313.5. *Qualifications.*

(a) [~~Purpose.~~] The purpose of this section is to set out the qualifications for examination and licensure as an athletic trainer.

(b) [~~Curriculum requirements.~~] Each applicant must have a baccalaureate or post-baccalaureate degree from a college or university which held accreditation, at the time the degree was conferred, from an accepted regional educational accrediting association reported by the American Association of Collegiate Registrars and Admissions Officers.

(1) The ~~curriculum~~ requirements approved by the Advisory Board of Athletic Trainers (board) for applicants qualifying under Texas Civil Statutes, Article 4512d (Act), §9(1), are as follows.

(A) A person shall hold a baccalaureate or post-baccalaureate degree and one of the following: [A person shall have a baccalaureate or post-baccalaureate degree which includes at least 24 hours of combined academic credit from each of the following course areas:]

~~(i) current licensure, registration, or certification as an athletic trainer issued by another state, jurisdiction, or territory of the United States; or [human anatomy;]~~

~~(ii) current national certification as an athletic trainer issued by the National Athletic Trainers Association Board of Certification (NATABOC). [health, disease, nutrition, fitness, wellness, or drug and alcohol education;]~~

~~[(iii) kinesiology or biomechanics;]~~

~~[(iv) human physiology or physiology of exercise;]~~

~~[(v) athletic training, sports medicine, or care and prevention of injuries;]~~

~~[(vi) advanced athletic training, advanced sports medicine, or assessment of injury; and]~~

~~[(vii) therapeutic exercise or rehabilitation or therapeutic modalities.]~~

(B) In place of the requirements in subparagraph (A) of this paragraph, a person shall have:

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

~~(iii) an apprenticeship in athletic training meeting the following guidelines.~~

~~(I) The program shall be under the direct supervision of and on the same campus as a Texas licensed athletic trainer, or if out-of-state, the college or university's certified or state licensed trainer. [The athletic trainer must be an employee of the college or university. The athletic trainer shall not be an outside consultant or independent contractor unless the athletic trainer is a temporary supervisor (less than one semester) due to death, medical emergency, or other emergency of the supervising athletic trainer who was an employee of the college or university.]~~

~~(II) The apprenticeship must be a minimum of 1800 clock hours. It must be based on the academic calendar and must be completed during at least five fall and/or spring semesters. Hours in the classroom do not count toward apprenticeship hours.~~

~~(III) The hours must be completed in college or university intercollegiate sports programs. A maximum of 600 [300] clock hours of the 1800 clock hours may be accepted from [one or a combination of the following] an affiliated setting which the college or university's athletic trainer has approved. No more than 300 clock hours may be earned at one affiliated setting. These hours must be under the direct supervision of a licensed physician, licensed or certified athletic trainer, or licensed physical therapist. [settings:]~~

~~[(a) hours completed in a clinic setting which the college or university's athletic trainer has approved. These hours must be under the direct supervision of a licensed physician, licensed athletic trainer, or licensed physical therapist; or]~~

~~[(b) hours completed in a secondary school setting arranged by the college or university's athletic trainer. Such hours are limited to sports in grades 7 to 12. These hours must be under the direct supervision of a licensed athletic trainer; or]~~

~~[(c) hours completed in a professional or semi-professional setting arranged by the college or university's athletic trainer. These hours must be approved by the supervising licensed athletic trainer.]~~

~~(IV) 1500 clock hours of the apprenticeship shall be fulfilled while enrolled as a student at a [the] college or university [where he or she is completing the apprenticeship].~~

~~(V) The apprenticeship must offer work experience in a variety of sports. It shall include instruction by the college or university's athletic trainer in prevention of injuries, emergency care, rehabilitation, and modality usage.~~

~~(2) (No change.)~~

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

~~§313.15. Guidelines for Conduct.~~

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

~~(d) Professional relationships with clients.~~

~~(1)-(6) (No change.)~~

~~(7) A licensee shall not engage in sexual contact with a person receiving athletic training services from the licensee. Sexual contact shall mean the activities or behaviors described in the Texas Penal Code, §21.01.~~

~~(e)-(g) (No change.)~~

~~§313.20. Scope of Practice.~~

~~(a) A licensed athletic trainer prevents, assesses, treats, rehabilitates, and researches injuries and illnesses incurred by athletes. An athlete is a person involved in exercise, conditioning, or a physical activity that requires physical strength, power, endurance, skill, or speed. A licensed athletic trainer practices under the advice and consent of a team physician.~~

~~(b) The activities listed in subsection (c)(1) - (7) of this section may be performed in any setting authorized by a team physician and may include, but not be limited to, an educational institution, professional or amateur athletic organization, an athletic facility, or a health care facility.~~

~~(c) Services provided by a licensed athletic trainer may include, but are not limited to:~~

~~(1) plan and implement a comprehensive athletic injury and illness prevention program;~~

~~(2) conduct an initial assessment of an athlete's injury or illness and formulate an impression of the injury or illness in order to provide emergency or continued care and refer to a physician for definitive diagnosis and treatment, if appropriate;~~

~~(3) administer first aid and emergency care for acute athletic injuries and illnesses;~~

~~(4) coordinate, plan, and implement a comprehensive rehabilitation program for athletic injuries;~~

~~(5) coordinate, plan, and supervise all administrative components of a sports medicine program;~~

~~(6) provide health care information and counsel athletes; and~~

~~(7) Conduct research and provide instruction on subject matter related to sports medicine.~~

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 May 19, 1998.

TRD-9808143

Michael Daniel Saly
Chairman

Advisory Board of Athletic Trainers

Earliest possible date of adoption: July 5, 1998

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

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TITLE 28. INSURANCE

Part I. Texas Department of Insurance

Chapter 5. Property and Casualty Insurance

Subchapter E. Texas Catastrophe Property Insurance Association

28 TAC §5.4007, §5.4008

The Texas Department of Insurance proposes amendments to §5.4007 and §5.4008, concerning building code specifications in the plan of operation of the Texas Windstorm Insurance Association (Association). Created in 1971 by the Texas Legislature as the Texas Catastrophe Property Insurance Association, the Association is composed of all insurers authorized to transact property insurance in Texas and operates pursuant to Article 21.49 of the Insurance Code. The Texas Legislature in H.B. 1632 (Acts 1997, 75th Leg., ch. 438, §1, eff. Sept. 1, 1997) changed the name of the Texas Catastrophe Property Insurance Association to the Texas Windstorm Insurance Association. The purpose of the Association is to provide windstorm and hail insurance coverage to residents in designated catastrophe areas who are unable to obtain such coverage in the voluntary market. Since its inception, the Association has provided this coverage to residents of 14 coastal counties, including Aransas, Brazoria, Calhoun, Cameron, Chambers, Galveston, Jefferson, Kenedy, Kleberg, Matagorda, Nueces, Refugio, San Patricio and Willacy. The Association also provides coverage to certain designated catastrophe areas in Harris County, including (i) effective March 1, 1996, the area located east of a boundary line of State Highway 146 and inside the city limits of the City of Seabrook and the area located east of the boundary line of State Highway 146 and inside the city limits of the City of La Porte (Commissioner's Order No. 95-1200, November 14, 1995); (ii) effective June 1, 1996, the City of Morgan's Point (Commissioner's Order No. 96-0380, April 5, 1996); and (iii) effective April 1, 1997, in areas located east of State Highway 146 and inside the city limits of the City of Shoreacres and the City of Pasadena (Commissioner's Order No. 97-0225, March 11, 1997). The Association's plan of operation specifies in §5.4007 applicable building code standards to qualify for coverage from the Association, as required by Article 21.49, §6A(f) of the Insurance Code, for structures located in designated catastrophe areas which were constructed, repaired, or to which additions are made prior to the effective date of the new building code standards and specifications; and in §5.4008, for structures located in designated catastrophe areas which were constructed, repaired, or to which additions are made on and after the effective date of the new building code standards and specifications. The Building Code

for Wind Resistant Construction (Code) is adopted by reference in §5.4008(a) pursuant to Commissioner's Order No. 97-0626, (June 30, 1997) to be effective June 1, 1998, in certain designated catastrophe areas along the Texas coast. The proposed amendments are necessary to delay the effective date of the new building code standards and specifications in the Code from June 1, 1998 to September 1, 1998. The change in the effective date is necessary to allow additional time for building products and materials that meet the windload requirements of the new Code to become available in the designated catastrophe areas subject to the Code. Currently there is a scarcity in these designated catastrophe areas of certain building products, such as shutters, windows, doors, and garage doors, that are necessary to comply with the Code on and after June 1, 1998. Amending the effective date of the Code will allow an additional three months for manufacturers to produce the new building products and for building material suppliers to obtain these new products for distribution to home builders. Although under the proposed amendments, the new Code would become effective September 1, 1998, builders in the designated catastrophe areas subject to the Code are encouraged to use products and methods which comply with the Code in the interim as new products become available for construction, repairs, or additions made on and after June 1, 1998. Under the proposed amendment to §5.4007, the building code standards and specifications in §5.4007(a) apply to designated catastrophe areas seaward of the Intracoastal Canal for structures constructed, repaired or to which additions are made prior to September 1, 1998; and the building code standards and specifications in §5.4007(b) apply to designated catastrophe areas inland of the Intracoastal Canal for structures constructed, repaired or to which additions are made prior to September 1, 1998. Under the proposed amendments to §5.4008, the building code standards and specifications contained in §5.4008(a) apply to designated catastrophe areas seaward of the Intracoastal Canal for structures constructed, repaired or to which additions are made on and after September 1, 1998; the building code standards and specifications contained in §5.4008(b) apply to designated catastrophe areas inland of the Intracoastal Canal and within approximately 25 miles of the Texas coastline and east of the specified boundary line (as specified in §5.4008(b)(2)(A)) and certain areas in Harris County for structures constructed, repaired or to which additions are made on and after September 1, 1998; and the building code standards and specifications contained in §5.4008(c) apply to designated catastrophe areas inland and west of the specified boundary line (as specified in §5.4008(b)(2)(A)) for structures constructed, repaired or to which additions are made on and after September 1, 1998.

Lyndon Anderson associate commissioner, property and casualty division, has determined that for each year of the first five years the proposed amendments are in effect, there will be no fiscal implications to state and local government as a result of enforcing or administering the proposed amendments, and there will be no effect on local employment or the local economy as a result of enforcing or administering the proposed amendments.

Mr. Anderson has also determined that the public benefit anticipated as a result of the adoption of the proposed amendments is to provide additional time for building products and materials that meet the windload requirements of the new Code to become available in the designated catastrophe areas. Currently, many of these products, including shutters, windows, doors and garage doors, are available in only limited quantities from a few

manufacturers. This shortage of products exists despite the efforts of the Department to solicit information from all major manufacturers of the many various products so that the products could be approved by the Department and available in the coastal areas. Persons required to comply with the proposed amendments to §5.4007 and §5.4008 will incur no additional costs to those costs that would be incurred under the rules as currently adopted. Any person required to comply with the proposed amendments to §5.4007 and §5.4008 who qualifies as a small business under the Government Code §2006.001 will incur no additional costs to those costs that would be incurred under the rules as currently adopted.

Comments on the proposed amendments must be submitted within 30 days after publication of the proposed amendments in the Texas Register to the Office of the Chief Clerk, Texas Department of Insurance, P. O. Box 149104, MC #113-2A, Austin, Texas 78714-9104. An additional copy of the comment is to be submitted to Lyndon Anderson, Associate Commissioner, Property and Casualty Program, Texas Department of Insurance, P. O. Box 149104, MC #103-1A, Austin, Texas 78714-9104. Article 21.49, §5A of the Insurance Code requires a hearing to be held before any orders may be issued pursuant to Article 21.49 and provides that any person may appear and testify for or against the adoption of these proposed amendments.

The amendments are proposed pursuant to the Insurance Code, Articles 21.49 and 1.03A, and in accordance with the Government Code §§2001.004-2001.038. Article 21.49, §6A specifies building code requirements and approval or inspection procedures for windstorm and hail insurance through the Association. Article 21.49, §6A(f), Insurance Code, requires the Commissioner to appoint a Building Code Advisory Committee to advise and make recommendations to the Commissioner on building specifications in the Association's plan of operation for structures to be eligible for windstorm and hail insurance through the Association. Article 21.49, §5(c) of the Insurance Code provides that the Commissioner of Insurance by rule shall adopt the Association's plan of operation with the advice of the Association's board of directors. Article 21.49, §6A(f) and §5(c), by their terms, delegate the foregoing authority to the State Board of Insurance. However, under Article 1.02 of the Insurance Code, a reference in the Insurance Code or another insurance law to the State Board of Insurance means the Commissioner of Insurance or the Texas Department of Insurance, as consistent with the respective powers and duties of the Commissioner and the Department under Article 1.02. Article 1.03A authorizes the Commissioner of Insurance to adopt rules and regulations, which must be for general and uniform application, for the conduct and execution of the duties and functions of the Texas Department of Insurance only as authorized by a statute. The Government Code §§2001.004-2001.038 (Administrative Procedure Act) authorize and require each state agency to adopt rules of practice stating the nature and requirements of available formal and informal procedures and prescribe the procedures for adoption of rules by a state agency.

The following statute is affected by this proposal: Insurance Code, Article 21.49.

§5.4007. *Applicable Building Code Standards in Designated Catastrophe Areas for Structures Constructed, Repaired or to Which Additions Are Made Prior to September [June] 1, 1998.*

(a)-(d) (No change.)

§5.4008. *Applicable Building Code Standards in Designated Catastrophe Areas for Structures Constructed, Repaired or to Which Additions Are Made On and After September [June] 1, 1998.*

(a) Areas Seaward of the Intracoastal Canal. To be eligible for catastrophe property insurance, structures located in designated catastrophe areas which are seaward of the Intracoastal Canal and constructed, repaired, or to which additions are made on and after September [June] 1, 1998, shall comply with the Building Code for Windstorm Resistant Construction. The Texas Department of Insurance adopts by reference the Building Code for Windstorm Resistant Construction, effective September [June] 1, 1998.

(b) Areas Inland of the Intracoastal Canal and Within Approximately 25 Miles of the Texas Coastline and east of the Specified Boundary Line and Certain Areas in Harris County.

(1) To be eligible for catastrophe property insurance, structures located in designated catastrophe areas specified in paragraph (2)(A) and (B) of this subsection and constructed, repaired, or to which additions are made on and after September [June] 1, 1998, shall comply with the Building Code for Windstorm Resistant Construction which is adopted by reference in subsection (a) of this section.

(2) (No change.)

(c) Areas Inland and West of the Specified Boundary Line. To be eligible for catastrophe property insurance, structures located in designated catastrophe areas which are west of the boundary line specified in subsection (b)(2)(A) of this section and constructed, repaired, or to which additions are made on and after September [June] 1, 1998; and structures located inside the city limits of cities and towns divided by the boundary line specified in subsection (b)(2)(A) of this section, and constructed, repaired, or to which additions are made on and after September [June] 1, 1998, shall comply with the Standard Building Code, as amended May 8, 1973, and with the Windstorm Resistant Construction Code, which is adopted by reference in §5.4007(b) of this title (relating to Applicable Building Code Standards in Designated Catastrophe Areas for Structures Constructed, Repaired, or to Which Additions are Made Prior to September [June] 1, 1998). These areas include, but are not limited to, the areas inside the city limits of the cities of Harlingen, Raymondville, Kingsville, Robstown, Sinton, Refugio, Bay City, Friendswood, Alvin, and Beaumont.

(d) (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 May 22, 1998.

TRD-9808423

Caroline Scott

General Counsel and Chief Clerk

Texas Department of Insurance

Earliest possible date of adoption: July 5, 1998

For further information, please call: (512) 463-6327

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Chapter 9. Title Insurance

Subchapter A. Basic Manual of Rules, Rates and Forms for the Writing of Title Insurance in the State of Texas

28 TAC §9.30

The Texas Department of Insurance has received a petition proposing the adoption by reference of a new procedural rule, new endorsement form, and new proposed rate rule to the Basic Manual of Rules, Rates and Forms for the Writing of Title Insurance in the State of Texas (the Basic Manual). New §9.30 would be necessary to adopt by reference the proposed rule, rate, and form in the Basic Manual. The 75th Legislature adopted House Joint Resolution 31 proposing a constitutional amendment allowing home equity liens and reverse mortgages on Texas homestead property. By voter approval on November 4, 1997, Section 50, Article XVI, Texas Constitution was amended to provide for the extension of credit secured by a lien against the title of Texas homestead property. The Texas Land Title Association (TLTA) is proposing a new procedural rule and endorsement to the Basic Manual to facilitate the issuing of mortgagee title policies insuring home equity liens on homestead property. Stewart Title Guaranty Company has also submitted amendments to the TLTA submission. The proposed endorsement and procedural rule will enable title insurance companies to write additional title insurance coverages regarding home equity lending in Texas. TLTA is also proposing a new rate rule that will provide for rates for the proposed new endorsement and for the Equity Loan Mortgage Endorsement (T-42) adopted by the commissioner in docket number 2324, effective January 12, 1998. In considering the new rate rule, the commissioner will also consider alternatives to the rate formulations proposed in the petition.

The proposed rule is Proposed Procedural Rule P-47 Supplemental Coverage Equity Loan Mortgage Endorsement (T-42.1). This rule concerns supplemental coverage to the basic mortgage policy of title insurance and the existing promulgated endorsement (T-42). This rule provides the general requirements and limitations for the issuance of supplemental coverage in insuring a lien that secures an extension of credit made pursuant to subsection (a)(6) of Section 50, Article XVI, Texas Constitution.

The proposed endorsement form is Supplemental Coverage Equity Loan Mortgage Endorsement (T-42.1). This form outlines the scope of the supplemental coverage in insuring a lien that secures an extension of credit made pursuant to subsection (a)(6) of Section 50, Article XVI, Texas Constitution and also states the exceptions and limitations of the coverage, including among other things, no insurance against invalidity or unenforceability of the lien of the insured mortgage arising out of usury or truth in lending laws or any consumer credit protection law.

The proposed rate rule is Proposed Rate Rule R-28 Premium for Equity Loan Mortgage Endorsement (T-42) and Supplemental Coverage Equity Loan Mortgage Endorsement (T-42.1). This rule sets forth a standardized premium of \$300 for the proposed new Supplemental Coverage Equity Loan Mortgage Endorsement (T-42.1) and a standardized premium of \$100 for the existing form, Equity Loan Mortgage Endorsement (T-42) which was adopted by the commissioner in docket number 2324, effective January 12, 1998.

Consideration of the proposed endorsement form and procedural rule will occur in a public hearing under Docket Number 2361 scheduled for 9:00 a.m. on July 30, 1998, in Room 100 of the William P. Hobby, Jr. State Office Building, 333 Guadalupe Street in Austin, Texas, and consideration of the proposed rate

rule R-28, including alternatives to the rates proposed, will occur in a public hearing under Docket Number 2362, scheduled for 9:00 a.m. on August 12, 1998 in Room 100 of the William P. Hobby, Jr. State Office Building, 333 Guadalupe Street in Austin, Texas.

Robert R. Carter, Jr., deputy commissioner for the title insurance division, has determined that, for each year of the first five years the proposed new section is in effect, there will be no fiscal impact on state or local government as a result of enforcing or administering the section. Mr. Carter has also determined that there will be no effect on local employment or the local economy.

Mr. Carter has also determined that for each year of the first five years the proposed new section is in effect, the public benefit anticipated as a result of administering and enforcing the section will be to ensure the appropriate policy and endorsement language on title insurance policies covering home equity loans. The department expects the public to benefit from the introduction of the expanded coverage offered by the proposed endorsement, which is likely to facilitate the continued availability of mortgage loan funds in the State of Texas. As noted with the current Equity Loan Mortgage Endorsement (T-42), the proposed Supplemental Coverage Equity Loan Mortgage Endorsement (T-42.1) requires a search, examination, and determination of various title-related and loan-related issues in the home equity provisions of the constitutional amendment. The proposed premium charges relate to the services actually rendered as well as the risk assumed by the issuance of the endorsement. The department expects the premium rate of \$300 for the proposed endorsement to fully cover the costs of producing such endorsement. Regarding the proposed premium for the existing Equity Loan Mortgage Endorsement (T-42), the proposed premium comes after several months of experience by the title industry in dealing with this endorsement. The department expects the premium rate of \$100 for the existing endorsement to fully cover the costs of producing such endorsement. The rates as stated may or may not be adopted as the commissioner will also consider alternatives to the rate formulations proposed. The sale of such endorsements is voluntary and imposes no additional regulatory costs on companies that decide to participate in the market. Furthermore, the department anticipates that the premium schedules will fully compensate both small and large companies and, therefore, expects no differential impact between small and large companies that decide to participate in such sales. Accordingly, there is no anticipated economic cost to individuals or business entities who are required to comply with the section as proposed.

Comments on the proposed section must be submitted within 30 days after publication in the Texas Register to Caroline Scott, Chief Clerk, Texas Department of Insurance, P. O. Box 149104, Mail Code 113-1C, Austin, Texas 78714-9104. An additional copy of the comment should be submitted to Robert R. Carter, Jr., Deputy Commissioner of Title, Mail Code 106-1T, Texas Department of Insurance, P. O. Box 149104, Austin, Texas 78714-9104. The department has filed a copy of the proposed section, which adopts by reference amendments to the Basic Manual, with the Secretary of State's Texas Register Section. Persons desiring copies can obtain them from the Texas Department of Insurance, Title Insurance Section, Mail Code 106-1T, P. O. Box 149104, Austin, Texas 78714-9104.

This new section is proposed pursuant to the Insurance Code, Articles 9.07, 9.21, and 1.03A and Section 50, Article XVI, Texas

Constitution. Article 9.07 authorizes and requires the commissioner to promulgate or approve rules and policy forms of title insurance and otherwise to provide for the regulation of the business of title insurance. Article 9.21 authorizes the commissioner to promulgate and enforce rules and regulations prescribing underwriting standards and practices, and to promulgate and enforce all other rules and regulations necessary to accomplish the purposes of chapter 9, concerning regulation of title insurance. Article 1.03A authorizes the commissioner to adopt rules and regulations for the conduct and execution of the duties and functions of the department as authorized by statute. By voter approval on November 4, 1997, Section 50, Article XVI, Texas Constitution was amended to permit an encumbrance against homestead property for certain extensions of equity credit.

The following statutes are affected by this proposal: Insurance Code, Articles 9.07 and 9.21

§9.30. Procedural Rule, Rate, and Form for Supplemental Coverage Equity Loan Mortgage Endorsement (T-42.1) and Rate for Equity Loan Mortgage Endorsement (T-42).

In addition to material adopted by reference under §9.1 of this title (relating to Basic Manual of Rules, Rates and Forms for the Writing of Title Insurance in the State of Texas (the manual)), the Texas Department of Insurance adopts by reference, as part of the manual, Procedural Rule P-47 and endorsement form T-42.1 for Supplemental Coverage Equity Loan Mortgage Endorsement (T-42.1) and Rate Rule 28 Premium for Equity Loan Mortgage Endorsement (T-42) and Supplemental Coverage Equity Loan Mortgage Endorsement (T-42.1). This document is available from and on file at the Texas Department of Insurance, Title Insurance Section, Mail Code 106-1T, William P. Hobby State Office Building, 333 Guadalupe Street, P.O. Box 149104, Austin, Texas 78714-9104.

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 May 22, 1998.

TRD-9808470

Caroline Scott

General Counsel and Chief Clerk

Texas Department of Insurance

Earliest possible date of adoption: July 5, 1998

For further information, please call: (512) 463-6327



Chapter 19. Agent's Licensing

Subchapter V. Registration of Full Time Home Office Salaried Employees

28 TAC §§19.3001-19.3006

The Texas Department of Insurance proposes new Subchapter V, §§19.3001-19.3006, concerning the registration of any full-time home office salaried employee who solicits or receives an application for the sale of insurance. The new subchapter defines the terms used in Insurance Code Article 21.14, §20A, enacted by the 75th Legislature, and clarifies who must register with the commissioner. Section 19.3001 states that the purpose of these rules is to implement the registration requirements found in Insurance Code Article 21.14 §20A. Section 19.3002 defines terms used in the subchapter. Section 19.3003 sets forth the registration requirements and provides instructions

regarding employees previously licensed and/or registered as special agents. Section 19.3004 identifies when registration is required and states the registration requirements of the new subchapter will not affect full-time home office salaried employees who do not solicit or receive applications for the sale of insurance. Section 19.3005 sets forth the requirement that an insurance carrier provide for the use of full-time home office salaried employees in its general plan of operation. Section 19.3006 sets forth the requirements for continuing education. The requirements contained in the new subchapter reflect the purpose of the 75th Legislature in enacting Article 21.14, §20A, which was, in part, to address the problem of licensing provisions not applying equally to all persons engaged in the solicitation of insurance in this state.

Rose Ann Reeser, associate commissioner, Regulation & Safety Division, has determined that for each year of the first five years the proposed sections will be in effect, there will be a moderate fiscal implication for state government in that the initial cost to administer the new registration will be approximately \$150,000. This amount is based upon an estimate of 3,000 initial registrations. The annual costs of administration thereafter are estimated to be \$15,000 and are based upon a 10% turnover rate per annum. There will be no fiscal implications for local government as a result of enforcing or administering this subchapter.

Ms. Reeser has also determined that for each year of the first five years the proposed sections are in effect, there will be a benefit to the public in that Texas consumers will be assured that their insurance purchases will be transacted through comparably trained individuals who are subject to regulation by the Department of Insurance. The specific registration required by the proposed sections will result in more effective regulation of the solicitation or sale of insurance in Texas. The public will also benefit from the result that regulation will apply more equally to all persons involved in the solicitation or sale of property and casualty insurance. Ms. Reeser estimates that the majority of costs to comply with the proposed subchapter result from the legislative enactment of the Insurance Code Article 21.14, §20A. The department anticipates that the majority of insurance carriers will use an external course provider to meet the continuing education requirements contained in the Insurance Code Article 21.14, §20A and proposed §19.3006. The probable economic cost to insurance carriers who must register full-time home office salaried employees is between \$10 and \$15 per course hour for each registered employee, plus a minimal cost to submit an application for each employee seeking registration. Since continuing education fees are charged per student, on the basis of cost per employee there is no anticipated difference in cost of compliance between small and large insurers. To the extent that large insurers incur costs at the lower range and small insurers incur costs at the upper range, there is a minor differential market impact on smaller insurers' unit cost of production. To the extent that small insurers incurring this differential compete in market niches in which large insurers do not serve, the differential impact is eliminated. In other markets, the cost increases as a percent of unit policy cost are sufficiently insignificant as to be meaningless to potential consumers of each insurer's product. The requirements of registration and continuing education in proposed Subchapter V are mandated by the underlying statute, and cannot be waived for small businesses.

Comments on the proposal, to be considered by the department, must be submitted in writing, within 30 days after publication of the proposal in the Texas Register, to Caroline Scott, General Counsel & Chief Clerk, Texas Department of Insurance, P.O. Box 149104, Mail Code 113-1C, Austin, Texas 78714-9104. An additional copy of the comments must be submitted to William Elkjer, Deputy Commissioner, Licensing Group, Regulation & Safety Division, Texas Department of Insurance, P.O. Box 149104, MC 107-1A, Austin, Texas 78714-9104. Request for a public hearing should be submitted separately to the Chief Clerk's office.

The new subchapter is proposed under the Insurance Code Articles 21.14, §20A and 1.03A. Insurance Code Article 21.14, §20A requires the commissioner to adopt rules to implement registration requirements for full-time home office salaried employees. Article 1.03A provides that the commissioner may adopt rules and regulations to execute the duties and functions of the Texas Department of Insurance only as authorized by a statute.

The following statute is affected by the proposed new subchapter: Insurance Code, Article 21.14.

§19.3001. Purpose and Scope.

(a) Purpose. The purpose of this subchapter is to implement the registration of full-time home office salaried employees as prescribed by the Insurance Code Article 21.14, §20A, which was enacted in 1997 by the Acts of the 75th Legislature and which first became effective on September 1, 1997.

(b) Severability. Where any terms or sections of this subchapter are determined by a court of competent jurisdiction to be inconsistent with any statutes of this state or these United States, or to be unconstitutional, the remaining terms and provisions of this subchapter shall remain in effect.

§19.3002. Definitions.

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

- (1) Commissioner - The commissioner of insurance.
- (2) Department - Texas Department of Insurance.
- (3) Full-time - Employment status requiring the efforts of an employee in the business of insurance be devoted solely to the insurance carrier for whom the employee seeks registration under the Insurance Code Article 21.14, §20A.
- (4) Home office - Permanent primary work site of insurance carriers utilizing full-time salaried employees pursuant to their general plan of operation.
- (5) Insurance carrier - An insurance company licensed to do business in Texas whose general plan of operation includes the sale of its policies directly through salaried employees.
- (6) Salaried employee - A person compensated by the home office of the insurance carrier on a salaried basis who does not receive commissions.

§19.3003. Registration Requirements.

(a) A person may not act as, or hold himself, or herself, out to be, a registered full-time home office salaried employee unless the person meets the requirements of the Insurance Code Article 21.14, §20A, and this subchapter and is registered by the commissioner.

(b) To register as a full-time home office salaried employee, each applicant must submit a completed application which must include the certification of an insurance carrier, whose general plan of operation includes the use of full-time home office salaried employees to solicit or receive an application for the sale of insurance, that the applicant qualifies for registration under the Insurance Code Article 21.14, §20A and receives continuing education of not less than 15 hours per year.

(c) Any full-time home office salaried employee who solicits or receives an application for the sale of insurance who has previously been registered under the authority of the Insurance Code Articles 21.09 and 21.14, §20(a) must register pursuant to the Insurance Code Article 21.14, §20A and this subchapter.

(d) A registrant may only represent one insurance carrier and its affiliated insurers.

(e) When an insurance carrier no longer wishes a registrant to represent it, or the registrant no longer qualifies as a full-time home office salaried employee as defined in this subchapter, the insurance carrier must submit a termination notice to the department within 30 days of termination.

§19.3004. When Registration is Required.

- (a) Registration of an employee is required if the person:
- (1) solicits insurance through an oral, written, or electronic communication; or
 - (2) receives information to complete an application that results in the eventual culmination of a sale of insurance through an oral, written, or electronic communication.

(b) Registration is not required if salaried employees are not involved in the solicitation or acceptance of an application for the sale of insurance and devote their full time to clerical and administrative services, including the incidental taking of information from customers and receipt of premiums.

§19.3005. General Plan of Operation Requirements.

(a) Any insurance carrier that intends on using full-time home office salaried employees to solicit or receive an application for the sale of insurance must include such intent in its general plan of operation filed with the department with its certificate of authority.

(b) The general plan of operation must designate the specific location of the home office.

(c) An insurance carrier may amend its general plan of operation to include the use of full-time home office salaried employees to solicit or receive applications for the sale of insurance by submitting an amended general plan of operation to Insurer Services, Texas Department of Insurance, 333 Guadalupe, Austin, Texas 78701.

§19.3006. Continuing Education Requirements.

(a) Employees registered under the Insurance Code Article 21.14, §20A shall complete continuing education of not less than fifteen hours per year as stipulated by the Insurance Code Article 21.14, §20A(b). At least four hours of courses in insurance regulation and ethics must be completed within the first two years of registration.

(b) Continuing education of registered employees must include instruction regarding disclosure when making an oral, written, or electronic communication to solicit or receive an application for the sale of insurance that the employee is not a licensed agent, but an employee of the insurance carrier registered with the commissioner.

(c) All continuing education records, rosters, and course materials of insurance carriers shall be maintained for at least four years for each employee and are subject to review by the department at any time.

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 May 21, 1998.

TRD-9808339

Caroline Scott

General Counsel and Chief Clerk

Texas Department of Insurance

Earliest possible date of adoption: July 5, 1998

For further information, please call: (512) 463-6327



TITLE 30. ENVIRONMENTAL QUALITY

Part I. Texas Natural Resource Conservation Commission

Chapter 37. Financial Assurance

Subchapter A. General Financial Assurance Requirements

30 TAC §37.11, §37.52

The Texas Natural Resource Conservation Commission (commission) proposes an amendment to §37.11 and new §37.52, concerning Use of a Universal Financial Assurance Mechanism for Multiple Facilities and Program Areas.

EXPLANATION OF PROPOSED RULE. The proposed new rule in §37.52 will allow the adoption of a financial assurance option that will cross commission program lines by allowing a permittee, licensee or registrant to demonstrate financial assurance obligations through one mechanism. The proposed rule will give the regulated community another option when complying with financial responsibility. A universal mechanism reduces the number of financial assurance mechanisms required to comply with financial responsibility. However, it is not intended to reduce the total dollar amount of financial assurance required to be demonstrated for any commission program area that requires a permitted, licensed or registered facility to demonstrate financial assurance. A definition of program area is added to §37.11. For the purpose of the new section, program area means the specific commission area under which the facility is permitted, licensed or registered to operate. Program areas include, but are not limited to, Industrial and Hazardous Waste, Underground Injection Control, Municipal Solid Waste, or Petroleum Storage Tanks.

Proposed new §37.52 concerning Use of a Universal Financial Assurance Mechanism for Multiple Facilities and Program Areas, adds the option of a universal financial assurance mechanism for owners or operators of facilities which are authorized by rules from more than one program area of the commission. The anniversary date of the universal mechanism as specified in new §37.52 is the date on which owners or operators shall adjust the financial assurance for inflation for all facilities demonstrating through the universal mechanism.

FISCAL NOTE. Stephen Minick, Strategic Planning and Appropriations Division, has determined that for each year of the first five-year period the proposed sections are in effect, there will be no significant costs to state government or units of local government as a result of administration or enforcement of these sections.

PUBLIC BENEFIT. Mr. Minick has also determined that for each year of the first five years the proposed sections are in effect, the public benefit anticipated as a result of enforcement of and compliance with the sections will not change. The effect on owners or operators of facilities subject to these sections will be a potential reduction in cost as a result of the option to have a universal financial assurance mechanism. These cost savings may represent a savings for any person affected by the proposed rules or a part of the costs of any project. The potential cost savings will affect small businesses on the same basis as any larger business. There are no economic costs anticipated for any owners or operators required to comply with these sections as proposed.

REGULATORY IMPACT ANALYSIS. The commission has reviewed the rulemaking in light of the regulatory analysis requirements of Texas Government 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 act inasmuch as the rule will merely offer an additional option for financial assurance, and it does not meet any of the four applicability requirements listed in §2001.0225(a).

TAKINGS IMPACT ASSESSMENT. The commission has prepared a Takings Impact Assessment for this rule proposal pursuant to Texas Government Code, §2007.043. The following is a summary of that assessment. The purpose of this rulemaking is to modify Chapter 37 to reflect the addition of a universal financial assurance option to cross multiple program areas and facilities allowing a permittee, licensee, or registrant to demonstrate financial assurance obligations through one mechanism. The promulgation and enforcement of these rules will not burden private real property nor adversely affect property values because the proposed rule will not reduce the amount of financial assurance required to be demonstrated by any one facility or in any one program area.

COASTAL MANAGEMENT PROGRAM CONSISTENCY REVIEW. The commission has determined that this rulemaking action is not 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.), the rules of the Coastal Coordination Council (31 TAC Chapters 501-506), and the commission's rules in 30 TAC Chapter 281, Subchapter B, concerning Consistency with the Texas Coastal Management Program.

PUBLIC HEARING. A public hearing on this proposal will be not be held unless one is requested.

SUBMITTAL OF COMMENTS. Written comments regarding this proposal and request for alternatives may be mailed to Bettie Bell, Office of Policy and Regulatory Development, MC 205, P.O. Box 13087, Austin, Texas 78711-3087 or faxed to (512) 239-4808, but must be followed up with the submission and receipt of the written comments within three working days of when they were faxed. All comments should reference Rule Log Number 97167-037-W.S. Comments must be received by 5:00 p.m., July 6, 1998. For further information or questions concerning this proposal, contact Linda Shirck of the Financial

Administration Division, Office of Administrative Services, (512) 239-6260.

STATUTORY AUTHORITY. The new and amended sections are proposed under Texas Water Code, §5.103 and §5.105, and Texas Health and Safety Code, §§361.011, 361.017, and 361.024, which authorize the commission to adopt any rules necessary to carry out its powers and duties under the Water Code and other laws of Texas and to establish and approve all general policy of the commission.

The proposed new and amended sections implement Texas Health and Safety Code, §361.085 and Texas Water Code, §26.352.

§37.11. *Definitions.*

The following words and terms when used in the chapter shall the following meaning, unless the context clearly indicates otherwise.

(1) Assets—All existing and all probable future economic benefits obtained or controlled by a particular entity.

(2) Current assets—Cash or other assets or resources commonly identified as those which are reasonably expected to be realized in cash or sold or consumed during the normal operating cycle of the business.

(3) Current closure cost estimate—The most recent of the estimates prepared for closure and approved by the executive director.

(4) Current liabilities—Obligations whose liquidation is reasonably expected to require the use of existing resources properly classifiable as current assets or the creation of other current liabilities.

(5) Current plugging and abandonment cost estimate—The most recent of the estimates prepared in accordance with Chapter 331 of this title (relating to Underground Injection Control).

(6) Face amount—The total amount the insurer is obligated to pay under an insurance policy.

(7) Financial responsibility—This term shall mean the same as financial assurance.

(8) Independent audit—An audit performed by an independent certified public accountant in accordance with generally accepted auditing standards.

(9) Liabilities—Probable future sacrifices of economic benefits arising from present obligations to transfer assets or provide services to other entities in the future as a result of past transactions or events.

(10) Net working capital—Current assets minus current liabilities.

(11) Net worth—Total assets minus total liabilities and equivalent to owner's equity.

(12) Program area - TNRCC areas under which the facility is permitted, licensed or registered to operate, including but not limited to Industrial and Hazardous Waste, Underground Injection Control, Municipal Solid Waste, or Petroleum Storage Tanks.

(13) Standby trust - An unfunded trust established to meet the requirements of this chapter.

(14) Tangible net worth - The tangible assets that remain after deducting liabilities; such assets would not include intangibles such as goodwill and rights to patents or royalties.

§37.52. Use of An Universal Financial Assurance Mechanism for Multiple Facilities and Program Areas.

An owner or operator may use a universal mechanism to meet the requirements of this chapter for multiple facilities permitted, licensed or registered in multiple program areas, provided the mechanism is allowed to be used in the program areas represented. The amount of funds demonstrated by the universal mechanism must be no less than the sum of funds that would be available if separate mechanisms were established and maintained. The wording of the mechanisms must be in a form satisfactory to the executive director. The available mechanisms are those specified in Subchapter C of this chapter (relating to Financial Assurance Mechanisms for Closure) and Subchapter F of this chapter (relating to Financial Assurance Mechanisms for Liability), except that the financial test or corporate guarantee may not be combined with other specified mechanisms and a standby trust fund shall be required in certain circumstances. A universal mechanism submitted to the executive director shall include a list showing for each facility covered by the mechanism: the name, physical and mailing address of the facility, each program area and commission registration, license or permit number, the rules regulating the program under which the facility is permitted, licensed or registered, and the amount of funds demonstrated for each permit, license or registration for closure, post closure, corrective action, liability, and decommissioning. The anniversary date of the universal mechanism is the date on which owners or operators shall make an annual inflation adjustment for all facilities demonstrating through the universal mechanism. In directing funds available through the universal mechanism for any of the facilities covered by the mechanism, the executive director may direct only the amount of funds designated for each permit or registration for that 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 May 22, 1998.

TRD-9808421

Kevin McCalla

Director, Legal Division

Texas Natural Resource Conservation

Earliest possible date of adoption: July 5, 1998

For further information, please call: (512) 239-6087



Chapter 115. Control of Air Pollution from Volatile Organic Compounds

Subchapter G. Consumer-Related Sources

Division 1. Consumer Products

30 TAC §115.600

The Texas Natural Resource Conservation Commission (commission) proposes to amend §115.600, concerning Definitions.

EXPLANATION OF PROPOSED RULE. This amendment is proposed to amend the commission's consumer products rule to exclude a new type of insecticide designed to kill house dust mites from the volatile organic compound (VOC) limitation applicable to other crawling bug insecticides. The insecticide formulation necessary to kill house dust mites requires that the VOC content exceed the limitation contained in §115.612(a). The amendment adds language to the §115.600 definition of "crawling bug insecticide" to differentiate a "house dust mite" from other crawling bugs and a "house dust mite product" from crawling bug insecticides. This rule amendment will permit

the sale of such products in Texas. The amendment will also number the individual definitions in the section to conform to new Texas Register standards.

FISCAL NOTE. Stephen Minick, Strategic Planning and Appropriations, has determined that for the first five-year period the new section as proposed is in effect, there will be no significant fiscal implications for state or local government as a result of administration or enforcement of the section.

PUBLIC BENEFIT. Mr. Minick also has determined that for each year of the first five years the section as proposed is in effect, the public benefit anticipated as a result of enforcement of and compliance with the section will be expansion of markets for the sale of dust mite insecticides in Texas and the resulting benefits to consumers and users from control of insects by these insecticides. There are no anticipated economic costs to any person, including any small business, required to comply with the section as proposed.

DRAFT 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).

TAKINGS IMPACT ASSESSMENT. The commission has prepared a Takings Impact Assessment for this rule under Texas Government Code, §2007.043. The following is a summary of that assessment. The specific purpose of this rulemaking is to differentiate a "house dust mite" from other crawling bugs and a "house dust mite product" from crawling bug insecticides to exclude house dust mite insecticides from the VOC limitation contained in the subchapter. This proposal does not constitute a taking of private, real property.

COASTAL MANAGEMENT PLAN. The commission has determined that this proposed rulemaking action is subject to the Texas Coastal Management Program (CMP) in accordance with the Coastal Coordination Act of 1991, as amended (Tex. Nat. Res. Code Ann. §33.201 et. seq.), the rules of the Coastal Coordination Council (31 TAC Chapters 501-506), and the TNRC's rules in 30 TAC Chapter 281, Subchapter B, consistency with the Texas Coastal Management Program. As required by 31 TAC §505.11(b)(2) and §505.22(a), and 30 TAC §281.45(a)(3) relating to actions and rules subject to the CMP, agency rules governing air pollutant emissions must be consistent with applicable CMP goals and policies. The commission has reviewed this proposed rulemaking action for consistency, and has determined that this proposed rulemaking action is consistent with the applicable CMP goals and policies. The CMP policy applicable to this rulemaking action is the policy that commission rules comply with regulations at Title 40, Code of Federal Regulations (40 CFR), to protect and enhance air quality in the coastal area (31 TAC §501.14(q)). This proposal does not change existing requirements which already comply with regulations at 40 CFR, and is therefore consistent with this policy.

Interested persons may submit comments on the consistency of the proposed rule with the CMP goals and policies during the public comment period.

PUBLIC HEARING. A public hearing on this proposal will be held on June 29, 1998, at 11:00 a.m. in Room 5108 of Texas

Natural Resource Conservation Commission 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 each hearing and will answer questions before and after the hearing.

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 98015-115-AI. Comments must be received by 5:00 p.m., July 6, 1998. For further information, please contact Randy Hamilton, (512) 239-1512, or Steve Ortiz, (512) 239-2008, of the Air Policy and Regulations Division.

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.

STATUTORY AUTHORITY. The amendment is proposed under the Texas Health and Safety Code, the Texas Clean Air Act (TCAA), §382.012 and §382.017. Section 382.012 requires the commission to prepare and develop a general, comprehensive plan for the proper control of the state's air. Section 382.017 authorizes the commission to adopt rules consistent with the policy and purposes of the TCAA.

The proposed amendment implements Health and Safety Code, §382.012.

§115.600. 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 by the Commission have the meanings commonly ascribed to them in the field of air pollution control. In addition to the terms which are defined by the TCAA, the following terms, when used in this subchapter, shall have the following meanings, unless the context clearly indicates otherwise.

(1) **Aerosol product** - A pressurized spray system that dispenses product ingredients by means of a propellant or mechanically induced force. This does not include pump sprays.

(2) **Agricultural use** - The use of any pesticide or method or device for the control of pests in connection with the commercial production, storage, or processing of any animal or plant crop. This does not include the sale or use of pesticides in properly labeled packages or containers which are intended for home use, use in structural pest control, industrial use, or institutional use. The following are for the purposes of this subchapter only.

(A) **Home use** means use in a household or its immediate environment.

(B) **Structural pest control** means a use requiring a license under the Texas Structural Pest Control Act, Article 135B-6.

(C) **Industrial use** means use for or in a manufacturing, mining, or chemical process, or use in the operation of factories, processing plants, and similar sites.

(D) **Institutional use** means use within the confines of, or on property necessary for the operation of buildings such as hospitals, schools, libraries, auditoriums, and office complexes.

(3) Air freshener - Any consumer product including, but not limited to, sprays, wicks, powders, and crystals, designed for the purpose of masking odors, or freshening, cleaning, scenting, or deodorizing the air. This does not include products that are used on the human body, products that function primarily as cleaning products, or disinfectant products claiming to deodorize by killing germs on surfaces. It does include spray disinfectants and other products that are expressly represented for use as air fresheners. To determine whether a product is an air freshener, all verbal and visual representations regarding product use on the label and packaging, and in the product's literature and advertising may be considered. The presence of and representations about a product's fragrance and ability to deodorize (resulting from surface application) shall not constitute a claim of air freshening.

(4) All other forms - All consumer product forms for which no form-specific volatile organic compound (VOC) standard is specified in §115.612(a) of this title (relating to Control Requirements). Unless specified otherwise by the applicable VOC standard, this includes, but is not limited to, solids, liquids, wicks, powders, crystals, and cloth or paper wipes (towelettes).

(5) Antiperspirant - Any product including, but not limited to, aerosols, roll-ons, sticks, pumps, pads, creams, and squeeze-bottles, that is intended by the manufacturer to be used to reduce perspiration in the human axilla by at least 20% in at least 50% of a target population.

(6) ASTM - The American Society for Testing and Materials.

(7) Automotive windshield washer fluid - Any liquid designed for use in a motor vehicle windshield washer fluid system either as an anti-freeze or for the purpose of cleaning, washing, or wetting the windshield(s). This does not include any fluid which is placed in the washer fluid system of a motor vehicle prior to the time of initial sale.

(8) Bait station insecticide - A container enclosing an insecticidal bait, where the bait is designed to be ingested by insects and is composed of solid material feeding stimulants with less than 5.0% active ingredients.

(9) Bathroom and tile cleaner - A product designed to clean tile or surfaces in bathrooms. This does not include products specifically designed to clean toilet bowls or toilet tanks.

(10) Carburetor-choke cleaner - A product designed to remove dirt and other contaminants from a carburetor. This does not include products designed to be introduced directly into the fuel lines or fuel storage tank prior to introduction into the carburetor.

(11) Charcoal lighter material - Any combustible material designed to be applied on, incorporated in, added to, or used with charcoal to enhance ignition. This does not include any of the following:

- (A) electrical starters and probes,
- (B) metallic cylinders using paper tinder,
- (C) natural gas, and
- (D) propane.

(12) Construction and panel adhesive - Any one-component household adhesive having gap filling capabilities, and which distributes stress throughout the bonded area resulting in a reduction or elimination of mechanical fasteners. These materials are applied from caulking cartridges.

(13) Consumer - Any person who purchases or acquires any consumer product for personal, family, household, or institutional use. Persons acquiring a consumer product for resale are not considered consumers of that product.

(14) Consumer product - Any substance, product, or article, held by any consumer, the use, consumption, storage, disposal, or destruction of which may result in the release of VOCs [~~volatile organic compounds~~]. This does not include fuels, fuel additives, motor vehicles, non-road vehicles, non-road engines, or architectural coatings.

(15) Contact adhesive - Any household adhesive that:

(A) is nitrile-based, or contains polychlorobutadiene (neoprene, chloroprene, bayprene), or latex; and

(B) when applied to two substrates, forms an instantaneous, non-repositionable bond; and

(C) when dried to touch, exhibits a minimum 30-minute bonding range; and

(D) bonds only to itself without the need for reactivation by solvents or heat.

(16) Container/packaging - The part or parts of the consumer or institutional product which serve only to contain, enclose, incorporate, deliver, dispense, wrap, or store the chemically formulated substance or mixture of substances which is solely responsible for accomplishing the purposes for which the product was designed or intended. This includes any article onto or into which the principal display panel is incorporated, etched, printed, or attached.

(17) Cooking spray aerosols - Any aerosol product designed either to reduce sticking on cooking and baking surfaces or to be applied on food, or both.

(18) Crawling bug insecticide - Any insecticide product that is designed for use against ants, cockroaches, or other household crawling arthropods, including, but not limited to, mites, silverfish, or spiders. This does not include products designed to be used exclusively on humans or animals, or any house dust mite product For the purposes of this definition only:

(A) House dust mite product - a product whose label, packaging, or accompanying literature states that the product is suitable for use against house dust mites, but does not indicate that the product is suitable for use against ants, cockroaches, or other household crawling arthropods.

(B) House dust mite - mites which feed primarily on skin cells shed in the home by humans and pets and which belong to the phylum Arthropoda, the subphylum Chelicerata, the class Arachnida, the subclass Acari, the order Astigmata, and the family Pyroglyphidae.

(19) Deodorant - Any product including, but not limited to, aerosols, roll-ons, sticks, pumps, pads, creams, and squeeze-bottles, that is intended by the manufacturer to be used to minimize odor in the human axilla by retarding the growth of bacteria which cause the decomposition of perspiration.

(20) Disinfectant - Any product intended to destroy or irreversibly inactivate infectious or other undesirable bacteria, pathogenic fungi, or viruses on surfaces or inanimate objects and whose label is registered under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA, 7 United States Code (USC) §136, et seq.). This does not include any of the following:

- (A) products designed solely for use on humans or animals;
- (B) products designed for agricultural use;
- (C) products designed solely for use in swimming pools, therapeutic tubs, or hot tubs; and
- (D) products which, as indicated on the principal display panel or label, are designed primarily for use as bathroom and tile cleaners, glass cleaners, general purpose cleaners, toilet bowl cleaners, or metal polishes.

(21) Distributor - Any person to whom a consumer product is sold or supplied for the purposes of resale or distribution in commerce, except that manufacturers, retailers, and consumers are not distributors.

(22) Double-phase aerosol air freshener - An aerosol air freshener with the liquid contents in two or more distinct phases that requires the product container be shaken before use to mix the phases, producing an emulsion.

(23) Dusting aid - A product designed to assist in removing dust and other soils from floors and other surfaces without leaving a wax or silicone-based coating. This does not include products which consist entirely of compressed gases for use in electronic or other specialty areas.

(24) Engine degreaser - A cleaning product designed to remove grease, grime, oil, and other contaminants from the external surfaces of engines and other mechanical parts.

(25) Executive director - The executive director of the Texas Natural Resource Conservation Commission, or his or her delegate.

(26) Fabric protectant - A product designed to be applied to fabric substrates to protect the surface from soiling from dirt and other impurities or to reduce absorption of water into the fabric's fibers. This does not include silicone-based products whose function is to provide water repellency, or products designed for use solely on fabrics which are labeled "for dry clean only" and sold in containers of ten fluid ounces or less.

(27) Flea and tick insecticide - Any insecticide product that is designed for use against fleas, ticks, their larvae, or their eggs; not including products that are designed to be used exclusively on humans or animals and their bedding.

(28) Flexible flooring material - Asphalt, cork, linoleum, no-wax, rubber, seamless vinyl, and vinyl composite flooring.

(29) Floor polish or wax - A wax, polish, or any other product designed to polish, protect, or enhance floor surfaces by leaving a protective coating that is designed to be periodically replenished. This does not include spray buff products, products designed solely for the purpose of cleaning floors, floor finish strippers, products designed for unfinished wood floors, or coatings subject to architectural coatings regulations.

(30) Flying bug insecticide - Any insecticide product that is designed for use against flying insects or other flying arthropods, including, but not limited to, flies, mosquitoes, moths, or gnats. This does not include wasp and hornet insecticide, or products that are designed to be used exclusively on humans or animals.

(31) Fragrance - A substance or complex mixture of aroma chemicals, natural essential oils, and other functional components with a combined vapor pressure not in excess of two millime-

ters mercury at 20 degrees Centigrade, which is added to a consumer product to impart an odor or scent or to counteract a malodor.

(32) Furniture maintenance product - A wax, polish, conditioner, or any other product designed for the purpose of polishing, protecting, or enhancing finished wood surfaces other than floors. This does not include dusting aids, products designed solely for the purpose of cleaning, and products designed to leave a permanent finish such as stains, sanding sealers, and lacquers.

(33) Gel - A colloid in which the disperse phase has combined with the continuous phase to produce a semisolid material, such as jelly.

(34) General purpose adhesive - Any non-aerosol household adhesive designed for use on a variety of substrates, not including contact adhesives or construction and panel adhesives.

(35) General purpose cleaner - A product designed for general all-purpose cleaning, in contrast to cleaning products designed to clean specific substrates in certain situations. This includes products designed for general floor cleaning, kitchen or countertop cleaning, and cleaners designed to be used on a variety of hard surfaces. This does not include non-water-based degreasers.

(36) Glass cleaner - A cleaning product designed primarily for cleaning surfaces made of glass. This does not include products designed solely for the purpose of cleaning optical materials used in eyeglasses, photographic equipment, scientific equipment, or photocopying machines.

(37) Hairspray - A consumer product designed primarily for the purpose of dispensing droplets of a resin on and into a hair coiffure which will impart sufficient rigidity to the coiffure to establish or retain the style for a period of time.

(38) Hair mousse - A hairstyling foam designed to facilitate styling of a coiffure and provide limited holding power.

(39) Hair styling gel - A high viscosity, often gelatinous, product that contains a resin and is designed for the application to hair to aid in styling and sculpting of the hair coiffure.

(40) High volatility organic compound (HVOC) - Any VOC [~~volatile organic compound~~] that exerts a vapor pressure greater than 80 millimeters mercury when measured at 20 degrees Centigrade.

(41) Household adhesive - Any household product that is used to bond one surface to another by attachment. This does not include products used on humans and animals, adhesive tape, contact paper, wallpaper, shelf liners, or any other product with an adhesive incorporated onto or in an inert substrate.

(42) Household product - Any consumer product that is primarily designed to be used inside or outside of living quarters or residences that are occupied or intended for occupation by individuals, including the immediate surroundings.

(43) Initial sale - The bargain, sale, transfer, or delivery with intent to pass an interest therein, other than a lien, of a motor vehicle which has not been previously registered or licensed in Texas or elsewhere; and such a bargain, sale, transfer, or delivery, accompanied by registration or licensing of said vehicle in Texas or elsewhere, shall constitute the first sale of said vehicle, irrespective of where such bargain, sale, transfer, or delivery occurred.

(44) Insect repellent - A pesticide product that is designed to be applied on human skin, hair, or attire worn on humans in order to prevent contact with or repel biting insects or arthropods.

(45) Insecticide - A pesticide product that is designed for use against insects or other arthropods, but excluding products that are:

- (A) for agricultural use,
- (B) for use in maintaining building structures, or
- (C) restricted materials that require a permit for use and possession.

(46) Insecticide fogger - Any insecticide product designed to release all or most of its content, as a fog or mist, into indoor areas during a single application.

(47) Institutional product - A consumer product that is designed for use in the maintenance or operation of an establishment that manufactures, transports, or sells goods or commodities, or provides services for profit; or is engaged in the nonprofit promotion of a particular public, educational, or charitable cause. Establishments include, but are not limited to, government agencies, factories, schools, hospitals, sanitariums, prisons, restaurants, hotels, stores, automobile service and parts centers, health clubs, theaters, or transportation companies. Institutional products do not include household products and products that are incorporated into or used exclusively in the manufacture or construction of the goods or commodities at the site of the establishment.

(48) Label - Any written, printed, or graphic matter affixed to, applied to, attached to, blown into, formed, molded into, embossed on, or appearing upon any consumer product or consumer product package, for purposes of branding, identifying, or giving information with respect to the product or to the contents of the package.

(49) Laundry prewash - A product that is designed for application to a fabric prior to laundering and that supplements or contributes to the effectiveness of laundry detergents and/or provides specialized performance.

(50) Laundry starch product - A product that is designed for application to a fabric, either during or after laundering, to impart and prolong a crisp, fresh look and may also act to help ease ironing of the fabric. This includes, but is not limited to, fabric finish, sizing, and starch.

(51) Lawn and garden insecticide - An insecticide product designed primarily to be used in household lawn and garden areas to protect plants from insects or other arthropods.

(52) Liquid - A substance or mixture of substances which is capable of flow as determined under the American Society for Testing and Materials (ASTM) D-4359-90. This does not include powders or other materials that are composed entirely of solid particles.

(53) Manufacturer - Any person who imports, manufactures, assembles, produces, packages, repackages, or relabels a consumer product for distribution or sale in Texas.

(54) Medium volatility organic compound (MVOC) - Any VOC [~~volatile organic compound~~] that exerts a vapor pressure greater than two millimeters mercury and less than or equal to 80 millimeters mercury when measured at 20 degrees Centigrade.

(55) Nail polish - Any clear or colored coating designed for application to the fingernails or toenails and including, but not limited to, lacquers, enamels, acrylics, base coats, and top coats.

(56) Nail polish remover - A product designed to remove nail polish and coatings from fingernails or toenails.

(57) Non-aerosol product - Any product that is not dispensed by a pressurized spray system.

(58) Nonresilient flooring - Flooring of a mineral content which is not flexible, including but not limited to, terrazzo, marble, slate, granite, brick, stone, ceramic tile, and concrete.

(59) Oven cleaner - Any product designed to clean or remove dried food deposits from oven walls.

(60) Percent-by-weight - The total weight of VOC [~~volatile organic compound (VOC)~~] except those VOCs exempted under §115.617 of this title (relating to Exemptions), expressed as a percentage of the total net weight of the product exclusive of the container or package as calculated according to the following equation:

Figure: 30 TAC §115.600(60)

(61) Pesticide - Includes any substance or mixture of substances labeled, designed, or intended for use in preventing, destroying, repelling, or mitigating any pest, or any substance or mixture of substances labeled, designed, or intended for use as a defoliant, desiccant, or plant regulator, provided that the term pesticide will not include anything which the U.S. Environmental Protection Agency does not consider to be a pesticide.

(62) Principal display panel or panels - That part, or those parts of a label that are so designed as to most likely be displayed, presented, shown, or examined under normal and customary conditions of display or purchase. Whenever a principal display panel appears more than once, all requirements pertaining to the principal display panel shall pertain to all such principal display panels.

(63) Product category - The applicable category which best describes the product as listed in this section.

(64) Product form - The applicable form which most accurately describes the product's dispensing form, including aerosol products, gels, liquids, pump sprays, and solids.

(65) Propellant - A liquefied or compressed gas that is used in whole or in part, such as a co-solvent, to expel a liquid or any other material from the same self-pressurized container or from a separate container.

(66) Pump spray - A packaging system in which the product ingredients within the container are not under pressure and in which the product is expelled only while a pumping action is applied to a button, trigger, or other actuator.

(67) Restricted materials - Any pesticides established for restricted use under FIFRA, §3(d) (7 USC §136, etc seq.) [~~Section 3(d) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), 7 United States Code §136, et seq.~~]

(68) Retailer - Any person who sells, supplies, or offers consumer products for sale directly to consumers.

(69) Retail outlet - Any establishment at which consumer products are sold, supplied, or offered for sale directly to consumers.

(70) Single-phase aerosol air freshener - An aerosol air freshener with the liquid contents in a single homogeneous phase and which does not require that the product container be shaken before use.

(71) Shaving cream - An aerosol product which dispenses a foam lather intended to be used with a blade or cartridge razor in the removal of facial or other bodily hair, or other wet-shaving system.

(72) Solid - A substance or mixture of substances which, either whole or subdivided (such as the particles comprising a powder), is not capable of flow as determined under the American Society for Testing and Materials (ASTM) D-4359-90.

(73) Spray buff product - A product designed to restore a worn floor finish in conjunction with a floor buffing machine and special pad.

(74) Subsequent sale - The bargain, sale, transfer, or delivery, with intent to pass an interest therein, other than a lien, of a motor vehicle which has been registered or licensed outside of Texas, save and except when such vehicle is not required under law to be registered or licensed in Texas or elsewhere; and any such bargain, sale, transfer, or delivery of a motor vehicle after same has been registered or licensed shall constitute a subsequent sale, irrespective of where bargain, sale, transfer, or delivery occurred.

(75) Usage directions - The text or graphics on the product's label or accompanying literature which describes to the end user how and in what quantity the product is to be used.

(76) Wasp and hornet insecticide - Any insecticide product that is designed for use against wasps, hornets, yellow jackets, or bees by allowing the user to spray a high-volume directed stream or burst from a safe distance at the intended pest or its hiding place.

(77) Wax - A material or synthetic thermoplastic substance generally of high molecular weight hydrocarbons or high molecular weight esters of fatty acids or alcohols, except glycerol and high polymers (plastics). Wax includes, but is not limited to, substances derived from the secretions of plants and animals such as carnauba wax and beeswax, substances of a mineral origin such as ozocerite and paraffin, and synthetic polymers such as polyethylene.

(78) Wood floor wax - Wax-based products for use solely on wood floors.

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 May 22, 1998.

TRD-9808401

Kevin McCalla

Director, Legal Division

Texas Natural Resource Conservation

Proposed date of adoption: August 19, 1998

For further information, please call: (512) 239-1970



TITLE 31. NATURAL RESOURCES AND CONSERVATION

Part X. Texas Water Development Board

Chapter 363. Financial Assistance Programs

Subchapter B. State Water Pollution Control Revolving Fund

Division 1. Introductory Provisions

31 TAC §363.202, §363.209

The Texas Water Development Board (board) proposes amendments to §363.202 and §363.209, concerning Financial Assis-

tance Programs. The amendments to §363.209 provide a new method for borrowers to finance loan origination fees from revenues. This change is proposed as a result of a recent ruling of the U.S. Environmental Protection Agency that costs for administering the State Revolving Fund (SRF) that are included within loans and disbursed from the SRF are to be calculated as subject to the four percent (4%) administrative cost ceiling.

Proposed amendments to §363.202 add a definition for "repayment schedule" and repeat amendments to definitions which were proposed in the May 1, 1998, issue of the *Texas Register* (23 TexReg 4224) to comply with new numbering requirements of the Texas Register.

Ms. Patricia Todd, Director of Accounting and Finance, has determined that for the first five-year period these sections are in effect there will be no fiscal implications on state and local government as a result of enforcement and administration of the sections over and above those associated with the adoption of the original rule.

Ms. Todd has also determined that for the first five years the sections as proposed are in effect the public benefit anticipated as a result of enforcing the sections will be to place the Board in compliance with a U.S. Environmental Protection Agency ruling relating to the financing of loan origination costs. Ms. Todd has determined there will be no economic costs to small businesses or individuals required to comply with the sections as proposed.

Comments on the proposed amendments will be accepted for 30 days following publication and may be submitted to Gail L. Allan, 512/463-7804, Texas Water Development Board, P.O. Box 13231, Austin, Texas, 78711-3231, or by fax at 512/463-5580.

The amendments are proposed under the authority of the Texas Water Code, §6.101 which provides the Texas Water Development Board with the authority to adopt rules necessary to carry out the powers and duties in the Water Code and other laws of the State.

The statutory provision affected by the proposed amendments are Texas Water Code, Chapter 15, Subchapter J, §15.604(7).

§363.202. Definitions.

Words and terms used in this subchapter shall have the following meanings, unless the context clearly indicates otherwise. Words defined in the Texas Water Code Chapters 15, 16 or 17, and not defined here shall have the meanings provided by the appropriate Texas Water Code chapter.

(1) Act - The Federal Water Pollution Control Act, as amended, 33 USC 1251 et. seq.

(2) Administrative cost recovery fund - An operating fund to finance the administration of the SRF program, to be held outside the state treasury and separate from the SRF Program Account.

(3) Administrative costs - All reasonable and necessary costs of administering any aspect of the SRF program, including the cost of servicing debt obligations of recipients of SRF financial assistance.

(4) Alternative technology - Proven wastewater treatment processes and techniques which provide for the reclaiming and reuse of water, productively recycle wastewater constituents or otherwise eliminate the discharge of pollutants, or recover energy. Specifically, alternative technology includes land application of effluent and sludge; aquifer recharge; aquaculture; direct reuse (nonpotable); hor-

ticulture; revegetation of disturbed land; containment ponds; sludge composting and drying prior to land application; self-sustaining incineration; methane recovery; individual and onsite systems; and small diameter pressure and vacuum sewers and small diameter gravity sewers carrying partially or fully treated wastewater.

(5) Application for assistance - All the information required for submittal in the following sections: §363.12 of this title (relating to General, Legal and Fiscal Information), §363.222 of this title (relating to Required SRF Engineering Feasibility report) and §363.223 of this title (relating to Required Environmental Review and Determinations).

(6) Environmental determination - A finding by the executive administrator regarding the environmental soundness of a proposed project.

(7) Environmental assessment - A written analysis prepared by the applicant describing the potential environmental impacts of a proposed project, sufficient in scope to enable the executive administrator to make an environmental determination.

(8) EPA - The Environmental Protection Agency.

(9) Estuary management plan - A plan for the conservation and management of an estuary of national significance as described in the Act, §320.

(10) Estuary management project - A project pursuant to an estuary management plan.

(11) Hardship grants program for rural communities - The program established by the federal Omnibus Consolidated Receptions and Appropriations Act of 1996 (Public Law 104-403).

(12) Nonpoint source pollution plan - A plan for managing nonpoint source pollution as described in the Act, §319.

(13) Nonpoint source project - A project pursuant to a nonpoint source pollution management plan.

(14) Repayment schedule - The schedule of repayment of principal and/or interest due and payable from the recipients of SRF financial assistance.

(15) Rural hardship community - A community consisting of not more than 3,000 residents that is not a remote area within the corporate boundaries of a larger city and that:

(A) is lacking centralized wastewater treatment or collection systems or is in need of improvements to onsite wastewater treatment systems;

(B) has an average annual per capita income equal to or less than 80% of the national annual per capita income as determined by the latest decennial census; and

(C) has an unemployment rate that exceeds by at least one percentage point the most recently reported average yearly national unemployment rate.

(16) SRF - The state water pollution control revolving fund, created pursuant to the Texas Water Code, Subchapter J, Chapter 15.

(17) SRF program account - The program account is an account in the SRF created pursuant to a resolution of the board in issuing SRF bonds and is used, pursuant to such bond resolution(s), for the purpose of providing financial assistance to political subdivisions for construction of treatment works and, if needed, to pay rebate amounts to the federal government.

(18) "State of Texas 303(d) Report" - The report, prepared biennially by the commission, required by the Act, §303(d).

(19) Treatment works - The meaning established in the Act, §212, shall apply for projects funded from the state water pollution control revolving fund.

§363.209. *Administrative Cost Recovery.*

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

(c) Loan Origination Charge. A loan origination charge will be assessed on [of 1.85% of] the SRF loan amount[, excluding the amount of the origination charge]. The loan origination charge is a one-time charge that is due at the time of loan closing, subject to the terms of the repayment schedule. An applicant may pay the loan origination charge at closing at which time the charge assessed on the loan will be 1.85% of the SRF loan amount, or an applicant may pay the loan origination charge on the first interest payment date at which time the charge assessed on the loan will be 1.95% of the SRF loan amount. For new systems only where capitalized interest is required during construction, a loan origination charge of 1.95% of the SRF loan amount is due on the last interest payment date scheduled to be paid from capitalized interest. The loan origination charge may not be financed as a part of the SRF loan.

(d)-(g) (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 May 21, 1998.

TRD-9808367

Suzanne Schwartz

General Counsel

Texas Water Development Board

Proposed date of adoption: July 16, 1998

For further information, please call: (512) 463-7981



Chapter 368. Flood Mitigation Assistance Program

31 TAC §§368.1-368.11

The Texas Water Development Board proposes new §§368.1 - 368.11 comprising new 31 TAC Chapter 368, concerning the Flood Mitigation Assistance Program. The new sections are proposed to govern the board's administration of grants for planning and projects under the FEMA Flood Mitigation Program.

Section 368.1 provides definitions of FEMA (Federal Emergency management Agency), FMA (Flood Mitigation Assistance), NFIP (National Flood Insurance Program) and Community (political subdivisions with zoning and building code jurisdiction over particular areas with flood hazards and which is participating in the NFIP, or political subdivisions or authorities designated to develop and administer a mitigation plan by political subdivision). Section 368.2 reiterates the purpose of the Flood Mitigation Assistance (FMA) Program as specified in federal law as assisting state and local governments in funding cost-effective actions that reduce or eliminate the long-term risk of flood damage to insurable structures. The long term goal includes reduction or elimination of claims under NFIP.

Section 368.4 provides that the executive administrator of the board will publish notice in the Texas Register requesting applications, and requiring applicants to provide notice to other political subdivisions of its application.

Section 368.5 provides eligibility criteria. For planning grants, communities which are not on probation or suspended under the National Flood Insurance Program are eligible. Grants will not be made to develop new or improved floodplain maps. A community is eligible for project grants if it is not on probation or suspended under NFIP, and if it has received FEMA approval of its mitigation plan. The section specifies that projects are eligible for planning grants only if they cost effective; are in conformance with various federal requirements including Floodplain Management and Protection of Wetlands, environmental considerations, and floodplain management regulations; and are located physically in a participating NFIP community.

Section 369.6 specifies the components for the flood mitigation plan, which are taken from the federal regulations. The section specifies that the executive administrator will forward submitted flood mitigation plans to the FEMA regional director for approval.

Section 368.7 specifies types of projects eligible for FMA funding as: acquisition of insured structures and real property and easements restricting property use; relocation of insured structures; demolition and removal of insured structures; elevation of insured structures; other activities to bring insured structures into floodplain management compliance; minor physical flood mitigation projects; and beach nourishment activities.

Section 368.8 provides for the board to approve and finance planning grants from the board's research and planning fund using the procedures and criteria in Chapter 368. It provides criteria for evaluating and awarding planning grants to include the greatest flood risk to be addressed by the plan, demonstrated interest and commitment to mitigation, highest rate of NFIP participation, legal authority to plan for and control flooding, and effect of planning on overall flooding. The section specifies that planning grant work must be completed within three years of contract execution.

Section 368.9 provides procedure for project grant evaluation by the executive administrator and board, and for forwarding grant award recommendations to FEMA. Criteria for evaluating the project grant awards include: the extent the project reduces future NFIP claims; projects which benefit areas with the greatest flood risk; projects with the highest cost/benefit ratio; projects which benefit the greatest number of NFIP-insured structures; the extent the project results in a long-term flooding solution and requires minimum maintenance; whether the project affects structures in an identified floodway or floodplain; the extent to which the sponsor is providing greater than the required 25% cost share; whether the applicant or community participates in Community Rating System; and the multi-objective nature of project.

Section 368.10 provides for a required 25% local cost share, of which not more than one-half may be in-kind services. It restricts planning grants to \$50,000, with a community being eligible for a planning grant nor more than once every five years. Project grants are limited to \$3.3 million per community per five-year period, with a total to all communities in the state of not to exceed \$20 million. These requirements are all imposed by federal regulations.

Section 368.11 provides terms and conditions for contracts including meeting applicable federal requirements.

Ms. Patricia Todd, Director of Accounting & Finance, has determined that for the first five year period the sections are in effect there will be no fiscal implications for state government as a result of enforcing or administering the sections. Additional costs to local government as a result of enforcing or administering the sections are estimated to be \$28,900 for each of years 1998, 1999, 2000, 2001 and 2002 as any community seeking grants will be required to provide matching funds of 25 percent. Local governments will be expected to receive approximately \$1.154 million in grants for each of the first five years that the rules are in effect, subject to appropriations from the federal government. It is also anticipated however, that program participation would eventually result in reductions of cost associated with or losses due to flooding. An estimation of these figures cannot be made at this time.

Ms. Todd also has determined that for each year of the first five years that the sections are in effect the public benefit anticipated as a result of enforcing the sections will be to fund cost-effective measures to reduce or eliminate the long-term risk of flood damage to political subdivisions. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the amendments as proposed.

Comments on the proposed new sections will be accepted for 30 days following publication and may be submitted to Suzanne Schwartz, 512/463-7981, Texas Water Development Board, P.O. Box 13231, Austin, Texas, 78711-3231, fax no. 512/463-5580, or email to sschwartz@twdb.state.tx.us.

The new sections are proposed under the authority granted in: Texas Water Code, §6.101 and Texas Water Code, Chapter 15, Subchapter F, which require the board to adopt rules necessary to carry out the powers and duties of the board and for administration of the research and planning fund and under Texas Government Code, Chapter 742 which provides for state coordination of local applications for federal funds.

The statutory provisions impacted by the proposed sections are Texas Water Code, §15.405.

§368.1. Definitions.

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

- (1) Board - The Texas Water Development Board.
- (2) Executive administrator - The executive administrator of the board or a designated representative.
- (3) FEMA - Federal Emergency Management Agency.
- (4) FMA - Flood Mitigation Assistance.
- (5) NFIP - National Flood Insurance Program.
- (6) Community -
 - (A) a political subdivision, including any Indian tribe or authorized native organization, that has zoning and building code jurisdiction over a particular area having special flood hazards, and which is participating in the NFIP; or
 - (B) a political subdivision or other authority, that is designated to develop and administer a mitigation plan by political subdivisions, all of which meet the requirements of subparagraph (A) of this paragraph.

§368.2. General.

In 1997, Governor Bush designated the Texas Water Development Board as the State's Point of Contact for FEMA's FMA program. This subchapter shall govern the board's responsibilities in administering the FMA program.

§368.3. Purpose.

The FMA program was authorized by the National Flood Insurance Act of 1968, 42 U.S.C. 4104c and 4104d, §1366 and §1367. The purpose of FMA is to assist state and local governments in funding cost-effective actions that reduce or eliminate the long-term risk of flood damage to buildings, manufactured homes, and other insurable structures. The long-term goal of FMA is to reduce or eliminate claims under NFIP through mitigation activities. The program provides cost-shared grants for three purposes: planning grants to assess the flood risk and identify actions to reduce that risk; project grants to execute measures to reduce flood losses; and technical assistance grants that the state may use to assist communities to develop viable FMA applications and implement FMA projects.

§368.4. Grant Applications and Notice.

As funds become available through FEMA, the executive administrator will publish notice in the Texas Register requesting applications from eligible communities for planning grants and/or project grants. Applicants shall submit application(s) in the form and in the numbers prescribed by the executive administrator. Applicants for planning grants shall provide notice of their grant applications in the manner required by §368.8 of this title (relating to Notice Requirements). The executive administrator may request additional information needed to evaluate the application, and may return any incomplete applications.

§368.5. Eligibility Criteria.

(a) Planning grants. A community which is not on probation or not suspended under 44 CFR Part 60 of the NFIP is eligible to apply for a planning grant to fund preparation of a flood mitigation plan. Planning grants will not be awarded to develop new or improved floodplain maps.

(b) Community eligibility for project grants. A community is eligible for a project grant only if:

(1) it is not on probation or not suspended under 44 CFR Part 60 of the NFIP; and

(2) it has received approval from the FEMA regional director of a flood mitigation plan.

(c) Projects eligible for project grants. A project is eligible for grants only if it is:

(1) cost effective. Only projects which do not cost more than the anticipated value of the reduction in both direct damages and subsequent negative impacts to the area if future floods were to occur will be funded. Both costs and benefits are computed on a net present value basis;

(2) in conformance with: 44 CFR Part 9, Floodplain Management and Protection of Wetlands; Executive Order 12699, Seismic Safety of Federal and Federally Assisted or Regulated New Building Construction; 44 CFR Part 10, Environmental Considerations; and any applicable environmental laws and regulations;

(3) technically feasible;

(4) in conformance with the minimum standards of the NFIP Floodplain Management Regulations at 44 CFR Part 60;

(5) in conformance with the Flood Mitigation Plan. The type of project being proposed must be identified in the plan; and

(6) located physically in a participating NFIP community that is not on probation or must benefit such community directly by reducing future flood damages.

§368.6. The Flood Mitigation Plan.

(a) A flood mitigation plan will articulate a comprehensive strategy for implementing technically feasible flood mitigation activities for the area affected by the plan. At a minimum, plans will include the following elements:

(1) description of the planning process and public involvement. Public involvement may include workshops, public meetings, or public hearings;

(2) description of the existing flood hazard and identification of the flood risk, including estimates of the number and type of structures at risk, repetitive loss properties, and the extent of flood depth and damage potential;

(3) the applicant's floodplain management goals for the area covered by the plan;

(4) identification and evaluation of cost-effective and technically feasible mitigation actions considered;

(5) presentation of the strategy for reducing flood risks and continued compliance with the NFIP, and procedures for ensuring implementation, reviewing progress, and recommending revisions to the plan; and

(6) documentation of formal plan adoption by the legal entity submitting the plan.

(b) The executive administrator will forward all submitted flood mitigation plans to the FEMA regional director for approval.

§368.7. Types of Projects Eligible for Funding Through FMA.

The following types of projects are eligible for funding through FMA, provided they meet all other eligibility criteria:

(1) acquisition of insured structures and underlying real property in fee simple and easements restricting real property to open space uses;

(2) relocation of insured structures from acquired or restricted real property to non-hazard prone sites;

(3) demolition and removal of insured structures on acquired or restricted real property;

(4) elevation of insured residential structures in accordance with 44 CFR §60.3;

(5) elevation or dry flood proofing of insured non-residential structures in accordance with 44 CFR §60.3;

(6) other activities that bring an insured structure into compliance with the floodplain management requirements of 44 CFR §60.3;

(7) minor physical flood mitigation projects that reduce localized flooding problems and do not duplicate the flood prevention activities of other federal or state agencies; and

(8) beach nourishment activities.

§368.8. Planning Grant Evaluation and Approval Process.

(a) The board will provide funding for planning grants from money made available from FEMA and placed in the research and planning fund of the water assistance fund, and utilizing the procedures and criteria in this chapter. The executive administrator will evaluate applications for planning grants using, among other factors, the following criteria to prioritize applications:

(1) communities demonstrating the greatest flood risk to be addressed by the flood mitigation plan;

(2) a demonstrated interest and commitment to mitigation by the community;

(3) the highest rate of NFIP participation;

(4) the legal authority of the applicant to plan for and control flooding; and

(5) the effect of planning by the applicant on overall flood control in the state and within the area in which the applicant is located.

(b) The executive administrator will submit a list of planning grant applications to the board, with a list of those grants recommended for funding. At a meeting of the board, the board may approve applications in whole or in part for funding based upon the criteria in subsection (a) of this section. In its approval of an application for a planning grant, the board will specify a commitment period during which the applicant must enter into a contract with the board to receive planning grant funds, after which time the commitment shall expire, unless extended by the board.

(c) Work under each planning grant must be completed within three years of the date of execution of the contract.

§368.9. Project Grant Evaluation and Approval Process.

(a) The executive administrator will evaluate applications for project grants and forward recommendations to the board, and the board will prioritize project grants and forward them to FEMA for funding approval based on the following criteria:

(1) the extent to which the project reduces future claims to the NFIP from repetitive loss structures or substantially damaged structures;

(2) projects that benefit areas with the greatest flood risk;

(3) projects that have the highest benefit/cost ratio;

(4) projects that are likely to benefit the greatest number of NFIP-insured structures;

(5) the extent to which the project results in a long-term solution to a flooding problem and requires minimum maintenance;

(6) whether structures affected by the project are in an identified floodway and floodplain;

(7) the extent to which the applicant is providing more than the minimum cost-share of 25%;

(8) whether the project applicant, or community where the project is located, participates in the NFIP Community Rating System (CRS); and

(9) the extent to which the project has a multi-objective purpose.

(b) In its approval of a project to be recommended for FEMA project grant, the board shall specify a commitment period that shall begin to run with notification of FEMA's approval of the project and during which time the applicant must enter into a contract with the board. If a contract has not been executed within the commitment period, the commitment shall expire unless a time extension is granted by the board.

§368.10. Funding Limitations.

(a) Local cost share. Funding will be limited to no more than 75% of the total cost of the planning or project. Of the 25% to be provided by non-federal sources, no more than half can come

from in-kind services, if directly in support of the project, properly documented, approved in advance by the board, and in conformance with federal cost-share limits in 44 CFR Part 13, and OMB Circular A-87.

(b) Planning grants. A planning grant will not be awarded to a community more than once every five years, and will not exceed a funding limit of \$50,000 to any single community applicant. The total amount of all planning grants can not exceed \$300,000 in any federal fiscal year.

(c) Project grants. The total amount of project grant funds provided during any five-year period can not exceed \$3.3 million to any community. The total amount of project grant funds provided to all communities located in the state will not exceed \$20 million during any five-year period.

§368.11. Contracts.

Contracts between the board and applicants receiving grant awards shall require that the recipient will comply with FMA requirements, 44 CFR Parts 13 and 14, and applicable state, federal and local laws and regulations, will account for the appropriate use of grants funds and provide required performance and financial reports. The executive administrator may place conditions he considers necessary for the proper administration of the grant.

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 May 21, 1998.

TRD-9808368

Suzanne Schwartz

General Counsel

Texas Water Development Board

Proposed date of adoption: July 16, 1998

For further information, please call: (512) 463-7981

TITLE 34. PUBLIC FINANCE

Part I. Comptroller of Public Accounts

Chapter 9. Property Tax Administration

Subchapter H. Tax Record Requirements

34 TAC §9.3004

The Comptroller of Public Accounts proposes an amendment to §9.3004, concerning the appraisal records of all property. This rule is being amended to provide for the addition of the transfer of school tax limitation for over-65 persons from House Bill 4, 75th Legislature, 1997, effective January 1, 1998. The amendment also adds the limitation on the appraised value of residence homesteads and deferral collection eligibility from Senate Bill 841, 75th Legislature, 1997, effective January 1, 1998.

Mike Reissig, chief revenue estimator, has determined that for the first five-year period the amendment will be in effect there will be no significant revenue impact on the state or local government.

Mr. Reissig also has determined that for each year of the first five years the amendment is in effect the public benefit anticipated as a result of adopting the amendment will be in

providing new information regarding tax responsibilities. This amendment is adopted under the Tax Code, Title 2, and does not require a statement of fiscal implications for small businesses. There is no significant anticipated economic cost to individuals who are required to comply with the proposed amendment.

Comments on the proposal may be submitted to Larrilyn K. Reissig, Manager, Property Tax Division, P.O. Box 13528, Austin, Texas 78711-3528.

This amendment is proposed under the Tax Code, §5.07, which requires the comptroller to prescribe the contents and form for the administration of the property tax system.

The amendment implements the Tax Code, §§6.13, 11.26, 23.12, 23.23, 25.02, and 33.065.

§9.3004. *Appraisal Records of All Property.*

(a) (No change.)

(b) The appraisal records of all property shall be two lists - one list for real property and one list for personal property - and shall contain the following items of information as applicable:

(1)-(4) (No change.)

(5) if the property is a manufactured home, as defined in Texas Manufactured Housing Standards Act, [~~§(3)(s).~~] Texas Civil Statutes, Article 5221f(3)(s), the permanent identification number(s) or serial number(s) attached to the home, together with the make and model of the home, its approximate age, general physical condition, and any characteristics that distinguish the home from other manufactured homes;

(6)-(14) (No change.)

(15) the name and address of an agent for notices, if any;
[and]

(16) (No change.)

(17) whether the property is subject to a limitation of school taxes as provided by the Tax Code, §11.26, and whether and when the limitation was transferred to the homestead as provided by Tax Code, §11.26(g);

(18) whether the property is subject to a limitation on the appraised value of a residence homestead as provided by Tax Code, §23.23; and

(19) whether the property is subject to the deferred collection of taxes on an appreciating homestead as provided by Tax Code, §33.065.

(c)-(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.

Filed with the Office of the Secretary of State on May 21, 1998.

TRD-9808341

Martin Cherry

Chief, General Law

Comptroller of Public Accounts

Earliest possible date of adoption: July 5, 1998

For further information, please call: (512) 463-3699

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TITLE 40. SOCIAL SERVICES AND ASSISTANCE

Part XII. Texas Board of Occupational Therapy Examiners

Chapter 375. Fees

40 TAC §375.2

(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 Board of Occupational Therapy Examiners or in the Texas Register office, Room 245, James Earl Rudder Building, 1019 Brazos Street, Austin.)

The Texas Board of Occupational Therapy Examiners proposes the repeal of §375.2, concerning Special Cases, Prorations, and Refunds of Fees. This repeal will eliminate obsolete language that is no longer necessary to the operation of the Board.

John P. Maline, Executive Director of the Executive Council of Physical Therapy and Occupational Therapy Examiners, has determined that for the first five-year period the rule is in effect there will be no effect on state/local government.

Mr. Maline also has determined that for each year of the first five years the rule is in effect the public benefit anticipated as a result of enforcing the rule will be the elimination of obsolete and potentially confusing language from the administrative code. There will be no effect on small business. There will be no cost to individuals.

Comments on the proposed rule may be submitted to Alicia Dimmick Essary, OT Coordinator, Texas Board of Occupational Therapy Examiners, 333 Guadalupe, Suite 2-510, Austin, Texas 78701-3942.

The repeal is proposed under the Occupational Therapy Practice Act, Texas Civil Statutes, Article 8851, which provides the Texas Board of Occupational Therapy Examiners with the authority to adopt rules consistent with this Act to carry out its duties in administering this Act.

Texas Civil Statutes, Article 8851 is affected by this new section.

§375.2. *Special Cases, Prorations, and Refunds of Fees.*

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 May 19, 1998.

TRD-9808174

Jennifer J. Jones

Executive Assistant

Texas Board of Occupational Therapy Examiners

Proposed date of adoption: July 5, 1998

For further information, please call: (512) 305-6900

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Chapter 387. Administrative Hearing Procedures

40 TAC §387.1

(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 Board of Occupational Therapy Examiners or in the Texas

Register office, Room 245, James Earl Rudder Building, 1019 Brazos Street, Austin.)

The Texas Board of Occupational Therapy Examiners proposes the repeal of §387.1, concerning Administrative Hearing Procedures. This repeal will eliminate obsolete language that is no longer necessary to the operation of the Board.

John P. Maline, Executive Director of the Executive Council of Physical Therapy and Occupational Therapy Examiners, has determined that for the first five-year period the rule is in effect there will be no effect on state/local government.

Mr. Maline also has determined that for each year of the first five years the rule is in effect the public benefit anticipated as a result of enforcing the rule will be the elimination of obsolete and potentially confusing language from the administrative code. There will be no effect on small business. There will be no cost to individuals.

Comments on the proposed rule may be submitted to Alicia Dimmick Essary, OT Coordinator, Texas Board of Occupational Therapy Examiners, 333 Guadalupe, Suite 2-510, Austin, Texas 78701-3942.

The repeal is proposed under the Occupational Therapy Practice Act, Texas Civil Statutes, Article 8851, which provides the Texas Board of Occupational Therapy Examiners with the authority to adopt rules consistent with this Act to carry out its duties in administering this Act.

Texas Civil Statutes, Article 8851 is affected by this new section.

§387.1. *Administrative Hearing Procedures.*

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 May 19, 1998.

TRD-9808176

Jennifer J. Jones

Executive Assistant

Texas Board of Occupational Therapy Examiners

Earliest possible date of adoption: July 5, 1998

For further information, please call: (512) 483-6162



Chapter 389. Petition for Adoption of Rules

40 TAC §389.1

(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 Board of Occupational Therapy Examiners or in the Texas Register office, Room 245, James Earl Rudder Building, 1019 Brazos Street, Austin.)

The Texas Board of Occupational Therapy Examiners proposes the repeal of §389.1, concerning Petition for Adoption of Rules. This repeal will eliminate obsolete language that is no longer necessary to the operation of the Board.

John P. Maline, Executive Director of the Executive Council of Physical Therapy and Occupational Therapy Examiners, has determined that for the first five-year period the rule is in effect there will be no effect on state/local government.

Mr. Maline also has determined that for each year of the first five years the rule is in effect the public benefit anticipated as a result

of enforcing the rule will be the elimination of obsolete and potentially confusing language from the administrative code. There will be no effect on small business. There will be no cost to individuals.

Comments on the proposed rule may be submitted to Alicia Dimmick Essary, OT Coordinator, Texas Board of Occupational Therapy Examiners, 333 Guadalupe, Suite 2-510, Austin, Texas 78701-3942.

The repeal is proposed under the Occupational Therapy Practice Act, Texas Civil Statutes, Article 8851, which provides the Texas Board of Occupational Therapy Examiners with the authority to adopt rules consistent with this Act to carry out its duties in administering this Act.

Texas Civil Statutes, Article 8851 is affected by this new section.

§389.1. *Petition for Adoption of Rules.*

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 May 19, 1998.

TRD-9808175

Jennifer J. Jones

Executive Assistant

Texas Board of Occupational Therapy Examiners

Earliest possible date of adoption: July 5, 1998

For further information, please call: (512) 305-6900



TITLE 43. TRANSPORTATION

Part II. Texas Turnpike Authority Division

Chapter 50. Management

The Board of Directors of the Texas Turnpike Authority Division of the Texas Department of Transportation (the "Board") proposes new §§50.1, 50.3-50.30, 50.33, 50.44, 50.45, 50.50-50.54, and 50.60-50.62, concerning governance of the Authority's management and its day-to-day operations.

EXPLANATION OF PROPOSED NEW SECTIONS

Transportation Code, §361.042, requires the Authority to adopt rules for the regulation of its affairs and the conduct of its business and, further, to do all things necessary or appropriate to carry out the powers granted to the Authority in Transportation Code, Chapter 361.

In compliance with the statutory requirements, and in order to manage its affairs in an efficient manner, the Board proposes new sections concerning the governance of the Authority, public meetings and public access, employment practices, indemnification rights and procedures, and public records, complaint procedures and debt collection.

Section 50.1 defines the purpose for the rules contained in Chapter 50, which generally is to regulate the conduct of the affairs, and the performance of the functions of the Authority in accordance with Transportation Code, Chapter 361.

Section 50.3 specifies the locale of the Authority's principal office as being in the City of Austin, Travis County, Texas.

Section 50.4 sets forth the general powers of the Authority as exercised through its Board of Directors. In general, the powers

include all duties and functions as required by the Constitution, the statutes of the State of Texas, the rules of the Authority, and includes those powers derived specifically from §361.042 concerning the consideration, study, plan and development of turnpike projects; the adoption of rules for the regulation of the Authority's affairs and the conduct of its business; and the undertaking of such other duties as are delegated to it by the Texas Transportation Commission.

Section 50.5 specifies, consistent with Transportation Code, §361.032, that the Authority's Board of Directors shall consist of seven members.

Section 50.6, consistent with Transportation Code, §361.032, specifies that six directors will be representatives of the general public, appointed by the Governor, with the remaining director being the Chair of the Texas Transportation Commission or a designee of the Chair.

Section 50.7 enumerates the qualifications for directors to serve on the Board, and sets forth criteria which will disqualify individuals from Board service. The content of this section is consistent with Transportation Code, §361.032 and §361.033.

Section 50.8 specifies that directors will serve staggered terms of six years with the terms of one-third of the directors expiring on February 15th of each odd-numbered year. This provision is consistent with Transportation Code, §361.032(b).

Section 50.9 sets forth the procedures for filling vacancies on the Board consistent with Transportation Code, §361.032(e).

Section 50.10 sets forth conditions under which a director may resign or may be removed from the Board consistent with Transportation Code, §361.035.

Section 50.11 specifies that directors serve without compensation but are entitled to reimbursement for actual expenses of attending meetings and other expenses as necessarily incurred in the carrying-out of the duties and functions of the Authority. The section also clarifies that directors can serve the Authority in other capacities and may receive compensation therefor. This provision is consistent with Transportation Code, §361.036.

Section 50.12 specifies that meetings of the Board must be held at least once during each calendar quarter and also sets forth procedures for the calling of special meetings.

Section 50.13 specifies that a majority of the members of the Board constitute a quorum and that the vote of a majority is necessary for any action to be taken by the Board. This section also discusses the impact of a vacancy in Board membership on the exercise of the Authority's rights by a quorum of the Board. This provision is consistent with Transportation Code, §361.032(h) and (i).

Section 50.14 sets forth the conditions under which the Board may hold open or closed meetings by telephone conference call, subject to requirements of the Texas Open Meetings Act and the specific provisions of the rule. This provision is derived from Transportation Code, §361.0485.

Section 50.15 describes procedures for the conduct of meetings of the Board and meetings of any committees.

Section 50.16 authorizes the Chair of the Authority to designate one or more committees to be comprised of members of the Board, and requires the committees to keep regular minutes of their proceedings and report on those proceedings to the Board as required. This section also makes clear that committee

meetings, to the extent applicable, will be governed by other Authority's rules relating to meetings, quorum, meetings by telephone, and procedures.

Section 50.17 specifies the procedures for providing notice of regular, special, and emergency meetings of the Board. Such notices must be in compliance with the Texas Open Meetings Act.

Section 50.18 provides for the execution of a written waiver of notice by directors.

Section 50.19 indicates that attendance of a director at a meeting of the Board or a committee will constitute waiver of the notice, unless such attendance is for the sole purpose of objecting to the transaction of business on the grounds that the meeting was not lawfully called.

Section 50.20 specifies the officer positions for the Authority and that officers shall be reimbursed for all expenses incurred in conducting proper Authority business and for travel expenses incurred in the performance of their duties.

Section 50.21 describes the procedure and term for the election of officers.

Section 50.22 enumerates the procedures for, and in the event of, removal or resignation of officers from their respective office(s).

Section 50.23 specifies that the Governor shall designate one director as Chair of the Board, and that the Chair shall have the ability to appoint all committees, call meetings, and preside at all meetings. The designation of the Chair by the Governor is provided for in Transportation Code, §361.032(g).

Section 50.24 describes the duties of the office of Vice Chair.

Section 50.25 describes the duties of the office of secretary and makes clear that the secretary need not be a Director of the Authority.

Section 50.26 describes the duties of the office of treasurer, who need not be a Director of the Authority.

Section 50.27 enables the Director of the Authority to assign duties and responsibilities to other administrators, and provides for other administrators' removal by the director with or without cause.

Section 50.28 acknowledges that the director is selected by, and serves at the leisure of, the Texas Transportation Commission, consistent with Transportation Code, §361.031(g). The section also sets forth the duties and responsibilities of the director. The director is to perform all duties assigned by the Board, and is responsible for: general management; hiring and termination of employees; day-to-day operations of the Authority; notification to the Chair in the event that the director learns that a potential ground for removal of a member of the Board exists; execution of interagency and interlocal contracts and service contracts which have been approved by the Board; issuance of contracts, contract supplements, and contract change orders not exceeding \$100,000; reporting to the Board at least four times per year on the state of operations of the Authority; issuance of requests for proposals, requests for qualifications and similar requests for the provisions of services not otherwise subject to competitive bidding; selection of service providers and negotiation of contracts for services (not including contracts for legal, financial advisory and underwriting services which remain the responsibility of the Board). All contracts negotiated

by the director with service providers remain subject to the Board's approval.

Section 50.29 describes the duties of the assistant secretary.

Section 50.30 describes the duties of the assistant treasurer.

Section 50.33 provides for accommodations to be made for persons who do not speak English, or who have a physical, mental or developmental disability, and may need auxiliary aids in order to participate in public meetings, hearings, or to access information concerning the Authority's programs. This complies with Transportation Code, §361.051.

Section 50.44 clarifies that employees of the Authority are employees at will, absent an employment agreement, and that employees may be terminated at any time, with or without cause, by the director (subject to applicable laws, policies, and procedures in place at the time of termination).

Section 50.45 sets forth standards of conduct for Authority employees, the violation of which can be cause for disciplinary action including dismissal, loss of pay, and/or criminal prosecution. These standards include prohibitions on acceptance of gifts which could tend to influence employees in the discharge of their duties; restrictions on the use of state-owned vehicles; restrictions of outside business and professional activities which interfere with the employees' working hours or efficiency, or create a conflict between the employees' private interests and public duties; prohibitions on business dealings which result in a conflict of interest; prohibitions on investments which may result in a conflict of interest; prohibitions against any financial interest in projects undertaken by the Authority; prohibitions against certain political activities which interfere with job-related duties, as well as a prohibition against the use of official authority for the purpose of affecting an election; and a prohibition on the use of illegal drugs, inhalants, alcoholic beverages and abuse of prescription drugs. This section also describes the Authority's sexual harassment policy, including the prohibition of any sexual harassment, the process for reporting alleged sexual harassment, and certain rights and protections afforded those who report alleged sexual harassment.

Section 50.50 provides for indemnification of directors, officers, administrators or "other employees" of the Authority, to the extent allowed by law, against liability and reasonable expenses, including attorneys fees, incurred in connection with any action brought against them resulting from their positions with the Authority or from their alleged negligence or misconduct in the performance of their duties on behalf of the Authority. No indemnification will be allowed for gross negligence or willful misconduct, and the right to indemnification, as well as the amount of indemnification, is subject to approval by the Board.

Section 50.51 details procedures for determining whether certain types of expenses shall be subject to the indemnification potentially available under §50.50.

Section 50.52 sets forth the procedures for securing indemnification in the event it is allowed by the Board and by applicable law.

Section 50.53 clarifies that the right to indemnification provided by the rules is not exclusive of other rights available to the indemnified party as a matter of law.

Section 50.54 specifies that the phrase "other employee" shall have the meaning assigned to it by the Board for purposes of the indemnification provisions of §§50.50-50.53.

Section 50.60 makes clear that, subject to limitations provided for in Transportation Code, Chapter 361, the Public Information Act, copyright law, and other applicable laws, information collected or maintained by the Authority are public records open to inspection and copying. This section also specifies that the director may request a determination from the Attorney General's office concerning whether certain records are subject to disclosure. Finally, this section indicates that the Authority will provide copies of its records upon request and may charge fees for doing so at appropriate rates consistent with provisions of the Texas Government Code.

Section 50.61, consistent with Transportation Code, §361.052, embodies procedures for parties desiring to file complaints with the Board, as well as the process for resolving such complaints.

Section 50.62 enumerates the procedures for collection of debts owed to the Authority.

FISCAL NOTE

Frank J. Smith, Director, Finance Division, has determined that for the first five-year period the new sections are in effect, there will be no significant fiscal implications for state or local governments as a result of enforcing or administering of the sections. There are no anticipated economic costs to persons required to comply with the sections as proposed.

Pete Davis, P.E., Director, Texas Turnpike Authority Division, has certified that there will be no significant impact on local economies or overall employment as a result of enforcing or administering the proposed rules.

PUBLIC BENEFIT

Mr. Davis 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 compliance with the sections will be improved management of the operations of the Authority and improved public access to Authority processes and records.

SUBMITTAL OF COMMENTS

Written comments on the proposed new sections may be submitted to C. Brian Cassidy, C/O Texas Turnpike Authority Division, 125 East 11th Street, Austin, Texas 78701-2483, (512) 936-0903, fax (512) 305-9518. The deadline for receipt of comments will be 5:00 p.m. on July 6, 1998.

Subchapter A. General Provisions

43 TAC §50.1

STATUTORY AUTHORITY

The new sections are proposed under Transportation Code, §361.042, which requires the Board to adopt rules for the regulation of its affairs and the conduct of its business.

No statutes, articles, or codes, are affected by these proposed new sections.

§50.1. The Authority.

These rules are made and adopted for the regulation of the affairs and the performance of the functions of the Texas Turnpike Authority Division of the Texas Department of Transportation (the Authority), an agency of the State of Texas authorized and existing pursuant to the laws of the State of Texas, in accordance with the provisions of Transportation Code, Chapter 361.

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 May 20, 1998.

TRD-9808271

C. Brain Cassidy
General Counsel

Texas Turnpike Authority Division

Earliest possible date of adoption: July 5, 1998

For further information, please call: (512) 463-8630



Subchapter B. Governance of the Authority

43 TAC §§50.3-50.30

STATUTORY AUTHORITY

The new sections are proposed under Transportation Code, §361.042, which requires the Board to adopt rules for the regulation of its affairs and the conduct of its business.

No statutes, articles, or codes, are affected by these proposed new sections.

§50.3. Principal Office.

The principal office of the Authority shall be in Austin, Travis County, Texas.

§50.4. General Powers.

The activities, property, and affairs of the Authority will be managed by its Board of Directors. Through the Board, the Authority will perform all duties and functions as required by the Constitution, the statutes of the State of Texas, and these rules. Without limiting the foregoing, the Board shall:

(1) on its own initiative or at the request of the commission, consider, study, plan, and develop turnpike projects under this chapter;

(2) adopt rules for the regulation of its affairs and the conduct of its business; and

(3) undertake such other duties as are delegated to it by the commission.

§50.5. Number.

The Board shall consist of seven directors or such other number as may be mandated statutorily by the Turnpike Act.

§50.6. Appointment.

Of the seven directors, six will be representatives of the general public appointed by the Governor, by and with the advice and consent of the Texas State Senate. The remaining director will be the chair of the Texas Transportation Commission or a member of the Commission designated by the chair, and will serve ex-officio as a voting member of the Board and will be vested with all rights, duties, and responsibilities of other members of the Board.

§50.7. Qualifications.

(a) All directors appointed to the Board will be residents of Texas and of the county from which they are appointed for a period of at least one year prior to their appointment. All directors will have and maintain the qualifications set forth in this section and in the Turnpike Act.

(b) A person shall not be eligible for appointment to the Board if the person or the person's spouse:

(1) is registered, certified, or licensed by an occupational regulatory agency in the field of toll road construction, maintenance, or operation;

(2) is employed by or participates in the management of a business entity or other organization that is regulated by the Authority, the Commission, or the Department or receives funds from any of the foregoing;

(3) owns or controls, directly or indirectly, more than a 10% interest in a business or entity or other organization that is regulated by, or receives funds from, the Authority, the Commission or the Department, other than compensation for acquisition of turnpike right-of-way;

(4) uses or receives a substantial amount of tangible goods, services, or funds from the Commission, the Department or the Authority, other than compensation or reimbursement authorized by law for Board membership, attendance, or expenses, or compensation for acquisition of turnpike right-of-way; or

(5) is an officer, employee or paid consultant of a Texas trade association in the field of road construction, maintenance or operation.

(c) A person shall not be eligible for appointment to the Board if the person is required to register as a lobbyist under Government Code, Chapter 305, because of the person's activities for compensation on behalf of a profession related to the operation of the Authority.

(d) For purposes of this section, the phrase "Texas trade association" means a nonprofit, cooperative, and voluntarily joined association of business or professional competitors in this state designed to assist its members and its industry or profession in dealing with mutual business or professional problems and in promoting their common interests.

§50.8. Term.

Appointed directors will serve staggered terms of six years, with the terms of one-third of the directors expiring on February 15th of each odd-numbered year. All directors shall serve until their successors have been duly appointed and qualified or until their death, resignation, or removal from office in accordance with these rules or any applicable law.

§50.9. Vacancies.

Any vacancy occurring on the Board shall be filled by the governor. A director appointed by the governor to fill a vacancy shall be appointed for the unexpired term of the director's predecessor in office.

§50.10. Resignation and Removal.

A director may resign at any time upon giving written notice to the governor. An appointed director may be removed from the Board if the director does not possess at the time the director is appointed, or does not maintain, the qualifications required by the Turnpike Act, or if the director violates a prohibition established by the Turnpike Act, §361.033(b), (c), or (d). In addition, a director who cannot discharge the director's duties for a substantial part of the term for which he or she is appointed because of illness or disability, or a director who is absent from more than half of the regularly scheduled Board meetings during a given calendar year (unless the absence is excused by a majority vote of the Board), may be removed. If the Director of the Authority has knowledge that a potential ground for removal of a director exists, the Director shall notify the Chair of the potential ground for removal. The Chair shall then notify the governor of such potential ground. A director shall be considered removed from the Board only after the Authority receives notice of removal from the

governor. The validity of an action of the Board shall not be affected by the fact that it is taken when grounds for removal of a director exists.

§50.11. Compensation of Directors.

Members of the Board shall serve without compensation, but directors shall be reimbursed for their actual expenses of attending each meeting of the Board and for such other expenses as may be necessarily incurred in their carrying out the duties and functions as set forth herein and in the Turnpike Act. This provision will not preclude any director from serving the Authority in any other capacity as permitted herein and in the Turnpike Act or from receiving compensation for such other service.

§50.12. Meetings.

A regular meeting of the Board is to be held at least once during each calendar quarter in the State of Texas, at a specific site, date, and time to be determined by the Chair. The Chair may postpone any regular meeting if it is determined that such regular meeting is unnecessary or that a quorum will not be achieved, but no fewer than four meetings shall be held during each calendar year. Special meetings and emergency meetings of the Board may be called, upon proper notice, at any time by the Chair or at the request of any three members of the Board. Special meetings and emergency meetings shall be held at such time and place as is specified by the Chair, if the Chair calls the meeting, or by the three directors, if they call the meeting. In addition to the foregoing, the calling of an emergency meeting shall comply with the Texas Open Meetings Act and other applicable laws.

§50.13. Quorum.

A majority of the members of the Board constitutes a quorum, and the vote of a majority of the members present and voting at a meeting at which a quorum is present will be necessary for any action taken by the Board. No vacancy in the membership of the Board will impair the right of a quorum to exercise all of the rights and to perform all of the duties of the Board. Therefore, if a vacancy occurs, a majority of the members then serving in office will constitute a quorum.

§50.14. Meetings by Telephone.

Subject to the provisions of the Texas Open Meetings Act and other applicable laws, the Board may hold an open or closed meeting by telephone conference call under the conditions, and for the purposes, described in Transportation Code, Chapter 361, and the provisions of the Texas Open Meetings Act. The telephone conference call meeting is subject to the notice requirements applicable to other meetings of the Board, and the notice must specify the conference room of the Authority as the location of the meeting. Each part of the telephone conference call that is required to be open to the public shall be audible to the public at the location specified in the notice and shall be tape recorded or documented by written minutes. At the conclusion of the meeting the tape recording or the written minutes of the open portion of the meeting shall be made available to the public. Participation in a meeting pursuant to this section constitutes being present in person at such meeting, except that a director will not be considered in attendance when the director appears at such a meeting for the express purpose of objecting to the transaction of any business on the ground that the meeting is not lawfully called or convened.

§50.15. Procedure.

All meetings of the Board and its committees shall be conducted in accordance with Robert's Rules of Order subject to proper notice of the meeting being posted as provided by law. The Chair with the consent of a majority of the Board then present, may at any time

change the order of items to be considered from that set forth in the notice of meeting, provided that all agenda items that require a vote by the Board shall be considered at the meeting for which they have been posted.

§50.16. Committees.

The Chair at any time may designate from among the members of the Board one or more committees, each of which shall be comprised of one or more members of the Board, and may designate one or more directors as alternate members of any such committee, who may, subject to any limitations imposed by the Chair, replace absent or disqualified members at any meeting of that committee. A committee may be approved by resolution of the Board and, to the extent provided in such resolution, shall have and may exercise all of the authority of the Board, subject to the limitations imposed by applicable law. The Chair shall appoint directors to fill any vacancies in the membership of the committees. All committees shall keep regular minutes of their proceedings and report the same to the Board as required. The designation of a committee of the Board and the delegation thereto of authority shall not operate to relieve the Board, or any member thereof, of any responsibility imposed by law. To the extent applicable, the provisions of §§50.12-50.15 of this title (relating to Meetings; Quorum; Meetings by Telephone; and Procedure) governing the meetings of the Board likewise shall govern the meetings of its committees.

§50.17. Notice.

Notice of any regular, special, or emergency meeting of the Board and meetings of all committees will be given according to the provisions of the Texas Open Meetings Act. In addition, at least ten days prior notice shall be given of any regular meeting and at least 48 hours notice shall be given of any special meeting to all directors entitled to vote at such meeting. Notice of each meeting shall be sent by the secretary or such other person designated by the Director by mail or facsimile. If sent by mail, such notice will be deemed delivered when it is deposited in the United States mail with sufficient postage prepaid. If sent by facsimile, the notice will be deemed delivered when transmitted properly to the correct number, provided that an additional copy of such notice shall be sent by overnight delivery as confirmation of the notice sent by facsimile. Such notice of meetings also may be given by telephone, provided the secretary or such other person designated by the Director speaks personally to the directors to give them notice.

§50.18. Waiver of Notice.

Whenever any notice is required to be given to any director by statute or by these rules, a written waiver of such notice signed by the person or persons entitled to such notice, whether before or after the time required for such notice, shall be deemed equivalent to the giving of such notice.

§50.19. Attendance as Waiver.

Attendance of a director at a meeting of the Board or a committee thereof will constitute a waiver of notice of such meeting, except that a director will not be considered in attendance when the director appears at such meeting for the express purpose of objecting to the transaction of any business on the ground that the meeting is not lawfully called or convened.

§50.20. Officers.

The officers of the Authority shall consist of the Chair, a vice chair, a secretary, and a treasurer. The offices of secretary and treasurer may be held simultaneously by the same person, and such offices need not be held by persons who are directors. Officers shall be reimbursed

for all expenses incurred in conducting proper Authority business and for travel expenses incurred in the performance of their duties.

§50.21. Election and Term of Office.

Officers, except for the Chair, will be elected for a term of two years, subject to the provisions of §50.22 of this title (relating to Removal and Vacancies). The election of said officers shall be by a vote of the directors of the Authority as specified in §50.13 of this title (relating to Quorum) at the first meeting of the Authority held during the first six months of every odd-numbered year or at such other meeting as the Board determines within said time period.

§50.22. Removal and Vacancies.

Each officer shall hold office until a successor is chosen and qualified, or until the officer's death, resignation, or removal. Any officer, except for the Chair, may resign at any time upon giving written notice to the Board. The Chair may resign at any time upon giving written notice to the governor. Any officer, other than the Chair, may be removed from service as an officer at any time, with or without cause, by the affirmative vote of a majority of the directors of the Board.

§50.23. Chair.

The governor shall designate one director as Chair of the Board, to serve in that capacity at the pleasure of the governor. The Chair shall appoint all committees of the Board as specified in §50.16 of this title (relating to Committees), call all regular meetings of the Board, and preside at all meetings of the Board.

§50.24. Vice Chair.

During the absence or disability of the Chair or upon the Chair's request, the vice chair shall perform the duties and exercise the authority and powers of the Chair.

§50.25. Secretary.

The Board shall elect a secretary, who need not be a director of the Authority. The secretary shall keep true and complete records of all proceedings of the directors in books provided for that purpose and shall assemble, index, maintain, and keep up-to-date a book of all of the policies adopted by the Authority; attend to the giving and serving of all notices of meetings of the Board and its committees and such other notices as are required by the office of secretary and as may be directed by the Turnpike Act, any trust indenture binding on the Authority, directors of the Authority, or the Director; and attest all documents, including trust agreements, bonds, and other obligations of the Authority; execute, attest, and verify signatures on all contracts in which the total consideration equals or exceeds \$125,000, contracts conveying property of the Authority, and other agreements binding on the Authority which by law or Board resolution require attestation; certify resolutions of the Board and any committee thereof; maintain custody of the minute books, accounts, and all other official documents and records, files, and contracts that are not specifically entrusted to some other officer or depository; and hold such administrative offices and perform such other duties as the directors of the Authority or the Director shall require. The Director shall establish the compensation for the secretary consistent with the rules and policies of the Authority and subject to approval by the Board.

§50.26. Treasurer.

The Board shall elect a treasurer, who need not be a director of the Authority. The treasurer shall execute all requisitions to the applicable bond trustee for withdrawals from the construction fund, unless the Board designates a different officer, director, or employee of the Authority to execute any or all of such requisitions. In addition, the

treasurer shall execute, and if necessary attest, any other documents or certificates required to be executed and attested by the treasurer under the terms of any trust agreement or supplemental trust agreement entered into by the Authority; maintain custody of the Authority's funds and securities and keep a full and accurate account of all receipts and disbursements, and endorse, or cause to be endorsed, in the name of the Authority and deposit, or cause to be deposited, all funds with the Comptroller of Public Accounts or in such bank or banks as may be designated by the Authority as depositories; render to the directors at such times as may be required an account of all financial transactions coming under the scope of the treasurer's authority; give a good and sufficient bond, to be approved by the Authority, in such an amount as may be fixed by the Authority; to the extent allowed by law invest such of the Authority's funds as directed by resolution of the Board, subject to the restrictions of any trust agreement entered into by the Authority; and hold such administrative offices and perform such other duties as the directors of the Authority or the Director shall require. The Director shall establish the compensation for the treasurer consistent with the rules and policies of the Authority and subject to approval by the Board.

§50.27. Administrators.

The administrators of the Authority may include the administrators as provided for in these rules and such other administrators as the Director may designate. All such administrators, except for the Director, shall perform such duties and have such powers as may be assigned to them by the Director. Any administrator may be removed, with or without cause, at any time by the Director. All administrators will be reimbursed for expenses incurred in performance of their duties as approved by the Director.

§50.28. Director.

(a) The Director will be selected by the Commission and shall serve at the pleasure of the Commission. The Director shall perform all duties assigned by the Board and implement all resolutions adopted by the Board.

(b) In addition, the Director shall:

(1) be responsible for general management, hiring and termination of employees in accordance with applicable law and the Authority's policies, and day to day operations of the Authority;

(2) notify the Chair in the event the Director has knowledge that a potential ground for removal of a member of the Board exists;

(3) have the authority to execute inter-agency and inter-local contracts and service contracts provided that such contracts have been approved by the Board;

(4) have the authority to execute contracts, contract supplements, and contract change orders not exceeding \$100,000, except as otherwise authorized by Board resolution;

(5) report to the Board at least four times per year on the state of operations of the Authority; and

(6) have the authority to issue requests for proposals, requests for qualifications and/or similar requests for the provision of services not otherwise subject to competitive bidding requirements, and to select service providers and negotiate contracts for such services (Any such contracts shall be subject to review and approval by the Board. The authority provided in this paragraph does not encompass the procurement of legal, financial advisory and underwriting services, and such services shall be procured in the manner required by statute, rule or direction of the Board.)

§50.29. Assistant Secretary.

The Board may appoint an assistant secretary, who need not be a Director of the Authority. The assistant secretary, if any, will be authorized to perform all of the duties and to have all of the powers of the secretary if so authorized by the Board or in the event of the secretary's absence, unavailability, or incapacity, due to illness or otherwise.

§50.30. Assistant Treasurer.

The Board may appoint an assistant treasurer, who need not be a Director of the Authority. The assistant treasurer, if any, will be authorized to perform all of the duties and to have all of the powers of treasurer if so authorized by the Board or in the event of the treasurer's absence, unavailability, or incapacity, due to illness or otherwise.

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 May 20, 1998.

TRD-9808272

C. Brian Cassidy

General Counsel

Texas Turnpike Authority Division

Earliest possible date of adoption: July 5, 1998

For further information, please call: (512) 463-8630



Subchapter C. Public Meetings and Public Access

43 TAC §50.33

STATUTORY AUTHORITY

The new sections are proposed under Transportation Code, §361.042, which requires the Board to adopt rules for the regulation of its affairs and the conduct of its business.

No statutes, articles, or codes, are affected by these proposed new sections.

§50.33. Public Access to Information and Auxiliary Aids.

A person who does not speak English, or who has a physical, mental or developmental disability and may need auxiliary aids or services such as interpreters, readers, large print or braille in order to participate in public meetings or hearings or in order to access information concerning the Authority's programs, should contact the secretary of the Authority at (512) 936-0903 at least two work days prior to a meeting, hearing, or when access to information is needed so that appropriate arrangements can be made. The authority will make every reasonable effort to make the appropriate arrangements.

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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C. Brian Cassidy

General Counsel

Texas Turnpike Authority Division

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Subchapter D. Employment Practices

43 TAC §§50.44, 50.45

STATUTORY AUTHORITY

The new sections are proposed under Transportation Code, §361.042, which requires the Board to adopt rules for the regulation of its affairs and the conduct of its business.

No statutes, articles, or codes, are affected by these proposed new sections.

§50.44. Termination of Employees.

Employees of the Authority shall be employees at will unless they are party to an employment agreement with the Authority executed by the chair upon approval by the Board. Employees may be terminated at any time, with or without cause, by the Director subject to applicable law and the policies and procedures adopted and in place at the time of termination.

§50.45. Standards of Conduct.

The following standards of conduct are Authority policy in conformance with personnel policies of the State of Texas. Violation of these policies can be cause for disciplinary action up to and including dismissal, loss of pay, and/or criminal prosecution.

(1) Gifts. No employee shall accept or solicit any gift, favor, or service that might reasonably tend to influence them in the discharge of their official duties or is offered them with the intent to influence their official conduct.

(2) State-owned vehicles. Employees may use state-owned vehicles only in connection with official state business. Employees may not use state-owned vehicles in connection with any political campaign.

(3) Outside business and professional activities. An employee may not engage in outside business or professional activities if such activities will interfere with the employee working hours or efficiency, create a conflict between the employee private interests and public duties, or use or appear to use information obtained in connection with the official duties of the employee.

(4) Conflict of interest. Employees may not transact any business in their official capacities as employees of the Authority with any business entity of which they are an officer, agent, member, or owner of a controlling interest.

(5) Investments. Employees may not make a personal investment in any enterprise which will create a conflict between their private interest and public duties.

(6) Interest in projects of the Authority. Employees may not have, directly or indirectly, any financial or other personal interest in any contract or subcontract in connection with a project of the Authority if they are authorized in their official capacity to take part in negotiating, making, accepting, or approving such contract, or take part in performing any duty for the Authority in connection with such contract or subcontract.

(7) Political activities. Employees may serve as members of the governing bodies of school districts, cities, towns, or other local government districts but may not receive a salary for serving on such a body, may not be appointed to another state office by the governor, and may not allow activities connected with such an office to interfere with job-related duties. Additionally, employees may not use their official authority for the purpose of affecting the election of any official of federal or state government. In accordance with state and federal laws, state employees may not use official authority or influence or permit the use of a program administered by the state to interfere with or affect the result of an election or nomination of a candidate, or to achieve any other political purpose; or coerce,

attempt to coerce, command, restrict, attempt to restrict, or prevent the payment, loan, or contribution of anything of value to a person or political organization for a political purpose.

(8) Narcotic and alcoholic beverages. The use of illegal drugs, inhalants, alcoholic beverages and abuse of prescription drugs on duty by an employee, or appearance for duty under the influence of same shall be cause for immediate dismissal.

(9) Sexual harassment. It is the policy of the Authority to ensure and promote equal opportunity for all employees and applicants. Pursuant to this commitment, the Authority maintains a strict policy prohibiting unlawful harassment, including sexual harassment. Unwelcome sexual attention, requests for sexual favors and other verbal, physical, or visual conduct of a sexual nature constitute sexual harassment. Sexual harassment occurs when submission to such conduct is made either implicitly or explicitly a term or condition of an individual's employment; or submission to or rejection of such conduct by an employee is used as the basis for employment decisions affecting the employee; or such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment. Any employee who feels that he or she is a victim of sexual harassment, including but not limited to, any of the conduct listed herein, by a supervisor, management official, other employee, contractor, supplier, or any other person in connection with employment by the Authority, should bring the matter to the immediate attention of his or her supervisor. If that would prove to be uncomfortable (as, for example, if the supervisor is the alleged harasser), an employee should directly contact his or her department head or the Director. Likewise, employees witnessing sexual harassment directed at other employees should immediately report any such incidents to their supervisor, their department head or the Director. Under no circumstances will an employee who in good faith reports alleged incidents of sexual harassment, or who cooperates in an investigation of any such report, be subjected to any form of reprisal or retaliation on account of his or her having made such report or cooperated in such investigation. Any employee who feels that he or she has been subjected to such reprisal or retaliation should report the reprisal or retaliation to his or her supervisor, department head or the Director. While the Authority is committed to preventing and punishing unlawful discrimination, harassment and retaliation, it also recognizes that false accusations of sexual harassment or retaliation may harm an innocent party who is falsely accused. Accordingly, any employee who, after an investigation, is found to have knowingly made a false accusation of sexual harassment or retaliation may be subject to appropriate disciplinary action. However, if an employee makes a report of what he or she in good faith believes to be sexual harassment or retaliation, the employee will not be subjected to disciplinary action even if the employee turns out to have been mistaken. Reported incidents and complaints will be investigated and violators of this policy will be subject to disciplinary action up to and including dismissal.

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 May 20, 1998.

TRD-9808274

C. Brian Cassidy

General Counsel

Texas Turnpike Authority Division

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For further information, please call: (512) 463-8630

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Subchapter E. Indemnification

43 TAC §§50.50-50.54

STATUTORY AUTHORITY

The new sections are proposed under Transportation Code, §361.042, which requires the Board to adopt rules for the regulation of its affairs and the conduct of its business.

No statutes, articles, or codes, are affected by these proposed new sections.

§50.50. Indemnification by the Authority.

To the extent allowed by law, and upon approval by the Board, any person made a party to or involved in any litigation, including any civil, criminal or administrative action, suit or proceeding, by reason of the fact that such person is or was a director, officer, administrator or other employee of the Authority or by reason of such persons' alleged negligence or misconduct in the performance of his or her duties as such director, officer, administrator, or other employee, will be indemnified by the Authority, to the extent funds are lawfully available and subject to any other limitations that exist by law, against liability and the reasonable expenses, including attorneys' fees, actually and necessarily incurred by him or her in connection with any action therein, except in relation to matters as to which it is adjudged that such director, officer, administrator, or other employee is liable for gross negligence or willful misconduct in the performance of his or her duties. A conviction or judgment entered in connection with a compromise or settlement of any such litigation shall not by itself be deemed to constitute an adjudication of liability for such gross negligence or willful misconduct. The right to indemnification will include the right to be paid by the Authority for expenses incurred in defending a proceeding in advance of its final disposition in the manner and to the extent permitted by the Board in its sole discretion.

§50.51. Expenses.

As used herein the term "expenses" includes fines or penalties imposed and amounts paid in compromise or settlement of any such litigation only if:

(1) independent legal counsel designated by a majority of the Board, excluding those directors who have incurred expenses in connection with such litigation for which indemnification has been or is to be sought, shall have advised the Board that, in the opinion of such counsel, such director, officer, administrator, or other employee is not liable to the Authority for gross negligence or willful misconduct in the performance of his or her duties with respect to the subject of such litigation; and

(2) a majority of such members of the Board shall have made a determination that such compromise or settlement was or will be in the best interests of the Authority.

§50.52. Procedure.

If indemnification is allowed by law, any amount payable by way of indemnity under these rules may be determined and paid pursuant to an order of or allowance by a court under the applicable provisions of the laws of the State of Texas in effect at the time and pursuant to a resolution of a majority of the members of the Board, other than those who have incurred expenses in connection with such litigation for which indemnification has been or is to be sought. In the event that all of the members of the Board are made parties to such litigation, a majority of the Board shall be authorized to pass a resolution to provide for legal expenses for the entire Board.

§50.53. Additional Indemnification.

The right of indemnification provided by these rules shall not be deemed exclusive of any right to which any director, officer, administrator, or other employee may be entitled, as a matter of law, and shall extend and apply to the estates of deceased directors, officers, administrators, and other employees.

§50.54. Definitions.

As used in this subchapter §§50.50-53 the term "other employee" shall have the meaning assigned to it by the Board, from time to time.

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 May 20, 1998.

TRD-9808662

C. Brian Cassidy

General Counsel

Texas Turnpike Authority Division

Earliest possible date of adoption: July 5, 1998

For further information, please call: (512) 463-8630



Subchapter F. Public Records, Complaint Procedures and Debt Collection

43 TAC §§50.60-50.62

STATUTORY AUTHORITY

The new sections are proposed under Transportation Code, §361.042, which requires the Board to adopt rules for the regulation of its affairs and the conduct of its business.

No statutes, articles, or codes, are affected by these proposed new sections.

§50.60. Public Records.

(a) Subject to the limitations provided in the Turnpike Act, the Public Information Act, copyright law, and other applicable laws, information collected, assembled, or maintained by the Authority is public record open to inspection and copying during regular business hours.

(b) If classified data of the federal government or confidential information in the records of the Authority is the subject of an open records request under the Public Information Act, the Director may submit a request to the Texas attorney general under Government Code, §552.301, seeking a determination that the information is within an exception to the requirement to provide the information to the public.

(c) Subject to the limitations of this section, the Authority will provide copies of its records upon request. The Authority may furnish copies at the rates published in its operating procedures, or may contract for the copies to be made at the expense of the person requesting them. The Authority may charge the fees specified in Government Code, §603.004, for the reproduction services listed in that section. The Authority may waive a charge if the cost to the Authority to collect the charge will exceed the amount of the charge. Copies may be certified by the Director or the secretary.

§50.61. Complaints Procedure.

(a) Pursuant to the Turnpike Act, §361.052, the board is to prepare and make available to the public information concerning procedures by which a complaint is filed with, and resolved by, the board. Those procedures are set forth in this section.

(b) Complaints concerning any function or activity of the Authority may be addressed to the board in writing to: Secretary, Board of Directors, Texas Turnpike Authority, 125 E. 11th Street, Austin, Texas 78701-2483.

(c) The secretary shall keep an information file about each complaint filed with the board that the board has authority to resolve.

(d) If a written complaint is filed with the board that the board has authority to resolve, the board shall, through the secretary, at least quarterly and until final disposition of the complaint, notify the parties to the complaint of the status of the complaint, unless the notice would jeopardize an undercover investigation.

§50.62. Debt Collection.

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

(1) Debtor - Any person or entity liable for an obligation owed to the Authority or against whom a claim or demand for payment has been made.

(2) Delinquent - When a payment is past due by law or by customary business practice, and all conditions precedent to payment have occurred or been performed.

(3) Demand letter - A writing setting forth the nature and amount of an obligation owed to the Authority that is delivered by United States certified mail, first class.

(4) Obligation - A debt, judgment, claim, account, fee, fine, tax, penalty, interest, loan, charge, or grant.

(5) Person - An individual, corporation, organization, business trust, estate, trust, partnership, association, and any other legal entity.

(6) Security - Any right to have property owned by an entity with an obligation to the Authority sold or forfeited in satisfaction of the obligation, and any instrument granting a cause of action in favor of the Authority against another entity or that entity's property, such as bond, letter of credit, or other collateral that has been pledged to the Authority to secure an obligation.

(b) Determination of liability. When a person who is responsible for an obligation to the Authority has failed or refused to make payments, the Authority will deem the obligation delinquent.

(c) Collection from contractors. If a contractor of the Authority is delinquent and the Authority owes payment to that contractor, then the Authority will subtract the delinquent amount from payment.

(d) Demand letters.

(1) The Authority will issue a first demand letter no later than 30 days after the obligation becomes delinquent.

(2) If no satisfactory response is received within 30 days after the date of the first letter, the Authority will send a second and final demand letter no later than 60 days after the obligation becomes delinquent. The second demand letter will include a deadline to respond and a notation that a copy is being sent to the Authority's counsel who may file a lawsuit on the account.

(3) Demand letters will be mailed in an envelope bearing the notation "address correction requested" in conformity with 39 C.F.R. §265(d). If an address correction is provided by the United States Postal Service, the Authority will resend the demand letter to that address.

(e) Records. The Authority will retain records of a delinquent obligation. A record shall contain documentation of the following information:

(1) the identity of the person or entity liable on any part of the obligation;

(2) the physical address of the debtor's place of business;

(3) the debtor's residence, where applicable;

(4) a post office box address where it is impractical to obtain a physical address, or when the post office box address is in addition to a correct physical address;

(5) attempted contacts with the debtor;

(6) the substance of communications with the debtor;

(7) efforts to locate the debtor and the assets of the debtor;

(8) state warrants that may be issued to the debtor;

(9) current contracts with the Authority;

(10) security interests that the Authority has against any assets of the debtor;

(11) notices of bankruptcy, proofs of claim, dismissals and discharge orders received from the United States bankruptcy courts; and

(12) other information relevant to collection of the delinquent account.

(f) Referrals of a delinquent obligation to legal counsel.

(1) Prior to referral of a delinquent obligation to legal counsel, the Authority will:

(A) verify the debtor's address and telephone number;

(B) transmit no more than two demand letters to the debtor;

(C) verify that the obligation is not uncollectible;

(D) prepare and file a proof of claim in the case of a bankruptcy unless the Authority is represented by legal counsel; and

(E) file a claim in the probate proceeding if the debtor is deceased unless the Authority is represented by legal counsel.

(2) The Authority will consider a delinquent obligation uncollectible and will make no further effort to collect if the obligation:

(A) has been dismissed or discharged in bankruptcy;

(B) is subject to an applicable limitations provision that would prevent collection as a matter of law;

(C) is owed by a corporation which has been dissolved, is in liquidation under Chapter 7 of the United States Bankruptcy Code, has forfeited its corporate privileges or charter, or, in the case of a foreign corporation, had its certificate of authority revoked unless circumstances indicate that the account is nonetheless collectible or that fraud was involved;

(D) is owed by an individual who is located out-of-state, or outside the United States, unless a determination is made

that the domestication of a Texas judgment in the foreign forum would more likely than not result in collection of the obligation, or that the expenditure of Authority funds to retain foreign counsel to domesticate the judgment and proceed with collection attempts is justified;

(E) is owed by a debtor who is deceased, where probate proceedings have concluded, and where there are no remaining assets available for distribution; or

(F) is owed by a debtor whose circumstances demonstrate a permanent inability to pay or make payments toward the obligation.

(3) In making a determination of whether to refer a matter to legal counsel, the Authority will consider:

(A) the expense of further collection procedures;

(B) the size of the debt;

(C) the existence of any security;

(D) the likelihood of collection through passive means such as the filing of a lien;

(E) the availability of resources to collect the obligation; and

(F) policy reasons or other good cause.

(4) The Authority will refer a delinquent obligation to legal counsel for further collection efforts not later than the 30th day after the date the Authority determines that normal collection procedures for a delinquent obligation have failed.

(g) Supplemental and alternative collection procedures.

(1) The Authority, unless represented by legal counsel, will record a lien securing the delinquent obligation in the appropriate records of the county where the debtor's principal place of business, or, where appropriate, the debtor's residence, is located or in such county as may be required by law as soon as is practicable. Unless the delinquent obligation has been paid in full, any lien securing the indebtedness may not be released without the approval of the attorney representing the Authority.

(2) The Authority will utilize the "warrant hold" procedures of the Comptroller of Public Accounts authorized by Government Code, §403.055, to ensure that no treasury warrants are issued to debtors until the debt is paid.

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 May 20, 1998.

TRD-9808275

C. Brian Cassidy

General Counsel

Texas Turnpike Authority Division

Earliest possible date of adoption: July 5, 1998

For further information, please call: (512) 463-8630



WITHDRAWN RULES

An agency may withdraw a proposed action or the remaining effectiveness of an emergency action by filing a notice of withdrawal with the *Texas Register*. The notice is effective immediately upon filing or 20 days after filing as specified by the agency withdrawing the action. If a proposal is not adopted or withdrawn within six months of the date of publication in the *Texas Register*, it will automatically be withdrawn by the office of the Texas Register and a notice of the withdrawal will appear in the *Texas Register*.

TITLE 4. AGRICULTURE

Part I. Texas Department of Agriculture

Chapter 3. Boll Weevil Eradication Zones

Subchapter E. Creation of Eradication Zones

4 TAC §3.114

The Texas Department of Agriculture has withdrawn from consideration for permanent adoption the proposed new §3.114, which appeared in the April 10, 1998, issue of the *Texas Register* (23 TexReg 3642).

Filed with the Office of the Secretary of State on May 22, 1998.

TRD-9808469

Dolores Alvarado Hibbs

Deputy General Counsel

Texas Department of Agriculture

Effective date: May 22, 1998

For further information, please call: (512) 463-7541



TITLE 19. EDUCATION

Part I. Texas Higher Education Coordinating Board

Chapter 5. Program Development

Subchapter M. Approval and Operation of Community/Junior College Branch Campuses

19 TAC §§5.261-5.267

The Texas Higher Education Coordinating Board has withdrawn from consideration for permanent adoption the proposed amendment §§5.261-5.267, which appeared in the March 13, 1998, issue of the *Texas Register* (23 TexReg 2658).

Issued in Austin, Texas, on May 20, 1998.

TRD-9808294

James McWhorter

Assistant Commissioner for Administration

Texas Higher Education Coordinating Board

Effective date: May 20, 1998

For further information, please call: (512) 483-6162



TITLE 22. EXAMINING BOARDS

Part XXXV. Texas State Board of Examiners of Marriage and Family Therapists

Chapter 801. Licensure and Regulation of Marriage and Family Therapists

Subchapter B. The Board

22 TAC §801.19

The Texas State Board of Examiners of Marriage and Family Therapists has withdrawn from consideration for permanent adoption the proposed amendment to §801.19, which appeared in the March 27, 1998, issue of the *Texas Register* (23TexReg 3178).

Filed with the Office of the Secretary of State on May 22, 1998.

TRD-9808414

George Pulliam

Chairman

Texas State Board of Examiners of Marriage and Family Therapists

Effective date: May 22, 1998

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



TITLE 37. PUBLIC SAFETY AND CORRECTIONS

Part VIII. Private Sector Prison Industries Oversight Authority

Chapter 245. General Provisions

37 TAC §245.24

The Private Sector Prison Industries Oversight Authority has withdrawn from consideration for permanent adoption the proposed new §245.24, which appeared in the April 10, 1998, issue of the *Texas Register* (22 TexReg 3654).

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

TRD-9808242

Carl Reynolds

General Counsel

Private Sector Prison Industries Oversight Authority

Effective date: May 20, 1998

For further information, please call: (512) 463-9693



ADOPTED RULES

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.

TITLE 4. AGRICULTURE

Part I. Texas Department of Agriculture

Chapter 1. General Procedures

Subchapter G. Interagency Agreements

4 TAC §1.300

The Texas Department of Agriculture (the department) adopts the repeal of §1.300, concerning the department's memorandum of understanding with the Texas Department of Commerce, and new §1.300, concerning the memorandum of understanding among the department, the Texas Agricultural Finance Authority and the Texas Department of Economic Development, formerly the Texas Department of Commerce, without changes to the proposal published in the April 10, 1998, issue of the *Texas Register* (23 TexReg 3641). The Texas Government Code, §481.028, enacted by the 73rd Legislature, required that the Texas Department of Commerce and the Texas Department of Agriculture enter into a memorandum of understanding regarding each agency's international marketing efforts and business finance programs. The Texas Government Code, §481.028, further directed that the memorandum of understanding be adopted as a rule by the agencies. Changes made to the Texas Government Code, §481.028, during the 75th Legislature make it necessary to adopt a new memorandum of understanding between the Texas Department of Agriculture and the Texas Department of Economic Development. The new section is adopted to implement §481.028, as amended, and will serve to increase coordination and communication between the Texas Department of Agriculture and the Texas Department of Economic Development with regard to program planning and budgeting related to economic development. The repeal of §1.300 is adopted to allow for the adoption of a new memorandum of understanding in accordance with §481.028.

No comments were received on the proposal.

The repeal is adopted under the Texas Agriculture Code, §12.016, which provides the Texas Department of Agriculture with general rulemaking authority; and the Texas Government Code, §481.028(d), which directs that the memorandum of understanding between the Texas Department of Agriculture and the Texas Department of Economic Development be adopted as a rule by both agencies.

Filed with the Office of the Secretary of State on May 21, 1998.

TRD-9808342

Dolores Alvarado Hibbs

Deputy General Counsel

Texas Department of Agriculture

Effective date: June 10, 1998

Proposal publication date: April 10, 1998

For further information, please call: (512) 463-7541

4 TAC §1.300

The new section is adopted under the Texas Agriculture Code, §12.016, which provides the Texas Department of Agriculture with general rulemaking authority; and the Texas Government Code, §481.028(d), which directs that the memorandum of understanding between the Texas Department of Agriculture and the Texas Department of Economic Development be adopted as a rule by both agencies.

Filed with the Office of the Secretary of State on May 21, 1998.

TRD-9808343

Dolores Alvarado Hibbs

Deputy General Counsel

Texas Department of Agriculture

Effective date: June 10, 1998

Proposal publication date: April 10, 1998

For further information, please call: (512) 463-7541

Chapter 19. Quarantines

Subchapter D. Caribbean Fruit Fly Quarantine

4 TAC §19.43

The Texas Department of Agriculture (the department) adopts an amendment to §19.43, concerning the Caribbean fruit fly quarantine, without changes to the proposed text as published in the April 3, 1998 issue of the *Texas Register* (23 TexReg 3392). The amendment will not be republished.

The department amends its Caribbean fruit fly quarantine to exempt commercial fruit of avocado, bell pepper, lychee, and tomato from the provisions of the Caribbean fruit fly quarantine. The department has determined that when these fruit are commercially produced, cleaned, sorted, and packed, they do not present a risk of harboring Caribbean fruit fly. Further, the department anticipates that the amendment will result in an increase in the availability of avocado, bell pepper, lychee and tomato fruit.

No comments were received regarding adoption of the proposal.

The amendment is adopted under the Texas Agriculture Code, §71.007, which provides the Texas Department of Agriculture with the authority to adopt rules as necessary for the efficient enforcement and administration of Chapter 71, Subchapter A.

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 May 21, 1998.

TRD-9808344

Dolores Alvarado Hibbs

Deputy General Counsel

Texas Department of Agriculture

Effective date: June 10, 1998

Proposal publication date: April 3, 1998

For further information, please call: (512) 463-7541

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TITLE 16. ECONOMIC REGULATION

Part VIII. Texas Racing Commission

Chapter 309. Operation of Racetracks

Subchapter B. Horse Racetracks

Operations

16 TAC §309.199

The Texas Racing Commission adopts the repeal of §309.199, concerning horsemen's bookkeeper, without changes as published in the April 3, 1998, issue of the *Texas Register* (23 TexReg 3408). The Texas Racing Act was revised by sunset legislation effective September 1, 1997, and in that legislation, the Commission is required to adopt rules developing a system for monitoring the activities and employees of an association relating to the horsemen's account. Contemporaneously with this repeal, the Commission is adopting new §309.199 and §313.61 which relate to the purse account and the duties of the horsemen's bookkeeper. These rule changes implement the sunset legislation.

No comments were received regarding this repeal.

The repeal is adopted under the Texas Civil Statutes, Article 179e, §3.02, which authorize the Commission to adopt rules for conducting racing with wagering and for administering the Texas Racing Act; §3.22, which authorizes the Commission to adopt rules relating to the horsemen's account; and §6.06, which authorizes the Commission to adopt rules on all matters relating to the operation of racetracks.

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 May 22, 1998.

TRD-9808454

Roselyn Marcus

General Counsel

Texas Racing Commission

Effective date: June 15, 1998

Proposal publication date: April 3, 1998

For further information, please call: (512) 833-6699

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Division 4. Operations

16 TAC §309.199

The Texas Racing Commission adopts new §309.199, concerning the purse account without changes to the proposed text published in the April 3, 1998, issue of the *Texas Register* (23 TexReg 3409). The Texas Racing Act was revised by sunset legislation effective September 1, 1997, and in that legislation, the Commission is required to adopt rules developing a system for monitoring the activities and employees of an association relating to the horsemen's account. Contemporaneously with this proposal, the Commission is proposing new §313.61 which relates to the duties of the horsemen's bookkeeper. These rule changes implement the sunset legislation.

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

The new section is adopted under the Texas Civil Statutes, Article 179e, §3.02, which authorize the Commission to adopt rules for conducting racing with wagering and for administering the Texas Racing Act; §3.22, which authorizes the Commission to adopt rules relating to the horsemen's account; and §6.06, which authorizes the Commission to adopt rules on all matters relating to the operation of racetracks.

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 May 22, 1998.

TRD-9808455

Roselyn Marcus

General Counsel

Texas Racing Commission

Effective date: June 15, 1998

Proposal publication date: April 3, 1998

For further information, please call: (512) 833-6699

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Chapter 313. Officials and Rules of Horse Racing

Subchapter A. Officials

Duties of Other Officials

16 TAC §313.61

The Texas Racing Commission adopts the repeal of §313.61, concerning the duties of the horsemen's bookkeeper without changes, as published in the April 3, 1998, issue of the *Texas Register* (23 TexReg 3410). The Texas Racing Act was revised by sunset legislation effective September 1, 1997, and in that legislation, the Commission is required to adopt rules developing a system for monitoring the activities and employees of an association relating to the horsemen's account. Contemporaneously with this proposal, the Commission is proposing new §§309.199 and 313.61 which relates to the purse account and the duties of the horsemen's bookkeeper. These rule changes implement the sunset legislation.

No comments were received regarding this repeal.

The repeal is adopted under the Texas Civil Statutes, Article 179e, §3.02, which authorize the Commission to adopt rules for conducting racing with wagering and for administering the Texas Racing Act; §3.22, which authorizes the Commission to adopt rules relating to the horsemen's account; and §6.06, which authorizes the Commission to adopt rules on all matters relating to the operation of racetracks.

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 May 22, 1998.

TRD-9808456

Roselyn Marcus

General Counsel

Texas Racing Commission

Effective date: June 15,1998

Proposal publication date: April 3, 1998

For further information, please call: (512) 833-6699



Division 3. Duties of Other Officials

16 TAC §313.61

The Texas Racing Commission adopts new §313.61, concerning the duties of the horsemen's bookkeeper without changes from the proposed text published in the April 3, 1998, issue of the *Texas Register* (23 TexReg 3410). The Texas Racing Act was revised by sunset legislation effective September 1, 1997, and in that legislation, the Commission is required to adopt rules developing a system for monitoring the activities and employees of an association relating to the horsemen's account. Contemporaneously with this proposal, the Commission adopts new §309.199 which relates to the purse account. These rule changes implement the sunset legislation.

No comments were received regarding the adoption of this new rule.

The rule is adopted under the Texas Civil Statutes, Article 179e, §3.02, which authorize the Commission to adopt rules for conducting racing with wagering and for administering the Texas Racing Act; §3.22, which authorizes the Commission to adopt rules relating to the horsemen's account; and §6.06, which authorizes the Commission to adopt rules on all matters relating to the operation of racetracks.

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 May 22, 1998.

TRD-9808457

Roselyn Marcus

General Counsel

Texas Racing Commission

Effective date: June 15,1998

Proposal publication date: April 3, 1998

For further information, please call: (512) 833-6699



Chapter 321. Pari-mutuel Wagering

Subchapter B. Distribution of Pari-mutuel Pools

16 TAC §321.118

The Texas Racing Commission adopts new §321.118, concerning special wagers without changes to the proposed text published in the April 3, 1998, issue of the *Texas Register* (23 TexReg 3411). The new section establishes a procedure for

the Commission to approve special wagers designed to promote special racing events.

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

The new section is adopted under the Texas Civil Statutes, Article 179e, §3.02, which authorize the Commission to adopt rules for conducting racing with wagering and for administering the Texas Racing Act; and §11.01, which authorizes the Commission to adopt rules regulating pari-mutuel wagering.

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 May 22, 1998.

TRD-9808458

Roselyn Marcus

General Counsel

Texas Racing Commission

Effective date: June 15,1998

Proposal publication date: April 3, 1998

For further information, please call: (512) 833-6699



TITLE 19. EDUCATION

Part II. Texas Education Agency

Chapter 53. Regional Education Service Centers

The Texas Education Agency (TEA) adopts the repeal of §53.1 and new §53.1001, concerning regional education service center (RESC) board of directors, without changes to the proposed text published in the March 27, 1998, issue of the *Texas Register* (23 TexReg 3150). Senate Bill 1158, 75th Texas Legislature, 1997, transferred authority to adopt rules regarding RESC board of directors from the State Board of Education to the commissioner of education. The new section provides a procedure for appointment to fill unexpired terms on RESC board of directors and a procedure for the election of members of RESC board of directors. The new section contains the same language that exists under 19 Texas Administrative Code (TAC) §53.1, Board of Directors. The effective date of the adopted repeal will coordinate with the effective date of the new section concerning RESC board of directors so that there will be no overlap of rules.

House Bill 1, General Appropriations Act, 75th Texas Legislature, Article IX, Rider 167, establishes a four-year sunset review cycle for all state agency rules. The TEA also conducted a review of 19 TAC §53.1, Board of Directors, in accordance with Rider 167. The TEA did not find sufficient reason for the rule to continue to exist and adopts the repeal of the rule as indicated.

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

19 TAC §53.1

The repeal is adopted under Texas Education Code, §8.003, as amended by Senate Bill 1158, 75th Texas Legislature, 1997, which authorizes the commissioner of education to adopt rules relating to board of directors, and House Bill 1, General Appropriations Act, 75th Texas Legislature, Article IX, Rider 167, which establishes a four-year sunset review cycle for all state agency rules.

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 May 22, 1998.

TRD-9808430

Criss Cloudt

Associate Commissioner, Policy Planning and Research

Texas Education Agency

Effective date: September 1, 1998

Proposal publication date: March 27, 1998

For further information, please call: (512) 463-9701



Subchapter AA. Commissioner's Rules

19 TAC §53.1001

The new section is adopted under Texas Education Code, §8.003, as amended by Senate Bill 1158, 75th Texas Legislature, 1997, which authorizes the commissioner of education to adopt rules relating to board of directors.

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 May 22, 1998.

TRD-9808431

Criss Cloudt

Associate Commissioner, Policy Planning and Research

Texas Education Agency

Effective date: September 1, 1998

Proposal publication date: March 27, 1998

For further information, please call: (512) 463-9701



Chapter 62. Commissioner's Rules Concerning the Equalized Wealth Level

19 TAC §62.1071

The Texas Education Agency (TEA) adopts new §62.1071, concerning administration of wealth equalization, without changes to the proposed text as published in the March 27, 1998, issue of the *Texas Register* (23 TexReg 3154). The new section specifies provisions related to identification of school districts; actions and costs to equalize wealth; administrative requirements; non-compliance; excellence exemption; and property value decline, which are necessary for the implementation of Texas Education Code (TEC), Chapter 41, Equalized Wealth Level. The new section also relates to the administration of the five options for reducing property wealth per student that are available to districts subject to the provisions of TEC, Chapter 41.

No comments were received regarding adoption of the new section.

The new section is adopted under the Texas Education Code, §41.006, which authorizes the commissioner of education to adopt rules relating to equalized wealth level.

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 May 22, 1998.

TRD-9808432

Criss Cloudt

Associate Commissioner, Policy Planning and Research

Texas Education Agency

Effective date: June 11, 1998

Proposal publication date: March 27, 1998

For further information, please call: (512) 463-9701



Chapter 75. Curriculum

The Texas Education Agency (TEA) adopts the repeal of §§75.21-75.32, 75.41-75.52, 75.61-75.70, 75.82- 75.89, and 75.121-75.123, concerning essential elements for prekindergarten-Grade 12, without changes to the proposed text published in the March 27, 1998 issue of the *Texas Register* (23 TexReg 3164). The Texas Education Code (TEC), §28.001 and §28.002, directed the State Board of Education (SBOE) to develop essential knowledge and skills for students and to establish a required curriculum. To meet this statutory requirement, the SBOE adopted 19 Texas Administrative Code (TAC) Chapters 110-128, which comprise the enrichment and foundation curriculum. The Texas essential knowledge and skills (TEKS) in 19 TAC Chapters 110- 128 replace applicable rules in 19 TAC Chapter 75, Subchapter B, Essential Elements - Prekindergarten-Grade 6; Subchapter C, Essential Elements - Grades 7-8; and Subchapter D, Essential Elements - Grades 9-12. The effective date of the adopted repeal will coordinate with the effective date of the adopted essential knowledge and skills, which is September 1, 1998.

House Bill 1, General Appropriations Act, 75th Texas Legislature, Article IX, Rider 167, establishes a four-year sunset review cycle for all state agency rules. The TEA also conducted a review of 19 TAC Chapter 75, Curriculum, Subchapters B-D, in accordance with Rider 167. The TEA did not find sufficient reason for the rules to continue to exist and adopts the repeal of the rules as indicated.

No comments were received regarding the adoption of the repeals.

Subchapter B. Essential Elements-Prekindergarten-Grade 6

19 TAC §§75.21-75.32

The repeals are adopted under Texas Education Code, §28.001 and §28.002, which authorizes the State Board of Education to adopt rules identifying the essential knowledge and skills of each subject of the foundation and enrichment curriculum, and House Bill 1, General Appropriations Act, 75th Texas Legislature, Article IX, Rider 167, which establishes a four-year sunset review cycle for all state agency rules.

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 May 22, 1998.

TRD-9808433

Criss Cloudt

Associate Commissioner, Policy Planning and Research

Texas Education Agency

Effective date: September 1, 1998
Proposal publication date: March 27, 1998
For further information, please call: (512) 463-9701

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Subchapter C. Essential Elements — Grades 7–8
19 TAC §§75.41–75.52

The repeals are adopted under Texas Education Code, §28.001 and §28.002, which authorizes the State Board of Education to adopt rules identifying the essential knowledge and skills of each subject of the foundation and enrichment curriculum, and House Bill 1, General Appropriations Act, 75th Texas Legislature, Article IX, Rider 167, which establishes a four-year sunset review cycle for all state agency rules.

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 May 22, 1998.

TRD-9808435
Criss Cloudt
Associate Commissioner, Policy Planning and Research
Texas Education Agency
Effective date: September 1, 1998
Proposal publication date: March 27, 1998
For further information, please call: (512) 463-9701

◆ ◆ ◆
Subchapter D. Essential Elements — Grades 9–12

Essential Elements for English Language Arts; Other Languages; Mathematics; Science; Health; Physical Education; Fine Arts; Social Studies; Texas and United States History; Economics with Emphasis on the Free Enterprise System and its Benefits; and Business Education

19 TAC §§75.61–75.70

The repeals are adopted under Texas Education Code, §28.001 and §28.002, which authorizes the State Board of Education to adopt rules identifying the essential knowledge and skills of each subject of the foundation and enrichment curriculum, and House Bill 1, General Appropriations Act, 75th Texas Legislature, Article IX, Rider 167, which establishes a four-year sunset review cycle for all state agency rules.

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 May 22, 1998.

TRD-9808436
Criss Cloudt
Associate Commissioner, Policy Planning and Research
Texas Education Agency
Effective date: September 1, 1998
Proposal publication date: March 27, 1998
For further information, please call: (512) 463-9701

◆ ◆ ◆
Vocational Education

19 TAC §§75.82–75.89

The repeals are adopted under Texas Education Code, §28.001 and §28.002, which authorizes the State Board of Education to adopt rules identifying the essential knowledge and skills of each subject of the foundation and enrichment curriculum, and House Bill 1, General Appropriations Act, 75th Texas Legislature, Article IX, Rider 167, which establishes a four-year sunset review cycle for all state agency rules.

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 May 22, 1998.

TRD-9808437
Criss Cloudt
Associate Commissioner, Policy Planning and Research
Texas Education Agency
Effective date: September 1, 1998
Proposal publication date: March 27, 1998
For further information, please call: (512) 463-9701

◆ ◆ ◆
Other Courses

19 TAC §§75.121–75.123

The repeals are adopted under Texas Education Code, §28.001 and §28.002, which authorizes the State Board of Education to adopt rules identifying the essential knowledge and skills of each subject of the foundation and enrichment curriculum, and House Bill 1, General Appropriations Act, 75th Texas Legislature, Article IX, Rider 167, which establishes a four-year sunset review cycle for all state agency rules.

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 May 22, 1998.

TRD-9808438
Criss Cloudt
Associate Commissioner, Policy Planning and Research
Texas Education Agency
Effective date: September 1, 1998
Proposal publication date: March 27, 1998
For further information, please call: (512) 463-9701

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Chapter 114. Texas Essential Knowledge and Skills for Languages Other Than English

Subchapter C. High School

19 TAC §§114.27–114.29

The Texas Education Agency (TEA) adopts new §§114.27-114.29, concerning Texas essential knowledge and skills (TEKS) for American Sign Language (ASL), without changes to the proposed text published in the March 27, 1998, issue of the *Texas Register* (23 TexReg 3166). ASL is defined

as a language other than English under Texas Education Code, §28.002(e). The new sections will be added to new 19 TAC Chapter 114, Texas Essential Knowledge and Skills for Languages Other Than English, which was adopted in July 1997.

Originally, it was the intent to use the TEKS for languages other than English for all other languages, including ASL. As adopted, however, the TEKS are appropriate for all spoken and written languages other than English but not for ASL, which does not have a "written" or "spoken" component.

The following public comments have been received regarding adoption of the new sections.

Comment. Four ASL teachers commented that the TEKS for ASL are comprehensive and complete.

Comment. One ASL teacher commented that the TEKS for ASL were not content specific.

Agency Response. The agency disagrees with this comment. The TEKS for ASL are consistent with the TEKS for languages other than English.

Comment. A community college instructor stated that the TEKS for ASL are fine but that learning ASL for academic or personal growth is different from learning it for vocational pursuits.

Agency Response. Students who take ASL as a foreign language in high school will be taking it to satisfy academic requirements.

The new sections are adopted under the Texas Education Code, §28.001 and §28.002, which direct the State Board of Education to adopt rules identifying essential knowledge and skills of each subject of the enrichment curriculum.

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 May 22, 1998.

TRD-9808439

Criss Cloudt

Associate Commissioner, Policy Planning and Research

Texas Education Agency

Effective date: September 1, 1998

Proposal publication date: March 27, 1998

For further information, please call: (512) 463-9701



Chapter 150. Commissioner's Rules Concerning Educator Appraisal

Subchapter BB. Administrator Appraisal

19 TAC §150.1021, §150.1022

The Texas Education Agency (TEA) adopts amendments to §150.1021 and §150.1022, concerning administrator appraisal, without changes to the proposed text published in the March 27, 1998, issue of the *Texas Register* (23 TexReg 3169). The amendments are necessary to implement a student performance domain for the appraisal of principals and superintendents and to establish requirements for districts to choose to adopt the commissioner-recommended student performance domain.

The current sections were originally adopted as commissioner's rules in May 1997 and apply to the appraisal of all administrators. The adopted sections are primarily related to the appraisal of principals and superintendents. The adopted sections reflect current statutory requirements that student performance be a part of the appraisal of principals and superintendents by requiring a student performance domain for those two classes of administrator.

The adopted amendments also establish requirements for districts that choose to include the commissioner-recommended student performance domain as a part of their locally developed appraisal instruments for principals. The commissioner-recommended domain for superintendents is scheduled to be completed next fall and the related amendments will be proposed thereafter. The commissioner-recommended domain will fulfill statutory requirements while preserving local options in administrator evaluation.

The adopted amendments also delete the requirement for a professional growth plan for all administrators. This deletion has been made because a required intervention plan is being added for principals in need of assistance and because it is anticipated that a professional growth plan will be included in the State Board of Educator Certification rule on assessment. Finally, the proposed amendments include minor technical corrections to align with other rules.

No comments were received regarding adoption of the amendments.

The amendments are adopted under the Texas Education Code, §21.354 and §39.054, which authorize the commissioner of education to adopt a recommended appraisal process on which to appraise the performance of various classification of school administrators.

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 May 22, 1998.

TRD-9808440

Criss Cloudt

Associate Commissioner, Policy Planning and Research

Texas Education Agency

Effective date: June 11, 1998

Proposal publication date: March 27, 1998

For further information, please call: (512) 463-9701



TITLE 22. EXAMINING BOARDS

Part X. Texas Funeral Service Commission

Chapter 203. Licensing and Enforcement - Specific Substantive Rules

22 TAC §203.30

The Texas Funeral Service Commission adopts the repeal of §203.30 and new §203.30, concerning continuing education as a condition for license renewal, without changes to the proposed text as published in the March 27, 1998, issue of the *Texas Register* (23 TexReg 3173).

The section is being repealed and replaced to clarify and update the continuing education requirements of licensees.

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

The repeal is adopted under Texas Civil Statutes, Article 4582b, §5, which authorizes the Texas Funeral Service Commission to adopt rules to administer the statute.

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 May 22, 1998.

TRD-9808426

Eliza May, M.S.S.W.

Executive Director

Texas Funeral Service Commission

Effective date: June 11, 1998

Proposal publication date: March 27, 1998

For further information, please call: (512) 479-7222



The new section is adopted under Texas Civil Statutes, Article 4582b, §5, which authorizes the Texas Funeral Service Commission to adopt rules to administer the statute.

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 May 22, 1998.

TRD-9808427

Eliza May, M.S.S.W.

Executive Director

Texas Funeral Service Commission

Effective date: June 11, 1998

Proposal publication date: March 27, 1998

For further information, please call: (512) 479-7222



Part XXII. Texas State Board of Public Accountancy

Chapter 527. Quality Review

22 TAC §527.3

The Texas State Board of Public Accountancy adopts an amendment to §527.3, concerning Quality Review, without changes to the proposed text as published in the February 6, 1998, issue of the *Texas Register* (23 TexReg 892).

The amendment allows for a clearer understanding that preparing Special Reports will make a CPA subject to quality review.

The amendment will function by codifying the Board's interpretation of this rule by adding Special Reports to the definitions.

No comments were received concerning adoption of the rule.

The rule is adopted under Texas Civil Statutes, Article 41a-1, §6 which provides the Texas State Board of Public Accountancy with the authority to make such rules as may be necessary or advisable to effectuate the purposes of the law and §15B

which authorizes the board to enact rules for the Quality Review Program.

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 May 20, 1998.

TRD-9808301

William Treacy

Executive Director

Texas State Board of Public Accountancy

Effective date: June 9, 1998

Proposal publication date: February 6, 1998

For further information, please call: (512) 305-7848



Part XXV. Structural Pest Control Board

Chapter 595. Compliance and Enforcement

22 TAC §595.17

The Structural Pest Control Board adopts new §595.17, concerning Compliance and Enforcement, with changes to the proposed text as published in the March 6, 1998, issue of the *Texas Register* (23 TexReg 2228).

Justification for the rule is that the rule will allow more timely response to incidents requiring pest control in the school districts, as more personnel will be available to deal with pest problems requiring immediate response.

The rule will function in that the rule will allow school employees to make incidental applications of green list products and some yellow list products with training by the IPM Coordinator and in compliance with the IPM Regulations.

Commenters from numerous school districts appeared in support of the rule as proposed. Reggie James, Consumers Union stated that the rule would increase exposure to students in the schools. Susan Pitman, Chemical Connection, stated that if good IPM is followed, incidental use should not be necessary.

Names of groups and associations making comments for and against the rule are For-Texas Association of School Boards Against-Consumers Union, Chemical Connection

Reasons why the agency disagrees or agrees with the comments. The Structural Pest Control Board disagreed with the comments that the new rule will increase exposure as the IPM Regulations, including all applicable re-entry periods will still have to be followed. The school districts raised the issue that they must have a means to deal with emergency situations without waiting for a licensed person to arrive. The Board proposed the rule because it was in agreement on that issue. The rule requires training of all persons who intend to use the licensing exemption and includes recordkeeping and coordination with the school IPM Program. It also limits pesticide use to green list products in most cases. The rule is designed to complement rather than override good IPM practices. The Board addressed the concern that the rule might be misused by agreeing to review it one (1) year from its effective date.

The new rule is adopted under Article 135b-6, which provides the Structural Pest Control Board with the authority to license

and regulate structural pest control services in public school districts.

§595.17. *Incidental Use For Schools.*

(a) The Structural Pest Control Board Incidental Use Situation For Schools Fact Sheet must contain the following text: "This fact sheet must be distributed to all employees of school districts who apply general use Green List pesticides or Yellow List pesticides specific to bee and wasp applications and are not licensed by the Texas Department of Agriculture and do not have a Structural Pest Control Board Noncommercial Applicator's or Technician License. The fact sheet, instruction and training shall be provided upon initial employment by the school district's IPM Coordinator, and thereafter shall be available as needed. These general use Green List pesticides include insecticides and rodenticides only and involve applications made both inside and outside of structures. Incidental Use is not intended for long term or extensive pest control measures. Where long term pest control is required, a trained, licensed person is to make the applications. Incidental Use for Schools is defined as "A pesticide application of a green list product or a Yellow List product specific to bee or wasp applications on an occasional, isolated, site-specific basis that is incidental to the primary duties of an employee and involves the use of general use pesticides after instruction and training as provided by rules adopted by the Structural Pest Control Board". Examples of Incidental Use situations are treating fire ants in a transformer box or treatments for bees or wasps as a non-routine application to protect children or personnel. Incidental is defined as site-specific and incidental to the employee's primary duties. If it is a part of the employee's primary duty to make applications of pesticides, that employee is required, by law, to obtain either a Structural Pest Control Board license or Texas Department of Agriculture license, depending on the location and/or type of application. In all cases of incidental use, the employee should use the least hazardous, effective method of controlling pests. All applications to schools or school grounds must be in compliance with school district IPM policies. If chemicals are to be utilized, they must be applied in strict accordance with manufacturer labels of "General Use" products on the Green or Yellow List being used. Applications made inconsistent with the Structural Pest Control Board Law and Regulations, or applications made inconsistent with the label requirements of the general use product may result in penalties being assessed against the individual and/or the Certified Noncommercial Applicator or Technician responsible. "Incidental Use Situation" applications of pesticides are regulated by the Structural Pest Control Board. If you have any questions or comments, contact the Board at (512) 451-7200; written inquiries may be addressed to the Structural Pest Control Board, 1106 Clayton Lane, Suite 100LW, Austin, Texas 78723. Copies are available from the Structural Pest Control Board.

(b) The incidental use fact sheet shall be provided during pesticide instruction and training by the IPM Coordinator to each employee of the school district whose primary duty is not pest control, and whose work may include tasks subject to the incidental use exception. The IPM Coordinator must keep records of the training which is conducted.

(c) Primary duty is defined as a job duty that is part of a written job description or is a regularly assigned task of the employee.

(d) Pest control use records must be kept for all incidental use applications.

(e) Incidental use in school districts is limited to insecticides and rodenticides on the green or Yellow list.

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 May 12, 1998.

TRD-9807705

Benny M. Mathis, Jr.

Executive Director

Structural Pest Control Board

Effective date: September 1, 1998

Proposal publication date: March 6, 1998

For further information, please call: (512) 451-7200

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TITLE 25. HEALTH SERVICES

Part I. Texas Department of Health

Chapter 289. Radiation Control

The Texas Department of Health (department), by majority vote of the Texas Board of Health (board) on May 15, 1998, enters this order finally adopting the repeal of existing §289.114 and new §289.203, concerning requirements for notices, instructions, reports to workers, and inspection protocol, with changes to the proposed text as published in the February 20, 1998, issue of the *Texas Register* (23 TexReg 1505), as a result of comments received during the 30-day comment period. The repeal of §289.114 is adopted without changes and therefore will not be republished.

The section adopted for repeal adopts by reference Part 22, titled "Notices, Instructions and Reports to Workers; Inspections" of the *Texas Regulations for Control of Radiation*. The new section incorporates language from Part 22 that has been rewritten in *Texas Register* format and includes addition and revision of several subsections of the section. The repeal and new section are part of the renumbering phase in the process of rewriting the department's radiation rules in the *Texas Register* format. The new section reflects the renumbering. The revision is part of the department's ongoing review of the radiation rules to update them in accordance with current practices and technologies.

The new section requires licensees and registrants to provide radiation workers with appropriate notices, instructions, and options available to such individuals regarding department inspections. The requirements for notifying workers of exposure records are being changed to an annual interval to make them consistent with the existing requirements concerning annual exposure limits. References to other sections of this chapter are clarified to reflect the *Texas Register* format. Other minor grammatical changes are made to the section for clarification.

The department is making the following changes due to staff comments to clarify the intent and improve the accuracy of the section.

Change: Concerning §289.203(d)(1)(D), the department added the words "25 Texas Administrative Code" to more accurately reference the section.

Change: Concerning §289.203(h)(1), the department deleted the words "Administrative Procedures and Texas Register Act" to be consistent with references to the Government Code in other sections of this chapter.

Change: Concerning §289.203(i), BRC Form 203-1, the department deleted repetitive references to other rules to avoid repetition when it was not necessary. A reference to 25 TAC §289.202 was added to clarify that provision of reports is only applicable when personnel monitoring is required. The text was further changed to clarify that written annual reports are only required to be provided at the written request of the employees.

The following comment was received concerning the proposed section. Following the comment is the department's response and the resulting change. Other minor editorial changes were made for clarification purposes.

Comment: Concerning §289.203, a commenter noted that, contrary to the statement in the preamble that "there will be no anticipated economic costs to persons who are required to comply with the sections as proposed," there in fact will be significant increased personnel and record keeping costs if this section is implemented as proposed. The reason is that on BRC Form 203-1 under "Reports on Your Radiation Exposure History," item 2.(b), the words, "Upon written request" have been eliminated and the words "advise you annually" have been changed to "furnish to you annually a written report". This now requires providing each person who requires monitoring with an individual exposure report even if no regulatory limits are exceeded and/or the individual has not requested such a report. At the commenter's institution, this would mean an increase from 1-2 reports per year to over 800 reports per year. In reviewing §289.203, the commenter could find nothing that requires this change in the form. The commenter recommended that the original wording and intent of the form be retained.

Response: The department agreed with the commenter and changed BRC Form 203-1 to clarify that written annual reports are only required to be provided at the written request of the employees.

The department received one comment from M.D. Anderson Cancer Center. The commenter was generally in favor of the proposal; however, he presented comments and suggestions for changes to the proposal as previously discussed.

Subchapter D. General

25 TAC §289.114

The repeal is adopted under the Health and Safety Code, Chapter 401, which provides the board with authority to adopt rules and guidelines relating to the control of radiation; and §12.001, which authorizes the board rules for the performance of every duty imposed by law on the board, the department, and the commissioner of health.

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 May 18, 1998.

TRD-9808091

Susan K. Steeg

General Counsel

Texas Department of Health

Effective date: June 7, 1998

Proposal publication date: February 20, 1998

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



25 TAC §289.203

The new section is adopted under the Health and Safety Code, Chapter 401, which provides the board with authority to adopt rules and guidelines relating to the control of radiation; and §12.001, which authorizes the board rules for the performance of every duty imposed by law on the board, the department, and the commissioner of health.

§289.203. *Notices, Instructions, and Reports to Workers; Inspections.*

(a) Scope and purpose. This section establishes requirements for notices, instructions, and reports by licensees or registrants to individuals engaged in activities under a license or certificate of registration, and options available to such individuals in connection with agency inspections of licensees or registrants to ascertain compliance with the provisions of the Texas Radiation Control Act (Act) and rules, orders, licenses, and certificates of registration issued thereunder regarding radiological working conditions. The requirements in this section apply to all persons who receive, possess, use, or transfer sources of radiation licensed by or registered with the agency in accordance with this chapter.

(b) Posting of notices to workers.

(1) Each licensee or registrant shall post current copies of the following documents:

(A) the requirements in this section and in section §289.202 of this title (relating to Standards for Protection Against Radiation);

(B) the license, certificate of registration, conditions or documents incorporated into the license or certificate of registration by reference, and amendments thereto;

(C) the operating procedures applicable to work under the license or certificate of registration; and

(D) any notice of violation involving radiological working conditions, or order issued in accordance with section §289.112 of this title (relating to Hearing and Enforcement Procedures) and §289.201 of this title (relating to General Provisions).

(2) If posting of a document specified in paragraph (1) of this subsection is not practicable, the licensee or registrant shall post a notice that describes the document and states where it may be examined.

(3) Bureau of Radiation Control (BRC) Form 203-1, "Notice to Employees," as contained in subsection (i) of this section, or an equivalent document containing at least the same wording as BRC Form 203-1, shall be posted by each licensee or registrant as required by this section.

(4) Documents, notices, or forms posted in accordance with this subsection shall:

(A) appear in a sufficient number of places to permit individuals engaged in work under the license or certificate of registration to observe them on the way to or from any particular work location to which the document applies;

(B) shall be conspicuous; and

(C) shall be replaced if defaced or altered.

(c) Instructions to workers.

(1) All individuals likely to receive in a year an occupational dose in excess of 100 millirem (1 millisievert) shall be:

(A) kept informed of the storage, transfer, or use of sources of radiation in the licensee's or registrant's workplace;

(B) instructed in the health protection problems associated with exposure to sources of radiation, in precautions or procedures to minimize exposure, and in the purposes and functions of protective devices employed;

(C) instructed in, and instructed to observe, to the extent within the worker's control, the applicable provisions of agency requirements, licenses, and certificates of registration, for the protection of personnel from exposures to sources or radiation occurring in such areas;

(D) instructed of their responsibility to report promptly to the licensee or registrant any condition that may constitute, lead to, or cause a violation of agency requirements, license conditions, or certificate of registration conditions, or unnecessary exposure to sources of radiation;

(E) instructed in the appropriate response to warnings made in the event of any unusual occurrence or malfunction that may involve exposure to sources of radiation; and

(F) advised as to the radiation exposure reports that workers may request in accordance with subsection (d) of this section.

(2) The extent of these instructions shall be commensurate with potential radiological health protection problems associated with the source(s) of radiation in the workplace.

(d) Notifications and reports to individuals.

(1) Radiation exposure data for an individual and the results of any measurements, analyses, and calculations of radioactive material deposited or retained in the body of an individual shall be reported to the individual as specified in this section. The information reported shall include data and results obtained in accordance with agency requirements, orders, license or certificate of registration conditions, as shown in records maintained by the licensee or registrant in accordance with §289.202 of this title. Each notification and report shall:

(A) be in writing;

(B) include appropriate identifying data such as the name of the licensee or registrant, the name of the individual, and the individual's identification number;

(C) include the individual's exposure information; and

(D) contain the following statement: "This report is furnished to you under the provisions of the Texas Regulations for Control of Radiation, 25 Texas Administrative Code §289.203. You should preserve this report for further reference."

(2) Each licensee or registrant shall advise each worker annually of the worker's dose as shown in records maintained by the licensee or registrant in accordance with §289.202(yy) of this title.

(3) At the request of a worker formerly engaged in activities controlled by the licensee or registrant, each licensee or registrant shall furnish a written report of the worker's exposure to sources of radiation. The report shall include the dose record for each year the worker was required to be monitored in accordance with §289.202(f) of this title. Such report shall be furnished within 30 days from the date of the request, or within 30 days after the dose of the individual has been determined by the licensee or registrant, whichever is later. The report shall cover the period of time that the worker's activities involved exposure to sources of radiation and

the dates and locations of work under the license or certificate of registration in which the worker participated during this period.

(4) When a licensee or registrant is required in accordance with §289.202(xx), (yy), and (zz) of this title to report to the agency any exposure of an individual to sources of radiation, the licensee or the registrant shall also provide the individual a written report of that individual's exposure data included therein. Such reports shall be transmitted at a time not later than the transmittal to the agency.

(5) At the request of a worker who is terminating employment with the licensee or registrant in work involving exposure to sources of radiation during the current year, each licensee or registrant shall provide at termination to each such worker, or to the worker's designee, a written report regarding the radiation dose received by that worker from operations of the licensee or registrant during the current year or fraction thereof. If the most recent individual monitoring results are not available at that time, a written estimate of the dose shall be provided together with a clear indication that this is an estimate.

(e) Presence of representatives of licensees or registrants and workers during inspection.

(1) Each licensee or registrant shall afford to the agency at all reasonable times opportunity to inspect materials, machines, activities, facilities, premises, and records in accordance with this chapter.

(2) During an inspection, agency inspectors may consult privately with workers as specified in subsection (f) of this section. The licensee or registrant may accompany agency inspectors during other phases of an inspection.

(3) If, at the time of inspection, an individual has been authorized by the workers to represent them during agency inspections, the licensee or registrant shall notify the inspectors of such authorization and shall give the workers' representative an opportunity to accompany the inspectors during the inspection of physical working conditions.

(4) Each workers' representative shall be routinely engaged in work under control of the licensee or registrant and shall have received instructions as specified in subsection (c) of this section.

(5) Different representatives of licensees or registrants and workers may accompany the inspectors during different phases of an inspection if there is no resulting interference with the conduct of the inspection. However, only one workers' representative at a time may accompany the inspectors.

(6) With the approval of the licensee or registrant and the workers' representative, an individual who is not routinely engaged in work under control of the licensee or registrant, for example, a consultant to the licensee or registrant or to the workers' representative, shall be afforded the opportunity to accompany agency inspectors during the inspection of physical working conditions.

(7) Notwithstanding the other provisions of this section, agency inspectors are authorized to refuse to permit accompaniment by any individual who deliberately interferes with a fair and orderly inspection. With regard to any area containing proprietary information, the workers' representative for that area shall be an individual previously authorized by the licensee or registrant to enter that area.

(f) Consultation with workers during inspections.

(1) Agency inspectors may consult privately with workers concerning matters of occupational radiation protection and other matters related to applicable provisions of agency regulations and licenses to the extent the inspectors deem necessary for the conduct of an effective and thorough inspection.

(2) During the course of an inspection any worker may bring privately to the attention of the inspectors, either orally or in writing, any past or present condition which that individual has reason to believe may have contributed to or caused any violation of the Act, the requirements in this chapter, license or certificate of registration conditions, or any unnecessary exposure of an individual to radiation from any source of radiation under the licensee's or registrant's control. Any such notice in writing shall comply with the requirements of subsection (g)(1) of this section.

(3) The provisions of paragraph (2) of this subsection shall not be interpreted as authorization to disregard instructions in accordance with subsection (c) of this section.

(g) Requests by workers for inspections.

(1) Any worker or representative of workers who believes that a violation of the Act, the requirements of this chapter, or license or certificate of registration conditions exists or has occurred in work under a license or certificate of registration with regard to radiological working conditions in which the worker is engaged, may request an inspection by giving notice of the alleged violation to the agency. Any such notice shall be in writing, shall set forth the specific grounds for the notice, and shall be signed by the worker or representative of the workers. A copy shall be provided to the licensee or registrant by the agency no later than at the time of inspection except that, upon the request of the worker giving such notice, the worker's name and the name(s) of individual(s) referred to therein shall not appear in such copy or on any record published, released, or made available by the agency, except for good cause shown.

(2) If, upon receipt of such notice, the agency determines that the request meets the requirements set forth in paragraph (1) of this subsection, and that there are reasonable grounds to believe that the alleged violation exists or has occurred, an inspection shall be made as soon as practicable to determine if such alleged violation exists or has occurred. Inspections in accordance with this section need not be limited to matters referred in the request.

(3) No licensee or registrant, contractor or subcontractor of a licensee or registrant shall discharge or in any manner discriminate against any worker because of the following:

(A) such worker has filed any request or instituted or caused to be instituted any proceeding under this chapter;

(B) such worker has testified or is about to testify in any such proceeding; or

(C) because of the exercise by such worker on behalf of that individual or others of any option afforded by this section.

(h) Inspections not warranted.

(1) If the agency determines, with respect to a request under subsection (g) of this section, that an inspection is not warranted because there are no reasonable grounds to believe that a violation exists or has occurred, the agency shall notify the requestor in writing of such determination. The requestor may obtain review of such determination in accordance with the provisions of the Act and the Government Code, Chapters 2001 and 2002.

(2) If the agency determines that an inspection is not warranted because the requirements of subsection (g)(1) of this

section have not been met, the agency shall notify the requestor in writing of such determination. Such determination shall be without prejudice to the filing of a new request meeting the requirements of subsection (g)(1) of this section.

(i) Notice to employees. The following form, or an equivalent as stated in subsection (b)(3) of this section, shall be posted.

Figure: 25 TAC §289.203(i)

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 May 18, 1998.

TRD-9808090

Susan K. Steeg

General Counsel

Texas Department of Health

Effective date: June 7, 1998

Proposal publication date: February 20, 1998

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

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25 TAC §289.204

The Texas Department of Health (department), by majority vote of the Texas Board of Health (board) on May 15, 1998, enters this order finally adopting an amendment to §289.204, concerning fees for certificates of registration, radioactive material(s) licenses, emergency planning and implementation, and other regulatory services, without changes to the proposed text as published in the February 27, 1998, issue of the *Texas Register* (23 TexReg 1891), and therefore the section will not be republished.

The amendment to §289.204 adds a definition to clarify a license category, assesses additional fees for licenses that contain authorizations for more than one license category, deletes the provision for proration of fees, restructures the method by which fees for certificates of registration are assessed, and separates the fees for evaluation of sealed sources and devices into fees for initial evaluations and amendments requiring re-evaluation. The amendment also increases the majority of license fees by 50% to correct an imbalance in the percentage of costs recovered from certificate of registration fees versus license fees when compared to the percentage of program costs charged against certification of registration activities versus license activities. This amendment is part of the department's ongoing evaluation of program fees to comply with the provisions of Health and Safety Code §401.301.

The department made no changes to the text of the proposed rule.

The following comments were received concerning the proposed section. Following each comment is the department's response.

Comment: Concerning §289.204, one commenter suggested that the increased fees were apparently initiated to further shift the funding of the Bureau of Radiation Control to those entities possessing sources of radiation. The commenter noted that this may not adversely affect entities that can easily pass on costs of these fees to the ultimate consumers of the benefits of radiation. However, for medical programs, these increases will have to come from cuts from some other internal funds and

will not be recovered. The commenter recommended that the proposed increases not be instituted for medical and/or state-funded institutions.

Response: The department acknowledged the commenter's statements. The department is directed to recover as close to 100% of its regulatory costs, including indirect costs, as possible. The issue of exempting certain entities, such as state-funded institutions, has been raised in previous fee revisions. With the recommendation of the Texas Radiation Advisory Board, the department does not exempt specific license or registration categories from the fee requirements because there are regulatory costs associated with all licenses and registrations. Recovering those costs results in a more accurate accounting of cost recovery versus expenditures. No change was made as a result of the comment.

Comment: Concerning §289.204, a commenter noted an understanding that fees are changing to more accurately reflect costs to regulate registrants and radioactive material licensees and there is also a shift required to fairly spread the costs based upon that portion of resources allocated to each area of cost. The shift is an overall increase to radioactive materials licensees due to costs being supposedly higher to administer this area of oversight. The commenter stated that these increased costs are a result of excessive oversight and needlessly long processes in obtaining radioactive materials licenses (both new and renewals) and amendments.

The consistently small group of reviewers have been very inconsistent and arbitrary in what is required to obtain medical radioactive materials licenses and/or amendments, resulting in increased correspondence. The commenter noted that constant requests which exceed what the rules require for public safety and continual requests exceeding what is suggested in approved licensing guides has been a source of frustration for years and does nothing but generate more and more cost. The commenter stated that policy is often dictated on a whim with no regard to the rules and advantage is taken to require whatever is wanted or to deny a license request if the personal requests of a particular reviewer are not adhered to. As a consultant, the commenter has reviewed and written numerous procedures and provided facilities with these for submission to the department. The commenter stated that procedures requested by one reviewer may not be accepted by another, and vice versa and what is requested above and beyond the rules for one licensee may or may not change for another.

The commenter noted that the average 50% increases in fees to medical licensees are hard to accept when the increases can most likely be related to fundamental gaps in consistency as described by the commenter. The commenter expressed a hope that through the annual evaluation of fees, the area of medical licensing will be reviewed prior to further fee increases or shifting of costs and that appropriate changes will be made. The changes should result in lowered license fees next year.

Response. The department acknowledged the commenter's concerns and agreed that the overall increase to radioactive license fees is due to expenditure of resources being higher than the costs recovered from radioactive licenses. The department is implementing several changes in order to improve the accounting for staff time and efficiency of license review processes. The Bureau of Radiation Control's expenditures, cost recovery, and fee structure will be reviewed on an annual basis. Staff time accounting methods are now designed to be

more accurate in assigning staff time spent on each license or registration category. The Bureau of Radiation Control is currently revising medical licensing guidance documents. That revision, along with pending medical rule revisions, should provide a greater consistency in the regulation of medical licenses. No change was made as a result of the comment.

Comment: Concerning §289.204(e)(1)-(2), a commenter stated that the rule should clarify that certain activities are subsumed into a radioactive material license and are fee exempt. These should include in-house services such as calibration, leak tests and training, as those are activities that are required of each license. The fees should only apply to those providing these activities as a commercial service.

Likewise, similar activities that are rated depending on mode, such as manufacturing, are subsumed into a radioactive material license and should be fee exempt. For example, a licensee authorized for loose processing of radioactive material should not also be charged a license fee for radiopharmaceutical manufacturing. It is not equitable for a radiopharmaceutical manufacturer to be doubly penalized for processing pharmaceutical or non-radiopharmaceutical grade radiochemicals. Similarly, a licensed accelerator production facility is also authorized for processing of loose radioactive material.

Response: The department acknowledged the commenter's statements. However, licensed authorizations additional to the primary licensed authorization involve additional regulatory costs, such as increased inspection and license review time. For this reason, the licensee is required to pay a fee equal to 25% of the specified fee for each additional authorization. No change was made as a result of the comment.

Comment: Concerning §289.204, a commenter asked if the base fee calculations include activities that do not directly benefit fee-paying licensees or registrants, such as public information, radon, or fuel cycle emergency response. The commenter noted that these activities should not be included in the fee base.

Response: The department agreed with most of the commenter's statement. Based on the revised fee rules, the Bureau of Radiation Control will recover approximately 95.5% of its regulatory costs. The remaining 4.5% of costs can be attributed to activities such as public information and radon. However, the fixed nuclear facilities are charged actual costs for emergency response activities. No change was made as a result of the comment.

Comment: Concerning §289.204, a commenter voiced support of the department's efforts in modifying time sheets so as to document actual time spent on activities. However, the commenter expressed concerns on the accuracy of those numbers.

Response: The department acknowledged the commenter's support and concern. The required annual review of regulatory expenditures, cost recovery and fees will provide a more frequent review. Also, staff documentation of time allocation is reviewed within the Bureau of Radiation Control on a monthly basis. No change was made as a result of the comment.

Comment: Concerning §289.204, one commenter noticed references to other regulations only in the revised Texas Administrative Code format. The commenter recommended that either the TAC format not be used or dual reference be used until the TAC format becomes the official, formal version of the radiation

safety regulations and the regulations are supplied to Texas licensees and registrants in that format.

Response: The department acknowledged the commenter's statements. This revision is part of an on-going process to reformat the *Texas Regulations for Control of Radiation* in the required *Texas Register* format. Licensees and registrants will soon be receiving the reformatted sections. The department will use a dual referencing system to ease the transition from the old format to the new format. No change was made as a result of the comment.

Commenters included representatives from M.D. Anderson Cancer Center, International Isotopes, Inc., and John R. Pickett. The commenters were neither for nor against the rule in its entirety; however, they presented comments and suggestions for changes to the proposal as previously discussed.

The amendment is adopted under the Health and Safety Code, Chapter 401, which provides the board with authority to adopt rules and guidelines relating to the control of radiation; and §12.001, which authorizes the board rules for the performance of every duty imposed by law on the board, the department, and the commissioner of health.

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 May 18, 1998.

TRD-9808095

Susan K. Steeg

General Counsel

Texas Department of Health

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Proposal publication date: February 27, 1998

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

TITLE 30. ENVIRONMENTAL QUALITY

Part I. Texas Natural Resource Conservation Commission

Chapter 117. Control of Air Pollution from Nitrogen Compounds

The Texas Natural Resource Conservation Commission (commission) adopts amendments to §117.105, concerning Emission Specifications, §117.113, concerning Continuous Demonstration of Compliance, §117.205, concerning Emission Specifications, §117.211, concerning Initial Demonstration of Compliance, §117.213, concerning Continuous Demonstration of Compliance, §117.451, concerning Applicability, §117.510, concerning Compliance Schedule for Utility Electric Generation, §117.520, concerning Compliance Schedule For Commercial, Institutional, and Industrial Combustion Sources, §117.530, concerning Compliance Schedule For Nitric Acid and Adipic Acid Manufacturing Sources, §117.540, concerning Phased Reasonably Available Control Technology (RACT), and §117.601, concerning Gas-Fired Steam Generation.

Sections 117.105, 117.113, 117.213, 117.451, 117.510, 117.520, 117.530, 117.540, and 117.601 are adopted with changes to the proposed text as published in the January 9,

1998, issue of the *Texas Register* (23 TexReg 319). Sections 117.205 and 117.211 are adopted without changes and will not be republished.

EXPLANATION OF ADOPTED RULES

The Federal Clean Air Act (FCAA), §182(f), specifies that required measures for major sources of volatile organic compounds (VOCs) must also be applied to major sources of nitrogen oxides (NO_x) in ozone nonattainment areas, unless a demonstration is made that NO_x reductions would not contribute to attainment of the ozone standard. One of the measures for existing major sources of VOCs is implementation of reasonably available control technology (RACT) in moderate, serious, and severe ozone nonattainment areas, required by §182(b)(2), (c), and (d). On April 9, 1993, the Texas Air Control Board adopted revisions to Chapter 117 implementing the federal §182(f) NO_x requirements in the Houston/Galveston (HGA) and Beaumont/Port Arthur (BPA) ozone nonattainment areas.

On April 12, 1995, the United States Environmental Protection Agency (EPA) approved under §182(f) a temporary exemption from the federally required NO_x RACT measures in HGA and BPA. The EPA's approval was based on the state's preliminary demonstration, using Urban Airshed Model (UAM) modeling, that NO_x reductions in HGA and BPA would not lower ozone levels. The temporary exemption allowed more time to conduct UAM modeling, using data from the Coastal Oxidant Assessment for Southeast Texas (COAST), an intensive 1993 field study. These UAM results were judged critical in determining whether, and to what extent, NO_x reductions are needed to attain the ozone standard. The EPA specified that the temporary §182(f) exemption would expire on December 31, 1996. On May 23, 1997, the EPA extended the exemption to December 31, 1997. This additional year allowed the commission to accommodate improvements in the UAM, using COAST data, and to better substantiate whether NO_x emission reductions would be required.

In the Fall of 1997, the TNRCC staff completed the COAST modeling analysis of the airshed of the upper Texas Gulf Coast. The study indicated that NO_x reductions are a necessary step toward the area's attaining the federal air quality standard for ozone. Because of the modeling and the rate-of-progress (ROP) requirement under the FCAA, §182(c)(2), which requires continuing steady reductions of the pollutants that contribute to ozone smog, on November 24, 1997, the commission determined not to seek further federal waivers from the NO_x reduction requirements of the FCAA for HGA and BPA.

Chapter 117 remained effective during this period of federal exemption. The final compliance date was extended twice, first to May 31, 1997, then to May 31, 1999. Therefore, after the expiration of the temporary federal exemption on December 31, 1997, no additional rulemaking was required to make the NO_x RACT requirements of Chapter 117 fully effective.

This rulemaking smooths the transition to an ozone control strategy for HGA and BPA which includes NO_x reduction. The amendments extend the final compliance date of the Chapter 117 NO_x RACT requirements from May 31, 1999 to November 15, 1999. The extension provides approximately a two-year period to implement NO_x reductions, from the November 24, 1997, date that the commission decided to implement a NO_x-based strategy. A two-year period is necessary for industry to purchase, install, and test the emission control equipment and monitoring systems required by Chapter 117.

The other changes to smooth the implementation of the Chapter 117 RACT requirements eliminate the requirement to monitor carbon monoxide (CO) continuously for certain units. While CO emissions in some cases may increase as a result of NO_x abatement, checking CO emissions periodically will also be an effective, but less expensive, means of avoiding problems with excessive CO.

The adopted revision to §117.105(j) adjusts the compliance averaging period for CO for any electric utility unit which does not use continuous emissions monitors (CEMS) or predictive emissions monitors (PEMS) for CO. The amendments to this subsection also revise the compliance period to an hourly period, necessary for these units since compliance must be determined by manual stack sampling methods. Twenty-four hours of continuous manual sampling is impractical.

The adopted new §117.113(k) adds an option to conduct periodic sampling of CO instead of using CEMS or PEMS for CO for electric utility units. In addition to the initial compliance demonstration for CO, indicator of compliance sampling for CO with a hand-held analyzer is required following certain manual combustion tuning or burner adjustments. This procedure will identify any excessive emission that could occur as a result of an effort to minimize NO_x emissions. In addition, the acid rain monitoring rules require an annual stack test (relative accuracy test audit) for NO_x emissions. The concurrent test of CO emissions during this audit will not add to expense and will confirm compliance with the CO limit on a periodic basis.

The adopted revisions to §117.205(e) and §117.211(f)(3) add the option of a 24-hour compliance averaging period for CO for any industrial unit which uses a CEMS or PEMS for CO. A 24-hour compliance period, which is practical for units which use CEMS or PEMS, is somewhat easier to comply with than an hourly period. The adopted revision creates an incentive to use CEMS or PEMS for CO.

The adoption of new §117.213(l) adds an option to conduct periodic sampling of CO from industrial units instead of using CEMS or PEMS for CO. In addition to the initial compliance demonstration for CO, indicator of compliance sampling for CO with a hand-held analyzer is required following certain manual combustion tuning or burner adjustments. This procedure will identify any excessive emission that could occur as a result of an effort to minimize NO_x emissions. A concurrent test of CO emissions during the annual relative accuracy test audit will confirm compliance on a periodic basis.

The adopted amendments to §§117.451, 117.510, 117.520, 117.530, 117.540, and 117.601 extend the final compliance date to November 15, 1999. As previously discussed in this preamble, this extension creates roughly a two-year implementation period, which industry needs. This period is consistent with the original two-year implementation time for the rules and will serve to minimize the use of the case-specific phased RACT provisions of §117.540. The adopted revisions to §117.510(5) and §117.520(4) will consistently extend to January 15, 2000, the submittal date for 30-day rolling average compliance data from CEMS or PEMS. Various other dates in §117.540 have also been consistently revised.

The commission notes that the adopted final compliance date of November 15, 1999, is 15 days earlier than the compliance date proposed in the January 9, 1998, *Texas Register*. This change was made to assure that the emission reductions will be fully creditable toward 1999 ROP requirements under the FCAA,

§182(c)(2). The FCAA, §182(c)(2)(B), requires the 1999 ROP reductions to occur by November 15, 1999.

FINAL REGULATORY IMPACT ANALYSIS

The commission has reviewed the rulemaking in light of the regulatory analysis requirements of Texas Government Code (the Code), §2001.0225, and has determined that it is not subject to §2001.0225 because it does not meet the definition of a "major environmental rule" as defined in the Code. The amendments, which ease the implementation of the FCAA, §182(b)(2), (c), (d), and (f), do not meet the definition of "major environmental rule" because the amendments are designed to make the transition to the federally required NO_x control strategy easier. The NO_x RACT requirements became effective by operation of federal law upon the December 31, 1997, expiration of the temporary §182(f) exemption. No comments on the regulatory impact analysis were received.

TAKINGS IMPACT ASSESSMENT

The commission has prepared a takings impact assessment for these rules under Texas Government Code, §2007.043. The following is a summary of that assessment. The specific purpose of the amendments is to extend the compliance date for NO_x RACT requirements and reduce the cost of emission monitoring. As adopted, sources located in the HGA and BPA ozone nonattainment areas of the state will have less expensive monitoring requirements and additional time to comply with the rules. There is no restriction or taking of private real property associated with the adopted amendments.

COASTAL MANAGEMENT PLAN

The commission has determined that this rulemaking action 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 in 30 TAC Chapter 281, Subchapter B, concerning 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 rulemaking action for consistency with the CMP goals and policies in accordance with the rules of the Coastal Coordination Council, and has determined that this rulemaking action is consistent with the applicable CMP goals and policies. The primary CMP policy applicable to this rulemaking action is the policy that commission rules comply with regulations at Code of Federal Regulations, Title 40, to protect and enhance air quality in the coastal area. Adoption of these amendments should result in reductions of ambient NO_x and ozone concentrations. Therefore, in compliance with 31 TAC §505.22(e), the commission affirms that this rulemaking is consistent with CMP goals and policies.

HEARING AND COMMENTERS

A public hearing for this rulemaking was held in Austin on February 9, 1998. A representative of the Southeast Texas Regional Planning Commission (SETRPC) and an equipment vendor, Pavilion Technologies, Inc. (Pavilion) provided oral testimony and written comments at the hearing. Nine commenters submitted written comments on the proposal: Amoco Corporation (Amoco), Entergy Services, Inc. (Entergy), EPA, Houston Lighting & Power (HL&P), an individual, Pavilion, the South-

east Texas Environmental Managers (STEM), SETRPC, and the Texas Chemical Council (TCC). Commenters generally supported the proposal to extend the final compliance date and to reduce the CO monitoring, but recommended revisions to the proposed periodic CO monitoring. The individual opposed the rule proposals. Beyond the proposed revisions, the commenters from the BPA area (SETRPC, STEM, and Entergy) questioned the need for the underlying Chapter 117 NO_x RACT requirements to apply in BPA.

Amoco, Entergy, EPA, HL&P, and the TCC supported the proposal to extend the final compliance date six months. An individual opposed the extension as an unnecessary delay in implementation, saying that the companies have already prepared for NO_x controls and have been aware of the need for NO_x controls for many years.

The commission appreciates the support for the extension of the final compliance date. The commission disagrees with the comment that an extension is unnecessary. Although initial control plans were submitted by the companies in 1994, the commission's policy from then, until late 1997, was based on modeling results which suggested that NO_x reductions would not contribute to attainment of the ozone standard. The 1994 planning should still provide a fairly accurate estimate of the reductions required, but source owners now need time to update and optimize their control strategies. The November 24, 1997, commission consideration of the COAST modeling and decision not to pursue further NO_x exemptions provided industry the formal signal that the RACT reductions would be needed. A formal policy or rule change is often required for the private sector to allocate resources to externalities such as air emissions. Finally, as noted by EPA, establishing a November 15, 1999, compliance date is consistent with the original implementation schedule. This schedule recognizes that approximately two years are required for industry to purchase, install, and test the emission control equipment and monitoring systems required by Chapter 117.

TCC supported the proposed alternative to CO monitoring. Entergy, HL&P, Amoco, EPA, and Pavilion supported the proposal to provide an alternative to CO monitoring, but suggested revisions to clarify the periodic sampling alternative. The two affected utilities, Entergy and HL&P, recommended clarifying that the periodic CO checks be limited to tuning or adjustments made for the purpose of minimizing NO_x emissions. Entergy said that performance tuning is occasionally done with boilers that is not related to NO_x emissions and should not significantly affect CO emissions. Amoco said that it would not be feasible to monitor for CO every time an adjustment is made to burner air; and if this is the intent, most operators would likely be forced to use a CEMS because of the manpower requirements. Amoco suggested allowing documentation of the observed relationship between oxygen and CO to establish when the allowable level of CO is exceeded, using a permit process. The individual was opposed to the proposal to reduce the monitoring requirements.

The commission agrees with the utilities' recommended clarification of when CO checks should be performed and has incorporated their suggested language in the electric utility requirements of §117.113(k). The commission also incorporated this language in the industrial source requirements of §117.213(l), since the issue is very similar. This revision addresses Amoco's comment, which is very similar to the utility comment. In response to clarifications suggested by EPA and HL&P, the commission has revised the references in §117.113(k) and

§117.213(l) to refer to the EPA test methods and procedures of 40 CFR Part 60. In response to the commenter who opposed reducing the monitoring requirements, the commission believes that the changes will maintain the benefit of CO CEMS, which is to ensure that NO_x controls do not inadvertently increase CO emissions, while reducing the cost to achieve this goal. Excessive CO emissions tend to be sporadic rather than chronic. The change will allow the affected sources to focus more of their resources on the central goal of the rule, which is to reduce NO_x emissions and ambient ozone in HGA and BPA.

Pavilion commented that sampling CO emissions with a portable analyzer after manual combustion tuning or burner adjustment should not be required for units using PEMS that predict NO_x only. Instead, the commenter said, when data gathering is performed in order to create the NO_x PEMS, CO emissions data should be required to be collected to ensure that CO exceedances will not occur. The PEMS data gathering scheme includes combustion tuning and burner adjustments that are typically done during normal operations. Therefore, if compliance with the CO limit is demonstrated during the entire data gathering scheme, then future measurements with a portable analyzer are not needed for operations within this documented range.

The commission agrees with the thrust of Pavilion's comments and has further revised the periodic CO sampling requirements in response to those comments. The commission is aware that PEMS may be used to finely adjust, either automatically or manually, boiler process control setpoints to minimize NO_x emissions. Such tuning to minimize NO_x would be defeated if manual CO sampling were required each time the control system were adjusted. Pavilion said that CO sampling is needed when burner adjustments are made which reduce NO_x to levels lower than for which CO emissions data was previously gathered. The commission has adopted this approach to the alternative CO monitoring requirements in §117.113(k)(1)(A) and §117.213(l)(1)(A).

Nonetheless, manual adjustments for the purpose of minimizing NO_x will be performed, in many cases, using either portable NO_x analyzers or a standard EPA reference method test apparatus to measure the NO_x emissions. These measurement devices easily accommodate CO measurement. Under these circumstances, the commission has retained the requirement to sample CO, in §117.113(k)(1)(B) and §117.213(l)(1)(B).

The EPA said that it was unclear what recordkeeping and reporting would be required for periodic CO sampling to demonstrate compliance.

The recordkeeping sections of Chapter 117 were inadvertently not proposed for revision to address the new alternative. The commission believes that addition of a recordkeeping requirement for periodic CO monitoring should be addressed in future rulemaking to maintain consistency in the placement of requirements and to allow all affected parties the opportunity to comment on the proposed change.

Pavilion commented that §117.510(3) and (5) contain conflicting dates for submittal of CEMS or PEMS performance evaluation and quality assurance procedures. The commenter recommended that the procedures of §117.510(3) be eliminated.

The commission agrees with Pavilion. The intended submittal date requirements for the results of the CEMS or PEMS performance evaluation and quality assurance procedures are

in §117.510(5) and (6), so the reference to this in §117.510(3) has been deleted.

SETRPC, STEM, and Entergy proposed that the commission apply to EPA for an FCAA, §182(f) waiver for the BPA area and suspend the Chapter 117 requirements in the BPA area until at least 2007. The commenters stated that the commission's UAM modeling supported the continuation of a waiver from the NO_x requirements for the BPA area through the year 2007 under the EPA's "overwhelming transport" policy, which recognizes the contribution of transported ozone from upwind areas. They said that NO_x controls are a disbenefit through the attainment date and would not contribute to attainment of the ozone national ambient air quality standard (NAAQS). SETRPC said that NO_x controls would not contribute significantly to attainment of the ozone NAAQS.

The commission agrees that there is considerable evidence demonstrating a strong influence of HGA upon the air quality in BPA. It also believes that sources in BPA contribute significantly to the air quality in BPA and disagrees with the assessment that sources in the area have little or no remaining role to play in improving the area's or the region's ozone air quality. The evidence, including ambient monitoring data and computer modeling, is more supportive of the view that further NO_x reductions in BPA are necessary for it, and the regions adjacent to it, to attain or maintain the federal air quality standards for ozone. The commission disagrees that NO_x reductions in BPA are a disbenefit, based on the COAST modeling. The commission also believes the modeling does not justify a federal NO_x waiver for the area under the EPA's policy guidance for determining the applicability of NO_x requirements under §182(f).

The information SETRPC submitted regarding monitored ozone exceedances in BPA in 1997 suggests that BPA plays a significant role in ozone formation even when there is transport from HGA. It is not clear that all the exceedances in 1997 were caused by transport from HGA. Although one of these days, March 21, 1997, had the necessary conditions, including strong enough surface winds from HGA to cause ozone transport from that area, the other two days had more stagnant conditions in which BPA itself would have had time to contribute significantly to the ozone formed. Further, on March 21, 1997, the monitor data suggests that the BPA area contributed to additional downwind exceedances of the 120 parts per billion (ppb) ozone standard as the pollutants carried further downwind. The monitored peak ozone levels on that date increased from 133 ppb at the Beaumont monitor, on the west side of BPA and nearest Houston, to 169 ppb at the West Orange monitor, on the east side of BPA.

Since BPA is classified as a moderate ozone nonattainment area, the federal NO_x RACT requirements are applicable, unless a federal waiver can be justified on the basis that NO_x reductions do not contribute to attainment of the ozone standard. The EPA's guidance for conditions for obtaining a §182(f) waiver are contained in "Guideline for Determining the Applicability of NO_x Requirements under §182(f)," issued December 1993. The guidance specifies very similar tests for areas within, and not within, an ozone transport region. The test requires using a photochemical grid model (such as the COAST modeling that the commission completed in 1997) to simulate conditions resulting from three emission reduction scenarios: substantial VOC reductions; substantial NO_x reductions; and both the VOC and NO_x reductions. If the areawide (or regionwide, for transport regions) maximum one-hour ozone concentration for each day

modeled under the first scenario is less than or equal to that from the second and third scenarios for the same day, the test is passed and the §182(f) requirements would not apply. The results from the COAST modeling for the ozone episode of September 8-11, 1993, show the opposite; that is, the areawide maximum one-hour ozone concentrations are greater under the first scenario than under the second and third scenarios. Therefore, the COAST modeling does not support a further EPA NO_x waiver.

SETRPC's contention that NO_x reductions in BPA do not provide "significant" ozone reductions is not an issue, since the test is built on a comparison of the relative effectiveness of NO_x and VOC reductions, and does not establish a significance level for ozone benefit. The modeling also shows that NO_x reductions in BPA will reduce ozone more effectively than in HGA, since the initial ozone "disbenefit" of NO_x reductions is not observed in BPA.

The EPA's overwhelming transport policy, if applicable, would enable an extension of the attainment date, but would not allow waiver of the §182(f) NO_x RACT requirements. The NO_x RACT requirements are mandatory for moderate ozone nonattainment areas such as BPA under the FCAA, §182(b)(2) and (f). Among other conditions, the EPA overwhelming transport policy requires of a nonattainment area, "adoption of all mandatory control requirements for an area of its classification" (memo from EPA assistant administrator for air and radiation, "Ozone Attainment Dates for Areas Affected by Overwhelming Transport," September 1, 1994).

Subchapter B. Combustion at Existing Major Sources

Division 1. Utility Electric Generation

30 TAC §117.105, §117.113

STATUTORY AUTHORITY

The amendments are adopted under the Texas Health and Safety Code, the Texas Clean Air Act TCAA), §382.012, which requires the commission to prepare and develop a general, comprehensive plan for the proper control of the state's air, and §382.017, which authorizes the commission to adopt rules consistent with the policy and purposes of the TCAA.

§117.105. *Emission Specifications.*

(a)-(i) (No change.)

(j) No person shall allow the discharge into the atmosphere from any utility boiler, steam generator, or auxiliary steam boiler subject to the NO_x emission limits specified in subsections (a)-(e) of this section, carbon monoxide (CO) emissions in excess of 400 ppmv, based on a one-hour average for units not equipped with continuous emissions monitoring systems (CEMS) or predictive emissions monitoring systems (PEMS) for CO, or on a rolling 24-hour averaging period for units equipped with CEMS or PEMS for CO.

(k)-(n) (No change.)

§117.113. *Continuous Demonstration of Compliance.*

(a)-(j) (No change.)

(k) Instead of using CEMS or PEMS for CO, the owner or operator may substitute periodic sampling of CO as follows:

(1) sample CO emissions with a portable analyzer (or 40 CFR 60, Appendix A reference method test apparatus) after manual

combustion tuning or burner adjustments conducted for the purpose of minimizing NO_x emissions:

(A) whenever the resulting NO_x emissions measured by CEMS or predicted by PEMS are lower than levels for which CO emissions data was previously gathered; and

(B) whenever NO_x emissions are sampled with a portable analyzer or 40 CFR 60, Appendix A reference method test apparatus; and

(2) sample CO emissions using the test methods and procedures of 40 CFR 60 in conjunction with the annual relative accuracy test audit of the NO_x and diluent analyzer.

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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Kevin McCalla

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Division 2. Commercial, Institutional, and Industrial Sources

30 TAC §§117.205, 117.211, 117.213

STATUTORY AUTHORITY

The amendments are adopted under the Texas Health and Safety Code, the Texas Clean Air Act (TCAA), §382.012, which requires the commission to prepare and develop a general, comprehensive plan for the proper control of the state's air, and §382.017, which authorizes the commission to adopt rules consistent with the policy and purposes of the TCAA.

§117.213. *Continuous Demonstration of Compliance.*

(a)-(k) (No change.)

(l) Instead of using CEMS or PEMS for CO, the owner or operator may substitute periodic sampling of CO as follows:

(1) sample CO emissions with a portable analyzer (or 40 CFR 60, Appendix A reference method test apparatus) after manual combustion tuning or burner adjustments for the purpose of minimizing NO_x emissions:

(A) whenever the resulting NO_x emissions measured by CEMS or predicted by PEMS are lower than levels for which CO emissions data was previously gathered; and

(B) whenever NO_x emissions are sampled with a portable analyzer or 40 CFR 60, Appendix A reference method test apparatus; and

(2) sample CO emissions using the test methods and procedures of 40 CFR 60 in conjunction with an annual relative accuracy test audit of the NO_x and diluent analyzer.

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Subchapter C. Acid Manufacturing

Division 3. Nitric Acid Manufacturing - General

30 TAC §117.451

STATUTORY AUTHORITY

The amendment is adopted under the Texas Health and Safety Code, the Texas Clean Air Act (TCAA), §382.012, which requires the commission to prepare and develop a general, comprehensive plan for the proper control of the state's air, and §382.017, which authorizes the commission to adopt rules consistent with the policy and purposes of the TCAA.

§117.451. *Applicability.*

The emission limitations specified in §117.455 of this title (relating to Emission Specifications) shall apply to all nitric acid production units in the state, with the exception that for nitric acid production units located in applicable ozone nonattainment areas, the emission limitations of §117.405 of this title (relating to Emission Specifications) shall apply after November 15, 1999.

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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Subchapter D. Administrative Provisions

30 TAC §§117.510, 117.520, 117.530, 117.540

STATUTORY AUTHORITY

The amendments are adopted under the Texas Health and Safety Code, the Texas Clean Air Act (TCAA), §382.012, which requires the commission to prepare and develop a general, comprehensive plan for the proper control of the state's air, and §382.017, which authorizes the commission to adopt rules consistent with the policy and purposes of the TCAA.

§117.510. *Compliance Schedule For Utility Electric Generation.*

All persons affected by the provisions of §§117.101, 117.103, 117.105, 117.107, 117.109, 117.111, 117.113, 117.115, 117.117, 117.119, and 117.121 of this title (relating to Utility Electric Generation) shall be in compliance as soon as practicable, but no later than November 15, 1999 (final compliance date). Additionally,

all affected persons shall meet the following compliance schedules and submit written notification to the executive director:

(1) (No change.)

(2) conduct applicable continuous emissions monitoring system (CEMS) or predictive emissions monitoring systems (PEMS) evaluations and quality assurance procedures as specified in §117.113 of this title (relating to Continuous Demonstration of Compliance) according to the following schedules:

(A) (No change.)

(B) for equipment and software not required under 40 Code of Federal Regulations (CFR) 75, no later than November 15, 1999.

(3) install all nitrogen oxides (NO_x) abatement equipment and implement all NO_x control techniques no later than November 15, 1999;

(4) for units operating without CEMS or PEMS, conduct applicable tests for initial demonstration of compliance as specified in §117.111 of this title (relating to Initial Demonstration of Compliance); and submit the results by April 1, 1994, or as early as practicable, but in no case later than November 15, 1999;

(5) for units operating with CEMS or PEMS and complying with the NO_x emission limit on a rolling 30-day average, conduct the applicable tests for the initial demonstration of compliance as specified in §117.111 of this title and submit the results of the applicable CEMS or PEMS performance evaluation and quality assurance procedures as specified in §117.113 of this title no later than January 15, 2000;

(6) for units operating with CEMS or PEMS and complying with the NO_x emission limit in pounds per hour on a block one-hour average, conduct the applicable tests for the initial demonstration of compliance as specified in §117.111 of this title and submit the results of the applicable CEMS or PEMS performance evaluation and quality assurance procedures as specified in §117.113 of this title by November 15, 1999;

(7) (No change.)

(8) no later than November 15, 1999, submit a final control plan for compliance in accordance with §117.115 of this title (relating to Final Control Plan Procedures).

§117.520. Compliance Schedule For Commercial, Institutional, and Industrial Combustion Sources.

All persons affected by the provisions of §§117.201, 117.203, 117.205, 117.207-117.209, 117.211, 117.213, 117.215, 117.217, 117.219, 117.221, and 117.223 of this title (relating to Commercial, Institutional, and Industrial Sources) shall be in compliance as soon as practicable, but no later than November 15, 1999 (final compliance date). All affected persons shall meet the following compliance schedules and submit written notification to the executive director:

(1) (No change.)

(2) install all NO_x abatement equipment and implement all NO_x control techniques no later than November 15, 1999;

(3) for units operating without continuous emissions monitoring system (CEMS) or predictive emissions monitoring systems (PEMS), conduct applicable tests for initial demonstration of compliance as specified in §117.211 of this title (relating to Initial Demonstration of Compliance); and submit the results by April 1, 1994, or as early as practicable, but in no case later than November 15, 1999;

(4) for units operating with CEMS or PEMS and complying with the NO_x emission limit on a rolling 30-day average, conduct the applicable tests for the initial demonstration of compliance as specified in §117.211 of this title and submit the results of the applicable CEMS or PEMS performance evaluation and quality assurance procedures as specified in §117.213 of this title (relating to Continuous Demonstration of Compliance) no later than January 15, 2000;

(5) for units operating with CEMS or PEMS and complying with the NO_x emission limit in pounds per hour on a block one-hour average, conduct the applicable tests for the initial demonstration of compliance as specified in §117.211 of this title and submit the results of the applicable CEMS or PEMS performance evaluation and quality assurance procedures as specified in §117.213 of this title by November 15, 1999; and

(6) no later than November 15, 1999, submit a final control plan for compliance in accordance with §117.215 of this title (relating to Final Control Plan Procedures).

§117.530. Compliance Schedule For Nitric Acid and Adipic Acid Manufacturing Sources.

All persons affected by the provisions of §§117.301, 117.305, 117.309, 117.311, 117.319, and 117.321 of this title (relating to Adipic Acid Manufacturing) or the provisions of §§117.401, 117.405, 117.409, 117.411, 117.413, 117.419, and 117.421 of this title (relating to Nitric Acid Manufacturing - Ozone Nonattainment Areas) shall be in compliance as soon as practicable, but no later than November 15, 1999 (final compliance date). All affected persons shall meet the following compliance schedules and submit written notification to the executive director:

(1) (No change.)

(2) conduct applicable continuous emissions monitoring system (CEMS) or predictive emissions monitoring systems (PEMS) performance evaluation and quality assurance procedures as specified in §117.313 of this title (relating to Continuous Demonstration of Compliance) and §117.413 of this title (relating to Continuous Demonstration of Compliance); provide previous testing documentation for any claimed test waiver as allowed by §117.311(d) of this title (relating to Initial Demonstration of Compliance) or §117.411(d) of this title (relating to Initial Demonstration of Compliance); and conduct applicable initial demonstration of compliance testing as specified in §117.311 and §117.411 of this title, by:

(A) (No change.)

(B) no later than November 15, 1999, for affected facilities performing process modification or installation of a CEMS or PEMS device as part of the control plan specified in §117.309 and §117.409 of this title;

(3) (No change.)

§117.540. Phased Reasonably Available Control Technology (RACT).

The owner or operator affected by the provisions of this chapter (relating to Control of Air Pollution from Nitrogen Compounds) who determines that compliance by November 15, 1999, is not practicable may submit a petition for phased RACT. The process for submitting a petition and receiving approval shall be based on the following.

(1) The petition shall be submitted by March 15, 1999, or as soon as possible after such date upon a demonstration by the owner or operator that the petition was not submitted by March 15, 1999, due to unforeseen circumstances.

(2) The owner or operator of the affected unit or units shall submit information in the petition to the commission and a copy to the EPA regional office in Dallas which will demonstrate all of the following:

(A) (No change.)

(B) compliance by November 15, 1999, is impracticable due to the unavailability of nitrogen oxides (NO_x) abatement equipment, engineering services, or construction labor; system unreliability; manufacturing unreliability; equipment unreliability; or other technological and economic factors as the commission determines are appropriate;

(C) (No change.)

(D) there is a commitment to implement the portion of the phased RACT petition that can be implemented by November 15, 1999; and

(E) the final compliance date specified in the petition shall be as soon as practicable, but in no case later than February 15, 2001, except as approved by the executive director.

(3) Each petition for phased RACT shall contain the information required by at least one of the following criteria.

(A) If compliance by November 15, 1999, is impracticable due to the unavailability of NO_x abatement equipment, engineering services, or construction labor, the following information shall be included in the petition for phased RACT:

(i) a list of the company names, addresses, and telephone numbers of vendors who are qualified to provide the services and equipment capable of meeting the applicable emission limitation under this chapter and who have been contacted to obtain the required services and equipment. A copy of the request for bids along with the dates of contact shall also be provided to show a good-faith effort to obtain the required services and equipment necessary to meet the requirements of this chapter by November 15, 1999; and

(ii) copies of responses from each of the vendors listed in clause (i) of this subparagraph showing that they cannot provide the necessary services and install the appropriate equipment in time for the unit to comply by November 15, 1999. Such responses shall include the reasons why the services cannot be provided and why the equipment cannot be installed in a timely manner.

(iii) (No change.)

(B) If compliance by November 15, 1999, is impracticable due to system unreliability for sources in the utility industry, defined as the inability or threatened inability of a utility grid system to fulfill obligations to supply electric power, the following information shall be included in the petition for phased RACT:

(i) standard load forecasts, based on standard forecasting models available throughout the utility industry, applied to the period November 15, 1997-November 14, 1999;

(ii) (No change.)

(iii) specific reasons why an outage for the purpose of installing NO_x emission control equipment cannot be scheduled by November 15, 1999.

(C) If compliance by November 15, 1999, is impracticable due to manufacturing unreliability, defined as the inability or threatened inability of a source to fulfill contractual obligations to supply a product or products, the following information shall be included in the petition for phased RACT:

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

(iii) specific reasons why an outage for the purpose of installing NO_x emission control equipment cannot be scheduled by November 15, 1999.

(D) If compliance by November 15, 1999, is impracticable due to equipment unreliability, defined as the reduced availability and operating reliability of a unit resulting from the operation of NO_x control equipment on that unit, the following information shall be included in the petition for phased RACT:

(i)-(iv) (No change.)

(E) If compliance by November 15, 1999, is impracticable due to other technical factors, the petition for phased RACT shall contain such documentation as the executive director establishes is appropriate for such technical factors.

(F) If compliance by November 15, 1999, is unreasonable due to economic considerations, excluding the time value of money, the petition for phased RACT shall contain the following information showing comparisons of the cost of compliance by November 15, 1999, and the cost of compliance by the final compliance date specified in the petition:

(i) the costs of additional outages, if applicable, necessitated by compliance with the emission specifications of this chapter by November 15, 1999, as demonstrated by comparison to costs of actual historical and planned outages;

(ii) comparisons of the cost of obtaining the NO_x abatement equipment, engineering services, or construction labor necessary to comply by November 15, 1999, and the cost of obtaining the NO_x abatement equipment, engineering services, or construction labor by the final compliance date specified in the petition. Copies of legally binding contracts, signed by an authorized official of the company, shall be submitted to document these costs. If the required NO_x abatement equipment, engineering services, or construction labor will be provided by the owner or operator, as provided for in paragraph (4) of this subsection, certification by an authorized official of the company may be submitted in lieu of contracts to document these costs; or

(iii) (No change.)

(4) (No change.)

(5) All petitions for phased RACT shall include copies of legally binding contracts with the primary vendors for each project, signed by an authorized official of the company, showing a detailed design or installation schedule for the required services or equipment to be provided by that vendor, with a completion date no later than February 15, 2001, except as approved by the executive director. Any commercially sensitive financial information or trade secrets should be excised from the contracts.

(6) (No change.)

(7) The executive director shall approve or deny the petition within 90 days of receiving an administratively complete phased RACT petition. The executive director shall approve a petition for phased RACT if the executive director determines that compliance is not practicable by November 15, 1999, because of either the unavailability of nitrogen oxides abatement equipment, engineering services, or construction labor; system unreliability; manufacturing unreliability; equipment unreliability; or other technological and economic factors as the executive director determines are appropriate.

(8)-(10) (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.

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Subchapter E. Gas-Fired Steam Generation

30 TAC §117.601

STATUTORY AUTHORITY

The amendment is adopted under the Texas Health and Safety Code, the Texas Clean Air Act (TCAA), §382.012, which requires the commission to prepare and develop a general, comprehensive plan for the proper control of the state's air, and §382.017, which authorizes the commission to adopt rules consistent with the policy and purposes of the TCAA.

§117.601. Gas-Fired Steam Generation.

(a) Subsections (b), (c), and (d) of this section shall apply only in the Dallas/Fort Worth Air Quality Control Region which consists of Collin, Cooke, Dallas, Denton, Ellis, Erath, Fannin, Grayson, Hood, Hunt, Johnson, Kaufman, Navarro, Palo Pinto, Parker, Rockwall, Somervell, Tarrant, and Wise counties and in the Houston/Galveston Air Quality Control Region which consists of Austin, Brazoria, Chambers, Colorado, Fort Bend, Galveston, Harris, Liberty, Matagorda, Montgomery, Waller, and Wharton counties. For gas-fired steam generators located in applicable ozone nonattainment areas, only the emission limitations of §117.105 of this title (relating to Emission Specifications), §117.107 of this title (relating to Alternative System-Wide Emission Specifications), §117.205 of this title (relating to Emission Specifications), and §117.207 of this title (relating to Alternative Plant-Wide Emission Specifications) shall apply after November 15, 1999.

(b)-(e) (No change.)

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Texas Natural Resource Conservation Commission

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For further information, please call: (512) 239-1966



TITLE 31. NATURAL RESOURCES AND CONSERVATION

Part X. Texas Water Development Board

Chapter 371. Drinking Water State Revolving Fund

The Texas Water Development Board (board) adopts amendments to §§371.1 - 371.3, 371.13, 371.20, 371.37, 371.39, 371.40, 371.52, 371.71, 371.72, the repeal of §§371.32-371.34, and new §371.26 and §371.32. Section 371.2 is adopted with changes to the proposed text as published in the March 27, 1998 issue of the *Texas Register* (23 TexReg 3221). Sections 371.1, 371.3, 371.13, 371.20, 371.37, 371.39, 371.40, 371.52, 371.71, 371.72, the repeal of §§371.32-371.34, and new §371.26 and §371.32 are adopted without changes to the proposed text as published in the March 27, 1998, issue of the *Texas Register* (23 TexReg 3221) and will not be republished. The changes provide the framework pursuant to which the board may provide financial assistance for the construction of water system improvements to privately owned water systems and certain nonprofit entities as provided by the Safe Drinking Water Act. Amendments to §371.13 and §371.20 correctly express the intent of the board relating to certain elements of the Drinking Water State Revolving Fund as well as the Disadvantage Communities Program and the Nonprofit Noncommunity Water Supply Program.

In August of 1996, the United States Congress passed the Safe Drinking Water Act Amendments of 1996 (or SDWA) which provided new financial assistance to states for the purpose of providing this financial assistance to publicly and privately owned "community water systems" and "public water systems," both terms being defined in the SDWA. In 1997, the Texas Legislature amended the Water Code to create the safe drinking water revolving fund (SDWSRF) in order to make available to political subdivisions and persons financial assistance provided pursuant to the SDWA. The statutory amendments require the board to create the community/noncommunity water system financial assistance account and authorize the board to adopt rules to provide financial assistance to political subdivisions for nonprofit noncommunity water systems and to persons, other than political subdivisions, for community water systems and nonprofit noncommunity water systems, which are collectively referred to herein as the privately owned water system program.

As currently stated, §371.1 identifies the scope of the Chapter 371 rules as governing financial assistance applications from the SDWSRF as well as satisfying the federal requirements necessary to receive funds under the SDWA. Since the provisions relating to privately owned systems are not necessary in order to receive funds under the SDWA, new §371.1 amends the scope of Chapter 371 by broadening it in recognition of the inclusion of the privately owned water system program.

Existing provisions of §371.2 define applicant in anticipation that only political subdivisions would be eligible for financial assistance under the Chapter. With the advent of eligibility of privately owned water systems, §371.2 is amended to change the existing definition for applicant so that entities eligible for assistance from the community/noncommunity water system financial assistance account, both public and private, are included as applicants. Eligible applicant is amended to eligible public applicants and a definition of eligible private applicants is added so that public and private may be distinguished as necessary under the rules. In order to fully identify all ownership interests of a private applicant, a definition of affiliated interest or affiliate is added and is based on the definition used by the Texas Natural Resource Conservation Commission due

to its experience with these types of entities and a policy of maintaining consistency with other state agencies whenever feasible. Since political subdivisions and privately owned systems are both eligible for assistance from the community/noncommunity water system financial assistance account, a separate definition for NPNC applicants is added. As originally proposed, the definition of NPNC applicant specifically excluded political subdivisions under the belief that there were no political subdivisions which would be operating a noncommunity water system. The lone comment that the board has received is from Paul Shinkawa, attorney with the Texas Parks and Wildlife Department, who stated that there are state parks that operate noncommunity water systems and may seek financial assistance from this program if the definition of NPNC is clarified to include political subdivisions. The definition of NPNC applicant has therefore been amended from that proposed in the *Texas Register* of March 27, 1998 at 23 TexReg 3223 to delete the exclusion of political subdivisions. In order to identify the entities that are NPNC applicants, definitions for nonprofit organization, and nonprofit noncommunity water system are added. The definition of nonprofit organization relies on the determination by the State Comptrollers Office under its rules in order to maintain consistency. The definition of application for assistance is amended to reflect the consolidation of all application requirements into §371.32 and the elimination of §§371.33 and 371.34. Section 371.2 was further changed to number definitions in accordance with new Texas Register requirements.

The reference to political subdivisions in §371.3 is amended to be a reference to applicants so that it includes privately owned water systems. Section 371.13 is amended to change the eligibility of organizational restructuring as a project expense to only be eligible as a project expense when the restructuring is done in conjunction with other eligible project expenses because mere restructuring will not further the purposes for which SDWA was enacted. Section 371.20 is amended such that the estimated loan amount necessary for a project to be included on the Intended Use Plan is not required to be certified when the estimated loan amount is \$100,000 or less. It was determined that for public water systems, which are by definition smaller systems than community water systems, a certification would impose an unnecessary burden to participate in the program and the additional accuracy gained by a certification would not materially assist the program as would be the case when project estimates exceed \$100,000.

A new §371.26 was added to identify the funds allocated to the nonprofit noncommunity water system financial assistance account and to identify the criteria and method for distribution of funds of the nonprofit noncommunity water systems financial assistance account. Pursuant to Under §371.21, applicants have six months from notification of available funds to receive a commitment from the board. Under §371.26, private applicants and eligible NPNC applicants seeking funding from the nonprofit noncommunity water systems financial assistance account are given six months from notification of available funds to submit an application and 12 months to receive a commitment from the board. Experience with the board's other programs indicates that smaller water system applicants may not have sufficient access to the technical expertise necessary to both prepare an application and receive a commitment within six months. Because of this, additional time is allotted for the preparation of an application and to receive a commitment.

Subsequent reviews of the required application information requested in §§371.31 - 371.33 indicates substantial overlap and duplication of information needed for evaluation. Section 371.31 is amended to consolidate all application requirements into one section. Subsection (a) includes all application requirements for eligible public applicants and is based on many years of experience in analyzing financial assistance applications for political subdivisions. New §§371.31(b)(1) - 371.31(b)(6), 371.31(b)(10), 371.31(b)(11), and 371.31(b)(13) include the application requirements for private applicants that correspond to application requirements for public applicants. New §371.31(b)(7) requires the submission of a business plan which will identify past revenues and expenses as well as anticipated revenues and expenses which is necessary for an evaluation of the ability of the private applicant to repay the loan. New §371.31(b)(8) requires the submission of income tax returns in order to verify income for the preceding two years by a sufficiently reliable method. New §371.31(b)(9) requires reporting of bankruptcy proceedings which will serve as an indication of past business practice of the private applicant as well as the business ability of the private applicant. New §371.31(b)(12) requires a verifiable indication of the intent of the private applicant to secure additional revenues for loan repayment in those instances where the applicant has indicated an intent to rely on such revenues. Sections 371.32 and 371.33 were deleted since the application information previously required in these sections is now covered in §371.31(a).

Section 371.37 is amended to require private applicants to adopt a water conservation plan and to require any private or public applicant which will provide water service to any private or public entity who then retails water service and the retail provider to adopt an acceptable water conservation plan. The imposition of this requirement continues the policy of the state reflected in statute which requires entities that obtain financial assistance for water supply projects to take reasonable and appropriate steps to conserve water. Section 371.40 is amended to allow the board to provide financial assistance to eligible NPNC applicants and eligible private applicants by either purchasing bonds or entering into a loan agreement. Currently, this section allows water supply corporations the option of evidencing indebtedness with the board by either bonds or loan agreements for the purpose of reducing the additional expense that may be associated with the issuance of bonds and thereby reducing an obstacle to implementation of the purposes of the SDWA. Section §371.39, relating to the application review by the executive administrator, is amended to reflect the consolidation of the application requirements in §371.32 and the elimination of §371.33 and §371.34.

Section 371.52 is amended by adding a new subsection (d) to set the interest rates for loans to private or NPNC applicants. The interest rate for funds from the nonprofit noncommunity water system financial assistance account is determined by subtracting 185 basis points from the prime interest rate as published in the *Wall Street Journal*. It was determined that this rate best recognized the risk associated with the typically higher risk of loaning funds to privately owned water systems balanced with public policy goal of attracting systems most in need of these funds.

Sections 371.71 - 371.72 were amended to apply the same requirements applied to water supply corporations, which are defined as political subdivisions pursuant to the Water Code, to private or NPNC applicants for closing and release of funds

since these entities have the same characteristics of water supply corporations.

As previously indicated, only one comment was received from Paul Shinkawa, attorney with the Texas Parks and Wildlife Department, who stated that there are state parks that operate noncommunity water systems and may seek financial assistance from this program if the definition of NPNC is clarified to include political subdivisions. The definition of NPNC applicant has therefore been amended from that proposed in the *Texas Register* of March 27, 1998, at 23 TexReg 3223 to delete the exclusion of political subdivisions.

Subchapter A. Introductory Provisions

31 TAC §§371.1–371.3

The amendments are adopted under the authority of the Texas Water Code, §6.101 and §15.605 which provide the Texas Water Development Board with the authority to adopt rules necessary to carry out the powers and duties in the Water Code and other laws of the State.

§371.2. Definitions of Terms.

The following words and terms, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise. Words defined in the Texas Water Code, Chapter 15 and not defined here shall have the meanings provided by Chapter 15.

(1) Act - The federal Safe Drinking Water Act, as amended 1996, and its subsequent amendments or successor provisions.

(2) Administrative costs - All reasonable and necessary costs of administering any aspect of the DWSRF program, including administrative costs associated with servicing debt obligations of recipients of DWSRF financial assistance.

(3) Administrator - The chief officer of the Environmental Protection Agency appointed by the President of the United States.

(4) Affiliated interest or affiliate -

(A) any person or corporation owning or holding directly or indirectly 5.0% or more of the voting securities of an eligible private applicant;

(B) any person or corporation in any chain of successive ownership of 5.0% or more of the voting securities of a eligible private applicant;

(C) any corporation 5.0% or more of the voting securities of which is owned or controlled directly or indirectly by a eligible private applicant;

(D) any corporation 5.0% or more of the voting securities of which is owned or controlled directly or indirectly by any person or corporation that owns or controls directly or indirectly 5.0% or more of the voting securities of any eligible private applicant or by any person or corporation in any chain of successive ownership of 5.0% of those eligible private applicant securities;

(E) any person who is an officer or director of a eligible private applicant or of any corporation in any chain of successive ownership of 5.0% or more of voting securities of a eligible private applicant;

(F) any person or corporation that the commission, after notice and hearing, determines actually exercises any substantial influence or control over the policies and actions of a eligible private applicant or over which a eligible private applicant exercises such

control or that is under common control with a eligible private applicant, such control being the possession directly or indirectly of the power to direct or cause the direction of the management and policies of another, whether that power is established through ownership or voting of securities or by any other direct or indirect means; or

(G) any person or corporation that the commission, after notice and hearing, determines is exercising substantial influence over the policies and action of the eligible private applicant in conjunction with one or more persons or corporations with which they are related by ownership or blood relationship, or by action in concert, that together they are affiliated within the meaning of this section, even though no one of them alone is so affiliated.

(5) Applicant - An eligible NPNC, public, or private applicant which files an application with the board for financial assistance or associated actions.

(6) Application for assistance - All the information required for submittal in: §371.32 of this title (relating to Required Application Information), §371.35 of this title (relating to Required Environmental Review and Determinations), §371.36 of this title (relating to Required DWSRF Engineering Feasibility Report), and §371.37 (relating to Required Water Conservation Plan), or §371.38 of this title (relating to Pre-Design Funding Option) for those applicants choosing the pre-design funding option.

(7) Authorized representative - The signatory agent of the applicant authorized and directed by the applicant's governing body to make application for assistance and to sign documents required to undertake and complete the project, on behalf of the applicant.

(8) Board - The Texas Water Development Board.

(9) Bonds - All bonds, notes, certificates, book-entry obligations, and other obligations issued or authorized to be issued by any political subdivision.

(10) Building - The erection, acquisition, alteration, remodeling, improvement or extension of a water project.

(11) Capitalization grant - Federal grant assistance awarded to the state for capitalization of the Drinking Water State Revolving Fund.

(12) Closing - The time at which the requirements for loan closing have been completed pursuant to §371.71 of this title (relating to Loan Closing) and an exchange of debt for funds to either the applicant, an escrow agent bank, or a trust agent has occurred.

(13) Commission - The Texas Natural Resource Conservation Commission.

(14) Commitment - An action of the board evidenced by a resolution approving a request for financial assistance from the fund.

(15) Community water system - A public water system that:

(A) serves at least 15 service connections used by year-round residents of the area served by the system; or

(B) regularly serves at least 25 year-round residents.

(16) Consolidation - Any one of the following activities:

(A) a public water system acquiring another public water system;

(B) a public water system providing retail service to another public water system; or

(C) a public water system providing wholesale service, which may include operation of the system, to another public water system.

(17) Construction - Any one or more of the following activities:

(A) preliminary planning to determine the feasibility of a water project;

(B) engineering, architectural, environmental, legal, title, fiscal, and economic or other pertinent studies;

(C) surveys, designs, plans, working drawings, specifications, procedures;

(D) building or the inspection or supervision thereof; and

(E) activities authorized under §371.14 of this title (relating to Other Authorized Activities).

(18) Construction fund - A dedicated source of funds, created and maintained by the applicant at an official depository, or a designated depository approved by the executive administrator, used solely for the purposes of construction of a project as approved by the board.

(19) Contaminant - Any physical, chemical, biological, or radiological substance or matter in water.

(20) Contract documents - The engineering description of the project including engineering drawings, maps, technical specifications, design reports, instructions and other contract conditions and forms that are in sufficient detail to allow contractors to bid on the work.

(21) Corporation - A nonprofit water supply corporation created and operating under Chapter 76, Acts of the 43rd Legislature, 1st Called Session, 1933 as amended (Article 1434a, Vernon's Texas Civil Statutes).

(22) Cost-effectiveness determination - A determination based on engineering, environmental, and financial analyses that a proposed project or component part will result in the minimum total monetary (resources) costs over time, but without overriding adverse social, economic and environmental considerations.

(23) Debt - All bonds issued or to be issued by any political subdivision.

(24) Delivery - The time at which payment is made by the board to the loan recipient against the purchase price of the loan recipient's debt and at which the board takes possession of the instruments evidencing the loan recipient's debt. Delivery may occur simultaneously with a release of funds, or without release of funds pursuant to an escrow agreement.

(25) DWSRF - Drinking Water State Revolving Fund, a program of financial assistance administered by the board for water projects pursuant to the Act and Texas Water Code, Chapter 15.

(26) Eligible applicant - A collective reference to NPNC, private, and public applicants.

(27) Eligible NPNC applicant - A nonprofit organization that operates a public water system that is not a community water supply system.

(28) Eligible private applicant - Any legal entity that owns and operates a community water system that is not an eligible public applicant or a nonprofit organization as those terms are defined herein.

(29) Eligible public applicant - A political subdivision as defined pursuant to Texas Water Code, Chapter 15.

(30) Environmental determination - A finding by the executive administrator regarding the potential environmental impacts of a proposed project and describing what mitigative measures, if any, the applicant will be required to implement as a condition of financial assistance.

(31) Environmental information document - A written analysis prepared by the applicant describing the potential environmental impacts of a proposed project, sufficient in scope to enable the executive administrator to prepare an environmental assessment to allow an environmental determination to be made by the executive administrator.

(32) Environmental review - The process whereby an evaluation is undertaken by the board, consistent with the National Environmental Policy Act and other federal, state, and local laws and requirements, to determine whether a proposed project may have significant impacts on the environment and therefore require the preparation of an environmental impact statement, as detailed in §371.35 of this title (relating to Required Environmental Review and Determinations).

(33) EPA - The Environmental Protection Agency.

(34) Escrow - The transfer of funds to a custodian of the funds which will act as the escrow agent or trust agent.

(35) Escrow agent - The third party appointed to hold the funds which are not eligible for release to the loan recipient.

(36) Escrow agent bank - The financial institution which has been appointed to hold the funds which are not eligible for release to the loan recipient.

(37) Executive administrator - The executive administrator of the board or a designated representative.

(38) Financial assistance - Loans by the board from the DWSRF to eligible applicants.

(39) Fund - The DWSRF created pursuant to the Texas Water Code, Subchapter J, Chapter 15.

(40) Funding year - The particular federal fiscal year (October 1 - September 30) for which funds are made available to the DWSRF.

(41) Intended use plan - A plan identifying the intended uses of the amount of funds available through the DWSRF for financial assistance and administrative costs for each fiscal year as described in the Act, §1452.

(42) Lending rate - Interest rate assessed to loan applicants for loans through the DWSRF.

(43) Market interest rates - Interest rates comparable to those attained for municipal securities in an open market offering.

(44) Municipality - A city, town, or other public body created by or pursuant to State law, or an Indian Tribe.

(45) Nonprofit organization - Any legal entity that is recognized as a tax exempt organization by the Texas Comptroller of

Public Accounts pursuant to 34 Texas Administrative Code, Chapter 3, Subchapter O.

(46) Nonprofit noncommunity (NPNC) water system - A public water system that is not a community water system and that owned and operated by a nonprofit organization.

(47) Population - That number of people who reside within the territorial boundaries of or receive wholesale or retail water service from the applicant based upon data that is acceptable to the executive administrator and which includes the following:

(A) information in the DWSRF engineering feasibility report or latest official census for an incorporated city; or

(B) information on the population for which the project is designed, where the applicant is not an incorporated city or town.

(48) Primary drinking water regulation - A regulation promulgated by EPA which:

(A) applies to public water systems;

(B) specifies contaminants which, in the judgment of the administrator, may have any adverse effect on the health of persons;

(C) specifies for each such contaminant either:

(i) a maximum contaminant level, if, in the judgment of the administrator, it is economically and technologically feasible to ascertain the level of such contaminant in water in public water systems, or

(ii) if, in the judgment of the administrator, it is not economically or technologically feasible to so ascertain the level of such contaminant, each treatment technique known to the administrator which leads to a reduction in the level of such contaminant sufficient to satisfy the requirements of the Act, §300f; and

(D) contains criteria and procedures to assure a supply of drinking water which dependably complies with such maximum contaminant levels; including quality control and testing procedures to insure compliance with such levels and to insure proper operation and maintenance of the system, and requirements as to:

(i) the minimum quality of water which may be taken into the system; and

(ii) siting for new facilities for public water systems.

(49) Priority list - A list of projects, ranked according to priority order, for which DWSRF assistance may be requested.

(50) Project - The scope of work describing a construction endeavor for which financial assistance is sought.

(51) Project engineer - The engineer or engineering firm retained by the applicant to provide professional engineering services during the planning, design, and/or construction of a project.

(52) Public water system -

(A) In General. The system for the provision to the public of water for human consumption through pipes or other constructed conveyances, if such system has at least fifteen service connections or regularly serves at least twenty-five individuals. Such term includes:

(i) any collection, treatment, storage, and distribution facilities under control of the operator of such system and used primarily in connection with such system; and

(ii) any collection or pretreatment storage facilities not under such control which are used primarily in connection with such system.

(B) Connections. A connection to a system that delivers water by a constructed conveyance other than a pipe shall not be considered a connection, if:

(i) the water is used exclusively for purposes other than residential uses (consisting of drinking, bathing, and cooking, or other similar uses);

(ii) the administrator or the commission determines that alternative water to achieve the equivalent level of public health protection provided by the applicable national primary drinking water regulation is provided for residential or similar uses for drinking and cooking; or

(iii) the administrator or the commission determines that the water provided for residential or similar uses for drinking, cooking, and bathing is centrally treated or treated at the point of entry by the provider, a pass-through entity, or the user to achieve the equivalent level of protection provided by the applicable national primary drinking water regulations.

(C) Irrigation Districts. An irrigation district in existence prior to May 18, 1994, that provides primarily agricultural service through a piped water system with only incidental residential or similar use shall not be considered to be a public water system if the system or the residential or similar users of the system comply with subparagraphs (B)(ii) and (B)(iii) of this paragraph.

(D) Transition Period. A water supplier that would be a public water system only as a result of modifications made shall not be considered a public water system until two years after August 6, 1996. If a water supplier does not serve 15 service connections or 25 people at any time after the conclusion of the two-year period, the water supplier shall not be considered a public water system.

(53) Release - The time at which funds are made available to the loan recipient.

(54) Secondary drinking water regulation - A regulation promulgated by EPA which applies to public water systems and which specifies the maximum contaminant levels which, in the judgment of the administrator, are requisite to protect the public welfare. Such regulations may vary according to geographic and other circumstances and may apply to any contaminant in drinking water:

(A) which may adversely affect the odor or appearance of such water and consequently may cause a substantial number of the persons served by the public water system providing such water to discontinue its use; or

(B) which may otherwise adversely affect the public welfare.

(55) State - State of Texas.

(56) State allotment - The sum allocated to the State of Texas for a federal fiscal year, from funds appropriated by congress pursuant to the Act.

(57) Trust agent - The party appointed by the applicant and approved by the executive administrator to hold the funds which are not eligible for release to the loan recipient.

(58) Water conservation plan - A report outlining the methods and means by which water conservation may be achieved in an area, as further defined in §371.37 of this title (relating to Required Water Conservation Plan).

(59) Water conservation program - A comprehensive description and schedule of the methods and means to implement and enforce a water conservation plan.

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 May 21, 1998.

TRD-9808365

Suzanne Schwartz

General Counsel

Texas Water Development Board

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For further information, please call: (512) 463-7981



Subchapter B. Program Requirements

31 TAC §§371.13, 371.20, 371.26

The amendments and new section are adopted under the authority of the Texas Water Code, §6.101 and §15.605 which provide the Texas Water Development Board with the authority to adopt rules necessary to carry out the powers and duties in the Water Code and other laws of the State.

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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Suzanne Schwartz

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Subchapter C. Application for Assistance

31 TAC §§371.32 – 371.34

The repeals are adopted under the authority of the Texas Water Code, §6.101 and §15.605 which provide the Texas Water Development Board with the authority to adopt rules necessary to carry out the powers and duties in the Water Code and other laws of the State.

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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31 TAC §§371.32, 371.37, 371.39, 371.40

The amendments and new section are adopted under the authority of the Texas Water Code, §6.101 and §15.605 which provide the Texas Water Development Board with the authority to adopt rules necessary to carry out the powers and duties in the Water Code and other laws of the State.

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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Texas Water Development Board

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Subchapter D. Board Action on Application

31 TAC §371.52

The amendment is adopted under the authority of the Texas Water Code, §6.101 and §15.605 which provide the Texas Water Development Board with the authority to adopt rules necessary to carry out the powers and duties in the Water Code and other laws of the State.

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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General Counsel

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Subchapter F. Prerequisites to Release of Funds

31 TAC §371.71, §371.72

The amendments are adopted under the authority of the Texas Water Code, §6.101 and §15.605 which provide the Texas Water Development Board with the authority to adopt rules necessary to carry out the powers and duties in the Water Code and other laws of the State.

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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Suzanne Schwartz
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Part XIII. Board for Lease of University Lands

Chapter 401. Organization of the Board

31 TAC §§401.1-401.7

The Board for Lease of University Lands adopts the repeal of Chapter 401, §§401.1-401.7, concerning Organization of the Board, as published in the April 3, 1998, issue of the *Texas Register* (23 TexReg 3417).

The justification for the repeals is to delete rules that are out of date and to replace them with rules that are consistent with law, more comprehensively address the administration and enforcement of Texas Education Code, Chapter 66, Subchapter D, and provide for consistent and uniform application of the rules. The Board for Lease of University Lands undertook a complete review of its rules in response to Senate Bill 1354, as adopted by the 75th Legislature.

No comments were received regarding adoption of the repeals.

The repeal is adopted under authority granted in Texas Education Code, Chapter 66, Subchapter D.

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-9808224
Pamela S. Bacon
Secretary
Board for Lease of University Lands
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For further information, please call: (512) 499-4462



Chapter 403. Sale of Oil and Gas Leases

31 TAC §§403.1-403.8

The Board for Lease of University Lands adopts the repeal of Chapter 403, §§403.1-403.8, concerning Sale of Oil and Gas Leases, as published in the April 3, 1998, issue of the *Texas Register* (23 TexReg 3418).

The justification for the repeals is to delete rules that are out of date and to replace them with rules that are consistent with law, more comprehensively address the administration and enforcement of Texas Education Code, Chapter 66, Subchapter D, and provide for consistent and uniform application of the rules. The Board for Lease of University Lands undertook a complete review of its rules in response to Senate Bill 1354, as adopted by the 75th Legislature.

No comments were received regarding adoption of the repeals.

The repeal is adopted under authority granted in Texas Education Code, Chapter 66, Subchapter D.

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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Pamela S. Bacon
Secretary
Board for Lease of University Lands
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Chapter 405. Disposition of Bonuses, Rentals, Royalties, Fees

31 TAC §§405.1-405.4

The Board for Lease of University Lands adopts the repeal of Chapter 405, §§405.1-405.4, concerning Disposition of Bonuses, Rentals, Royalties, Fees, as published in the April 3, 1998, issue of the *Texas Register* (23 TexReg 3418).

The justification for the repeals is to delete rules that are out of date and to replace them with rules that are consistent with law, more comprehensively address the administration and enforcement of Texas Education Code, Chapter 66, Subchapter D, and provide for consistent and uniform application of the rules. The Board for Lease of University Lands undertook a complete review of its rules in response to Senate Bill 1354, as adopted by the 75th Legislature.

No comments were received regarding adoption of the repeals.

The repeal is adopted under authority granted in Texas Education Code, Chapter 66, Subchapter D.

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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Pamela S. Bacon
Secretary
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Chapter 407. Operational Matters

31 TAC §§407.1-407.17

The Board for Lease of University Lands adopts the repeal of Chapter 407, §§407.1-407.17, concerning Operational Matters, as published in the April 3, 1998, issue of the *Texas Register* (23 TexReg 3419).

The justification for the repeals is to delete rules that are out of date and to replace them with rules that are consistent with law, more comprehensively address the administration and enforcement of Texas Education Code, Chapter 66, Subchapter D, and provide for consistent and uniform application of the rules. The Board for Lease of University Lands undertook a complete review of its rules in response to Senate Bill 1354, as adopted by the 75th Legislature.

No comments were received regarding adoption of the repeals.

The repeal is adopted under authority granted in Texas Education Code, Chapter 66, Subchapter D.

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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Pamela S. Bacon

Secretary

Board for Lease of University Lands

Effective date: June 9, 1998

Proposal publication date: April 3, 1998

For further information, please call: (512) 499-4462



Chapter 409. Special Actions by the Board

31 TAC §§409.1-409.4

The Board for Lease of University Lands adopts the repeal of Chapter 409, §§409.1-409.4 concerning Special Actions by the Board, as published in the April 3, 1998, issue of the Texas Register (23 TexReg 3420).

The justification for the repeals is to delete rules that are out of date and to replace them with rules that are consistent with law, more comprehensively address the administration and enforcement of Texas Education Code, Chapter 66, Subchapter D, and provide for consistent and uniform application of the rules. The Board for Lease of University Lands undertook a complete review of its rules in response to Senate Bill 1354, as adopted by the 75th Legislature.

No comments were received regarding adoption of the repeals.

The repeal is adopted under authority granted in Texas Education Code, Chapter 66, Subchapter D.

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 May 20, 1998.

TRD-9808228

Pamela S. Bacon

Secretary

Board for Lease of University Lands

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For further information, please call: (512) 499-4462



Part XVI. Coastal Coordination Council

Chapter 506. Coastal Procedures for Federal Consistency with Coastal Management Program Goals and Priorities

31 TAC §506.12, §506.20

The Coastal Coordination Council (Council) adopts amendments to §506.12(a)(1)(F) (relating to Goals) and §506.20 (relating to Council Review and Certification of Existing Agency Rules), concerning federal restoration plans developed pursuant to the federal Oil Pollution Act of 1990 (OPA) and Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), without changes to the proposed text as published in the March 6, 1998, issue of the *Texas Register* (23 TexReg 2255). The text will not be republished.

OPA and CERCLA require federal agencies to assess injuries to natural resources from spills of oil or hazardous substances and require responsible parties to compensate for the damage; this process is known generally as natural resource damage assessment (NRDA). In Texas, NRDA usually is performed by U.S. Fish and Wildlife Service and National Oceanic and Atmospheric Administration in conjunction with the state trustees. The state trustees are the General Land Office, Texas Natural Resource Conservation Commission, and Texas Parks and Wildlife Department; these state agencies are represented on the Council. The amendments are adopted to notify affected agencies, entities and the public that these federal restoration plans are subject to the Coastal Management Program (CMP), and to establish a special process for review to ensure consistency with the CMP goals and policies.

The amendments to §506.12(a)(1)(F) add federal restoration plans to the CMP list of federal activities that may adversely affect coastal natural resource areas (CNRAs). The amendments to §506.20 delegate the Council's consistency review authority to the state trustees. Once the federal agencies determine consistency and the state trustees conduct the consistency review, no further determination or review is required to implement the restoration project. Section 506.20 requires the Council to develop a list of potential restoration projects which are deemed consistent with the CMP and that the trustees may voluntarily use, as appropriate. Section 506.20 also requires the state trustees to give regular reports to the Council on consistency reviews of NRDA restoration plans.

The Council has prepared a takings impact assessment for the adoption of these amendments and determined that adoption of the amendments will not result in a taking of private real property. To receive a copy of the takings impact assessment, please send a written request to Ms. Carol Milner, Texas General Land Office, Legal Services Division, 1700 N. Congress Avenue, Room 626, Austin, Texas 78701-1495, facsimile number (512) 463-6311.

Three commenters commented on the proposed amendments. The comments are organized by section.

Preamble:

Two commenters objected to the characterization in the preamble that the proposed amendments are the product of "a broad consensus among workgroup members" and requested that the determination of "consensus" be reserved pending review of all formal comments. The "consensus" referred to in the preamble to the proposed amendments was the consensus of the workgroup. Based on the workgroup discussions and the formal

comments received, entities, agencies and citizens in support of the proposal far outnumber those in opposition. The preamble to the proposed rule is not published; therefore, no change was made based on this comment.

Section 506.12(a):

One commenter objected to listing NRDA restoration plans, stating that current federal and Texas NRDA regulations offer citizens and local governments the opportunity to become involved in NRDA's. The commenter expressed concern that another layer of state agency review would compound the "often cumbersome, time consuming and costly NRDA process" and that the amendments would create the possibility of inter-agency and state-federal conflicts when implementing NRDA's. The federal agencies are already required to ensure that federal restoration plans are consistent with the CMP; delegation of consistency review to the state trustees ensures that there will be no additional delay in the NRDA process. Further, the Texas NRDA process is specifically designed so that all potential conflicts are identifiable, usually identified at an early stage, and resolved in a timely manner. No change was made based on this comment.

Section 506.20(c):

Two commenters supported the delegation of the CMP consistency review of NRDA restoration plans to the state trustee agencies which are already represented on the Council, stating that the delegation should avoid duplication of effort and prevent adding time to the process. No change was requested by these commenters and no change was made.

Section 506.20(c)(2):

Two commenters opposed the development of a list of potential restoration projects for each major estuary system on the Texas coast, stating that the list could potentially be misused to encourage NRDA claims. The list of potential restoration plans does not change the NRDA process. In fact the National Oceanic and Atmospheric Administration's NRDA regulations allow trustees to use projects from such a list when the project is determined to be the trustees' preferred alternative among a range of feasible restoration alternatives for an incident. 15 CFR §990.56. Use of a project on the list is voluntary, and the list is available for use by all resource agencies, not just the NRDA trustees. In fact, use of the list can streamline the consistency review process because the projects on the list are deemed consistent with the CMP. No change was made based on these comments.

Two commenters stated that NRDA restoration is site- and incident-specific, and that the restoration project list may not be flexible or segmented enough to address specific NRD sites, or would imply that NRDA could be used to engage in "enhancement" activities. The trustees may choose projects from the list when the projects meet the appropriate scientific and legal parameters. Creation of a list of potential projects does not change the legal requirements applicable to NRDA restoration planning. No change was made based on these comments.

For:

Amoco (in part), Texas Chemical Council (in part).

Against:

Amoco (in part), Texas Chemical Council (in part), Water Quality Insurance Syndicate.

The amendments are adopted under the Texas Natural Resources Code, Chapter 33, Subchapter C, §33.053(a)(10), and the Texas Natural Resources Code, Chapter 33, Subchapter F, §33.206(d), which provide the Council with, respectively, the authority to list each federal activity that may have a direct and significant detrimental impact on CNRAs and to adopt procedural rules for review of federal 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.

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

TRD-9808206

Garry Mauro

Chairman

Coastal Coordination Council

Effective date: June 9, 1998

Proposal publication date: March 6, 1998

For further information, please call: (512) 305-9129

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TITLE 34. PUBLIC FINANCE

Part I. Comptroller of Public Accounts

Chapter 9. Property Tax Administration

Subchapter H. Tax Record Requirements

34 TAC §9.3041

The Comptroller of Public Accounts adopts the repeal of §9.3041, concerning tax deferral affidavit, without changes to the proposed text as published in the March 20, 1998, issue of the *Texas Register* (23 TexReg 2984).

The rule is being repealed because the Tax Code, §5.07(a) does not require that the comptroller adopt this form by rule.

No comments were received regarding adoption of the repeal.

This repeal is adopted under the Tax Code, §111.002 and §111.0022, which provide the comptroller with the authority to adopt rules for the administration and enforcement of the Tax Code and programs or functions assigned to the comptroller by law.

The repeal implements the Tax Code, §5.07(a) and §33.06.

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 May 21, 1998.

TRD-9808340

Martin Cherry

Chief, General Law

Comptroller of Public Accounts

Effective date: June 10, 1998

Proposal publication date: March 20, 1998

For further information, please call: (512) 463-3699

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TITLE 37. PUBLIC SAFETY AND CORRECTIONS

Part VI. Texas Department of Criminal Justice

Chapter 151. General Provisions

37 TAC §151.51

The Texas Department of Criminal Justice (TDCJ) adopts an amendment to §151.51, concerning Custodial Officer Certification and Hazardous Duty Pay Eligibility Guidelines without changes to the proposed text as published in the March 27, 1998, issue of the *Texas Register* (23 TexReg 3232).

The amendment updates guidelines and eligibility criteria for authorizing custodial officer certification and hazardous duty pay guidelines.

The amendment will increase clarification of procedures of the Board.

No comments were received regarding adoption of the amendment.

The amendment is adopted under the Government Code, §492.013, which grants general rulemaking authority to the Board, and Texas Government Code, §§659.062, 813.506, and 815.505.

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 May 20, 1998.

TRD-9808244

Carl Reynolds

General Counsel

Texas Department of Criminal Justice

Effective date: June 9, 1998

Proposal publication date: March 27, 1998

For further information, please call: (512) 463-9693



Chapter 157. State Jail Felony Facilities

The Texas Department Criminal Justice adopts the repeal of §§157.5, 157.7, and 157.10 and amendments to §§157.1, 157.3, 157.23, 157.25, 157.29, 157.31, 157.33, 157.35, 157.41, 157.43, 157.45, 157.47, 157.49, 157.51, 157.53, 157.55, 157.57, 157.59, 157.63, 157.81, 157.83, 157.87, 157.89, 157.93, 157.95, and 157.97, concerning Standards for State Jail Felony Facilities. Section 157.45 and §157.97 are adopted with changes to the proposed text as published in the March 27, 1998, issue of the *Texas Register* (23 TexReg 3235). Sections 157.1, 157.3, 157.23, 157.25, 157.29, 157.31, 157.33, 157.35, 157.41, 157.43, 157.47, 157.49, 157.51, 157.53, 157.55, 157.57, 157.59, 157.63, 157.81, 157.83, 157.87, 157.89, 157.93, and 157.95 are adopted without changes and will not be republished.

The revisions incorporate updated language, and deletion of references to "Mode I" and "Mode II" state jail facilities to be replaced with "state operated" and "privately operated" facilities. Some wording has been changed to reflect changes in law as authorized by the Legislature. Other changes remove

Community Justice Assistance Division and replaces with State Jail Division as the authority.

The repeal and amendments will enable a more efficient operation of State Jail facilities.

No comments were received regarding adoption of the repeals and amendments.

Subchapter A. Admissions and Allocations

37 TAC §157.1, §157.3

The amendments are adopted under V.T.C.A. Government Code, Chapter 507, which provides the Department of Criminal Justice, State Jail Division, with the authority to promulgate rules.

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 May 20, 1998.

TRD-9808246

Carl Reynolds

General Counsel

Texas Department of Criminal Justice

Effective date: June 9, 1998

Proposal publication date: March 27, 1998

For further information, please call: (512) 463-9693



37 TAC §§157.5, 157.7, 157.10

The repeals are adopted under V.T.C.A. Government Code, Chapter 507, which provides the Department of Criminal Justice, State Jail Division, with the authority to promulgate rules.

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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Carl Reynolds

General Counsel

Texas Department of Criminal Justice

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For further information, please call: (512) 463-9693



Subchapter B. Operational Standards

37 TAC §§157.23, 157.25, 157.29, 157.31, 157.33, 157.35, 157.41, 157.43, 157.45, 157.47, 157.49, 157.51, 157.53, 157.55, 157.57, 157.59, 157.63

The amendments are adopted under V.T.C.A. Government Code, Chapter 507, which provides the Department of Criminal Justice, State Jail Division, with the authority to promulgate rules.

§157.45. *Food Service.*

Meals are nutritionally balanced, well-planned, and prepared and served in a manner that meets established governmental health and safety codes.

(1) Food service management. Food service operations shall be supervised by a full-time staff member who is experienced in institutional food preparation or quantity food management.

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

(4) Menu planning. Facility administrators shall ensure there is written policy, procedure, and practice to require that food service staff plan menus and follow the plan. The planning and preparation of all meals should take into consideration food flavor, texture, temperature, appearance, and palatability.

(5) Medical diets. Each facility will, through written policy, procedure, and practice, provide for special diets as prescribed by appropriate medical or dental personnel.

(6) Religious dietary policy. Each facility will, through written policy, procedure, and practice, provide for religious diets as prescribed by the chaplaincy department.

(7) Exclusion as discipline. Facility administrators shall ensure that written policy precludes the use of food as a disciplinary measure, except as noted in the Administrative Segregation Plan.

(8) (No change.)

(9) Training requirement. Facility administrators shall provide that all staff and other persons are trained in the safe use of equipment.

(10) Health protection. Facility administrators shall maintain written policy, procedure, and practice to provide for adequate health protection for all offenders and staff in the facility and offenders and other persons working in food service, to include the following:

(A) Where required by the laws and/or regulations applicable to food service employees in the community where the facility is located, all persons involved in the preparation of food receive a preassignment medical examination and periodic reexaminations to ensure freedom from diarrhea, skin infections, and other illnesses transmissible by food or utensils; all examinations are conducted in accordance with local requirements.

(B) When the facility's food services are provided by an outside agency or individual, the facility has written verification that the outside provider complies with the state and local regulations regarding food service.

(C) All food handlers are instructed and signs are posted to remind food handlers to wash their hands on reporting to duty, after using toilet facilities, or when needed to keep them clean.

(D) Offenders and other persons working in food service are inspected each day for health and cleanliness by the director of food services (or designee), and inspection is documented.

(11) Facilities and equipment. Each facility shall maintain written policy, procedure, and practice to require weekly inspections of all food service areas, including dining and food preparation areas and equipment, by administrative, medical, safety, or dietary personnel; these may include the person supervising food service operations or his/her designee. Refrigerator and water temperatures are checked daily by administrative, medical, safety or dietary personnel.

(12) (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.

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TRD-9808252

Carl Reynolds

General Counsel

Texas Department of Criminal Justice

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For further information, please call: (512) 463-9693



Subchapter C. Physical Plant Standards

37 TAC §§157.81, 157.83, 157.87, 157.89, 157.93, 157.95, 157.97

The amendments are adopted under V.T.C.A. Government Code, Chapter 507, which provides the Department of Criminal Justice, State Jail Division, with the authority to promulgate rules.

§157.97. *Construction Approval Rules.*

(a) State operated facilities. The state jail division shall consult with the engineering division of the TDCJ for the design and construction of all state operated facilities.

(b) Privately operated facilities. The division, with board approval, may contract with private vendors or counties for the design, construction, and operation of privately operated facilities.

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

(e) Information submissions. The applicant or applicant's representative shall furnish TDCJ information during the planning and construction stages of any facility. Complete submittal of all information presented to the applicants, including an analysis of projected construction cost prepared by the architect or engineer and projected costs of operation prepared by the architect or engineer shall be made to TDCJ in no less than five days after said submissions are made to the applicant. For projects performed under Design/Build, Fast Track, Project Definition Services, and other alternative delivery methods, the architect/engineer shall provide to TDCJ for approval a schedule of submittals that approximate the stages of planning as follows:

(1) Schematic design. On completion of the schematic design phase at the time schematic design studies illustrating the scale and relationship of project components and cost estimates are submitted to the applicant for approval.

(2) Design development. On completion of the design development stage when drawings and other documents to fix and describe the size and character of the entire project as to structural, mechanical, and electrical systems, life safety and detention locking systems, materials, cost estimates, and such other essentials as may be appropriate are submitted to the applicant. An outline of staffing requirements shall be submitted at this phase for privately operated facility projects.

(3) Construction documents. On completion of all construction documents including drawings and specifications setting forth in detail requirements for the construction of the entire project including necessary bidding information and bidding forms and final cost estimates of construction cost and operation cost. These documents shall include the conditions of the construction contract or contracts and the form of agreement to be entered into between the applicant and the contractor or contractors. Detailed staffing plans shall be submitted at this stage for privately operated facility projects.

(f)-(k) (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.

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TRD-9808350

Carl Reynolds

General Counsel

Texas Department of Criminal Justice

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For further information, please call: (512) 463-9693



Chapter 160. Receipt and Disbursement of Work Program Residents' Earned Funds

37 TAC §§160.1-160.8

The Texas Department of Criminal Justice adopts amendments to §§160.1-160.8, concerning Receipt and Disbursement of Work Program Residents' Earned Funds, without changes to proposed text as published in the March 27, 1998, issue of the Texas Register (23 TexReg 3244).

The amendments primarily delete an unnecessary and inaccurate statutory reference.

The amendments will enable a cleaner version of already existing rules.

No comments were received regarding adoption of the amendments.

The amendments are adopted under the Government Code, §492.013, which grants general rulemaking authority.

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-9808247

Carl Reynolds

General Counsel

Texas Department of Criminal Justice

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For further information, please call: (512) 463-9693



Chapter 192. Parole Board and Parole Division Administrative Matters

37 TAC §192.1

The Texas Department of Criminal Justice adopts the repeal of §192.1, concerning Administrative Review of Parole Panel Actions without changes to the proposed text as published in the March 27, 1998, issue of the Texas Register (23 TexReg 3244).

The repeal deletes language that describes a practice that is obsolete and no longer within the agency's authority.

The repeal will enable a cleaner version of agency rules and regulations.

No comments were received regarding adoption of the repeal.

The repeal is adopted under the Government Code, §492.013, which grants general rulemaking authority.

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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Carl Reynolds

General Counsel

Texas Department of Criminal Justice

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For further information, please call: (512) 463-9693



Chapter 195. Parole

The Texas Department of Criminal Justice adopts the repeal of §195.61 and amendments to §195.71, and §§195.76-195.78, concerning Parole, without changes to the proposed text as published in the March 27, 1998, issue of the Texas Register (23 TexReg 3245).

The repeal removes obsolete rule language from the agency's standards, but does not affect the ability of the Board of Pardons and Paroles and the Parole Division of TDCJ to impose and enforce conditions of release. The amendments change references from the "Pardons and Paroles Division" to the "Parole Division".

The repeal and amendments will provide a cleaner version of already existing rules as well as the removal of obsolete language.

No comments were received regarding adoption of the repeal and amendments.

37 TAC §195.61

The repeal is adopted under the Government Code, §492.013, which grants general rulemaking authority.

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-9808249

Carl Reynolds

General Counsel

Texas Department of Criminal Justice

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For further information, please call: (512) 463-9693



37 TAC §§195.71, 195.76-195.78

The amendments are adopted under the Government Code, §492.013, which grants general rulemaking authority.

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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Carl Reynolds

General Counsel

Texas Department of Criminal Justice

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For further information, please call: (512) 463-9693



Chapter 197. Mandatory Supervision

37 TAC §197.21

The Texas Department of Criminal Justice adopts the repeal of §197.21, concerning Rules and Conditions of Mandatory Supervision, without changes to the proposed text as published in the March 27, 1998, issue of the Texas Register (23 TexReg 3246).

The repeal deletes language which is no longer current, but does not affect the ability of the Board of Pardons and Paroles and the Parole Division of TDCJ to impose and enforce conditions of release.

The repeal will enable a cleaner version of the agency's standards.

No comments were received regarding adoption of the repeal.

The repeal is adopted under the Government Code, §492.013, which grants general rulemaking authority.

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-9808251

Carl Reynolds

General Counsel

Texas Department of Criminal Justice

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Proposal publication date: March 27, 1998

For further information, please call: (512) 463-9693



Part VIII. Private Sector Prison Industries Oversight Authority

Chapter 245. General Provisions

37 TAC §§245.10-245.13, 245.20-245.23, 245.30, 245.40, 245.41

The Private Sector Prison Industries Oversight Authority (the Authority) adopts §§245.10-245.13, 245.20-245.24, 245.30, 245.40, and 245.41 concerning General Provisions. Sections 245.11-245.13, and 245.20-245.22 are adopted with changes to the proposed text as published in the April 10, 1998, issue of the *Texas Register* (23 TexReg 3654). Sections 245.10, 245.23, 245.30, 245.40, and 245.41 are adopted without changes and will not be republished. Section 245.24 is being withdrawn.

Comments were received regarding Section 245.11, 245.12, 245.13, 245.21, 245.22 and 245.24. Section 245.20 was revised in response to comments on other Rules. These sections are adopted with revisions as published. Rule 245.24 has been deleted.

These sections set forth the foundation for the newly created Authority appointed by the Governor under House Bill 1301. This initial set of rules sets the standards for operation and the policies and procedures that are implemented to properly approve, certify, and oversee the operation of the private sector prison industries program in: the Texas Department of Criminal Justice, the Texas Youth Commission, and county jail correctional facilities in compliance with the federal Private Sector Prison Industry Enhancement Certification Program.

Comments.

Section 245.11.

If actual cost of unemployment insurance for the participants were to be computed it would always be zero as the participants are exempt from coverage and ineligible to receive unemployment benefits. Therefore, the equivalent of unemployment tax costs is the factor that should be used. This would put the participating firms in parity with free-world firms.

Section 245.12.

There is no guidance in the Rules as to the standards and procedures for certification. The Oversight Authority Rules are referenced, but there is no delineation as to what those Rules actually are. It would be appropriate here to include standards for companies that seek to participate in P.I.E. A provision should be included for inmate participants to address grievances as to the treatment they receive. A notice should be posted that complaints as to unauthorized deductions, unsafe conditions or illegal treatment may be addressed to the Oversight Authority.

Section 245.13.

The Rule imposes an unnecessary restriction on the flow of information. The purpose of restricting information about the Authority to the Chair is not in accord with the public and open nature of the project. It is recommended that this section be deleted and perhaps replaced with a section that indicates the purpose of the Rule along with a much more narrowly tailored approach to achieving that purpose.

Section 245.21.

While there is support in the statute for the training wage, there is no place in the statute that would authorize the Authority to permit a sub-minimum wage beyond that two month period. Under subsection (a) the required information should be submitted at least on an annual basis, and that the Authority be given the option of requiring it more often. The phrase "work of a similar nature" should be more narrowly defined. "Locality" should be more specifically defined in the Rules as the council of governments region in which the work is performed. "Work of a similar nature" should be more explicitly defined, in that it is open to interpretation. "Work of a similar nature" could be narrowly interpreted as manufacturing of an exact product, where a broader interpretation might lead to a larger comparative sample and prevailing wage that is more related to the skill and training involved in the work. Subsection (b)(3) should be moved to §245.22 in that this language would place the responsibility on the Texas Workforce Commission for

verification that the project would not have an adverse economic impact on any other entity, facility or private industry. This is beyond the scope of Texas Workforce Commission operations and authority. Subsection(c)(1)(G) and (2) refers to a specific publication. Also, the section referencing the DOT, OES, and SIC is improperly ordered and overly prescriptive and should be reduced to practical, generic language.

Section 245.22.

Labor and business organizations do not exist in every part of the state. The consultation should include a provision requiring consultation with state labor federations and business organizations, such as the Texas AFL-CIO and the Texas Association of Business and Chambers of Commerce.

Section 245.24.

The Rule requiring environmental assessments is premature, in that they are not required in the existing Federal Guidelines. Language has been added to §245.20 requiring documentation of compliance with the National Environmental Policy Act if required by federal regulation.

Responses to Comments.

Section 245.11.

The intent of the Rule was to require a payment that was the equivalent of unemployment insurance tax. The Rule has been changed to clarify this intent and incorporate the recommended changes. Language has also been added to clarify that the payment is made to the Authority and forwarded to the State Comptrollers Office.

Section 245.12.

The designation process is outlined in §245.20. Language has been added to indicate that copies of Authority Rules and Federal Guidelines and technical assistance shall be provided to applicants upon request in §245.12 and §245.20. Language has been added to §245.20 regarding standards for industries desiring P.I.E. participation. Correctional facilities utilize a well tested and responsive grievance procedure. Language requiring worker grievances and responses regarding the P.I.E. Program shall be forwarded to the Oversight Authority through the P.I.E. Program Specialist has been added under §245.13. Language has been added to §245.12 (b) requiring the facility grievance procedure be submitted for verification purposes.

Section 245.13.

This Rule has been revised to indicate the purpose and clarify the issues that would be of particular interest to the Oversight Authority.

Section 245.21.

This Rule nowhere authorizes a sub-minimum wage. The Rule has been revised deleting the language regarding a "graduated wage earning base leading to the prevailing wage." The recommended language, "at least", has been added to the Rule. The statement, "or as otherwise determined by the Authority", give the Authority the option of requiring the information more often. The "locality" has been defined as the council on government region in which the work is performed. Prevailing wage determinations are based on the position or trade, not on the type of industry. Subsection (b)(3) has been moved to §245.22 (a)(7). References to the DOT, OES, and

SIC codes have been deleted. This section has been reworded to reflect practical, generic language.

Section 245.22.

The Rule has been revised to require consultation with the Texas AFL-CIO and the Texas Association of Business and Chambers of Commerce.

Section 245.24.

This Rule is being withdrawn.

The new sections are adopted under Texas Government Code, §§497.051-497.062, which provides the Authority with the authority to promulgate rules; 18 United States Code 1761; 42 United States Code, §§4321-4347; and 40 Code of Federal Regulations Part 1500.

§245.11. *Payments by Industries to the Private Sector Prison Industries Oversight Account.*

(a) The participating agency/entity, facility or private industry partner(s) shall calculate the equivalent amount of unemployment insurance taxes owed for each inmate participating in the Prison Industries Program utilizing the formula established annually by the Texas Workforce Commission for calculating the payment of unemployment insurance taxes.

(b) The participating agency/entity, facility or private industry partner(s) shall forward the amount of moneys calculated under subsection (a) of this section to the Oversight Authority. The Oversight Authority shall forward the moneys to the State Comptrollers office for deposit in the General Revenue Fund in the Private Sector Prison Industries Oversight Account.

(1) Moneys shall be forwarded on a quarterly basis. A copy of the deposit shall be forwarded to the Oversight Authority or Designee.

(2) The payment shall be reflected in the PIE Quarterly Statistical Report.

§245.12. *Policy and Procedural Requirement for Participating Agencies/Entities.*

(a) Participating agencies/entities shall develop policies and procedures, pertinent to their individual program and in keeping with State and Federal guidelines and law. Copies of Authority Rules and Federal Guidelines as well as technical assistance shall be provided by the PIE Program Specialist upon request.

(b) Participating agencies/entities shall submit their policies and procedures to the Private Sector Prison Industries Oversight Authority (the Authority) for review and approval through the PIE Program Specialist. Additionally, participating agencies/entities shall include a copy of the grievance procedure in place at the location where PIE designated cost accounting centers operate.

(c) The PIE Program Specialist shall review the submitted policies and procedures for compliance with State and Federal guidelines, law and Oversight Authority Rules.

(1) After reviewing the submitted policies and procedures, the PIE Program Specialist shall forward the same to the Authority with a cover memo indicating any areas of perceived non-compliance.

(2) The Authority shall review the submitted policies and procedures and the PIE Program Specialist's comments. The Authority shall then make a determination regarding approval of the submitted policies or the nature of any needed corrective action.

(d) The Decision of the Authority shall be communicated to the participating agency/entity through the PIE Program Specialist.

§245.13. Program Inquiries.

In order to keep the Private Sector Prison Industries Oversight Authority informed regarding the PIE Program, all written inquiries, requests for information and concerns, related to the Private Sector Prison Industries Program shall be directed to the Program Specialist or Authority Members, and all responses shall be copied to the Chairman of the Private Sector Prison Industries Oversight Authority, with the exception of:

(1) information normally provided by the PIE Program Specialist as a routine job function or as technical assistance to the Authority, Bureau of Justice Assistance, state agencies, facilities or industry; or,

(2) information that may be provided by participating agencies/entities, facilities or private industry partners regarding their specific program.

(3) Additionally, worker grievances and responses regarding the P.I.E Program shall be forwarded to the Oversight Authority through the P.I.E. Program Specialist.

§245.20. Designation of Cost Accounting Centers.

(a) In order to obtain designation of a new cost accounting center (CAC), participating agencies/entities, facilities or industry partners shall gather and submit to the Authority for review through the PIE Program Specialist:

(1) the documentation required under §245.21 of this title (relating to Prevailing Wages and Non-displacement of Workers);

(2) the documentation required under §245.22 of this title (relating to Consultation with Labor and Business Organizations);

(3) a certification that the applicable private sector individual or business entity would be eligible under the Family Code, §231.006, to receive state funds, a grant, or loan;

(4) if required by federal regulation, documentation of compliance with the National Environmental Policy Act in the form required by those regulations; and

(5) further information as requested by the Program Specialist in order to verify that the proposed project is viable, and that the proposed industry partner is financially sound and does not pose an appreciable risk of violating state or federal law related to illegal business practices.

(b) Upon receipt of designation by the Authority, the Program Specialist shall notify the participating agency/entity, facility or industry partner and complete the appropriate Bureau of Justice Assistance forms for designation of a new CAC.

(c) The PIE Program Specialist shall submit the designation forms and all supporting documentation to the Bureau of Justice Assistance. This documentation shall include:

(1) copies of consultation provided business and labor organizations;

(2) prevailing wage and non-displacement of workers verifications;

(3) proof of workers compensation coverage or equivalent private insurance; and,

(4) a copy of the voluntary agreement to be signed by offender participants.

(d) Copies of Authority Rules and Federal Guidelines as well as technical assistance shall be provided by the PIE Program Specialist upon request by a prospective or actual applicant for designation as a CAC.

§245.21. Prevailing Wages and Non-displacement of Workers.

(a) As a part of the cost accounting center (CAC) designation process, participating agencies/entities, facilities or industry partners shall submit verification of payment of the prevailing wage for each job classification, to the Private Sector Prison Industries Oversight Authority (the Authority) through the Private Industry Enhancement (PIE) Program Specialist. Wage plans may reflect the minimum wage for a two-month training period beginning the date employment begins. Subsequent to this two-month period, the wage plan must reflect the prevailing wage. If it is determined that there is no work of a similar nature in the locality, workers shall be paid no less than the minimum wage. The same information shall be submitted at least on an annual basis from the date of designation or as otherwise determined by the Authority. The "locality", for the purpose of this Rule, is the council of government region in which the work is performed.

(b) Participating agencies/entities, facilities or private industry partners shall obtain written verification from the Texas Workforce Commission (TWC) that the wage plan reflects the prevailing wage for each job classification and:

(1) that the industry project shall not result in displacement of free world workers;

(2) that the industry project will not be applied in skills, crafts or trades in which there is a surplus of available gainful labor in the community.

(c) If participating agencies/entities, facilities or private industry partners are unable to obtain the verifications required under subsection (b) of this section, they may request technical assistance from the PIE Program Specialist.

(1) In order to obtain technical assistance, the agency/entity, facility or private industry partner must provide the PIE Program Specialist the following information for each job classification:

(A) educational requirements;

(B) job experience (if necessary);

(C) an outline of activities to be performed;

(D) specific responsibilities;

(E) wage rate/progression for the position;

(F) a description of each job; and,

(G) the occupational and industrial numerical code and title as utilized by the openings and wages by occupation data collected by the economic and research and analysis department of the Texas Workforce Commission (TWC).

(2) The PIE Program Specialist shall attempt to obtain the required verifications from the TWC. If the TWC is unable to make the required verifications, the PIE Program Specialist shall calculate a prevailing wage and, if necessary as a part of the designation process for a new Cost Accounting Center, the verifications required under subsection (b) of this section, utilizing the most recent openings and wages by occupation data collected by the economic research and analysis department of the TWC. This information shall be forwarded to the Authority for review.

§245.22. Consultation with Labor and Business Organizations.

(a) Participating agencies/entities shall, as a part of the designation process for a cost accounting center (CAC), provide consultation with representatives of local businesses and labor central bodies, if any exist, and the Texas AFL-CIO and the Texas Association of Business and Chambers of Commerce. Information shall be provided in writing and, at a minimum, shall include the following:

- (1) identification of the scope of the intended project, including projected number of jobs for offenders and free world workers;
- (2) projected initiation date;
- (3) information regarding PIE participation;
- (4) prevailing wage information;
- (5) worker displacement information;
- (6) an explanation that statutory consultation is required ; and,
- (7) a statement by the industry applicant that the industry project will not impair existing contracts for services.

(b) Participating agencies/entities shall provide the required consultations (by outgoing mail or fax) with business and labor organizations within three working days from the date of receipt of complete and accurate prevailing wage and non-displacement of workers information. Failure to provide timely consultation with business and labor organizations in a timely manner may result in a delay in industry project designation by the Private Sector Prison Industries Oversight Authority (the Authority).

(c) The information in subsection (b) of this section and any comments by business and labor shall be forwarded to the Authority, through the PIE Program Specialist, for designation review.

(d) The PIE Program Specialist shall review the information for completeness prior to submission to the Authority. Incomplete information shall be returned with an explanation of the deficiency.

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 May 20, 1998.
TRD-9808243
Carl Reynolds
General Counsel
Private Sector Prison Industries Oversight Authority
Effective date: June 9, 1998
Proposal publication date: April 10, 1998
For further information, please call: (512) 463-9693

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TITLE 40. SOCIAL SERVICES AND ASSISTANCE

Part IV. Texas Commission for the Blind

Chapter 159. Administrative Rules and Procedures

Subchapter B. Fair Hearing Procedures for Resolution of Client Dissatisfaction

40 TAC §159.21

The Texas Commission for the Blind adopts the amendment to §159.21 of Chapter 159 pertaining to fair hearing procedures for resolution of client dissatisfaction without changes to the proposed text as published in the March 6, 1998, issue of the *Texas Register* (23 TexReg 2263). The adopted text will not be republished.

The amendment is adopted to delete references to vocational rehabilitation program hearing procedures. The Commission is simultaneously adopting new vocational rehabilitation hearing rules in another chapter to improve the agency's rule base and to comply with changes to federal regulations governing the State Vocational Rehabilitation Services Program.

The Commission received no comments regarding the proposed amendment.

The amendment is adopted under the Human Resources Code, Title 5, Chapter 91, which authorizes the commission to adopt rules prescribing the policies and procedures followed by the commission in the administration of its programs.

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 May 21, 1998.
TRD-9808377
Terrell I. Murphy
Executive Director
Texas Commission for the Blind
Effective date: June 10, 1998
Proposal publication date: March 6, 1998
For further information, please call: (512) 459-2611

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Chapter 161. Scope of Services and General Clientele

40 TAC §§161.1-161.4

The Texas Commission for the Blind adopts the repeal of §§161.1-161.4 of Chapter 161 pertaining to the scope of services and general clientele of the agency without changes to the proposed text as published in the March 6, 1998, issue of the *Texas Register* (23 TexReg 2266). The repeal is adopted to remove sections no longer needed and in order to use the chapter for new hearing rules, which are proposed simultaneously with this proposed repeal.

No comments were received on the proposal.

The repeal is adopted under the authority of Human Resources Code, Title 5, Chapter 91, §91.011(g), which authorizes the commission to adopt rules prescribing the policies and procedures followed by the commission in the administration of its programs.

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 May 21, 1998.
TRD-9808321
Terrell I. Murphy
Executive Director
Texas Commission for the Blind

Effective date: June 10, 1998
Proposal publication date: March 6, 1998
For further information, please call: (512) 459-2611



Chapter 161. Appeals and Hearing Procedures

Subchapter A. Vocational Rehabilitation Program

40 TAC §§161.10-161.44

The Texas Commission for the Blind adopts new §§161.10-161.44, pertaining to the agency's vocational rehabilitation program appeals and hearing procedures without changes to the proposed text as published in the March 6, 1998, issue of the *Texas Register* (23 TexReg 2266). The adopted text will not be republished.

The rules will serve as the procedures available to any applicant or eligible individual who is dissatisfied with a determination made by a rehabilitation counselor concerning the furnishing or denial of services. The rules define terms used in the review process and include the federal deadline in which hearings must be held and how time is computed. The rules also contain the federal requirements for the appointment of an impartial hearing officer and the hearing procedures that will be followed. So that persons requesting reviews can fully participate in the proceedings, the Commission has included rules pertaining to reasonable accommodations. Procedures for appealing an impartial hearing officer's decision are also covered.

The Commission received no comments regarding the proposal.

The rules are adopted under the authority of Human Resources Code, Title 5, Chapter 91, which authorizes the commission to adopt rules prescribing the policies and procedures followed by the commission in the administration of its programs. Subchapter A. Vocational Rehabilitation Program.

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 May 21, 1998.

TRD-9808322

Terrell I. Murphy
Executive Director

Texas Commission for the Blind

Effective date: June 10, 1998

Proposal publication date: March 6, 1998

For further information, please call: (512) 459-2611



Chapter 163. Vocational Rehabilitation Program

Subchapter C. Vocational Rehabilitation Services

40 TAC §163.36

The Texas Commission for the Blind adopts the repeal of §163.36 concerning personal assistance services without changes to the proposed text in the March 6, 1998, issue of the *Texas Register* (23 TexReg 2273).

The repeal is adopted in order to adopt a renamed section with revised rules that are being adopted simultaneously with this repeal.

The Commission received no comments regarding the proposed repeal.

The repeal is adopted under the authority of Human Resources Code, Title 5, Chapter 91, §91.011(g), which authorizes the commission to adopt rules prescribing the policies and procedures followed by the commission in the administration of its programs.

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 May 21, 1998.

TRD-9808319

Terrell I. Murphy

Executive Director

Texas Commission for the Blind

Effective date: June 10, 1998

Proposal publication date: March 6, 1998

For further information, please call: (512) 459-2611



The Texas Commission for the Blind adopts new §163.36, concerning personal assistant services with one change to the proposed text in the March 6, 1998, issue of the *Texas Register* (23 TexReg 2274). The Commission has replaced the word "title" in subsection (h) with the word "chapter," the accurate term within the context of the rule.

The rules are adopted as the conditions under which a person may receive personal attendant services while receiving another vocational rehabilitation service. The rules also contain the person's responsibilities in seeking reimbursement for the cost of personal attendant services.

The Commission received no comments regarding the proposal.

The rules are adopted under the authority of Human Resources Code, Title 5, Chapter 91, §91.011(g), which authorizes the commission to adopt rules prescribing the policies and procedures followed by the commission in the administration of its programs.

§163.36. *Personal Assistance Services.*

(a) Personal attendant services are a part of personal assistance services, as that term is defined in §163.4 of this title, which assist an individual with a severe disability or most severe disability with activities such as transferring, dressing and undressing, eating, toileting, weight shifting, mobility, writing, and reading, while the individual is receiving vocational rehabilitation services.

(b) A consumer who is an individual with a severe disability or a most severe disability may receive personal attendant services if:

(1) the consumer is actively receiving another vocational rehabilitation service covered in §163.25 of this title (pertaining to Goods and Services), and

(2) personal attendant services are necessary for the consumer to achieve an employment outcome.

(c) Consumers may either hire their own personal attendants or allow the Commission to provide personal attendants through a source licensed in the State of Texas to provide personal attendant services.

(d) Consumers who hire their own personal attendant shall be considered the employer under applicable employer tax laws, and shall be responsible for:

- (1) hiring and firing the attendant;
- (2) training the attendant in the delivery of services;
- (3) supervising the attendant in the delivery of services or arranging for a friend or relative to provide direct supervision of the attendant; and
- (4) terminating the services of the attendant.

(e) Consumers shall be responsible for informing their counselors of any dissatisfaction with services rendered by personal attendants.

(f) To receive reimbursement for personal attendant services, the consumer or service provider must submit a monthly written statement to the Commission that contains the services rendered by the attendant during the consumer's vocational rehabilitation activity, the number hours worked by the attendant, and any additional information specified by the consumer's counselor that is needed to process reimbursement payments in a timely manner.

(g) Personal attendant services may be continued for three months after the consumer enters employment. This time period may be extended for one additional month upon determination of need.

(h) Personal attendant services are subject to Subchapter E of this chapter (relating to Consumer Participation in the Cost of Services).

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 May 21, 1998.
TRD-9808320
Terrell I. Murphy
Executive Director
Texas Commission for the Blind

Effective date: June 10, 1998
Proposal publication date: March 6, 1998
For further information, please call: (512) 459-2611



Chapter 172. Advisory Committees and Councils 40 TAC §172.3

The Texas Commission for the Blind adopts amendments to §172.3, concerning committees and councils established by the agency's board without changes to the proposed text as published in the March 6, 1998, issue of the *Texas Register* (23 TexReg 2274).

The amendment is adopted to remove two advisory bodies that were not renewed by the Commission's board on their abolishment date.

No comments were received concerning the proposal.

The amendment is adopted under the authority of the Human Resources Code, Title 5, Chapter 91, Section 91.011(g), which authorizes the commission to adopt rules prescribing the policies and procedures followed by the commission in the administration of its programs.

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 May 21, 1998.

TRD-9808375
Terrell I. Murphy
Executive Director
Texas Commission for the Blind
Effective date: June 10, 1998
Proposal publication date: March 6, 1998
For further information, please call: (512) 459-2611



== 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.

Agency Rule Review Plans

Structural Pest Control Board

Title 22, Part XXV

Filed: May 12, 1998

Texas Animal Health Commission

Title 4, Part II

Filed: May 18, 1998

Texas State Board of Social Worker Examiners

Title 22, Part XXXIV

Filed: May 20, 1998

Texas Department of Human Services

Title 40, Part I

Filed: May 22, 1998

Proposed Rule Reviews

Texas Department of Insurance

Title 28, Part 1

TDI rules which are codified in Part I of Title 28 of the Texas Administrative Code will be reviewed on a regular basis to identify rules that are unnecessary, as well as rules that can be revised, consolidated, or otherwise clarified. The review of rules under this policy will include, at a minimum, an assessment of whether the reason for adopting or readopting each rule continues to exist. Texas House Bill 1, Article IX, §167, 75th Legislative, Regular Session (1997).

Approximately one-half (1/2) of TDI rules will be reviewed every even-numbered year. A review of all rules which became final before September 1, 1997, will be completed no later than August 31, 2001. A chapter that is added after the date of this policy and plan will be reviewed within four years of its adoption. Every rule will be reviewed at least once every four years. The review of TDI rules will proceed as follows:

YEAR 1

RULE REVIEWS FOR (1998, 2002, etc.)

Chapter 1. General Administration

Chapter 5. Property and Casualty Insurance

Chapter 7. Corporate and Financial Regulation

Chapter 8. Early Warning System for Insurers in Hazardous Condition

Chapter 9. Title Insurance

Chapter 13. Miscellaneous Insurers

Chapter 15. Surplus Lines Insurance

Chapter 19. Agent's Licensing

Chapter 21. Trade Practices

YEAR 2

RULE REVIEWS FOR (2000, 2004, etc.)

Chapter 3. Life, Accident and Health Insurance and Annuities

Chapter 11. Health Maintenance Organizations

Chapter 23. Prepaid Legal Service

Chapter 25. Insurance Premium Finance

Chapter 26. Small Employer Health Insurance Regulations

Chapter 28. Supervision and Conservation

Chapter 29. Guaranty Acts

Chapter 31. Liquidation

Chapter 33. Continuing Care Retirement Facilities

Chapter 34. State Fire Marshall

The review of rules under this policy will be coordinated by the Legal and Compliance Division of TDI in cooperation with TDI's Chief Clerk and General Counsel.

Before beginning the rule review process under this policy, TDI will file with the Texas Register a notice of intention to review rules in accordance with procedures established by the Texas Register Division of the Secretary of State's office. Texas House Bill 1, Article IX, §167, 75th Legislative, Regular Session (1997).

If, as a result of the review provided for in this policy, a rule is identified for repeal, revision or consolidation, an effort will be made to publish the notice of proposed repeal, amendment, or consolidation of the rule in the *Texas Register* in accordance with the Administrative Procedure Act on or before August 1 of the specified year.

TDI will file this policy and plan with the Governor, the Legislative Budget Board and the Secretary of State no later than August 31, 1998. TDI will cause notice of this policy and plan to be published in the *Texas Register* no later than August 31, 1998. Texas House Bill 1, Article IX, §167, 75th Legislative, Regular Session (1997).

Nothing in this policy and plan shall be construed to prohibit an Associate Commissioner from directing that the rules for which his or her division is primarily responsible be reviewed more often or sooner than specified in this policy.

TRD-9808504
Caroline Scott
Deputy Chief Clerk
Texas Department of Insurance
Filed: May 22, 1998



Public Utility Commission of Texas

Title 16, Part II

The Public Utility Commission of Texas files this notice of intention to review §23.57 relating to Telecommunications Privacy pursuant

to the Appropriations Act of 1997, House Bill 1, Article IX, §167 (Section 167). Project Number 18870 has been assigned to the review of this rule section.

As part of this review process, the commission is proposing the repeal of §23.57 and is proposing new §§26.121 of this title (relating to Privacy Issues), §26.122 of this title (relating to Customer Proprietary Network Information), and §22.123 of this title (relating to Caller Identification Services) to replace §23.57. The proposed repeal and new rules may be found in the Proposed Rules section of the *Texas Register*. As required by §167, the commission will accept comments regarding whether the reason for adopting the rule continues to exist in the comments filed on the proposed new section.

Any questions pertaining to this notice of intention to review should be directed to Rhonda Dempsey, Rules Coordinator, Office of Regulatory Affairs, Public Utility Commission of Texas, 1701 N. Congress Avenue, Austin, Texas 78711-3326 or at voice telephone (512) 936-7308.

16 TAC §23.57. Telecommunications Privacy.

TRD-9808501
Rhonda Dempsey
Rules Coordinator
Public Utility Commission of Texas
Filed: May 22, 1998



TABLES & GRAPHICS

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.

Figure 4 TAC §65.17(a)(1)(A)

(A)

Total Nitrogen (N)	_____%
Available Phosphate (as P ₂ O ₅)	_____%
Soluble Potash (K ₂ O)	_____%

Figure 4 TAC §65.17(a)(1) (B)

(B)

Total Nitrogen (N)	_____%
_____ % Ammoniacal Nitrogen	
_____ % Nitrate Nitrogen	
_____ % Water Insoluble Nitrogen	
_____ % Urea Nitrogen	
_____ % (Other recognized and determinable forms of N)	
Available Phosphate (as P ₂ O ₅)	_____%
Soluble Potash (K ₂ O)	_____%

Figure 4 TAC §65.17(g)

Table 1 Allowable Concentration of Trace Elements in Commercial Fertilizers When Conforming to §65.17(d)(2)	
Element	Maximum, ppm
Arsenic	41
Cadmium	39
Copper	1500*
Lead	300
Mercury	17
Molybdenum	18*
Nickel	420
Selenium	100*
Zinc	2800*

*When not guaranteed

Figure 7 (10) 300.27(b)(2)

Table 2 Cumulative Element Loading Rate	
Element	lbs/acre/year
Arsenic	0.37
Cadmium	0.35
Copper	13.4*
Lead	2.68
Mercury	0.15
Molybdenum	0.08*
Nickel	3.75
Selenium	0.89*
Zinc	25.0*

*When not guaranteed

Figure: 1 19TAC 5.402(d)

Chart I - Institutions must select 36 semester credit hours of the core curriculum according to the parameters described below:

Component Area	Required Semester Credit Hours
Communication (composition, speech, modern language/ <i>communication skills</i> *)	6
Mathematics (college-level algebra equivalent, or above)	3
Natural Sciences	6
Humanities & Visual and Performing Arts <i>Must include:</i> Visual/Performing Arts Other (literature, philosophy, modern or classical language/ <i>literature and cultural studies</i> **)	6 (3) (3)
Social and Behavioral Sciences <i>Must include:</i> U.S. History (legislatively mandated) Political Science (legislatively mandated) Social/Behavioral Science	15 (6) (6) (3)
Total Minimum Requirements	36

* **Communication** application of a modern language means the basic proficiency skills acquired during introductory courses and including a working competency in grammar, writing, speaking, and listening/comprehension in a foreign language.

** **Humanities** application of language skills includes a study of literature in the original language, and/or the cultural studies related to a modern or classical language.

Figure: 2 19TAC § 5.402(d)

Chart II - To complete the required 42-semester-credit-hour core curriculum, institutions shall select an additional 6 semester credit hours from one or more of the following:

Component Area	Possible Additional Semester Credit Hours (6 Total)
Communication (composition, speech, modern language/ <i>communication skills</i> *)	Up to 6
Mathematics (college-level algebra equivalent, or above)	Up to 3
Natural Sciences	Up to 3
Humanities & Visual and Performing Arts (literature, philosophy, modern or classical language/ <i>literature and cultural studies</i> **)	Up to 3
Social and Behavioral Sciences	Up to 3
Institutionally Designated Option (may include additional semester credit hours in the categories listed above, computer literacy, health/wellness, kinesiology, capstone or interdisciplinary courses, etc.	Up to 3
Total Additional Hours	6

* **Communication** application of a modern language means the basic proficiency skills acquired during introductory courses and including a working competency in grammar, writing, speaking, and listening/comprehension in a foreign language.

** **Humanities** application of language skills includes a study of literature in the original language, and/or the cultural studies related to a modern or classical language.

Figure: 25 TAC §289.203(i)

BRC FORM 203-1
(98)

NOTICE

TEXAS R
The Texas Department of Health
in accordance with the

YOUR EMPLOYER'S RESPONSIBILITY

Your employer is required to-

1. Apply these regulations to work involving sources of radiation.
2. Post or otherwise make available to you a copy of the Texas regulations, licenses, certificates of registration, notices of violation procedures that apply to work you are engaged in, and explain to you.

YOUR RESPONSIBILITY AS A WORKER

You should familiarize yourself with those provisions of the regulations operating procedures that apply to the work you are engaged in and their provisions for your own protection and protection of your

WHAT IS COVERED BY THESE REGULATIONS

1. Limits on exposure to radiation and radioactive material in unrestricted areas;
2. Measures to be taken after accidental exposure;
3. Personnel monitoring, surveys and equipment;
4. Caution signs, labels, and safety interlock equipment;
5. Exposure records and reports;
6. Options for workers regarding agency inspections; and
7. Related matters.

REPORTS ON YOUR RADIATION EXPOSURE HISTORY

1. The regulations require that your employer give you a written

Copies of this notice shall be posted in a sufficient number of copies in your work area. TAC §289.252 (relating to Licensing of Radioactive Material) requires you to observe a copy on the way to or from their place of employment.

Figure: 30 TAC §115.600(60)

$$\text{Percent-By-Weight} = \frac{(B - C)}{A} * 100$$

Where:

- A = net weight of unit (excluding container and packaging)
- B = weight of VOCs, per unit
- C = weight of VOCs exempted under §115.617 of this title, per unit

OPEN MEETINGS

Agencies with statewide jurisdiction must give at least seven days notice before an impending meeting. Institutions of higher education or political subdivisions covering all or part of four or more counties (regional agencies) must post notice at least 72 hours 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).

Texas Alcoholic Beverage Commission

Monday, June 1, 1998, 1:30 p.m.

5806 Mesa Drive, Suite 185

Austin

AGENDA:

1:30 p.m.-Call to order

Convene in open meeting.

Announcement of executive session.

1. Executive session:

- a. briefing regarding operations of the general counsel's office; and
- b. Bard Frog Brewery, Inc. v. New York State Liquor Authority.

Continue open meeting.

2. Take action, including a vote, if appropriate on topics listed for discussion under executive session.

3. Approval of minutes of April 27, 1998 meeting; discussion, comment, possible vote.

4. Administrator's report.

5. Approval of agency strategic plan for the period 1999-2003; discussion, comment and possible vote.

6. Discussion of recent amendments to marketing practices rules, 16 TAC §45.109 (Restocking and Rotation of Alcoholic Beverages), 16 TAC §45.110 (Inducements), 16 TAC §45.113 (Gifts, Services and Sales) and 16 TAC §45.117 (Gifts and Advertising Specialties); discussion, comments, possible vote.

7. Public comment

8. Adjourn

Contact: Doyne Bailey, P.O. Box 13127, Austin, Texas 78711, 512/206-3217.

Filed: May 21, 1998, 8:59 a.m.

TRD-9808334



Texas Animal Health Commission

Wednesday, June 3, 1998, 8:30 a.m.

2105 Kramer Lane

Austin

Oversight Committee

AGENDA:

1. Approval of minutes of the March 31, 1998 meeting. Dr. Sherron, Chair

2. Discussion of and possible action on information resources strategic plan. Mr. Nabors
3. Discussion of and possible action on agency strategic plan. Ms. Reed
4. Discussion and possible action on internal audit report on staff services department. Mr. Davis
5. Discussion of and possible action interagency agreement for cost/benefit study. Mr. Whittenton/Dr. Coats
6. Discussion of and possible action on executive sort/reorganization. Dr. Beals
7. Budget/vacancy update. Mr. Whittenton/Ms. Knauth

Contact: Kathy Reed, 2105 Kramer Lane, Austin, Texas 78711-2966, 512/719-0714.

Filed: May 21, 1998, 2:47 p.m.

TRD-9808380



Wednesday, June 3, 1998, 10:00 a.m.

2105 Kramer Lane

Austin

Commission Meeting

AGENDA:

1. Welcome
2. Approval of minutes
3. Award presentations
4. Executive Director report
5. Disease program status update.
6. Texas Humane Legislation Network-public stables
7. Oversight Committee report
8. John'e disease
9. Chronic Wasting Disease
10. UDA Brucellosis indemnity
11. Ratite identification regulations
12. Proposals
 - (a) Swine programs
 - (b) §§35.1, 35.2, 35.3, 35.4, 35.7 – cattle brucellosis regulations
 - (c) §51.2 – cattle brucellosis entry requirements
 - (d) §43.2 – cattle tuberculosis entry requirements
13. Regulation rewrite proposals
 - (a) Chapter 32 – Hearing and Appeals Procedure
 - (b) Chapter 47 – Requirements and standards for approval personnel
 - (c) Chapter 59 – General Practices and Procedures
14. Possible adoption of pending proposals
 - (a) §36.1 – Exotic livestock, revising definitions
15. Public comment
16. Set date for 324th meeting

17 Adjournment.

Contact: Kathy Reed, 2105 Kramer Lane, Austin, Texas 78711-2966, 512/719-0714.

Filed: May 21, 1998, 2:47 p.m.

TRD-9808379



Texas Commission on the Arts

Wednesday, May 27, 1998, 8:30 a.m.

Capital Extension, 1400 Congress Avenue, Room E2.026

Austin

Administrative Committee

REVISED AGENDA:

- I. Call to order
- II. Roll call
- III. Public hearing
- IV. Approval of minutes for March 5, 1998 meeting
- V. Financial statement
 - A. Current status of FY 1998 recommendations
 - B. FY 1999 appropriation proposals
 1. Increase base amount for grants
 2. Texas endowment for the arts fund development strategy
 3. Riders:
 - a) License plate
 - b) EBS
 - c) TCANet
 4. Make the "State of the Arts" license plate the state license plant
 5. travel
 - a) On site visits
 - b) Commission and staff
 6. Personnel needs
- VI. Strategic Plan 1999-2003
 - A. Performance measures (due June 15, 1998)
 - B. Texas Cultural Endowment Fund
 - C. Satellite Office
- VII. State Plan 1999-2003
 - A. Performance measures (due June 15, 1998)
 - B. Texas Cultural Endowment Fund
 - C. Satellite Office
- VII. State Auditor's report
- VIII. Other business
- IX. Adjournment

Contact: Betsy Smith, P.O. Box 13406, Austin, Texas 78711-3406.

Filed: May 21, 1998, 8:59 a.m.

TRD-9808331



Wednesday, May 27, 1998, 10:15 a.m.

Capital Extension, 1400 Congress Avenue, Room E2.026
Austin

Assistance Review Committee

REVISED AGENDA:

- I. Call to order
 - II. Roll call
 - III. Public hearing
 - IV. Approval of minutes for June 5, 1997 meeting
 - V. Consideration of the Media Decentralization Program 1999–2000
 - VI. Review of FY 1999 Overview and Grants Applications Rankings
 - A. Community Arts
 - B. Education
 - C. Media and Multimedia Arts
 - D. Performing Arts
 - 1. Dance
 - 2. Music
 - 3. Theatre
 - E. Presenting Organizations and Touring Artists
 - F. Visual Arts and Architecture
 - VII. Education Program Review and Initiative
 - VIII. Other business
 - IX. Adjournment
- Contact: Betsy Smith, P.O. Box 13406, Austin, Texas 78711–3406.
Filed: May 21, 1998, 8:59 a.m.
TRD-9808332



Wednesday, May 28, 1998, 8:30 a.m.

Capital Extension, 1400 Congress Avenue, Room E2.026
Austin

Commission

REVISED AGENDA:

- I. Call to order
- II. Roll call
- III. Public hearing
- IV. Items for Commission Consent
 - A. Approval of minutes for March 6, 1998 meeting
 - B. Administrative Committee
 - C. Financial Statement for FY 1998
 - D. Assistance Review committee
 - E. Nominating Committee
 - F. Resolutions

G. Other Business

V. Items for Information Only

- A. TCAnet Grants Management System Update
- B. License Plant Update
- C. Education
- D. Texas Men’s Report
- E. General Meeting Schedule
 - 1. September 1998
 - a) 2nd 10:00 a.m.-5:00 p.m.
 - b) 3rd 8:30 a.m.-12:00 p.m.
 - 2. December 1998
 - a) 2nd 10:00 a.m.-5:00 p.m.
 - b) 3rd 8:30 a.m.-12:00 p.m.
 - 3 March 1999
 - a) 3rd 10:00 a.m.-5:00 p.m.
 - b) 4th 8:30 a.m.-12:00 p.m.
 - 4. June 1999
 - a) 2nd 10:00 a.m.-4:00 p.m.
 - b) 3rd 8:30 a.m.-12:00 p.m.

F. Commission, Committee and Staff Rosters

VI. Other business

VII. Adjournment

Contact: Betsy Smith, P.O. Box 13406, Austin, Texas 78711–3406.
Filed: May 21, 1998, 8:59 a.m.
TRD-9808333



Council on Competitive Government

Tuesday, June 2, 1998, 9:30 a.m.

Capitol Extension Building, Room E2.018
Austin

REVISED AGENDA:

- 1. Call to order; 2. discussion of statutes and rules applicable to the council’s organization, programs and duties; 3. open discussion; 4. set date and time for next work group meeting; 5. adjournment.

Persons with disabilities who plan to attend this meeting and who may need auxiliary aids or services, such as interpreters for persons who are deaf or hearing impaired, readers, large print or Braille, and non-English speaking persons who may need assistance are requested to contact Michelle Gee at 512/463–3387 several days prior to the meeting by mail, telephone, or RELAY Texas 1–800/735–2989 so that appropriate arrangements can be made.

Contact: Michelle Gee, Capitol Extension Building, Room E2.018, Austin, Texas 78701, 512/463–3960.
Filed: May 20, 1998, 3:13 p.m.

TRD-9808293



Office of Court Administration

Wednesday, June 17, 1998, 2:00 p.m.

State Capitol Extension Room E.2020

Austin

Texas Judicial Council Committee on Judicial Redistricting

AGENDA:

- I. Commencement of meeting
- II. Attendance of members
- III. Discussion and committee action on recommendations to the Texas Judicial Council
- IV. Other business
- V. Date of next meeting (calendar)
- VI. Adjourn

Contact: Amy Chamberlain, P.O. Box 12066, Austin, Texas 78711-2066, 512/463-1625.

Filed: May 27, 1998, 11:26 a.m.

TRD-9808617



Thursday, June 18, 1998, 2:00 p.m.

State Capitol Extension Room E.2020

Austin

Texas Judicial Council Committee on Judicial Redistricting

AGENDA:

- I. Commencement of Meeting
- II. Attendance of members
- III. Discussion and committee action on recommendations to the Texas Judicial Council
- IV. Other business
- V. Date of next meeting (calendar)
- VI. Adjourn

Contact: Amy Chamberlain, P.O. Box 12066, Austin, Texas 78711-2066, 512/463-1625.

Filed: May 27, 1998, 11:26 a.m.

TRD-9808616



Texas Commission for the Deaf and Hard of Hearing

Brown Heatley Building, Room 7230, 4900 North Lamar Boulevard

Commission

Austin

AGENDA:

Call to order; establish a quorum; public comment. Members of the public are invited to make comments not to exceed five minutes on subjects relevant to the business of the Commission; approval of minutes of March 6, 1998, meeting (ACTION); executive director's

report including discussion and possible action regarding strategic plan for 2000-2001 biennium (ACTION); discussion and possible action regarding information resource plan for 2000-2001 biennium (ACTION), discussion and possible action regarding the legislative appropriations request for 2000-2001 biennium (ACTION), and approval of deafness task force member (ACTION); Board for evaluation of interpreters report including approval of certification, recertification and reinstatement (ACTION), approval of BEI board member (ACTION), and approval of contract for validation of evaluation process (ACTION); director services report including camp sign update, discussion and possible action on a camp sign contract (ACTION), approval of a contract for the provision of hearing aids (ACTION), discussion and possible action on adopting the repeal of 40 TAC §181.41. Telecommunication devised for the deaf (TDD) (ACTION), discussion and possible action on adopting the repeal of 40 TAC §181.810. Publications (ACTION), discussion and possible action on adopting the repeal of 40 TAC §181.840. Sliding fee scale for interpreter services, (ACTION), and discussion and possible action regarding request for proposal for direct services (ACTION); specialized telecommunications devices assistance program report including discussion and possible action on proposal of 40 TAC §182.4. Determination of basic device (ACTION); approval of contracts for training (ACTION), approval of additional basic equipment (ACTION), and approval of funds for contracting for temporary help (ACTION); schedule future commission meetings; announcements; adjournment

Contact: Margaret Susman, 4800 North Lamar #310, Austin, Texas 78756, 512/407-3250 (V) 512/407-3251 (TTY).

Filed: May 21, 1998, 9:41 a.m.

TRD-9808337



State Board of Dental Examiners

Friday, June 5, 1998, 1:00 p.m.

333 Guadalupe Boulevard, William Hobby Building, Tower 2, 2nd Floor, Room II-225

Austin

Anesthesia Rule 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 109.171-109.175
- V. Announcements
- VI. Adjourn

Contact: Mei Ling Clendennen, 333 Guadalupe Boulevard, Tower, Suite 800, Austin, Texas 78701, 512/463-6400.

Filed: May 26, 1998, 10:16 a.m.

TRD-9808529



Texas Office for Prevention of Developmental Disabilities

Thursday, May 28, 1998, 2:00 p.m.

Capitol Complex Extension Building, Room E2.014

Austin

Executive Committee

AGENDA:

Call to order

Roll call

Minutes of October 8, 1998, TOP meeting

Discussion of TOP appointments

Formal vote on MOU contract

Review of the new executive director

Other business

Schedule of 3rd and 4th quarterly TOP meetings

Adjourn

Contact: Beverly Evans, 4900 North Lamar Boulevard, Austin, Texas 78751, 512/424-6042.

Filed: May 21, 1998, 1:36 p.m.

TRD-9808353

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Texas State Board of Examiners of Dietitians

Thursday, June 11, 1998, 9:00 a.m.

Exchange Building, Room S-402, Texas Department of Health, 8407 Wall Street

Austin

New Board Member Training

AGENDA:

The board will hold an orientation on board member duties and responsibilities for new board members.

To request an accommodation under the ADA, 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: Donna Flippin, 1100 49th Street, Austin, Texas 78756, 512/834-6601.

Filed: May 27, 1998, 9:01 a.m.

TRD-9808576

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Thursday, June 11, 1998, 1:30 p.m.

Exchange Building, Room S-402, Texas Department of Health, 8407 Wall Street

Austin

Program Approval Committee

AGENDA:

The committee will introduce guests and discuss and possibly act on: individual preplanned professional experience program for new applicants (no applicants as of May 5, 1998); update on Donna Rose; other matters not requiring action; public comments; and the setting of the next committee meeting date.

To request an accommodation under the ADA, 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: Donna Flippin, 1100 49th Street, Austin, Texas 78756, 512/834-6601.

Filed: May 27, 1998, 9:01 a.m.

TRD-9808577

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Thursday, June 11, 1998, 2:00 p.m.

Exchange Building, Room S-402, Texas Department of Health, 8407 Wall Street

Austin

Consumer Information Committee

AGENDA:

The committee will discuss and possibly act on: newsletter; consumer information activities; and other matters not requiring action.

To request an accommodation under the ADA, 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: Donna Flippin, 1100 49th Street, Austin, Texas 78756, 512/834-6601.

Filed: May 27, 1998, 9:01 a.m.

TRD-9808578

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Thursday, June 11, 1998, 2:30 p.m.

Exchange Building, Room S-402, Texas Department of Health, 8407 Wall Street

Austin

Rules Committee

AGENDA:

The committee will recognize guests and discuss and possibly act on: plan for the review of rules (22 TAC Chapter 711) as provided by Article IX, §167, General Appropriations Act; proposed amendments to rules relating to the licensing of dietitians (22 TAC §§711.11-711.21); other matters not requiring action; public comment; and the setting of the committee's next next meeting date.

To request an accommodation under the ADA, 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: Donna Flippin, 1100 49th Street, Austin, Texas 78756, 512/834-6601.

Filed: May 27, 1998, 9:01 a.m.

TRD-9808579

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Thursday, June 11, 1998, 3:30 p.m.

Exchange Building, Room S-402, Texas Department of Health, 8407 Wall Street

Austin

Compliant Committee

AGENDA:

The committee will recognize quests and discuss and possibly act on: cases (DT 97-002; DT 97-003; DT 97-004; DT 98-003; DT 98-004; DT 98-005); other matters not requiring action; public comment; and the setting of the next committee meeting date.

To request an accommodation under the ADA, 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: Donna Flippin, 1100 49th Street, Austin, Texas 78756, 512/834-6601.

Filed: May 27, 1998, 9:01 a.m.

TRD-9808580



Friday, June 12, 1998, 9:30 a.m.

Exchange Building, Room S-402, Texas Department of Health, 8407 Wall Street

Austin

Finance Committee

AGENDA:

The committee will discuss and possibly act on: fiscal year 1998-1999 budget; other matters not requiring action; and public comment.

To request an accommodation under the ADA, 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: Donna Flippin, 1100 49th Street, Austin, Texas 78756, 512/834-6601.

Filed: May 27, 1998, 9:01 a.m.

TRD-9808581



Friday, June 12, 1998, 10:00 a.m.

Exchange Building, Room S-402, Texas Department of Health, 8407 Wall Street

Austin

Regular Board Meeting

AGENDA:

The board will introduce guest and discuss and possibly act on: approval of agenda; approval of the minutes of the November 8, 1998, meeting; chairman's report; executive secretary's report (application processing to include individual extenuating circumstances; and ratification of applications approved by the executive secretary); appointments to committees (rules; finance; program; complaint; and consumer); standing committee reports (rules committee (proposed amendments relating to the licensing of dietitians (22 TAC §§711.1-711.21) program approval committee (individual preplanned professional experience program for new applicants (no applicants as of May 5, 1998); and an update on Donna Rose); finance committee (budget for fiscal year 1998-1999); complaint committee (cases DT 97-002; DT 97-003; DT 97-004; DT 98-003; DT 98-004 and DT 98-005)); board member and staff attendance to the 1998 clearinghouse on licensure, enforcement and regulation (CLEAR) conference to be held

in Denver, Colorado, September 14-16, 1998; plan for the review of rules (22 TAC Chapter 711) as provided by Article IX, §167, General Appropriations Act; board appreciation resolutions for Maxine Freeman, Janice Walker, and Ada Harden; other business not requiring board action; public comment; and setting the next board meeting date.

To request an accommodation under the ADA, 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: Donna Flippin, 1100 49th Street, Austin, Texas 78756, 512/834-6601.

Filed: May 27, 1998, 9:01 a.m.

TRD-9808582



Texas Department of Economic Development

Wednesday, June 3, 1998, 2:30 p.m.

Stephen F. Austin Building, 1700 North Congress Avenue, Room 300A

Austin

Governing Board

AGENDA:

2:30 p.m. Call to order; 2:31 p.m. recess into executive session pursuant to Government Code, §551.075 for conference with employees to receive information regarding grant proposals and process; 5:00 p.m. call back to order; 5:01 p.m. possible discussion and action on executive session 5:25 p.m public comments; 5:30 p.m. adjourn.

Contact: Debra Clonts, 1700 North Congress Avenue, Austin, Texas 78701, 512/936-0104.

Filed: May 26, 1998, 4:26 p.m.

TRD-9808552



State Employee Charitable Campaign

Tuesday, June 2, 1998, 8:30 a.m.

210 East Ninth Street

Fort Worth

Local Employee Committee-Tarrant County

AGENDA:

- I. Call to order
- II. Act on minutes of April 29, 1998
- III. Review accounts and set campaign goal
- IV. Local campaign manager's report
 - A. Campaign coordinator training
 - B. Plan for kick-off
 - C. Cultivation calls
 - D. Campaign materials
 - V. Chair's report
 - VI. Adjourn

Contact: Mary Todd, 210 East Ninth Street, Fort Worth, Texas 78102, 817/258-8043.
Filed: May 21, 1998, 10:27 a.m.
TRD-9808345



Thursday, June 4, 1998, 9:00 a.m.

1327 11th Street

Huntsville

Local Employee Committee-Texas Pine Belt-Huntsville

AGENDA:

- I. Call to order
- II. Approval of minutes from April 23, 1998 meeting
- III. Local charity appeals and recent state policy committee meeting
- IV. Campaign materials and printing costs
- V. Campaign promotion in state agencies
- VI. Dates for training sessions and campaign events
- VII. Schedule next meeting and discuss agenda

Contact: David Standlee, Spur 59 off Highway, Huntsville, Texas 77342, 409/294-6391.
Filed: May 21, 1998, 10:27 a.m.

TRD-9808346



Wednesday, June 17, 1998, 2:30 p.m.

4000 Southpark Drive

Tyler

Local Employee Committee-Tyler/Smith County-Region 4

AGENDA:

- I. Call to order
- II. Approval minutes of April 13, 1998, meeting
- III. Review campaign plan
- IV. Discuss speaker prospects
- VI. Discuss attendance at Huntsville for wardens conference
- VII. Discuss invitation list for breakfast
- VIII. Report on ECC training meeting
- IX. Discuss agenda and schedule next meeting

Contact: Mary Todd, 210 East Ninth Street, Fort Worth, Texas 78102, 817/258-8043.
Filed: May 21, 1998, 10:27 a.m.

TRD-9808347



Finance Commission of Texas

Friday, June 12, 1998, 8:30 a.m.

William F. Aldridge Hearing Room, Finance Commission Building,
2601 North Lamar Boulevard

Austin

Audit Committee

AGENDA:

A. Review and approval of minutes of the April 24, 1998 audit committee meeting.

B. Discussion of and vote to recommend approval to the Finance Commission of the internal auditor's audit report on Department of Banking's prepaid funeral contracts and perpetual care cemeteries areas.

Contact: Everett D. Jobe, 2601 North Lamar Boulevard, Austin, Texas 78705, 512/475-1300.

Filed: May 27 1998, 9:55 a.m.

TRD-9808598



Friday, June 12, 1998, 9:30 a.m.

Finance Commission Building, 2601 North Lamar Boulevard

Austin

AGENDA:

The complete agenda is available on the World Wide Web at : <http://www.banking.state.tx.us/exec/fcagenda.html>.

A. Review and approval of minutes of the April 24, 1998 Finance Commission meeting

B. Finance Commission matters

1. Finance Commission operations-testimonies and correspondence; performance reports; legislative activity; and strategic planning

2. Discussion of and possible vote on Finance Commission study under Texas Finance Code, §11.305(c)

3. Discussion of and possible vote on the settlement of State of Texas v. The Marmon Mok Partnership et al.

4. Discussion of and vote to approve strategic plans of Finance Commission, Department of Banking, Savings and Loan Department and Office of Consumer Credit Commissioner 1999-2003

5. Audit Committee report: (A) Discussion of and vote to recommend approval to the Finance Commission of the internal auditor's audit report on Department of Banking's Prepaid Funeral contracts and perpetual care cemeteries

6. Discussion of and vote to adopt amendments to §9.34

C. Report from the Banking Department; industry status; departmental operations

1. Discussion of and vote to adopt amendment to §4.3

2. Discussion of and vote to adopt new §17.3

3. Discussion of and vote to publish for comment proposed new §17.4

4. Discussion of and vote to adopt new §21.1, an amendment to §21.2, and new §§21.3, 21.31, 21.32, 21.41, and 21.42

5. Discussion of and vote to publish for comment proposed new §21.24, and proposed new §21.51

D. Report from the Savings and Loan Department; industry status; departmental operations

E. Report from the Office of Consumer Credit Commissioner; industry status; departmental operations

1. Discussion of and vote to adopt amendment to 7 TAC §1.102
2. Discussion of and vote to publish for comment the repeal of 7 TAC §1.35 and §1.42
3. Discussion of and vote to publish for comment proposed new 7 TAC §§1.401–1.407
4. Discussion of and vote to publish for comment the repeal of 7 TAC §§1.12, 1.111–1.116
5. Discussion of and vote to publish for comment proposed new 7 TAC §§1.501–1.502, 1.504–1.505, 1.601, 1.603–1.604

F. Executive session

Contact: Everett D. Jobe, 2601 North Lamar Boulevard, Austin, Texas 78705, 512/475–1300.

Filed: May 27 1998, 9:52 a.m.

TRD-9808592



Texas Commission on Fire Protection

Wednesday-Friday, June 3–5, 1998, 9:00 a.m.

12675 Research Boulevard

Austin

Fire Fighter Advisory Committee

AGENDA:

1. staff briefing of agenda items and approval of minutes from previous meeting.
2. report of testing committee with discussion, action on recommendations including committee appointments.
3. discussion, possible action concerning curriculum for hazardous materials technician certification.
4. discussion, possible action concerning curriculum for basic fire inspector certification.
5. discussion, possible action concerning the basic fire suppression curriculum including consideration of recent changes to NFPA 972 and NFPA 1001.
6. discussion, possible action concerning possible changes to 37 TAC Chapter 425, fire instructor certification.
7. discussion, possible action on requirements for higher levels of certification in all disciplines including the consideration of National Wildfire Coordinating Group courses for credit towards intermediate and advanced levels of certification as an alternative to NFA courses.
8. discussion, possible action on change to arson investigator certification requirements to allow federal law enforcement agents to be certified as arson investigators.
9. discussion, possible action concerning IFSAC meeting in New York.
10. report from staff on the status of revisions to National Fire Protection Association standards pertaining to NFPA 1981, NFPA, 1500, NFPA 1971–1977, NFPA 1001.
11. “two in/two out” guidelines in OSHA and NFPA standards.
12. discussion, possible action concerning public comment on pending rule proposals, including changes to the following chapters: Chapter 421, Standards; Chapter 423, Fire Suppression; Chapter 425, Fire Instructors; Chapter 427, Training Facilities; Chapter 429, Fire Inspector’s Chapter 427, Training Facilities; Chapter 429, Fire Inspectors; Chapter 431, Fire Investigation; Chapter 435, Fire Fighter Safety; Chapter 437, Fees; Chapter 439, Examinations; Chapter 441, Continuing Education; Chapter 443, Curriculum Manual; Chapter 445, Inspections and Penalties; Chapter 447, Part-time Fire Protection Employee; Chapter 449, Head of a Fire Department.
13. discussion, possible action concerning a comprehensive rule review plan as required by §167 of the Appropriations Act, including changes to the following chapters: Chapter 433, Forms; Chapter 491, Voluntary Regulation of State Agencies and Employees; Chapter 493,

Voluntary Regulation of Federal Agencies and Employees; Chapter 495, Nongovernmental Departments.

14. discussion, possible action concerning requirements for written and skills testing requirements for all disciplines, including Chapter 421.3(c), concerning functional position descriptions; Chapter 423, Fire Suppression; Chapter 439, Examinations for Certification.
15. discussion/possible action concerning changes to Chapter 437, concerning Fees, including a proposed new fee for review of training records to qualify for examinations.
16. new matters from committee members and the public to be placed on future meeting agenda.
17. discussion, possible action on future meeting dates, agenda items, and locations.

Contact: Joyce Spencer, 12675 Research Boulevard, Austin, Texas 78759, 512/918–7100.

Filed: May 22, 1998, 10:22 a.m.

TRD-9808417



General Land Office

Tuesday, June 2, 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; consideration and approval of tracts, terms and conditions for a special oil and gas lease sale; excess acreage application, King County; costal public lands, lease applications, Galveston Bay-Hester Gully, Harris County; Galveston Bay-Bayridge Bayou, Harris County; Christmas Bay, Brazoria County; Oyster Bay, Oyster Bay, Brazoria County; West Bay, Galveston Bay, lease renewals, Galveston Bay, Harris County; Armand Bayou, Harris County; San Bernard River, Brazoria County, Gulf of Mexico, Nueces County; Galveston Bay, Galveston County; Cypress Bayou, Orange County; Gulf of Mexico, Cameron County; Turtle Bay, Matagorda County; Public Board Ramps in numerous water bodies, including Galveston Bay, Aransas Bay, Sabine Pass, Nueces Bay, Corpus Christ Bay and Laguna Madre and in numerous coastal counties including Brazoria, Galveston, Nueces and Jefferson Counties; commercial easement applications and renewals, Neches River, Jefferson County; Arroyo Colorado, Cameron County; St. Charles Bay, Aransas County; Nueces Bay Nueces County; Cedar Creek Bayou, Chamber County; Clear Lake, Harris County; easement applications and renewals, Carancahua Bay, Calhoun County; Copano Bay, Aransas County; Galveston Bay, Chambers County; Carancahua Bay, Jackson County, Chocolate Bayou, Brazoria County; Clear Lake, Calhoun County; Corpus Christi Bay, Nueces County, closed and open sessions-consideration and action regarding the possible conveyance and acquisition of land in and around Eckert’s Bayou, Galveston County; Closed and Open Sessions-consideration and approval of terms, conditions and extension of time for execution of option contact on sale of Paseo del Este, 4292 ± acres, El Paso County; closed session and open session- consideration and approval of settlement agreements with certain defendants in State v. Ashton, cause #478,687, Travis County; closed and open session-consideration and approval of a negotiated settlement of cause number 97–07697; Faulconer Resources Joint Venture-1993 v. Garry Mauro, Commissioner of the General Land Office of the State of Texas et al; 53rd Judicial District Court; Travis County, Texas; 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 County, Texas; closed and open sessions-pending or contemplated litigation; and/or settlement offers.

Contact: Linda K. Fisher, Stephen F. Austin Building, 1700 North Congress Avenue, Austin, Texas 78701, Room 836, 512/463-5016.
Filed: May 22, 1998, 3:13 p.m.

TRD-9808502



Texas Department of Health

Friday, May 29, 1998, 8:30 a.m.

Main Building, Room G-102, Texas Department of Health, 1100 West 49th Street

Austin

Subcommittee of the Osteoporosis Advisory Commission

AGENDA:

The subcommittee will meet to discuss and possibly act on: review of the criteria for self-referrals; review of appropriate forms for self-referrals; examine reimbursement protocols; examinee training, certification, and registration on new portable units; and consideration of the new budget.

To request an accommodation under the ADA, 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: Anne E. Williamson, 1100 West 49th Street, Austin, Texas 78756, 512/458-7324.
Filed: May 20, 1998, 2:45 p.m.

TRD-9808285



Friday, May 29, 1998, 9:30 a.m.

Main Building, Room G-102, Texas Department of Health, 1100 West 49th Street

Austin

Osteoporosis Advisory Commission

AGENDA:

The committee will discuss and possibly act on: review of the agenda; approval of the minutes of the April 3, 1998, meeting; Advisory Committee member updates; web page update; fundraising update; summit update; customized print bid material update; strategic planning; public comments/announcements; development of the agenda for the next advisory committee meeting; and an evaluation of this meeting.

To request an accommodation under the ADA, 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: Anne E. Williamson, 1100 West 49th Street, Austin, Texas 78756, 512/458-7324.
Filed: May 20, 1998, 2:45 p.m.

TRD-9808284



Friday, June 5, 1998, 10:00 a.m.

Moreton Building, Room M-652, Texas Department of Health, 1100 West 49th Street

Austin

Children with Special Health Care Needs Advisory Commission

AGENDA:

The committee will discuss and possibly act on: approval of the minutes of the March 6, 1998, meeting; update on the Children's Health Insurance Plan (CHIP) and Texas Healthy Kids; Texas Department of Health reorganization; Health Care Delivery associateship revitalization; the future of Children with Special Health Care Needs (CSHCN) programs (chronically ill and disabled children; medically dependent children's program; Texas Health Stephens Comprehensive Care Program (CCP); CHIP and Medicaid Managed Care; and population-based and enabling services). The committee will continue with CSHCN programs in a working lunch at 12:30 p.m., followed by discussions and possible action on: Medicaid Managed Care activities (with STARPLUS; House Bill 1165; and request for applications from Dallas, Texas); proposed CCP private duty nursing rules (25 TAC, Chapter 33); Robert Wood Johnson Grant update; House Bill 460 activities; future CSHCN Advisory Committee's subcommittee activities; announcements; and public comments.

To request an accommodation under the ADA, 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: Paula Russell, 1100 West 49th Street, Austin, Texas 78756, 512/458-7111, Ext. 3046.
Filed: May 27, 1998, 9:01 a.m.

TRD-9808583



Friday, June 12, 1998, 9:30 a.m.

Region 7 Sub Office, Conference Room, 1101 Camino La Costa
Austin

Oral Health Services Advisory Committee

AGENDA:

The committee will discuss and possibly act on: approval of the minutes of the January 30, 1998, meeting; personnel update (new dental director); oral health services (division director's update); rules update (25 TAC, Chapter 33); Early and Periodic Screening, Diagnosis and Treatment (EPSDT) dental services lawsuit update; new Medicaid manual changes; Title V update; Children's Health Insurance Plan update; dental education program funding; report on public dental health education (Education Planning Committee/health promotion); conference reports; Behavioral Management Committee update; provider recruitment activities (Texas Health Steps); school admission proposal; access to care; update on Dr. Gaupp's October 11, 1996 recommendations; year-end-report; input/concerning of advisory committee members; and the setting of the next meeting date and agenda items for the committee.

To request an accommodation under the ADA, 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: Karl Shaner or Sharon DiFelice, 1100 West 49th Street, Austin, Texas 78756, 512/458-7323.
Filed: May 27, 1998, 8:26 a.m.

TRD-9808560

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Texas Health Care Information Council

Wednesday, June 3, 1998, 10:00 a.m.

Brown-Heatly Building, 4900 North Lamar Boulevard, Room 5501
Austin

Quality Methods and Consumer Education, Technical Advisory
Committee

AGENDA:

The Committee will convene in open session, deliberate, and possibly take formal action of the following items: call to order; consumer education plans; media plan for Fall 1998; web site as consumer education tool; other business; public comments, adjourn.

Contact: Jim Loyd, 4900 North Lamar Boulevard, Room 3407, Austin, Texas 78751, 512/424-6492 or fax 512/424-6491.

Filed: May 22, 1998, 1:00 p.m.

TRD-9808471

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Thursday, June 4, 1998, 3:00 p.m.

Brown-Heatly Building, 4900 North Lamar Boulevard, Room 6302
Austin

HMO Technical Advisory Committee

AGENDA:

The Committee will convene in open session, deliberate, and possibly take formal action of the following items: call to order; report from chair on HMO TAC charges and accomplishments; report from Laura Stevens, THCIC board member, on the progress of the HEDIS 3.0/1998 data collection project, and possible action to create advisory opinions on outstanding issues, including template for auditor's report and requests for exemptions from reporting; report from Laura Stevens on a possible Fall 1998 HMO conference with possible commercial sponsorship; staff report on progress of THCIC/TDH partnership to collect, analyze, format and publish the Consumer Guide to Texas HMOs for release in Fall 1998; staff report on progress of media plan for Fall 1998 release of HEDIS data; report from Medicaid Task Force; staff report on plans for receiving TDH Medicaid data on 1997 enrollment; discussion of possible future areas of study, including evaluating data models for the performance measurement of dental HMOs; other business, and adjourn.

Contact: Jim Loyd, 4900 North Lamar Boulevard, Room 3407, Austin, Texas 78751, 512/424-6492 or fax 512/424-6491.

Filed: May 22, 1998, 1:00 p.m.

TRD-9808472

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Texas Statewide Health Coordinating Council

Friday, June 5, 1998, 10:00 a.m.

Moreton Building, Room M-739, Texas Department of Health, 1100 West 49th Street

Austin

AGENDA:

The council will discuss and possibly act on: chairman's update; Legislative Committee report; presentation (Prevention and Health Care); State Health Plan goals and recommendations (work groups) work group presentations; facilitated large group discussion on goals and recommendations for the State Health Plan; possible action on goals and recommendations for the State Health Plan; presentation (Integrated Requirements Model); and public comments

To request an accommodation under the ADA, 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: Rick Danko, 1100 West 49th Street, Austin, Texas 78756, 512/458-7261.

Filed: May 20, 1998, 2:45 p.m.

TRD-9808283

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Texas Healthy Kids Corporation

Friday, May 29, 1998, 9:30 a.m.

Brown-Heatly Building, 4900 North Lamar Boulevard, Rooms 1420/1430

Austin

Board of Directors

AGENDA:

THKC staff presentation, possible recommendations, and possible THKC Board deliberation and action/approval regarding the following:

- Issuance of new request for proposal for health benefit plan vendor(s) for THKC program, possible adoption/revision of enrollment and fundraising objectives, benefit plan, eligibility criteria, regional bidding areas ("RBAs"), sliding scale premium assistance model, open enrollment schedule, logo and other program components.
- THKC Management Information System ("MIS") Agreement with a Texas university.
- Marketing vendor Invitation for Bid ("IFB").
- The necessity of procuring an independent auditor and possible designation of board member to oversee THKC selection of an auditor; financial report by the Accountant, unemployment tax procedures.
- Personnel issues, hiring needs.
- Grievance process for handling consumer complaints.
- Timelines, future meetings, general updates, other administrative, procedural matters, public comment.

Persons with disabilities who require auxiliary aids, services, or materials in alternate format, please contact THKC at least three business days before the meeting. The THKC Board may meet in Executive Session in accordance with the Texas Open Meetings Act.

Contact: Tyrette Hamilton, P.O. Box 1506, Austin, Texas 78767-1506, 512/424-6565 (phone); 512/424-6601 (fax).

Filed: May 21, 1998, 4:33 p.m.

TRD-9808385

◆ ◆ ◆
Texas Department of Insurance

Wednesday, June 3, 1998, 9:30 a.m.

333 Guadalupe Boulevard, 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 from agency staff concerning the discussions of the National Associations of Insurance Commissioners meetings regarding implementation of uniform licensing procedures. Continuation of discussions concerning the streamlining and consolidation of license types including the proposal for a new "limited" license. Continuation of discussion concerning continuing education requirements including who should be subject to continuing education and how many hours should be required to keep a particular license types in force. Continuation of discussions regarding the marketing of insurance products including electronic marketing on the internet and telemarketing and a discussion of general advertising guidelines. Continuation of discussions regarding the 11-00 Life Insurance Counselor license including issues affecting licensees who hold professional designations. Discussion of the procedural requirements for life/accident and health licenses including examination, disciplinary action, company appointment, license suspension, fees and other procedural matters. 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 Boulevard, Austin, Texas 78701, 512/305-8197.

Filed: May 26, 1998, 3:13 p.m.

TRD-9808544



Tuesday, June 16, 1998, 9:30 a.m.

333 Guadalupe Boulevard, Room 102

Austin

Property and Casualty Working Group of the Advisory Committee for the Interim Study for Agents and Agents' Licensing Statutes

AGENDA:

Discussion and possible action regarding the adoption of recommendations to streamline and consolidate insurance license types. Discussion of the procedural requirements for property and casualty license including examination, disciplinary action, company appointment, license suspension, fees and other procedural matters. Discussion on the revenue neutrality of the changes proposed to the agents' licensing statutes. Preparation of a report to the Licensing Advisory Committee concerning the Working Group's recommendations on the consolidation of license types. Time for public comment. Deliberation and possible action regarding timelines, future meetings, other administrative or procedural matters.

Contact: Bill Elkjer, 333 Guadalupe Boulevard, Austin, Texas 78701, 512/305-8197.

Filed: May 26, 1998, 3:13 p.m.

TRD-9808543



Board of Law Examiners

Friday, June 12, 1998, 11:55 a.m.

Suite 500, Tom C. Clark, 205 West 14th Street

Austin

Hearings Panel

AGENDA:

The hearings panel will hold public hearings and conduct deliberations, including the consideration of proposed agreed order, on the character and fitness of the following applicants, declarants and/or probationary: Tommy F. Thomas. (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, 512/463-8926.

Filed: May 27, 1998, 12:01 a.m.

TRD-9808636



Friday, June 12, 1998, 2:00 p.m.

Suite 500, Tom C. Clark, 205 West 14th Street

Austin

Committee to Study Question Drafting and Review

AGENDA:

The committee will consider whether the Board should; select and pay third parties to draft questions; pay a third party to carefully review board member drafted questions; adopt the Multistate Essay Examination, which covers most but not all of the Texas subjects, and if so, how to cover the remaining areas on the Essay Questions.

Contact: Rachael Martin, P.O. Box 13486, Austin, Texas 78711-3486, 512/463-8926.

Filed: May 27, 1998, 8:25 a.m.

TRD-9808557



Board for Lease of State-owned Lands

Tuesday, June 9, 1998, 3:30 p.m.

4200 Smith School Road, Commissioner Hearing Room-1st Floor

Austin

Board for Lease of Texas Parks and Wildlife Department

AGENDA:

Approval of previous board meeting minutes; pooling application, Hitts Lake North Field, Smith County; easement amendment application, Richland Creek Wildlife Management Area, Navarro and Freestone Counties.

Contact: Linda K. Fisher, 1700 North Congress Avenue Room 836, Austin, Texas 78701, 512/463-5016.

Filed: May 22, 1998, 2:57 a.m.

TRD-9808491



Tuesday, June 9, 1998, 3:30 p.m.

4200 Smith School Road, Commissioner Hearing Room-1st Floor

Austin

Board for Lease of Texas Parks and Wildlife Department

REVISED AGENDA:

Approval of previous board meeting minutes; pooling application, Brookeland, (Austin Chalk, 8800) Jasper County.

Contact: Linda K. Fisher, 1700 North Congress Avenue Room 836, Austin, Texas 78701, 512/463-5016.

Filed: May 26, 1998, 4:28 p.m.

TRD-9808553



Texas Department of Licensing and Regulation

Wednesday, May 27, 1998, 9:30 a.m.

920 Colorado, E.O. Thompson Building, First Floor, Room 108

Austin

Consumer Protection Section, Auctioneering

AGENDA:

The Department will hold an administrative hearing to consider claims against the auctioneer education and recovery fund by Joe Potasznik, based upon the actions of the auctioneer; Bob Lloyd, and determine the amounts due the aggrieved party pursuant to Texas Revised Civil Statutes Annotated, Articles 8700 and 9100; Texas Government Code, Chapter 2001; and 16 TAC §60.

Contact: Richard Wootton, 920 Colorado, E.O. Thompson Building, Austin, Texas 78701, 512/463-3192.

Filed: May 20, 1998, 2:05 p.m.

TRD-9808278



Tuesday, June 2, 1998, 9:30 a.m.

920 Colorado, E.O. Thompson Building, First Floor, Room 108

Austin

Consumer Protection Section, Auctioneering

AGENDA:

The Department will hold an administrative hearing to consider claims against the auctioneer education and recovery fund by Pete Heffner, based upon the actions of the auctioneer; Tina Barton, and determine the amounts due the aggrieved party pursuant to Texas Revised Civil Statutes Annotated, Articles 8700 and 9100; Texas Government Code, Chapter 2001; and 16 TAC §60.

Contact: Richard Wootton, 920 Colorado, E.O. Thompson Building, Austin, Texas 78701, 512/463-3192.

Filed: May 20, 1998, 2:04 p.m.

TRD-9808277



Texas Lottery Commission

Saturday, May 30, 1998, 9:00 a.m.

611 East 6th Street, Grant Building, Commission Auditorium

Austin

Commission

AGENDA:

The Commission will call the meeting to order; report on lottery sales and trends analysis; report on lottery advertising; report on state audit report on the Texas Lottery Commission; report on lottery operator audit; report on legislative interim committee hearings; report on fiscal years 1999-2003 strategic plan; consideration of proposal of new rule 16 TAC §401.229, relating to default hearings; report by bingo advisory committee on bingo advisory committee activities; report on bingo advisory committee nominations; consideration of appointment, employment, and duties of charitable bingo operations director; commission may meet in executive session; return to open session for further deliberation and possible action on any matter discussed in executive session; consideration of orders in contested cases; report by the executive director, report by the acting charitable bingo operations director; and, adjournment.

For ADA assistance Michelle Bernal-Guerrero at 512/344-5113, at least two days prior to meeting.

Contact: Michelle Bernal-Guerrero, P.O. Box 16630, Austin, Texas 78761-6630.

Filed: May 22, 1998, 2:56 a.m.

TRD-9808486



Texas Medical Disclosure Panel

Friday, June 5, 1998, 10:00 a.m.

Conference Room, Arter, Hadden, Johnson and Bronberg, 1700 Main Street, Suite 4100

Dallas

AGENDA:

The panel will discuss and possibly act on: approval of the minutes of the January 13, 1998, meeting; introduction of members and guests; announcement of resignation/retirement of member and discussion of replacement; review of rules on specific procedures requiring full disclosure (25 TAC §601.2, §601.2(b) cardiovascular system; §601.2(d) ear treatments and procedures §601.2(f) eye treatments and procedures; and §601.2(s) endoscopic surgery); other issues relating to rules concerning informed consent (25 TAC §§601.1-601.8); letter received from Permian General Hospital; public comment (may be limited to three minutes); and the setting of the next panel meeting date.

For ADA assistance, call Suzzanna C. Currier 512/458-7627 or T.D.D. 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: May 27, 1998, 9:01 a.m.

TRD-9808584



Lay Midwifery Board

Monday, June 8, 1998, 9:30 a.m.

Tower Building, Room T-607, Texas Department of Health, 1100 West 49th Street

Austin

Education/Documentation Rules Committee

AGENDA:

The committee will discuss and possibly act on: education rules (25 TAC, Chapter 37) (review draft of proposed rules; make corrections/changes to the draft; recommendation for approval of Midwifery Board); and documentation rules (25 TAC, Chapter 37) (review draft of proposed rules; make corrections/changes to the draft; recommendation for approval to Midwifery Board).

To request an accommodation under ADA, please contact Suzzanna C. Currier, ADA Coordinator in the Office of the Civil Rights at 512/458-7627 or TDD 512/458-7708 at least four days prior to the meeting.

Contact: Yvonne Feinleib, 512/458-7444, Extension 2950 or Belva Alexander 512/458-7111, Extension 2067, 1100 West 49th Street, Austin, Texas 78756.

Filed: May 27, 1998, 8:25 a.m.

TRD-9808558

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Texas Natural Resource Conservation Commission

Wednesday, June 3, 1998, 8:30 a.m., 9:30 a.m., 1:00 p.m.

12100 Park 35 Circle

Austin

AGENDA:

The Commission will consider approving the following matters on the hearing request; temporary authorization; water rights matter, public water system enforcement agreed orders; public water supply enforcement default orders; petroleum storage tank enforcement agreed order; petroleum storage tank default order; agricultural agreed enforcement orders; air enforcement agreed orders; air enforcement default order; municipal waste discharge enforcement agreed order; authorization to instruct; industrial hazardous waste enforcement agreed order; municipal solid waste default order; multi-media agreed order; sludge enforcement agreed order; rules; state implementation plan; executive session; 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 or time (Registration for 9:30 agenda starts 8:45 until 9:25). The Commission will consider approving the following matter at its 1:00 p.m. agenda: Proposals for decisions and orders. (Registration for the 1:00 p.m. agenda starts at 12:30 p.m.).

Contact: Doug Kitts, 12100 Park 35 Circle, Austin, Texas 78753, 512/239-3317.

Filed: May 22, 1998, 4:50 p.m.

TRD-9808522

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Wednesday, June 3, 1998, 9:30 a.m.

12100 Park 35 Circle, Room 201S, Building E

Austin

REVISED AGENDA:

Contact: Doug Kitts, 12100 Park 35 Circle, Austin, Texas 78753, 512/239-3317.

Filed: May 26, 1998, 1:10 p.m.

TRD-9808536

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Thursday, June 11, 1998, 9:00 a.m.

Hidalgo County Courthouse-Auditorium, 100 North Clossner

Edinburg

AGENDA:

For a hearing before an administrative law judge of the State Office of Administrative Hearings on an application filed by the Grease Specialist to the Texas Natural Resource Conservation Commission for Permit Number MSW2258 to authorize a Type VGG grease and grit trap municipal solid waste facility. The permittee will be authorized to store and process non-hazardous liquid waste. The waste authorized to be accepted and processed include grease trap waste, grit trap waste from commercial facilities such as car washes, and certain Class II nonhazardous industrial wastes (i.e., grease waste only); all as defined in 30 TAC §330.2. The maximum acceptance rate of liquid waste will be 208,000 gallons per month. The site will be authorized to operate the facility from 6:00 a.m. to 9:00 p.m., Monday-Sunday. The proposed it covers about 1.3777 acres of land. The proposed waste management facility is located northwest of Mission, Texas on Western Avenue, about 3.5 miles north of FM Road 2221 and 3.3 miles west of FM 681 in Hidalgo County, Texas SOAH Docket Number 582-98-0407.

Contact: Betty Goetz, P.O. Box 13025, Austin, Texas 78711-3025, 512/475-3289.

Filed: May 21, 1998, 5:00 p.m.

TRD-9808388

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Monday, June 15, 1998, 9:00 a.m.

Stephen F. Austin Building, 1700 North Congress Avenue, Suite 1100

Austin

State Office of Administrative Hearings

AGENDA:

SOAH Docket Number 582-98-0862; TNRCC Docket Number 96-1972-AGR-E; Garland Paul Bourg, Sr. and Sue Bourg, doing business as Circle G. Dairy and Bourg Dairy; The purpose of the hearing will be to consider the executive director's preliminary report and petition mailed December 29, 1997, concerning assessing administrative penalties against and requiring certain actions of Garland Paul Bourg, Sr. and Sue Ann Bourg, doing business as Circle G. Dairy and Bourg Dairy for violations in Johnson County, Texas of: (1) the Texas Water Code, §26.121; (2) 30 TAC §§321.35(a), 321.34(f), and 305.63; and (3) special provision numbers 10.b 11, 14, 17, 19 and 22, and standard provision number 2 of the respondent's TNRCC permit number 03327.

Contact: Blas Coy, P.O. Box 13087, MC-103, Austin, Texas 78711-3087, 512/239-6363.

Filed: May 22, 1998, 8:04 a.m.

TRD-9808391

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Monday, June 22, 1998, 9:00 a.m.

Stephen F. Austin Building, Suite 1100, 1700 North Congress Avenue

Austin

State Office of Administrative Hearings

AGENDA:

SOAH Docket Number 582-98-0863; TNRCC Docket Number 97-0536-AIR-E; Kessler Industries, Inc.; The purpose of the hearing will be to consider the executive director's preliminary report and petition mailed December 30, 1997, concerning assessing administrative penalties against and requiring certain actions of Kessler Industries, Inc., for violations in El Paso County, Texas, of: (1) the Texas Health and Safety Code §382.085(b); (2) 30 TAC §§101.20(1), 101.10, 101.27, and 116.115(a); and (3) 40 Code of Federal Regulations §60.8(a) and §601.313(b).

Contact: Blas Coy, P.O. Box 13087, MC-103, Austin, Texas 78711-3087, 512/239-6363.

Filed: May 22, 1998, 8:04 a.m.

TRD-9808392



Tuesday, June 23, 1998, 9:00 a.m.

Stephen F. Austin Building, Suite 1100, 1700 North Congress Avenue

Austin

State Office of Administrative Hearings

AGENDA:

SOAH Docket Number 582-98-0864; TNRCC Docket Number 97-1092-IHW-E; Weldon B. Sewell, Jr.; The purpose of the hearing will be to consider the executive director's preliminary report and petition mailed January 20, 1998, concerning assessing administrative penalties against and requiring certain actions of Weldon B. Sewell Jr. for violations in Dallas County, Texas, of: (1) the Texas Water Code, §26.121, and (2) 30 TAC §335.4 and §335.62.

Contact: Blas Coy, P.O. Box 13087, MC-103, Austin, Texas 78711-3087, 512/239-6363.

Filed: May 22, 1998, 8:05 a.m.

TRD-9808393



Thursday, June 25, 1998, 9:00 a.m.

Stephen F. Austin Building, Suite 1100, 1700 North Congress Avenue

Austin

State Office of Administrative Hearings

AGENDA:

SOAH Docket Number 582-98-0865; TNRCC Docket Number 97-0956-AGR-E; R. J. Smelley Company, Inc.; The purpose of the hearing will be to consider the executive director's preliminary report and petition mailed January 26, 1998, concerning assessing administrative penalties against and requiring certain actions of R. J. Smelley Company, Inc. for violations in Parker and Tarrant Counties Texas, of: (1) the Texas Water Code §26.121(c); (2) 30 TAC §321.35 and §321.37; and (3) Respondent's TNRCC Permit Number 02422.

Contact: Blas Coy, P.O. Box 13087, MC-103, Austin, Texas 78711-3087, 512/239-6363.

Filed: May 22, 1998, 8:05 a.m.

TRD-9808394



Monday, June 29, 1998, 9:00 a.m.

Stephen F. Austin Building, Suite 1100, 1700 North Congress Avenue

Austin

State Office of Administrative Hearings

AGENDA:

SOAH Docket Number 582-98-0866; TNRCC Docket Number 97-0519-PST-E; Mutawe and Albanna Enterprises, Inc. and Bercasy III, L.P.; The purpose of the hearing will be to consider the executive director's preliminary report and petition mailed February 4, 1998, concerning assessing administrative penalties against and requiring certain actions of Mutawe and Albanna Enterprises, Inc. and Bercasy III, L.P. for violations in Dallas County, Texas, of: (1) the Texas Water Code §26.121, and (2) 30 TAC §§115.222(10), 115.2424(3)(A)(J), 115.246(1)(5), and 334.50(b)(1)(A), (b)(2)(A).

Contact: Blas Coy, P.O. Box 13087, MC-103, Austin, Texas 78711-3087, 512/239-6363.

Filed: May 22, 1998, 8:05 a.m.

TRD-9808395



Thursday, July 9, 1998, 9:00 a.m.

Stephen F. Austin Building, Suite 1100, 1700 North Congress Avenue

Austin

State Office of Administrative Hearings

AGENDA:

SOAH Docket Number 582-98-0869; TNRCC Docket Number 97-1065-IHW-E; Greg and Mike Hogue; The purpose of the hearing will be to consider the executive director's preliminary report and petition mailed December 15, 1997, concerning assessing administrative penalties against and requiring certain actions of Greg and Mike Hogue for violations in Wood County, Texas, of: (1) the Texas Water Code, §26.121, and (2) 30 TAC §335.4.

Contact: Blas Coy, P.O. Box 13087, MC-103, Austin, Texas 78711-3087, 512/239-6363.

Filed: May 22, 1998, 8:05 a.m.

TRD-9808396



Thursday, July 9, 1998, 9:00 a.m.

Stephen F. Austin Building, Suite 1100, 1700 North Congress Avenue

Austin

State Office of Administrative Hearings

AGENDA:

SOAH Docket Number 582-98-0868; TNRCC Docket Number 97-1142-MSW-E; Bell Processing, Inc.; The purpose of the hearing will be to consider the executive director's preliminary report and petition mailed February 24, 1998, concerning assessing administrative penalties against and requiring certain actions of Bell Processing, Inc. for violations in Wichita County, Texas, of: (1) the Texas Health and Safety Code Chapter 361, and (2) 30 TAC Chapter 330.

Contact: Blas Coy, P.O. Box 13087, MC-103, Austin, Texas 78711-3087, 512/239-6363.

Filed: May 22, 1998, 8:06 a.m.

TRD-9808397



Friday, July 10, 1998, 9:00 a.m.

Stephen F. Austin Building, Suite 1100, 1700 North Congress Avenue
Austin

State Office of Administrative Hearings

AGENDA:

SOAH Docket Number 582-98-0870; TNRCC Docket Number 97-0356-AIR-E; Great Lakes Carbon Corporation; The purpose of the hearing will be to consider the executive director's preliminary report and petition mailed December 18, 1997, concerning assessing administrative penalties against and requiring certain actions of Great Lakes Carbon Corporation for violations in Jefferson County, Texas, of: (1) 30 TAC §111.111(a)(1)(A) and §111.111(a)(1)(B) and (2) Texas Health and Safety Code §382.085(b).

Contact: Blas Coy, P.O. Box 13087, MC-103, Austin, Texas 78711-3087, 512/239-6363.

Filed: May 22, 1998, 8:06 a.m.

TRD-9808398



Thursday, July 16, 1998, 9:00 a.m.

Stephen F. Austin Building, Suite 1100, 1700 North Congress Avenue
Austin

State Office of Administrative Hearings

AGENDA:

SOAH Docket Number 582-98-0887; TNRCC Docket Number 97-0544-PST-E; Hewitt's Inc.; The purpose of the hearing will be to consider the executive director's preliminary report and petition mailed January 13, 1998, concerning assessing administrative penalties against and requiring certain actions of Hewitt's Inc. for violations in Upshur County, Texas, of: (1) 30 TAC §§334.50(b)(1)(A), 334.50(b)(2)(B), 334.51(b)(2)(B), 334.51(b)(2)(C), and 334.6(b)(2).

Contact: Blas Coy, P.O. Box 13087, MC-103, Austin, Texas 78711-3087, 512/239-6363.

Filed: May 22, 1998, 8:06 a.m.

TRD-9808399



Texas Board of Orthotics and Prosthetics

Wednesday, June 10, 1998, 10:00 a.m.

Exchange Building, Room S-402, Texas Department of Health, 8407
Wall Street

Austin

AGENDA:

The board will introduce members, guests, and staff and will discuss and possibly act on: approval of the minutes of the April 18, 1998, meeting; review and possible action on proposed rules relating to the regulation of orthotics and prosthetics, implementing Senate Bill 291, 75th Texas Legislature, 1997; other matters not requiring board action; public comment; and setting future agenda items and future meeting dates for the board.

To request an accommodation under the ADA, 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: Donna Flippin or Steven Lowenstein, 1100 West 49th Street,
Austin, Texas 78756, 512/834-4520.

Filed: May 27, 1998, 8:25 a.m.

TRD-9808559



Texas State Pension Review Board

Monday, June 8, 1998, 3:00 p.m.

Hyatt Regency Hotel on Town Lake, Hill Country Ballroom, 1st
Floor, 208 Barton Springs Road

Austin

AGENDA:

1. meeting called to order
2. roll call
3. reading and adoption of minutes of previous meeting
4. discussion and action on PRB strategic plan
5. preliminary discussion of PRB 2000-2001 legislative appropriation request
6. committee reports
 - A. actuarial-chair Leonard Cargill-compliance update (Ginger Smith)
 - B. administration-chair Shad Rowe
 - C. legislative-chair Shari Shivers
 - D. research-chair Craig Goralski-database update (Kevin Deiters)
7. old business
8. set date and location for next board meeting
9. announcements and invitation for audience participation
10. executive director's report
11. chairman's report
12. adjournment

Contact: Lynda Baker, P.O. Box 13498, Austin, Texas 78711, 512/
463-1736.

Filed: May 21, 1998, 4:33 p.m.

TRD-9808387



Texas State of Plumbing Examiners

Monday, June 15, 1998, 9:00 a.m.

Arlington Human Service Building, 501 West Sanford, Conference
Room A

Arlington

Sub-Committee

AGENDA:

1. To consider redeveloping the criteria necessary to obtain a journeyman's plumbing license and a plumbing inspector's license and address the shortfall of certified and qualified plumbers in the industry.

Contact: Stephenie A. Spiars, 929 East 41st Street, Austin, Texas
78751, 512/458-2145.

Filed: May 26, 1998, 4:13 p.m.

TRD-9808551

◆ ◆ ◆
Texas Polygraph Examiners Board

Tuesday, June 9–11, 1998, 10:30 a.m., 8:00 a.m., 8:00 a.m.
(respectively.)

DPS Building C, 5805 North Lamar Boulevard, Academy Administration Commission Room

Austin
Board

AGENDA:

1. call to order
2. discussion possible approval and vote on March 19–20, 1998 board meeting minutes
3. discussion possible approval and vote on September board meeting date
4. introduction to new staff
5. progress report regarding Attorney General's request RQ-923
6. discussion possible approval and vote on issues relating to long range planning committee
7. discussion possible approval and vote on legislative changes (legislative committee)
8. discussion possible approval and vote on licensing issues relating to active federal examiners
9. discussion possible approval and vote on licensing criteria with other states (reciprocity issues)
10. administer license and examination to qualified applicants
11. discussion, clarification, possible approval and vote on changes to performance measures
12. discussion possible approval and vote on possible changes to 2 year retention on polygraph charts.
13. executive officer's report
14. report from professional association
15. open meeting/discussion to public inquiry
16. adjournment.

Contact: Ramona Pavlas, P.O. Box 4087, Austin, Texas 78773, 512/424–2058.

Filed: May 27, 1998, 9:00 a.m.

TRD-9808573

◆ ◆ ◆
Texas Council on Purchasing from People with Disabilities

Friday, June 12, 1998, 10:00 a.m.

Capitol Extension, Room E2.026, 1400 North Congress Avenue

Austin

Pricing Subcommittee

AGENDA:

introduction of subcommittee members and guests;
acceptance of minutes from December 8, 1997 meeting;
discussion and recommendation for action on service contracts completed
under temporary approval authority;
discussion and recommendation for action on new services;
discussion and recommendation for action on renewal services;
discussion and recommendation for action on temporary employment services;
discussion and recommendation for action on new products;
discussion and recommendation for action on product changes and revisions; and
discussion and recommendation for action on price revisions for Austin area state use
temporary employment service contract

Persons with disabilities who plan to attend this meeting and who may need auxiliary aids or services such as interpreters for persons who are deaf or hearing impaired, readers, large print or Braille, are requested to contact Erica Goldbloom at 512/463–3244 two working days prior to the meeting so that appropriate arrangements can be made.

Contact: Chester Beattle, Jr., 1711 San Jacinto, Austin, Texas 78701, 512/463–3583.

Filed: May 22, 1998, 3:50 p.m.

TRD-9808507

◆ ◆ ◆
Railroad Commission of Texas

Tuesday, June 2, 1998, 9:30 a.m.

1701 North Congress Avenue, 1st Floor Conference Room 1–111

Austin

AGENDA:

The commission will consider various applications and other matters within the jurisdiction of the agency including oral arguments at the time specified on the attached 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, Texas 78711–2967, 512/463–7033

Filed: May 22, 1998, 4:25 p.m.

TRD-9808518

◆ ◆ ◆
Texas Rehabilitation Commission

Thursday, June 11, 1998, 9:00 a.m.

Brown-Heatly Building, 4900 North Lamar Boulevard

Austin

Advisory Council

AGENDA:

roll call/agenda review/announcement/council discussion-issues for TRC's Sunset review/break/TRC deputy commissioner for field/external operations/TRC medical director/lunch.

public comment/TRAC office elections/council issues discussion, cont./break/resume issues discussion/recess.

Contact: Barbara Ritter, 4900 North Lamar Boulevard, Austin, Texas 78751, 512/424-4160.

Filed: May 27, 1998, 9:05 a.m.

TRD-9808585



Friday, June 12, 1998, 9:30 a.m.

Brown-Heatly Building, 4900 North Lamar Boulevard

Austin

Advisory Council

AGENDA:

approval of April 1998 meeting minutes/chairperson's report/TRAC staff report/council discussion-Sunset recommendations/lunch.

recommendations/action items/agenda items for next meeting/ad-journ.

Contact: Barbara Ritter, 4900 North Lamar Boulevard, Austin, Texas 78751, 512/424-4160.

Filed: May 27, 1998, 9:05 a.m.

TRD-9808586



Thursday, June 25, 1998, 9:30 a.m.

Brown-Heatly Building, 4900 North Lamar Boulevard, Public Hearing Room, First Floor

Austin

Regular Board

AGENDA:

roll call

introduction of guests

invocation

approval of minutes: board meeting of February 26, 1998

commissioner's comments

management audit update and approval of FY 1998 audit plan revision

approval of legislative appropriations request priority table

public comments

executive session:

review of potential litigation, personnel practices, and staff presentations involving the Texas Rehabilitation Commission, Disability Determination Service and Management Audit. These subject will be discussed in Executive Session pursuant to §§551.071, 551.074, and 551.075 of the Open Meetings Act (Texas Government Code, Annotated §551).

Adjournment

If all agenda items have been completed, the Board will adjourn. If all agenda items have not been completed, the Board will recess until 9:30 a.m. Friday, June 26, 1998, to reconvene in the Public Hearing Room, First Floor, Brown-Heatly Building, 4900 North Lamar Boulevard, Austin, Texas.

Contact: Renee Johnston, 4900 North Lamar Boulevard, Austin, Texas 78751, 512/424-4002.

Filed: May 22, 1998, 4:23 p.m.

TRD-9808516



Friday, June 26, 1998, 9:30 a.m.

Brown-Heatly Building, 4900 North Lamar Boulevard

Austin

Regular Board

AGENDA:

roll call

introduction of guests

continuation of Board agenda from June 25, 1998

executive session:

review of potential litigation, personnel practices, and staff presentations involving the Texas Rehabilitation Commission, Disability Determination Service and Management Audit. These subject will be discussed in Executive Session pursuant to §§551.071, 551.074, and 551.075 of the Open Meetings Act (Texas Government Code, Annotated §551).

adjournment

Contact: Barbara Ritter, 4900 North Lamar Boulevard, Austin, Texas 78751, 512/424-4160.

Filed: May 22, 1998, 4:24 p.m.

TRD-9808517



Texas House of Representatives

Tuesday, June 2, 1998, 10:00 a.m.

Capitol Extension, Room E2.030, Texas State Capitol Complex

Austin

Intergovernmental Task Force on Housing Investment Subcommittee

AGENDA:

I. call to order

II. roll call

III. discussion of organizational structure

IV. testimony taken

V. discussion of future meetings

VI. adjournment

Contact: Crystal Day, P.O. Box 2910, Austin, Texas 78703, 512/463-0486.

Filed: May 22, 1998, 3:45 p.m.

TRD-9808505



Center for Rural Health Initiatives

Thursday, June 4, 1998, 10:00 a.m.

Southwest Tower Building, 211 East 7th Street, 3rd Floor Conference Room

Austin

Outstanding Rural Scholar Committee

AGENDA:

- I. call to order
- II. welcome and introduction/update on center activities
- III. approval of minutes of previous meeting
- IV. advisory committee business
- V. program status report
- VI. review of May 1998 applications
- VII. next advisory committee meeting
- VIII. adjournment

Contact: Laura Jordan, 211 East 7th Street, Austin, Texas 78701, 512/479-8891.

Filed: May 27, 1998, 9:01 a.m.

TRD-9808575



Thursday, June 4, 1998, 10:00 a.m.

Southwest Tower Building, 211 East 7th Street, 3rd Floor Conference Room

Austin

Executive Committee

AGENDA:

- I. call to order
- II. welcome and introduction of executive and advisory committee members and guests
- III. approval of minutes of February 20, 1998 meeting
- IV. discussion of Texas Sunset Advisory Commission review and timeline
- V. election of officers
- VI. discussion of Rural Community Health System request
- VII. discussion of CRHI budget
- VIII. appointment of board member to outstanding rural scholar advisory committee
- IX. executive director's report
- X. advisory committee reports
- XI. executive session under Government Code, Chapter 551, Subchapter D. §551.074
- XIII. adjourn

Contact: Laura Jordan, 211 East 7th Street, Austin, Texas 78701, 512/479-8891.

Filed: May 27, 1998, 9:00 a.m.

TRD-9808574

Texas A&M University System, Board of Regents

Tuesday, May 26, 1998, 1:00 p.m.

2121 West Holcombe Boulevard, Conference Room 1119, Institute of Biosciences Technology

Houston

Committee on Building and Physical Plant

AGENDA:

Consider and vote on naming facilities; acquisition of land; action on bids, approval of preliminary designs; approval of PORs, appropriations for designs and selections of A/E design teams; status of system construction projects authorized by the board of regents; status of projects under construction.

Contact: Vicki Burt, Texas A&M University System, College Station, Texas 77843, 409/845-9600.

Filed: May 22, 1998, 2:28 p.m.

TRD-9808481



Thursday, May 28, 1998, 9:00 a.m.

Joe Routh Boulevard, Texas A&M University, Room 292 MSC

College Station

Board of Regents

AGENDA:

1999 operating budgets; appropriations; contracts; scholarships; gifts, grants, loans and bequests; name facilities; land acquisitions; construction projects; establish centers; resolutions; request authorization from THECB for University College, updates of mission statements and tables of programs and degree program; University System Center in Killeen; amended policies; tenure; emeritus titles; appointments, promotions and dismissals; minutes; reports and remarks including remarks from Senator Phil Gramm on Investment-based social security; closed session discussion items: consultant with system attorneys on pending and proposed litigation and matters recognized as attorney-client confidential and privileged; matters involving the purchase, exchange, lease, or value of real property; matters involving the appointment, employment, evaluation, reassignment, duties, discipline, or dismissal, or to hear complaints or changes against an officer or employee and discussion of search for the chancellor of TAMUS; closed session conferences with system employees for the sole purpose of receiving information and where no deliberation will take place between board members including staff report on the affiliation with the South Texas College of Law.

Contact: Vicki Burt, Texas A&M University System, College Station, Texas 77843, 409/845-9600.

Filed: May 22, 1998, 2:28 p.m.

TRD-9808483



Thursday, May 28, 1998, 10:10 a.m.

Joe Routh Boulevard, Texas A&M University, Room 292 MSC

College Station

Committee on Finance

AGENDA:

Consider and vote on approval of fy 1999 operating budgets; appropriations from AUF for endowment matching, Prairie View A&M University; execute contract for system water supply agreement between Texas A&M University and the Brazos River Authority; establish Albert Coldewey Quasi-Endowed Scholarship in Accounting, Texas A&M University; appropriation of funds for dormitory deferred maintenance projects, Texas A&M University at Galveston; acceptance of gifts, grants, loans and bequests, the Texas &M University System; report on appropriations by the chancellor, the Texas A&M University System.

Contact: Vicki Burt, Texas A&M University System, College Station, Texas 77843, 409/845-9600.

Filed: May 22, 1998, 2:28 p.m.

TRD-9808480



Thursday, May 28, 1998, 2:15 a.m.

Joe Routt Boulevard, Texas A&M University, Room 292 MSC
College Station

Committee on Academic and Student Affairs

AGENDA:

Consider and vote on; establish center; resolutions; request authorization from Texas Higher Education Coordinating Board for a University College, updates to mission statements and tables of programs and degree programs; prepare proposal for the establishment of a University System Center in Killeen

Contact: Vicki Burt, Texas A&M University System, College Station, Texas 77843, 409/845-9600.

Filed: May 22, 1998, 2:28 p.m.

TRD-9808482



Friday, May 29, 1998, 9:00 a.m.

Board of Regents Meeting Room, MSC Annex, Clark Street, Texas A&M University

Board of Regents

AGENDA:

The purpose of this special meeting is to consider proposals from executive search firms interested in an agreement with the Texas A&M University System to conduct an executive search to fill the position of chancellor of the Texas A&M University System.

Contact: Vicki Burt, Texas A&M University System, College Station, Texas 77843, 409/845-9600.

Filed: May 22, 1998, 2:27 p.m.

TRD-9808479



Texas State Technical College System

Friday, May 29, 1998, 9:00 a.m.

TSTC System, 3801 Campus Drive
Waco

Board of Regents Executive Committee

AGENDA:

I. meeting called to order

II. determination of quorum

III. recognition guests

IV. public comments

V. action items: EA-09-98 food service contract at Texas State Technical College Waco

VI. adjourn

Contact: Sandra J. Krumnow, 3801 Campus Drive, Waco, Texas 76705, 254/867-3964.

Filed: May 27, 1998, 1:05 p.m.

TRD-9808473



Texas Department of Transportation

Thursday, May 28, 1998, 9:00 a.m.

125 East 11th Street, First Floor, Dewitt C. Greer Building

Austin

Texas Transportation Commission

AGENDA:

Delegations: East Texas Gulf Highway Association; El Paso Metropolitan Planning Organization. Approve minutes. Awards/Recognitions/Resolutions. Programs: Texas Trunk System, adopt new procedures; Dallas County, Dowdy Ferry Road, advance bridge project. Transportation Planning: Fort Bend Parkway Association annual report. Turnpike Project: Various Counties, SH 45 Loop 1, SH 130, and US 183A. State Infrastructure Bank: City of Rogers, City of West Columbia. Rulemaking: 43 TAC Ch. 1, 3, 9, 17, 18, 21 and 25. Aviation: airport improvement projects. Public Transportation. Strategic Plan. Contract Awards/Rejections/Defaults/Assignments/Claims. Highway Designation: El Paso County (Arctcraft Road); Webb County, State Highway Loop 20. Routine Minute Orders. Appointment of Interim Director of Texas Turnpike Authority Division. Executive Session for legal counsel consultation, land acquisition matters, personnel matters and appointment of interim director of Texas Turnpike Authority Division. Open comment period.

Contact: Diane Northam, 125 East 11th Street, Austin, Texas 78701, (512) 463-8630.

Filed: May 20, 1998, 1:51 p.m.

TRD-9808270



University of Houston System

Monday, June 1, 1998, 8:00 a.m.

3100 Cullen Boulevard, UH Athletic/Alumni Facility Melcher Board Room

Houston

Committee Meetings

AGENDA:

Academic and Student Affairs Committee-1) call to order; 2) promotion in academic ranks; 3) faculty emeritus appointment; 4) master of science degree in management information; 5) bachelor of science in biology; 6) 1998-1999 holiday; 7) adjourn.

Institutional Advancement and External Affairs Committee- 1) call to order; 2) revision of bylaws 4.6; revisions of policies 31–33.04; and revision of policy 33.06; 3) gift acceptance reports; 4) adjourn

Administration and Finance Committee-1) call to order; 2) FY 1999 plan and budget; 3) personnel actions for executive management 4) acquisition of give parcels of land north of White Oak Bayou; 5) FY99 packaging plan for the capital renewal and deferred maintenance program 6) FY99 contract extension with 3D/International, Inc. for Program and construction management services for the capital renewal/deferred maintenance program 7) FY99 contract extension and contract modification with Ray Bailey Architects, Inc., for design services for the capital renewal and deferred maintenance; 8) approval of the schematic design and award of a construction contract for the Bayou Building Analytical Chemistry and Biochemistry Laboratory Renovation; 9) award of construction contract with Letos Company for the Bayou Building Centrifugal Chiller upgrade; 10) design and construction of campus; 11) construction project status; 12) purchase order to renew services with Amigos Bibliographic Council, Inc.; 13) purchase of a field mission scanning electron microscope for the Texas Center for Superconductivity; 14) contract with Brailsford and Dunlavey as consultant for the recreation and wellness facility; 15) contract for consolidated food service program; 16) contract with LARK International; 17) withdrawals from public broadcasting quasi endowment; 18) establishment of an operating account and an investment account for the University of Houston-Victoria at Chase Bank of Texas; 19) Resolution Expressing Intent to Finance Expenditure Incurred or to be Incurred for University of Houston-downtown; 20) Banking Resolutions-additions and deletions of signature authority for University of Houston System Bank; 21) resolution-additions and deletions of endorsement authority of Texas Guaranteed Student Loan Corporation Checks for all Universities of the University of Houston System; 22) FY97 audited financial statement of KUHT-TV and Management Letter; 23) FY97 audited financial statement of KUHF-FM; 24) FY 97 audited financial statement of endowment fund; 25) adjourn.

Executive Committee-1) call to order, 2) executive session; 3) report from executive session; 4) ratification of a construction contract with Progressive Chemicals, Inc. for the repair and renovation of melcher pool; 5) resolution delegating authority to approve travel; 6) resolution-delegation of authority to approve requests for payment through the Uniform State Accounting System; 7) systemwide art acquisition committee member appointments for 1998–2000; 8) executive summaries of internal audit reports; 9) adjourn.

Contact: Peggy Cervenka, 3100 Cullen, Suite 205, Houston, Texas 77204–6732, 713/743–3444.

Filed: May 26, 1998, 10:16 a.m.

TRD-9808528

◆ ◆ ◆
University of Texas at Arlington

Monday June 15, 1998, 1:15 p.m.

501 South Nedderman, Room 323, Life Science Building
Arlington

Institutional Animal Care and Use Committee

AGENDA:

1. introduction of those in attendance.
2. approval of minutes of the December 3, 1997 meeting.
3. review of the animal facility.

4. review of the animal care program
5. recommendations for checklist revisions.
6. renovations and repairs of the animal facility.

Contact: Martha A. Mann, Ph.D. UT-Arlington, Box 19528, Arlington, Texas 76019, 817/272–3239.

Filed: May 22, 1998, 2:15 p.m.

TRD-9808475

◆ ◆ ◆
University of North Texas/University of North Texas Health Science Center

Thursday, May 28, 1998, 1:30 p.m.

Avenue C at Chestnut, Administration Building, Board Room,
University of North Texas

Denton

Board of Regents, Budget and Finance Committee

AGENDA:

UNTHSC: 1998–1999 budget recommendation; gift report; quarterly investment report; investment report; internal

UNT: student recreational sports fee; union fee increase; 1998–1999 budget recommendation; gift report; quarterly investment report; investment report; international audit update.

Contact: Jana K. Dean, P.O. Box 311220, Denton, Texas 76203, 940/369–8515.

Filed: May 22, 1998, 2:57 p.m.

TRD-9808488

◆ ◆ ◆
Thursday, May 28, 1998, 1:30 p.m.

Avenue C at Chestnut, Administration Building, Board Room,
University of North Texas

Denton

Board of Regents, Role and Scope Committee

AGENDA:

UNTHSC: promotion and tenure recommendations; UNTHSC agency strategic plan; holiday schedule

UNT: routine academic reports; emeritus recommendation; promotion and/or tenure recommendations for 1998–1999; faculty development leaves; policy governing student enrollment in 100 or more doctoral semester credit hours; master of arts degree program in applied anthropology; establishment of holidays for fy 98–99; UNT agency strategic plan personnel transactions

Contact: Jana K. Dean, P.O. Box 311220, Denton, Texas 76203, 940/369–8515.

Filed: May 22, 1998, 2:56 p.m.

TRD-9808487

◆ ◆ ◆
Thursday, May 28, 1998, 3:30 p.m.

Avenue C at Chestnut, Administration Building, Conference Room,
University of North Texas

Denton

Board of Regents, Advancement Committee

AGENDA:

UNTHSC: Gift Report; UNTHSC/TCOM Foundation update

UNT: gift report; public affairs update; athletics update

Contact: Jana K. Dean, P.O. Box 311220, Denton, Texas 76203, 940/369-8515.

Filed: May 22, 1998, 2:57 p.m.

TRD-9808490



Thursday, May 28, 1998, 3:30 p.m.

Avenue C at Chestnut, Administration Building, Room 201, University of North Texas

Denton

Board of Regents, Facilities Committee

AGENDA:

UNTHSC: purchase of property

UNT: purchase of property; west hall renovations; renovation of general academic building; Goolsby Chapel and Reflection Center; speech and drama building renovation; project status report; Mozart square status report; seating for coliseum; tour EESAT building; chapel/reflection centers site; Maple/Welch street sites.

Contact: Jana K. Dean, P.O. Box 311220, Denton, Texas 76203, 940/369-8515.

Filed: May 22, 1998, 2:56 p.m.

TRD-9808489



Friday, May 29, 1998, 8:00 a.m.

Avenue C at Chestnut, Diamond Eagle Suite, University Union, University of North Texas

Denton

Board of Regents

AGENDA:

UNTHSC: call to order; approval of minutes; legislative update; IRS audit; affiliations; legal update; two physical plant staff issues; promotion and tenure recommendations; UNTHSC agency strategic plan; holiday schedule; update on MSRDP reorganization; 1998-99 budget recommendation; gift report; quarterly investment report; purchase of property; president's update on the history of medicine exhibit

UNT: call to order; approval of minutes; legislative update; IRS audit; DEC update; update on searches for deans, vice president for student life, and provost/executive vice president; music student issue; complaint about university housing; athletics update; reorganization; legal update; Goolsby Chapel and Reflection Center; ministry center; recreational sports staff issue; community service faculty member issue; evaluation of the chancellor; routine academic reports; emeritus recommendation; promotion and/or tenure recommendations for 1998-99; faculty development leaves; policy governing student enrollment in 100 or more doctoral semester credit hours; master of arts degree program in applied anthropology; establishment of holidays for fy 98/99; UNT agency strategic plan; personnel transactions; student recreational sports fee; union fee increase; 1998-99 budget recommendation; gift report; quarterly investment report;

purchase of property; west hall renovations; renovation of general academic building; Goolsby Chapel and Reflection Center; speech and drama building renovation; project status report; seating for coliseum; chancellor's update on the maymaster and other enrollment initiatives.

Contact: Jana K. Dean, P.O. Box 311220, Denton, Texas 76203, 940/369-8515.

Filed: May 22, 1998, 2:56 p.m.

TRD-9808485



University of Texas, Health Center at Tyler

Thursday, June 4, 1998, Noon

Highway 271 and Highway 155, Room #116, Biomedical Research Building

Austin

Animal Research Committee

AGENDA:

approval of minutes

chairman report

veterinarian report

old business

new business

adjournment

Contact: Lea Alegre, P.O. Box 2003, Tyler, Texas 75710, 903/877-7661.

Filed: May 22, 1998, 2:15 p.m.

TRD-9808476



Texas Workers' Compensation Commission

Thursday, May 28, 1998, 10:00 a.m.

4000 South IH35, Room 910-911, Southfield Building

Austin

Public Meeting

AGENDA:

1. call to order

2. approval of minutes for the public hearing of April 9, 1998 and public meeting of April 9, 1998, April 30, 1998, May 1, 1998 and May 8, 1998

3. discussion and possible action on requests for renewals of certificate of authority to self-insure

4. discussion and possible action on withdrawal of certified self-insurer from self-insurance

5. discussion and possible action on Montgomery Ward update

6. staff briefing on TWCC strategic plan

7. discussion and possible action on adoption of amendment to rule: Rule 133.101

8. discussion and possible action on adoption of amendment to rule: Rule 134.1002

9. discussion and possible action on adoption of amendment to rule: Rule 133.206

10. discussion and possible action on the application and appointment of members to serve on the Medical Advisory Committee

11. discussion and possible action on removal of doctors from the approved doctor list

12. discussion and possible action on claims service rules time line

13. discussion and possible action on rulemaking petition of Jack Latson regarding Rule 124.7—initial payment of temporary income benefits

14. executive session

15. action on matters considered in executive session

16. general reports, discussion and possible action on issues relating to commission activities

17. confirmation of future public meeting date

18. adjournment

Contact: Virginia A. May, 4000 South IH-35, Austin, Texas 78704, 512/440-5690.

Filed: May 22, 1998, 10:13 a.m.

TRD-9808415



Thursday, May 28, 1998, 10:00 a.m.

4000 South IH35, Room 910-911, Southfield Building

Austin

Public Meeting

REVISED AGENDA:

14. EXECUTIVE SESSION: Pursuant to §551.074, Government code, to consider personnel related matters involving public officers or employees, including matters relating to the executive director and an executive director concerning search, selection and employment, including but not limited to process, search, selection of persons to be interviewed, interviews, selection, employment, and contracts and other matters relating to process, scheduling, interviewing, selection, and employment of the executive director and an executive director. In addition, pursuant to §551.071, Government code, to discuss matters relating to and to receive advice from counsel concerning privileged attorney-client communications, settlement offers, and contracts and/or contemplated and pending litigation including, but not limited to:

Cause No. 94CA229SS, Ben Robinson Company vs. Texas Workers' Compensation Commission, and its members in their official Capacity, in the United States District Court for the Western District of Texas, Austin Division;

Cause No. 97-08791, Texas Hospital Association et al. vs. The Texas Workers' Compensation Commission and Todd K. Brown, 345th Judicial District Court of Travis County, Texas.

IN RE: Montgomery Ward Holding Corporation, a Delaware Corporation, et al, Debtors, Jointly Administered Case No 97-1409(PJW), Chapter 11, United States Bankruptcy Court, District of Delaware

Contact: Virginia A. May, 4000 South IH-35, Austin, Texas 78704, 512/440-5690.

Filed: May 22, 1998, 2:15 p.m.

TRD-9808477

Regional Meetings

Meetings filed May 20, 1998

Atascosa County Appraisal District, Appraisal Review Board met at 4th and Avenue J, Poteet, May 26, 1998, at 9:00 a.m. Information may be obtained from Curtis Stewart, P.O. Box 139, Poteet, Texas 78065-0139, 830/742-3591. TRD-9808281.

Central Plains Center for MHMR and SA, Board of Trustees met at 208 South Columbia, Plainview, May 28, 1998, at 6:00 p.m. Information may be obtained from Ron Trusler, 2700 Yonkers, Plainview, Texas 79072, 806/293-2636. TRD-9808292.

Central Texas MHMR Center, Board of Trustees, met at 408 Mulberry, P.O. Box 250, Brownwood, May 26, 1998, at 5:00 p.m. Information may be obtained from David Williams, P.O. Box 250, Brownwood, Texas 76801, 915/643-3363. TRD-9808280.

Grayson Appraisal District, Appraisal Review Board met at 205 North Travis, Sherman, May 26, 1998, at 8:15 a.m. Information may be obtained from Angie Keeton, 205 North Travis, Sherman, Texas 75090, 903/893-9673. TRD-9808269.

Lower Rio Grande Valley Development Council, Hidalgo County Metropolitan Planning Organization met at TxDOT District Office, 600 West Expressway, US 83, May 28, 1998, at 7:00 p.m. Information may be obtained from Edward L. Molitor, 311 North 15th Street, McAllen, Texas 956/682-3481. TRD-9808276.

San Jacinto River Authority, Board of Directors met at 2301 North Millbend Drive, The Woodlands, May 28, 1998, at 7:30 a.m. Information may be obtained from James R. Adams/Ruby Shiver P.O. Box 329, Conroe, Texas 77305, 409/588-1111. TRD-9808279.

Meetings filed on May 21, 1998

Barton Springs/Edwards Aquifer Conservation District, Board of Directors-Called Meeting met at 1124A Regal Row, Austin, May 27, 1998, at 6:00 p.m. Information may be obtained from Bill E. Couch, 1124A Regal Row, Austin, Texas 78748, 512/282-8441 or fax 512/282-7016. TRD-9808355.

Barton Springs/Edwards Aquifer Conservation District, Board of Directors-Called Meeting met at 1124A Regal Row, Austin, May 28, 1998, at 9:00 a.m. Information may be obtained from Bill E. Couch, 1124A Regal Row, Austin, Texas 78748, 512/282-8441 or fax 512/282-7016. TRD-9808356.

Central Counties Center for MHMR Services, Board of Trustees, met in a revised agenda at 304 South 22nd Street, Temple, May 28, 1998, at 7:00 p.m. Information may be obtained from Eldon Tietje, 304 South 22nd Street, Temple, Texas 76501, 254/298-7010. TRD-9808348.

Central Texas MHMR Center, Board of Trustees, met in a revised agenda at 408 Mulberry, P.O. Box 250, Brownwood, May 26, 1998, 5:00 p.m. Information may be obtained from David Williams, P.O. Box 250, Brownwood, Texas 76801, 915/643-3363. TRD-9808382.

central Texas Water Supply Corporation, Monthly Meeting met at 4020 Lake Cliff Drive, Harker Heights, May 26, 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-9808349.

Central Texas Workforce Development Board met at 321 North Penelope, Belton, May 26, 1998, at 10:00 a.m. Information may be obtained from Susan Kamas, P.O. Box 450, Belton, Texas 76513, 254/939-3771. TRD-9808354.

Colorado County Appraisal District, Ag Advisory Board met at 400 Spring (Grand Jury Room) Columbus, May 27, 1998, at 4:00 p.m. Information may be obtained from Billy Youens, P.O. Box 10, Columbus, Texas 78934, 409/732-8222. TRD-9808330.

Edwards Aquifer Authority, Administrative Committee met at 1615 North St. Mary's Street, San Antonio, May 26, 1998, at 3:00 p.m. Information may be obtained from Mary Esther R. Cortez, 1615 North St. Mary's Street, San Antonio, Texas 78212, 210/222-2204. TRD-9808373.

Edwards Aquifer Authority, Research and Technology Committee met at 1615 North St. Mary's Street, San Antonio, May 27, 1998, at 9:30 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-9808370.

Edwards Aquifer Authority, Aquifer Management Planning Committee met at 1615 North St. Mary's Street, San Antonio, May 27, 1998, at 1:00 p.m. Information may be obtained from Mary Esther R. Cortez, 1615 North St. Mary's Street, San Antonio, Texas 78212, 210/222-2204. TRD-9808372.

Edwards Aquifer Authority, Permits Committee met at 1615 North St. Mary's Street, San Antonio, May 27, 1998, at 3:00 p.m. Information may be obtained from Mary Esther R. Cortez, 1615 North St. Mary's Street, San Antonio, Texas 78212, 210/222-2204. TRD-9808369.

Edwards Aquifer Authority, Legal Committee met at 1615 North St. Mary's Street, San Antonio, May 29, 1998, at 10:00 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-9808371.

Edwards Aquifer Authority, Finance Committee met at 1615 North St. Mary's Street, San Antonio, June 1, 1998, at 10:30 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-9808381.

Ellis County Appraisal District, Board of Directors met at 400 Ferris Avenue, Waxahachie, May 26, 1998, at 7:00 p.m. Information may be obtained from Kathy A. Rodrigue, P.O. Box 878, Waxahachie, Texas 75165, 972/937-3552. TRD-9808386.

Golden Crescent Regional Planning Commission, Board of Directors met at 568 Big Bend Drive, Victoria, May 27, 1998, at 5:00 p.m. Information may be obtained from Rhonda G. Stastny, P.O. Box 2028, Victoria, Texas 77902, 512/578-1587. TRD-9808336.

Gulf Bend Center, Board of Trustees met in a revised agenda at 1502 East Airline, Victoria, May 26, 1998, at Noon. Information may be obtained from Agnes Moeller, 1502 East Airline, Victoria, Texas 77901, 512/582-2309. TRD-9808378.

Lee County Appraisal District, Board of Directors met at 218 East Richmond Street, Giddings, May 27, 1998, at 9:00 a.m. Information may be obtained from Roy L. Holcomb, 218 East Richmond Street, Giddings, Texas 78942, 409/542-9618. TRD-9808335.

North Central Texas Council of Governments, Executive Board met at the Centerpoint Two, 616 Flags Drive, 2nd Floor, Arlington, May 28, 1998, at 12:45 p.m. Information may be obtained from Kristy Libotte Keener, P.O. Box 5888, Arlington, Texas 76005-5888, 817/640-3300. TRD-9808352.

Region O, Llano Estacado, Regional Water Planning Group, General Membership Committee met at 2930 Avenue Q, Board Room, Lubbock, May 26, 1998, at 10:00 a.m. Information may be obtained from A. Wayne Wyatt, 2930 Avenue Q, Lubbock, Texas 79405, 806/762-0181. TRD-9808338.

Sabine Valley Center, Care and Treatment Committee met at 107 Woodbine, Administration Building, Longview, May 28, 1998, at 6:00 p.m. Information may be obtained from Inman White, or Ann Reed, P.O. Box 6800, Longview, Texas 75608, 903/237-2362. TRD-9808358.

Sabine Valley Center, Finance Committee met at 107 Woodbine, Administration Building, Longview, May 28, 1998, at 6:00 p.m. Information may be obtained from Inman White, or Ann Reed, P.O. Box 6800, Longview, Texas 75608, 903/237-2362. TRD-9808359.

Sabine Valley Center, Personnel Committee met at 107 Woodbine, Administration Building, Longview, May 28, 1998, at 6:30 p.m. Information may be obtained from Inman White, or Ann Reed, P.O. Box 6800, Longview, Texas 75608, 903/237-2362. TRD-9808357.

Sabine Valley Center, Board of Trustees met at 107 Woodbine, Administration Building, Longview, May 28, 1998, at 6:00 p.m. Information may be obtained from Inman White, or Ann Reed, P.O. Box 6800, Longview, Texas 75608, 903/237-2362. TRD-9808360.

San Antonio River Authority, South Central Texas Regional Water Planning Group met at 100 East Guenther Street, Boardroom, San Antonio, May 28, 1998, at 10:00. Information may be obtained from Fred N. Pfeiffer, P.O. Box 830027, San Antonio, Texas 787283-0027, 210/227-1373. TRD-9808374.

Meetings filed on May 22, 1998

Alamo Area Council of Governments, Community Relations Committee met at 118 Broadway, Suite 400 San Antonio, May 27, 1998, at 10:00 a.m. Information may be obtained from Al J. Notzon, III, 118 Broadway, Suite 400, San Antonio, Texas 78205, 210/225-5201. TRD-9808442.

Alamo Area Council of Governments, Board of Director met at 118 Broadway, Suite 400 San Antonio, May 27, 1998, at 10:00 a.m. Information may be obtained from Al J. Notzon, III, 118 Broadway, Suite 400, San Antonio, Texas 78205, 210/225-5201. TRD-9808441.

Alamo Area Council of Governments, Area Judges met at 118 Broadway, Suite 400 San Antonio, May 27, 1998, at 1:30 p.m. Information may be obtained from Al J. Notzon, III, 118 Broadway, Suite 400, San Antonio, Texas 78205, 210/225-5201. TRD-9808443.

Capital Area Rural Transportation System, CARTS Board of Directors met at the CARTS Conference Room, 2010 East 6th Street, Austin, May 28, 1998, at 9:00 a.m. Information may be obtained from Edna M. Burroughs, 2010 East 6th Street, Austin, Texas 78701, 512/389-1011. TRD-9808444.

Central Plain Center for MHMR and SA, Board of Trustees met at 208 South Columbia, Plainview, May 28, 1998, at 6:00 p.m. Information may be obtained from Ron Trusler, 2700 Yonkers, Plainview, Texas 79072, 806/293-2636. TRD-9808416.

Central Texas Opportunities, Inc., Board of Directors Meeting met at 1200 South Frio Street, Coleman, May 26, 1998, at 7:00 p.m. Information may be obtained from Gloria J. Mitchell, P.O. Box 820, Coleman, Texas 76834, 915/625-4167. TRD-9808434.

Coastal Bend Workforce Development Board, Special Called Meeting- CEO Council met in a rescheduled meeting at Cotten's Bar-B-Q (Carpet Room), Highway 77, South Bypass, Robstown, May 28, 1998, at 12:30 p.m. Information may be obtained from Shelly Franco, 1616 Martin Luther King Drive, Corpus Christi, Texas 78401, 512/889-5330, Ext. 107. TRD-9808515.

Dallas Area Rapid Transit, Audit Committee met in Conference Room B, First Floor, 1401 Pacific Avenue, Dallas, May 26, 1998, at 10:30

a.m. Information may be obtained from Paula J. Bailey, P.O. Box 660163, Dallas, Texas 75266-0163, 214/749-3256. TRD-9808509.

Dallas Area Rapid Transit, Project Management met in Conference Room C, First Floor, 1401 Pacific Avenue, Dallas, May 26, 1998, at Noon. Information may be obtained from Paula J. Bailey, P.O. Box 660163, Dallas, Texas 75266-0163, 214/749-3256. TRD-9808510.

Dallas Area Rapid Transit, Minority Affairs Committee met in Conference Room B, First Floor, 1401 Pacific Avenue, Dallas, May 26, 1998, at 2:00 p.m. Information may be obtained from Paula J. Bailey, P.O. Box 660163, Dallas, Texas 75266-0163, 214/749-3256. TRD-9808512.

Dallas Area Rapid Transit, Planning Committee met in Conference Room C, First Floor, 1401 Pacific Avenue, Dallas, May 26, 1998, at 2:00 p.m. Information may be obtained from Paula J. Bailey, P.O. Box 660163, Dallas, Texas 75266-0163, 214/749-3256. TRD-9808508.

Dallas Area Rapid Transit, Committee-of-the-Whole met in Conference Room C, First Floor, 1401 Pacific Avenue, Dallas, May 26, 1998, at 4:00 p.m.. Information may be obtained from Paula J. Bailey, P.O. Box 660163, Dallas, Texas 75266-0163, 214/749-3256. TRD-9808513.

Dallas Area Rapid Transit, Board of Directors met in the Board Room, First Floor, 1401 Pacific Avenue, Dallas, May 26, 1998, at 6:30 p.m. Information may be obtained from Paula J. Bailey, P.O. Box 660163, Dallas, Texas 75266-0163, 214/749-3256. TRD-9808511.

Deep East Texas Council of Government, East Texas Regional Water Planning Group, RWPA "I" Public Meeting will meet at 601 North Second (Lufkin-Pitser Garrison Civic Center) Lufkin, June 22, 1998, at 1:30 p.m. Information may be obtained from Walter G. Diggles, 274 East Lamar, Jasper, Texas 75951, 409/384-5704. TRD-9808520.

Education Service Center, Region XVII, Board of Directors will meet at 1111 West Loop 289, Lubbock, June 23, 1998, at 9:00 a.m. Information may be obtained from Kyle R. Wargo, 1111 West Loop 289, Lubbock, Texas 79416, 806/792-5468, Ext. 852. TRD-9808422.

Education Service Center, Region XVIII, Board of Directors met at 2811 LaForce Boulevard, Midland, June 2, 1998, at 6:00 p.m. Information may be obtained from Bryan LaBeff, P.O. Box 60580, Midland, Texas 79711, 915/563-2380. TRD-9808389.

Hays County Appraisal District, Appraisal Review Board met at 21001 North IH-35, Kyle, May 28, 1998, at 9:00 a.m. Information may be obtained from Lynnell Sedlar, 21001 North IH-35 Kyle, Texas 78840, 512/268-2522. TRD-9808503.

Houston-Galveston Area Council, Transportation Department will meet at 3555 Timmons Lane, 2nd Floor, Conference Room A, Houston, June 11, 1998, at 4:30 p.m. Information may be obtained from Ch'rese Jackson, 3555 Timmons Lane Suite 500, Houston, Texas 77227, 713/993-4501. TRD-9808506.

Jones County Appraisal District, Appraisal Review Board met at 1137 East Court Plaza, Anson, May 28, 1998, at 8:30 a.m. Information may be obtained from Susan Holloway, P.O. Box 348, Anson, Texas 79501, 915/823-2422. TRD-9808403.

Lamar County Appraisal District, Board of Director met at 521 Bonham Street, Paris, May 28, 1998, at 4:00 p.m. Information may be obtained from Cathy Jackson, P.O. Box 400, Paris, Texas 75461, 903/785-7822. TRD-9808400.

MHMR Authority of Brazos Valley, Board of Trustees met at 1504 Texas Avenue, Bryan, May 28, 1998, at 1:00 p.m. Information may

be obtained from Leon Bawcom, P.O. Box 4588, Bryan, Texas 77805, 409/822-6467. TRD-9808424.

North Central Texas Council of Governments Transportation Department, Regional Transportation Council will meet at DeSoto City Hall, City Council Chambers, 211 East Pleasant Run Road, DeSoto, June 8, 1998, at 10:00 a.m. Information may be obtained from Michael Morris, P.O. Box 5888, Arlington, Texas 76005-5888, 817/695-9240. TRD-9808464.

North Central Texas Council of Governments Transportation Department, Regional Transportation Council will meet at Lewisville City Hall, City Council Chambers, 1197 West Main, Lewisville, June 8, 1998, at 3:00 p.m. Information may be obtained from Michael Morris, P.O. Box 5888, Arlington, Texas 76005-5888, 817/695-9240. TRD-9808465.

North Central Texas Council of Governments Transportation Department, Regional Transportation Council will meet at North Richland Hills City Hall, City Council Chambers, 7301 NE Loop 820, North Richland, June 9, 1998, at 4:00 p.m. Information may be obtained from Michael Morris, P.O. Box 5888, Arlington, Texas 76005-5888, 817/695-9240. TRD-9808466.

North Texas Regional Library System, Board of Directors met at 1111 Foch Street, Suite 100, Fort Worth, May 28, 1998, at 10:00 a.m. Information may be obtained from Marlin Anglin, 1111 Foch Street, Suite 100, Fort Worth, Texas 76107, 817/335-6076. TRD-9808418.

Northeast Texas Rural Rail Transportation District, Board met at Alliance Bank, 100 West Jefferson, Sulphur Springs, June 2, 1998, at 3:00 p.m. Information may be obtained from Sue Ann Harting, 2821 Washington Street, Greenville, Texas 75401, 903/450-0140. TRD-9808474.

San Jacinto River Authority, Region H Water Planning Group met at 300 West Davis, Conroe, June 3, 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-9808478.

Swisher County Appraisal District, Board of Directors met at 130 North Armstrong, Tulia, May 28, 1998, at 7:00 p.m. Information may be obtained Rose Lee Powell, 130 North Armstrong, 130 North Armstrong, Tulia, Texas 79088, 806/995-4118. TRD-9808521.

Tech Prep of the Rio Grande Valley, Inc., Board of Director Edinburg Youth Fair Chance, 2510 North Closner, Edinburg, May 28, 1998, at Noon. Information may be obtained from Pat Bubb, Tech Prep of the Rio Grande Valley, Inc., TSTC Conference Center, Harlingen, Texas 78550-33697, 956/425-0729. TRD-9808514.

Upper Rio Grande Workforce Development Board met at 5919 Brook Hollow, El Paso, May 27, 1998, 3:00 p.m. Information may be obtained from Norman R. Haley, 5919 Brook Hollow, El Paso, Texas 79925, 915/772-5627, Ext. 406. TRD-9808484.

Meetings filed on May 26, 1998

Austin-Travis County MHMR Center, Board of Trustees met in an emergency meeting at 1430 Collier Street, Board Room, Austin, May 28, 1998, at 5:00 p.m. Reason for emergency: Item requiring action prior to the next Board meeting date, only time a quorum can meet . Information may be obtained from Sharon Taylor, 1430 Collier Street, Austin, Texas 78704, 512/440-4031. TRD-9808533.

Austin-Travis County MHMR Center, Board of Trustees met in an emergency revised meeting at 1430 Collier Street, Board Room, Austin, May 28, 1998, at 5:00 p.m. Reason for emergency: Item requiring action prior to the next Board meeting date, only time a

quorum can meet. Information may be obtained from Sharon Taylor, 1430 Collier Street, Austin, Texas 78704, 512/440-4031. TRD-9808556.

Bexar Appraisal District, Appraisal Review Board will meet at 535 South Main Street, San Antonio, June 5, 1998, at 9:00 a.m. Information may be obtained from Ann Elizondo, P.O. Box 830248, San Antonio, Texas 78783-0248, 210/224-8511. TRD-9808538.

Central Texas Water Supply Corporation, Negotiating Committees met at 4020 Lakecliff Drive, Harker Heights, June 4, 1998, at 10:00 a.m. Information may be obtained from Delores Hamilton, 4020 Lake Cliff Drive, Harker Heights, Texas 76548, 254/698-2779. TRD-9808524.

Concho Valley Workforce Development Board met at 1020 University, San Angelo, May 29, 1998, at 2:00 p.m. Information may be obtained from Hayden Woodard, P.O. Box 87, Junction, Texas 76849, 915/446-2526. TRD-9808534.

East Texas Council of Governments, Executive Committee of the Workforce Development Board met at 4511 Briarwood Road, Tyler, June 1, 1998, at 4:30 p.m. Information may be obtained from Glynn Knights, 3800 Stone Road, Kilgore, Texas 75662, 903/984-8641. TRD-9808545.

East Texas Council of Governments, CEO Board of Directors met at 4511 Briarwood Road, Tyler, June 1, 1998, at 4:30 p.m. Information may be obtained from Glynn Knights, 3800 Stone Road, Kilgore, Texas 75662, 903/984-8641. TRD-9808555.

East Texas Council of Governments, Northeast Texas Air Care Policy Committee will meet at 300 West Cotton Street, Longview, June 5, 1998, at Noon. Information may be obtained from Glynn Knights, 3800 Stone Road, Kilgore, Texas 75662, 903/984-8641. TRD-9808539.

Hill Country Community MHMR Center, Board of Trustees met at 1275 Gruene Road, June 2, 1998, at 10:30 a.m. Information may be obtained from Janis Beck, 1901 Dutton Drive, Suite, D, San Marcos, Texas 78666, 512/753-2279. TRD-9808532.

Lavaca County Central Appraisal District, Board of Directors will meet at 113 North Main Street, Hallettsville, June 8, 1998, at 4:00 p.m. Information may be obtained from Diane Munson, P.O. Box 386, Hallettsville, Texas 77964, 512/798-4396. TRD-9808542.

Lavaca Regional Water Planning Group Region P, Executive Committee, 7059 State Highway 111 East, Edna, June 2, 1998, at 9:00 a.m. Information may be obtained from Emmett Gloyna, 7059 State Highway 111 East, Edna, Texas 512/782-5229. TRD-9808527.

San Antonio Bexar County Metropolitan Planning Organization, Bicycle Mobility Task Force, VIA Metropolitan Transit Board Room, 800 West Myrtle, San Antonio, June 4, 1998, at 4:00 p.m. Information may be obtained from Scott Ericksen, 603 Navarro, Suite 904, San Antonio, Texas 78205, 210/227-8651. TRD-9808531.

San Antonio Bexar County Metropolitan Planning Organization, Technical Advisory Committee, will meet at 233 North Pecos, (Vista Verde) 4th Floor, Conference, Room-Bexar County Public Works, San Antonio, June 5, 1998, at 1:30 p.m. Information may be obtained

from Janet A. Kennison, 603 Navarro, Suite 904, San Antonio, Texas 78205, 210/227-8651. TRD-9808530.

Swisher County Appraisal District, Board of Directors 130 North Armstrong, Tula, May 28, 1998, at 7:00 p.m. Information may be obtained from Rose Powell, 130 North Armstrong, Tula, Texas 79088, 806/995-4118. TRD-9808535.

Tarrant Appraisal District, Tarrant Appraisal Review Board will meet at 2329 Gravel Road, Fort Worth, June 22-30, 1998, at 8:00 a.m. Information may be obtained from Linda G. Smith, 2329 Gravel Road, Fort Worth, Texas 76118-6984, 817/284-8884. TRD-9808526.

Meetings filed May 27, 1998

Brazos Valley Council of Governments, Brazos Valley Regional Advisory Committee on Aging met at 1706 East 29th Street, Bryan, June 2, 1998, at 2:30 p.m. Information may be obtained from A.D. Rychlik, P.O. Drawer 4128, Bryan, Texas 77805-4128, 409/775-4244. TRD-9808629.

Dallas Central Appraisal District, Board of Directors' Regional Meeting met at 2949 North Stemmons Freeway, Second Floor Community Room, Dallas, June 3, 1998, at 7:30 a.m. Information may be obtained from Rick Kuehler, 2949 North Stemmons Freeway, Dallas, Texas 75247, 214/631-0520. TRD-9808593.

Dawson County Central Appraisal District, Board of Directors met at 920 North Dallas, Avenue, Lamesa, June 3, 1998, at 7:00 a.m. Information may be obtained from Tom Anderson, P.O. Box 797, Lamesa, Texas 79331, 806/872-7060. TRD-9808596.

MHMR Authority of Brazos Valley, Board of Trustees met at 1504 Texas Avenue, Bryan, May 28, 1998, at 1:00 p.m. Information may be obtained from Leon Bawsom, P.O. Box 4588, Bryan, Texas 77802, 409/822-6467. TRD-9808606.

Red River Authority of Texas, Regional Water Planning Group - Area B, will meet at Midwestern State University, Clark Student Center Theater, 3410 Taft Boulevard, Wichita Falls, June 9, 1998, at 2:00 p.m. Information may be obtained from Ronald J. Glenn, 520 Hamilton Building, 900 Eighth, Street, Wichita Falls, Texas 76301-6894, 940/723-0855. TRD-9808594.

Red River Authority of Texas, Regional Water Planning Group - Area B, will meet at Midwestern State University, Clark Student Center Theater, 3410 Taft Boulevard, Wichita Falls, June 9, 1998, at 3:00 p.m. Information may be obtained from Ronald J. Glenn, 520 Hamilton Building, 900 Eighth, Street, Wichita Falls, Texas 76301-6894, 940/723-0855. TRD-9808595.

Upshur County Appraisal District, Appraisal Review Board met at 1711 Latch Road, Gilmer, June 1, 1998, at 8:30 a.m. Information may be obtained from Louise Stracener, P.O. Box 280, Gilmer, Texas 75644, 903/843-3041. TRD-9808587.

Meetings filed on May 28, 1998

Lampasas County Appraisal District, Appraisal Review Board met at 109 East Fifth Street, Lampasas, June 3, 1998, at 9:00 a.m. Information may be obtained from Katrina Perry, P.O. Box 175, Lampasas, Texas 76550, 512/556-8058. TRD-9808678.

IN ADDITION

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.

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 May 19, 1998, through May 26, 1998:

FEDERAL AGENCY ACTIONS:

Applicant: Tesoro Marine Services, Inc.; Location: On the Sabine-Neches Waterway, at 7680 South First Avenue, in Sabine Pass, Jefferson County, Texas; Project Number 98-0220-F1; Description of Proposed Action: The applicant proposes to stabilize approximately 1,450 feet of the existing shoreline of their facility with the use of geotextile tubes. The applicant further proposes to repair the existing dock by removing or replacing old dock decking and pilings, and removing a dock approach that was damaged. In addition, the applicant requests authorization to retain a 9-foot by 60-foot steel piling/steel grating approach with associated 20-foot by 30-foot steel piling/grating platform that was constructed without a permit; Type of Application: U.S.C.O.E. permit application number 20946(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).

FEDERAL AGENCY ACTIVITIES:

Applicant: U.S. Environmental Protection Agency; Project Number 98-0217-F2; Description of Proposed Activity: The applicant proposes modifications to the National Pollutant Discharge Elimination System (NPDES) Storm Water Multi-Sector General Permit for Industrial Activities which will: 1) expand the permit's scope of eligibility to include certain types of facilities which had previously only been eligible for coverage under EPA's NPDES Storm Water Baseline Industrial General Permit; 2) define monitoring requirements for facilities transitioning permit coverage from the Baseline Industrial Permit to the Multi-Sector Permit; and 3) terminate the Baseline Industrial Permit after the modification to the Multi-Sector Permit becomes effective.

Applicant: U.S. Department of the Navy; Project Number 98-0221-F2; Description of Proposed Activity: The applicant proposes to prepare an Environmental Assessment (EA) to evaluate the environmental effects of constructing new U.S. Marine Corps (USMC) Training Center facilities in Galveston, Texas. The Marine Corps proposes to construct a new training center, including an administration building, and facilities for amphibious assault vehicle storage and maintenance. As part of the new construction, an amphibious assault vehicle water access ramp, vehicle wash pad, and access roadway are proposed. The proposed facilities will be located east of the existing Marine Corps Training Center Galveston on property owned by the USMC.

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-9808612

Garry Mauro

Chairman

Coastal Coordination Council

Filed: May 27, 1998



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.009, and 1E.003, Title 79, Revised Civil Statutes of Texas, as amended (Articles 5069-1D.003, 1D.009, and 1E.003, Vernon's Texas Civil Statutes).

The weekly ceiling as prescribed by Art. 1D.003 and 1D.009 for the period of 05/25/98 - 05/31/98 is 18% for Consumer ¹/Agricultural/Commercial ²/credit thru \$250,000.

The weekly ceiling as prescribed by Art. 1D.003 and 1D.009 for the period of 05/25/98 - 05/31/98 is 18% for Commercial over \$250,000.

The judgment ceiling as prescribed by Art. 1E.003 for the period of 06/01/98 - 06/30/98 is 10% for Consumer/Agricultural/Commercial/credit thru \$250,000.

The judgment ceiling as prescribed by Art. 1E.003 for the period of 06/01/98 - 06/30/98 is 10% for Commercial over \$250,000.

¹Credit for personal, family or household use.

²Credit for business, commercial, investment or other similar purpose.

TRD-9808390

Leslie L. Pettijohn

Commissioner

Office of Consumer Credit Commissioner

Filed: May 22, 1998

Texas Credit Union Department

Application(s) for a Merger or Consolidation

Notice is given that the following application has been filed with the Texas Credit Union Department and is under consideration:

An application was received from West Texas Credit Union (El Paso) seeking approval to merge with TSWAG Federal Credit Union (El Paso) with West Texas Credit Union being the surviving credit union.

Comments or a request for a meeting by any interested party relating to an application must be submitted in writing within 30 days from the date of this publication. Any written comments must provide all information that the interested party wishes the Department to consider in evaluating the application. All information received will be weighed during consideration of the merits of an application. Comments or a request for a meeting should be addressed to the Texas Credit Union Department, 914 East Anderson Lane, Austin, Texas 78752-1699.

TRD-9808599

Harold E. Feeney

Commissioner

Texas Credit Union Department

Filed: May 27, 1998

Application(s) to Expand Field of Membership

Notice is given that the following application has been filed with the Texas Credit Union Department and is under consideration:

An application was received from Service 1st Credit Union, Greenville, Texas to expand its field of membership. The proposal would permit any person residing or working within the boundaries of Hunt County, Texas that is not currently served by an employer or association sponsored credit union to be eligible for membership in the credit union.

Comments or a request for a meeting by any interested party relating to an application must be submitted in writing within 30 days from the date of this publication. Credit unions that wish to comment on any application must also complete a Notice of Protest form. The form may be obtained by contacting the Department at (512) 837-9236. Any written comments must provide all information that the interested party wishes the Department to consider in evaluating the application. All information received will be weighed during consideration of the merits of an application. Comments or a request for a meeting should be addressed to the Texas Credit Union Department, 914 East Anderson Lane, Austin, Texas 78752-1699.

TRD-9808588

Harold E. Feeney

Commissioner

Texas Credit Union Department

Filed: May 27, 1998

General Services Commission

Notice to Bidders 98-013-303

SEALED BIDS WILL BE RECEIVED BY GENERAL SERVICES COMMISSION (GSC), AUSTIN, TEXAS, TELEPHONE (512) 463-3417, ON THURSDAY, JUNE 25, 1998, AT 3:00 P.M., FOR:

Project Number 98-013-303: Parking Garage - Lot 20, Austin, Texas. The approximate cost range for this project is \$12,000,000.00.

Bid Receipt Location: General Services Commission/FCSM, 1711 San Jacinto, Bid Room 180, Austin, Texas 78701 (P. O. Box 13047, Austin, Texas 78711). After submitting bid, proceed to the second floor receptionist for directions to public bid opening.

Contractor Qualifications: Prime contractors are required to submit information to the FCSM Division, 1711 San Jacinto, Austin, Texas 78701, on FCSM's Contractor Qualification Form no later than 5:00 P.M., on June 18, 1998, to document compliance with contractor's qualification requirements for this project. Telephone (512) 463-3417 to obtain form. Information is to be used in determining if a contractor is qualified to receive a contract award for the project. Review and acceptance by FCSM of contractor qualification statements is required prior to obtaining bid documents from Architect. Failure to provide information regarding all requirements may delay acceptance which will delay receiving bid documents.

Pre-Bid Conference: A Pre-Bid Conference will be held on Tuesday, June 16, 1998, at 1:00 P.M., at the General Services Commission office, 1711 San Jacinto, Austin, Texas 78701, Conference Room 200A.

Bid Documents: Plans and specifications will be available after June 1, 1998, for prime contractors, at Ridgways, Inc., 615 South Lamar, Austin, Texas 78704, contact John Hollingsworth, (512) 441-2475, FAX: (512) 441-2535.

A refundable deposit of \$300.00 for one set will be required for the bid documents. Additional sets or partial sets may be purchased from the printer for the cost of reproduction. Bid documents will be available for review at major Plan Rooms in Austin, Houston and San Antonio.

BIDS ARE TO BE MADE IN ACCORDANCE WITH STATE PROCEDURES .

TRD-9808550

Judy Ponder

General Counsel

General Services Commission

Filed: May 26, 1998

Texas Department of Health

Uranium By-Product Material License Amendment - Exxon Corporation

The Texas Department of Health (department) gives notice that uranium by-product material license RW1431 issued to Exxon

Corporation, for its Ray Point Project located in Live Oak County near Three Rivers, Texas (mailing address: Exxon Corporation, P. O. Box 1314, Houston, Texas 77251-1314) has been amended to change the title of the person to be designated as radiation safety officer; delete or modify references and conditions pertaining to certain expired or terminated authorizations; and renumber the license to Radioactive Material License L01431 to reflect the transfer of jurisdiction to the department by the 75th Session of the Texas Legislature. This transfer was effective July 20, 1997.

The department's Bureau of Radiation Control, Division of Licensing, Registration and Standards has determined, pursuant to 25 Texas Administrative Code (TAC) Chapter 289, that the licensee has met the standards appropriate to this amendment: (a) The licensee, Exxon Corporation, is qualified by reason of training and experience to use the material in question for the purpose requested in such a manner as to protect public health and safety, and the environment; (b) the applicant's equipment, facilities, and procedures are adequate to protect public health and safety, and the environment; (c) the issuance of the license amendment will not be inimical to public health and safety, nor have a long-term detrimental impact on the environment; (d) the applicant has demonstrated financial capability to conduct the activity including all costs associated with decommissioning, decontamination, disposal, reclamation, and long-term care and maintenance (if necessary); and (e) the applicant satisfies all applicable special requirements in 25 TAC §289.260. No environmental assessment is necessary for this action, since the department has determined that the action will not have a significant impact on the human environment.

This notice affords the opportunity for a public hearing upon written request by a person affected by the amendment to the license. A written hearing request must be received within 30 days from the date of publication of this notice in the *Texas Register*, from a person affected. A person affected is defined as a person who is a resident of the county, or a county adjacent to the county, in which the radioactive materials are or will be located, including any person who is doing business or who has a legal interest in the county or adjacent county, and any local government in the county; and who can demonstrate that he has suffered or will suffer actual injury or economic damage. A person affected may request a hearing by writing Richard A. Ratliff, P.E., Chief, Bureau of Radiation Control, Texas Department of Health, 1100 West 49th Street, Austin, Texas 78756-3189. Any request for a hearing must contain the name and address of the person who considers himself affected by agency action, identify the subject license, specify the reasons why the person considers himself affected, and state the relief sought. If the person is to be represented by an attorney, the name and address of the attorney also must be stated. Should no request for a public hearing be timely filed, the license will remain in effect.

Copies of all relevant material are available for public inspection and copying at the Bureau of Radiation Control, Texas Department of Health, 8407 Wall Street, Austin, Texas. Information relative to the amendment of this specific radioactive material license may be obtained by contacting Richard A. Ratliff, P.E., Chief, Bureau of Radiation Control, Texas Department of Health, 1100 West 49th Street, Austin, Texas 78756-3189, by calling (512) 834-6688, or by visiting 8407 Wall Street, Austin, Texas.

TRD-9808615
Susan K. Steeg
General Counsel
Texas Department of Health
Filed: May 27, 1998

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Uranium By-Product Material License Amendment - USX Corporation

The Texas Department of Health (department) gives notice that uranium by-product material license RW2449 issued to USX Corporation, for its George West Project located in Live Oak County near George West, Texas (mailing address: USX Corporation, P. O. Drawer V, George West, Texas 78022) has been amended to change the radiation safety officer; delete or modify references and conditions pertaining to certain expired or terminated authorizations; and renumber the license to Radioactive Material License L02449 to reflect the transfer of jurisdiction to the department by the 75th Session of the Texas Legislature. This transfer was effective July 20, 1997.

The department's Bureau of Radiation Control, Division of Licensing, Registration and Standards has determined, pursuant to 25 Texas Administrative Code (TAC) Chapter 289, that the licensee has met the standards appropriate to this amendment: (a) The licensee, USX Corporation, is qualified by reason of training and experience to use the material in question for the purpose requested in such a manner as to protect public health and safety, and the environment; (b) the applicant's equipment, facilities, and procedures are adequate to protect public health and safety, and the environment; (c) the issuance of the license amendment will not be inimical to public health and safety, nor have a long-term detrimental impact on the environment; (d) the applicant has demonstrated financial capability to conduct the activity including all costs associated with decommissioning, decontamination, disposal, reclamation, and long-term care and maintenance (if necessary); and (e) the applicant satisfies all applicable special requirements in 25 TAC §289.260. No environmental assessment is necessary for this action, since the department has determined that the action will not have a significant impact on the human environment.

This notice affords the opportunity for a public hearing upon written request by a person affected by the amendment to the license. A written hearing request must be received within 30 days from the date of publication of this notice in the *Texas Register*, from a person affected. A person affected is defined as a person who is a resident of the county, or a county adjacent to the county, in which the radioactive materials are or will be located, including any person who is doing business or who has a legal interest in the county or adjacent county, and any local government in the county; and who can demonstrate that he has suffered or will suffer actual injury or economic damage. A person affected may request a hearing by writing Richard A. Ratliff, P.E., Chief, Bureau of Radiation Control, Texas Department of Health, 1100 West 49th Street, Austin, Texas 78756-3189. Any request for a hearing must contain the name and address of the person who considers himself affected by agency action, identify the subject license, specify the reasons why the person considers himself affected, and state the relief sought. If the person is to be represented by an attorney, the name and address of the attorney also must be stated. Should no request for a public hearing be timely filed, the license will remain in effect.

Copies of all relevant material are available for public inspection and copying at the Bureau of Radiation Control, Texas Department of Health, 8407 Wall Street, Austin, Texas. Information relative to the amendment of this specific radioactive material license may be obtained by contacting Richard A. Ratliff, P.E., Chief, Bureau of Radiation Control, Texas Department of Health, 1100 West 49th Street, Austin, Texas 78756-3189, by calling (512) 834-6688, or by visiting 8407 Wall Street, Austin, Texas.

TRD-9808614

Susan K. Steeg
General Counsel
Texas Department of Health
Filed: May 27, 1998

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Texas Department of Housing and Community Affairs

Request for Proposals for Legal Services

SUMMARY. The Texas Department of Housing and Community Affairs (TDHCA), through its Legal Division, is issuing a Request for Proposal (RFP) for outside counsel in connection with TDHCA's administration of U.S. Department of Health and Human Services (HHS) matters, particularly issues concerning its funding of programs administered by TDHCA.

DEADLINE FOR SUBMISSION. The deadline for submission in response to the Request for Proposal is 5:00 p.m. Central Standard Time June 22, 1998. No proposal received after the deadline will be considered.

TDHCA reserves the right to accept or reject any (or all) proposals submitted. The information contained in this proposal request is intended to serve only as a general description of the services desired by TDHCA, and TDHCA intends to use responses as a basis for further negotiation of specific project details with offerors. This request does not commit TDHCA to pay for any costs incurred prior to the execution of a contract and is subject to availability of funds. Issuance of this request for proposal in no way obligates TDHCA to award a contract or to pay any costs incurred in the preparation of a response.

Law firms interested in submitting a proposal should contact Lucille Spillar, Legal Assistant, General Counsel's office, at 512/475-3726, 507 Sabine, Austin, TX 78701, for a complete copy of the RFP. Communication with any member of the board of directors, the executive director, or TDHCA staff other than General Counsel's office concerning any matter related to this request for proposals is grounds for immediate disqualification.

TRD-9808619
Larry Paul Manley
Executive Director
Texas Department of Housing and Community Affairs
Filed: May 27, 1998

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Request for Proposals for the Comprehensive Energy Assistance Program

Low Income Home Energy Assistance Program (LIHEAP)

I. SUMMARY

The Texas Department of Housing and Community Affairs (Department) is issuing this Request for Proposals (RFP) to announce the availability of Low Income Home Energy Assistance Program funds for the Comprehensive Energy Assistance Program (CEAP). These funds are provided to assist low income households residing in Bosque, Freestone, Hill and Limestone Counties in meeting their home energy costs. As of the date of this RFP, the Department intends to make approximately \$111,057 from FFY '98 funds available to eligible applicant, as defined in this RFP. The RFP for CEAP services must be accompanied by a RFP for Weatherization Assistance

Program services for in Bosque, Freestone, Hill and Limestone Counties.

II. ELIGIBLE APPLICANTS

1. Any local public or private nonprofit agency.
2. Special consideration will be given to entities receiving federal funds under any low-income assistance program or weatherization assistance program under the Economic Opportunity Act of 1964 or any other provision of law on day before enactment of this Act.

Submissions of proposals, questions or requests for additional information may be directed to Peggy M. Colvin, Assistant Program Manager, Energy Assistance Section, Texas Department of Housing and Community Affairs, 507 Sabine, Suite 600, Austin, Texas 78701, (512) 475-3864.

The RFP package will be available on the date of the publication of this RFP. The proposals must be submitted to the Department by 5:00 p.m. on July 7, 1998. Applications received after the due date will not be considered.

To obtain a copy of the RFP package, write to:

Texas Department of Housing and Community Affairs, Energy Assistance Section, Attention: June Kavanaugh, 507 Sabine, Suite 600, Austin, Texas 78701 or call the Energy Assistance Section at (512) 475-3863.

TRD-9808626
Larry Paul Manley
Executive Director
Texas Department of Housing and Community Affairs
Filed: May 27, 1998

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Low Income Home Energy Assistance Program (LIHEAP)

I. SUMMARY

The Texas Department of Housing and Community Affairs (Department) is issuing this Request for Proposals (RFP) to announce the availability of Low Income Home Energy Assistance Program funds for the Comprehensive Energy Assistance Program (CEAP). These funds are provided to assist low income households residing in Harris County in meeting their home energy costs. As of the date of this RFP, the Department intends to make approximately \$2,033,077 from FFY '98 funds available to eligible applicant, as defined in this RFP.

II. ELIGIBLE APPLICANTS

1. Any local public or private nonprofit agency.
2. Special consideration will be given to entities receiving federal funds under any low-income assistance program or weatherization assistance program under the Economic Opportunity Act of 1964 or any other provision of law on day before enactment of this Act.

Submissions of proposals, questions or requests for additional information may be directed to Peggy M. Colvin, Assistant Program Manager, Energy Assistance Section, Texas Department of Housing and Community Affairs, 507 Sabine, Suite 600, Austin, Texas 78701, (512) 475-3864.

The RFP package will be available on the date of the publication of this RFP. The proposals must be submitted to the Department by 5:00 p.m. on July 7, 1998. Applications received after the due date will not be considered.

To obtain a copy of the RFP package, write to:

Texas Department of Housing and Community Affairs, Energy Assistance Section, Attention: June Kavanaugh, 507 Sabine, Suite 600, Austin, Texas 78701 or call the Energy Assistance Section at (512) 475-3863.

TRD-9808625
Larry Paul Manley
Executive Director
Texas Department of Housing and Community Affairs
Filed: May 27, 1998



Request for Proposals for the Weatherization Assistance Program for Low-Income Persons (WAPFLIP)

I. SUMMARY

The Texas Department of Housing and Community Affairs (Department) is issuing this Request for Proposals (RFP) to announce the availability of Department of Energy and Department of Health and Human services funds for the Weatherization Assistance Program for Low-Income Persons (WAP). These funds are to provide weatherization services to low income households residing in Bosque, Freestone, Hill and Limestone Counties. As of the date of this RFP, the Department intends to make approximately \$52,331 from FFY 1998 funds available to eligible applicant, as defined in this RFP. The RFP for WAP services must be accompanied by a RFP for Comprehensive Energy Assistance Program (CEAP) services for Bosque, Freestone, Hill and Limestone Counties.

II. ELIGIBLE APPLICANTS

1. Any local public or private nonprofit agency.
2. Special consideration will be given to entities receiving federal funds under any low-income assistance program or weatherization assistance program under the Economic Opportunity Act of 1964 or any other provision of law on day before enactment of this Act.

Submissions of proposals, questions or requests for additional information may be directed to Peggy M. Colvin, Assistant Program Manager, Energy Assistance Section, Texas Department of Housing and Community Affairs, 507 Sabine, Suite 600, Austin, Texas 78701, (512) 475-3864.

The RFP package will be available on the date of the publication of this RFP. The proposals must be submitted to the Department by 5:00 p.m. on July 7, 1998. Applications received after the due date will not be considered.

To obtain a copy of the RFP package, write to:

Texas Department of Housing and Community Affairs, Energy Assistance Section, Attention: June Kavanaugh, 507 Sabine, Suite 600, Austin, Texas 78701 or call the Energy Assistance Section at (512) 475-3863.

TRD-9808622
Larry Paul Manley
Executive Director
Texas Department of Housing and Community Affairs
Filed: May 27, 1998



I. SUMMARY

The Texas Department of Housing and Community Affairs (Department) is issuing this Request for Proposals (RFP) to announce the availability of Department of Energy and Department of Health and

Human services funds for the Weatherization Assistance Program for Low-Income Persons (WAP). These funds are to provide weatherization services to low income households residing in Delta, Rains, Red River, Franklin and Lamar Counties. As of the date of this RFP, the Department intends to make approximately \$55,447 from FFY '98 funds available to eligible applicant, as defined in this RFP.

II. ELIGIBLE APPLICANTS

1. Any local public or private nonprofit agency.
2. Special consideration will be given to entities receiving federal funds under any low-income assistance program or weatherization assistance program under the Economic Opportunity Act of 1964 or any other provision of law on day before enactment of this Act.

Submissions of proposals, questions or requests for additional information may be directed to Peggy M. Colvin, Assistant Program Manager, Energy Assistance Section, Texas Department of Housing and Community Affairs, 507 Sabine, Suite 600, Austin, Texas 78701, (512) 475-3864.

The RFP package will be available on the date of the publication of this RFP. The proposals must be submitted to the Department by 5:00 p.m. on July 7, 1998. Applications received after the due date will not be considered.

To obtain a copy of the RFP package, write to:

Texas Department of Housing and Community Affairs, Energy Assistance Section, Attention: June Kavanaugh, 507 Sabine, Suite 600, Austin, Texas 78701 or call the Energy Assistance Section at (512) 475-3863.

TRD-9808623
Larry Paul Manley
Executive Director
Texas Department of Housing and Community Affairs
Filed: May 27, 1998



I. SUMMARY

The Texas Department of Housing and Community Affairs (Department) is issuing this Request for Proposals (RFP) to announce the availability of Department of Energy and Department of Health and Human services funds for the Weatherization Assistance Program for Low-Income Persons (WAP). These funds are to provide weatherization services to low income households residing in Rusk and Cherokee Counties. As of the date of this RFP, the Department intends to make approximately \$47,348 from FFY '98 funds available to eligible applicant, as defined in this RFP. The RFP for WAP services must be accompanied by a RFP for Comprehensive Energy Assistance Program (CEAP) services for Rusk, Cherokee and Smith Counties.

II. ELIGIBLE APPLICANTS

1. Any local public or private nonprofit agency.
2. Special consideration will be given to entities receiving federal funds under any low-income assistance program or weatherization assistance program under the Economic Opportunity Act of 1964 or any other provision of law on day before enactment of this Act.

Submissions of proposals, questions or requests for additional information may be directed to Peggy M. Colvin, Assistant Program Manager, Energy Assistance Section, Texas Department of Housing and Community Affairs, 507 Sabine, Suite 600, Austin, Texas 78701, (512) 475-3864.

The RFP package will be available on the date of the publication of this RFP. The proposals must be submitted to the Department by 5:00 p.m. on July 7, 1998. Applications received after the due date will not be considered.

To obtain a copy of the RFP package, write to:

Texas Department of Housing and Community Affairs, Energy Assistance Section, Attention: June Kavanaugh, 507 Sabine, Suite 600, Austin, Texas 78701 or call the Energy Assistance Section at (512) 475-3863.

TRD-9808621

Larry Paul Manley
Executive Director

Texas Department of Housing and Community Affairs

Filed: May 27, 1998



I. SUMMARY

The Texas Department of Housing and Community Affairs (Department) is issuing this Request for Proposals (RFP) to announce the availability of Department of Energy and Department of Health and Human services funds for the Weatherization Assistance Program for Low-Income Persons (WAP). These funds are to provide weatherization services to low income households residing in Upshur, Wood, Greg, Harrison and Panola Counties. As of the date of this RFP, the Department intends to make approximately \$114,630 from FFY '98 funds available to eligible applicant, as defined in this RFP.

II. ELIGIBLE APPLICANTS

1. Any local public or private nonprofit agency.
2. Special consideration will be given to entities receiving federal funds under any low-income assistance program or weatherization assistance program under the Economic Opportunity Act of 1964 or any other provision of law on day before enactment of this Act.

Submissions of proposals, questions or requests for additional information may be directed to Peggy M. Colvin, Assistant Program Manager, Energy Assistance Section, Texas Department of Housing and Community Affairs, 507 Sabine, Suite 600, Austin, Texas 78701, (512) 475-3864.

The RFP package will be available on the date of the publication of this RFP. The proposals must be submitted to the Department by 5:00 p.m. on July 7, 1998. Applications received after the due date will not be considered.

To obtain a copy of the RFP package, write to:

Texas Department of Housing and Community Affairs, Energy Assistance Section, Attention: June Kavanaugh, 507 Sabine, Suite 600, Austin, Texas 78701 or call the Energy Assistance Section at (512) 475-3863.

TRD-9808620

Larry Paul Manley
Executive Director

Texas Department of Housing and Community Affairs

Filed: May 27, 1998



Low Income Home Energy Assistance Program (LIHEAP)

I. SUMMARY

The Texas Department of Housing and Community Affairs (Department) is issuing this Request for Proposals (RFP) to announce the availability of Low Income Home Energy Assistance Program funds for the Comprehensive Energy Assistance Program (CEAP). These funds are provided to assist low income households residing in Rusk, Cherokee and Smith Counties in meeting their home energy costs. As of the date of this RFP, the Department intends to make approximately \$296,299 from FFY '98 funds available to eligible applicant, as defined in this RFP. The RFP for CEAP services must be accompanied by a RFP for Weatherization Assistance Program services for Rusk and Cherokee Counties.

II. ELIGIBLE APPLICANTS

1. Any local public or private nonprofit agency.
2. Special consideration will be given to entities receiving federal funds under any low-income assistance program or weatherization assistance program under the Economic Opportunity Act of 1964 or any other provision of law on day before enactment of this Act.

Submissions of proposals, questions or requests for additional information may be directed to Peggy M. Colvin, Assistant Program Manager, Energy Assistance Section, Texas Department of Housing and Community Affairs, 507 Sabine, Suite 600, Austin, Texas 78701, (512) 475-3864.

The RFP package will be available on the date of the publication of this RFP. The proposals must be submitted to the Department by 5:00 p.m. on July 7, 1998. Applications received after the due date will not be considered.

To obtain a copy of the RFP package, write to:

Texas Department of Housing and Community Affairs, Energy Assistance Section, Attention: June Kavanaugh, 507 Sabine, Suite 600, Austin, Texas 78701 or call the Energy Assistance Section at (512) 475-3863.

TRD-9808624

Larry Paul Manley
Executive Director

Texas Department of Housing and Community Affairs

Filed: May 27, 1998



Texas Department of Insurance

Notice

The Commissioner of Insurance, or his designee, will consider approval of a rating manual request submitted by Federated Insurance proposing to use a rating manual relative to classifications and territories different than that promulgated by the Commissioner of Insurance pursuant to Texas Insurance Code Annotated, Article 5.101, §3(l). They are proposing commercial automobile subclassifications based on the insureds' type of business, for policies issued through Federated Mutual Insurance Company and Federated Service Insurance Company. The subclassifications impose 4% credits for certain types of business and 6% surcharges for other types of business.

Copies of the filing may be obtained by contacting Gifford Ensey, at the Texas Department of Insurance, Legal and Compliance, P.O. Box 149104, Austin, Texas 78714-9104, extension (512) 475-1761.

This filing is subject to Department approval without a hearing unless a properly filed objection, pursuant to Article 5.101, §3(h), is made with the Associate Commissioner, Regulation and Safety, Rose Ann Reeser, at the Texas Department of Insurance, MC 107-2A, P.O. Box

149104, Austin, Texas 78701 within 30 days after publication of this notice.

TRD-9808445
Bernice Ross
Deputy Chief Clerk
Texas Department of Insurance
Filed: May 22, 1998



Notice of Public Hearing

The Commissioner of Insurance will hold a public hearing under Docket Number 2364, on June 18, 1998, at 10:00 a.m. in Room 100 of the William P. Hobby Jr. State Office Building, 333 Guadalupe St. Austin, Texas concerning 28 TAC §§5.10001, 5.10003-5.10004, 5.1007-5.1009, and 5.10011 relating to the plan of operation of the Residential Property Insurance Market Assistance Program.

The proposed amendments and the statutory authority for the proposed amendments, was published in the May 1, 1998 issue of the *Texas Register* (23 TexReg 4196).

TRD-9808597
Bernice Ross
Deputy Chief Clerk
Texas Department of Insurance
Filed: May 27, 1998



Texas Lottery Commission

Game Procedures - Instant Game Number 79

1.0 Name and Style of Game.

A. The name of Instant Game Number 79 is "3 ACROSS". The play style of the game is a "Key Symbol Match" play style.

1.1 Price of Instant Ticket.

A. Tickets for Instant Game Number 79 shall be \$1.00 per ticket.

1.2 Definitions in Instant Game Number 79.

A. Display Printing - That area of the instant game ticket outside of the area where the Overprint and Play Symbols appear.

B. Latex Overprint - The removable scratch-off covering over the Play Symbols on the front of the ticket.

C. Play Symbol - One of the symbols which appears under the Latex Overprint on the front of the ticket. Each Play Symbol is printed in Symbol font in black ink in positive. The possible Play Symbols are: CHERRY, STAR, BELL, SHAMROCK, HORSESHOE, POT, BAR.

D. Play Symbol Caption - the small printed material appearing below each Play Symbol which explains the Play Symbol. One and only one of these Play Symbol Captions appears under each Play Symbol and each is printed in Caption font in black ink in positive. The Play Symbol Caption which corresponds with and verifies each Play Symbol is as follows:

PLAY SYMBOL	CAPTION
[BAR]	BAR
[SEVEN]	SEVEN
[POT]	POT
[HORSESHOE]	SHOE
[SHAMROCK]	SHMRK
[BELL]	BELL
[STAR]	STAR
[CHERRY]	CHERRY

E. Retailer Validation Code - Three small letters found under the removable scratch-off covering over the Play Symbol area, which

retailers use to verify and validate instant winners. The possible validation codes are:

CODE	PRIZE
ONE	\$1.00
TWO	\$2.00
THR	\$3.00
FIV	\$5.00
TEN	\$10.00
TWN	\$20.00

Non-winning and high-tier winning tickets will have different combinations of any three of the following letters, excluding the combinations listed above: E, F, G, H, I, L, N, Ø, R, S, T, V, W, X

All codes from \$1 through \$24 not used for this game are protected. Other combinations of these letters are to be used for commons and high-tier winners. The letter "Ø" is only to be used on the appropriate winning codes and will always have a slash through it.

F. Validation Number- A unique 12 digit number appearing under the latex scratch-off covering on the front of the ticket. Nine digits of the Validation Number relate to the game Play Symbols. There is a one digit prize code and a two digit check digit, which will verify the recording accuracy of the ten digit Validation Number, or VIRN (Void If Removed Number). There is a four digit control number which will be boxed and randomly placed within the VIRN number. The Validation Number is positioned beneath the bottom row of play data in scratched-off play area.

The format will be : 00000000 0000.

G. Low-Tier Prize - A prize of \$1.00, \$2.00, \$3.00, \$5.00, \$10.00 or \$20.00

H. Mid-Tier Prize - A prize of \$200.

I. High-Tier Prize - A prize of \$1,000.

J. Bar Code - A 20 character interleaved two of five bar code which will include a three digit game ID, the seven digit pack number and eight digits of the Validation Number and a two digit filler. The bar code appears on the back of the ticket.

K. Pack-Ticket Number - An 11 digit number consisting of the two digit game number (79), a six digit pack number and a three digit ticket number. Ticket numbers start with 000 and end with 249 within each pack. The format will be : 79-000001-000.

L. Pack - A pack of "3 ACROSS" Instant Game tickets contains 250 tickets, which are packed in plastic shrink-wrapping and fanfolded in pages of five. Tickets 000 to 004 are on the top page; tickets 005 to 009 are on the next page, and so forth with tickets 245 to 249 on the last page. Tickets 000 and 249 are folded down to expose the pack-ticket number through the shrink-wrap.

M. Non-Winning Ticket - A ticket which is not programmed to be a winning ticket or a ticket that does not meet all of the requirements of these Game Procedures, the State Lottery Act (Texas Government Code, Chapter 466), and applicable rules adopted by the Texas Lottery pursuant to the State Lottery Act and referenced in 16 TAC, Chapter 401.

N. Ticket or Instant Game Ticket, or Instant Ticket - A Texas Lottery "3 ACROSS" Instant Game Number 79 ticket.

2.0 Determination of Prize Winners. The determination of prize winners is subject to the ticket validation requirements set forth in Texas Lottery Rule, 16 TAC §401.302, Instant Game Rules, these Game Procedures, and the requirements set out on the back of each instant ticket. A prize winner in the "3 ACROSS" Instant Game is determined once the latex on the ticket is scratched off to expose the Play Symbols on the front of the ticket. If three like play symbols are revealed in the same row, indicated as "PULL 1", "PULL 2" and "PULL 3", the holder of the ticket wins the prize amount that corresponds to the symbols in the prize legend. There may be up to three wins on one ticket. No portion of the display printing nor any extraneous matter whatsoever shall be usable or playable as a part of the Instant Game.

2.1 Instant Ticket Validation Requirements.

A. To be a valid Instant Game ticket, all of the following requirements must be met:

1. Exactly nine Play Symbols must appear under the latex overprint on the front portion of the ticket;

2. Each of the Play Symbols must have a Play Symbol Caption underneath, and each Play Symbol must agree with its Play Symbol Caption;
 3. Each of the Play Symbols must be present in its entirety and be fully legible;
 4. Each Play Symbol Caption must be present in its entirety and be fully legible;
 5. Each of the Play Symbols and the Play Symbol Captions must be printed in black ink;
 6. The ticket shall be intact;
 7. The Validation Number, Retailer Validation Code and Pack-Ticket Number must be present in their entirety and be fully legible;
 8. The Validation Number must correspond, using the Texas Lottery's codes, to the Play Symbols on the ticket;
 9. The ticket must not have a hole punched through it, be mutilated, altered, unreadable, reconstituted or tampered with in any manner;
 10. The ticket must not be counterfeit in whole or in part;
 11. The ticket must have been issued by the Texas Lottery in an authorized manner;
 12. The ticket must not have been stolen, nor appear on any list of omitted tickets or non-activated tickets on file at the Texas Lottery;
 13. The Play Symbols, Play Symbol Captions, Validation Number, Retailer Validation Code and Pack-Ticket Number must be right side up and not reversed in any manner;
 14. The ticket must be complete and not miscut, and have exactly nine Play Symbols and exactly nine Play Symbol Captions under the latex overprint on the front of the ticket, exactly one Validation Number, exactly one Retailer Validation Code, and exactly one Pack-Ticket Number on the ticket;
 15. The Validation Number of an apparent winning ticket shall correspond with the Texas Lottery's Validation Numbers for winning tickets, and a ticket with that Validation Number shall not have been paid previously;
 16. The ticket must not be blank or partially blank, misregistered, defective or printed or produced in error;
 17. Each of the nine Play Symbols must be exactly one of those described in section 1.2.C of these Game Procedures, and each of the Play Symbol Captions to those Play Symbols must be exactly one of those described in section 1.2.D of these Game Procedures;
 18. Each of the nine Play Symbols on the ticket must be printed in the Symbol font and must correspond precisely to the artwork on file at the Texas Lottery; the ticket Validation Numbers must be printed in the Validation font and must correspond precisely to the artwork on file at the Texas Lottery; and the Pack-Ticket Number must be printed in the Pack-Ticket Number font and must correspond precisely to the artwork on file at the Texas Lottery;
 19. The display printing on the ticket must be regular in every respect and correspond precisely to the artwork on file at the Texas Lottery; and
 20. The ticket must have been received or recorded by the Texas Lottery by applicable deadlines.
- B. The ticket must pass all additional validation tests provided for in these Game Procedures, the Texas Lottery's Rules, and any confidential validation and security tests of the Texas Lottery.

C. Any Instant Game ticket not passing all of the validation requirements is void and ineligible for any prize and shall not be paid. However, the Executive Director may, solely at the Executive Director's discretion, replace an invalid ticket with an unplayed ticket in that Instant Game (or ticket of equivalent sales price from any other current Instant Lottery game) or refund the retail sales price of the ticket. In the event a defective ticket is purchased, the only responsibility or liability of the Texas Lottery shall be to replace the defective ticket with another unplayed ticket in that Instant Game (or a ticket of equivalent sales price from any other current Instant Lottery game) or refund the retail sales price of the ticket. The decision as to which action to take with a defective ticket is solely within the Executive Director's discretion.

2.2 Programmed Game Parameters.

- A. There will never be three or more like non-winning play symbols on a ticket.
- B. Adjacent tickets will not have identical patterns.
- C. There will never be three like symbols in a column.

2.3 Procedure for Claiming Prizes.

A. To claim a "3 ACROSS" Instant Game prize of \$1.00, \$2.00, \$3.00, \$5.00, \$10.00, \$20.00 or \$200, a claimant shall sign the back of the ticket in the space designated on the ticket and present the winning ticket to any Texas Lottery Retailer. The Texas Lottery Retailer, acting pursuant to applicable Lottery rules, may validate the claim. If the Texas Lottery Retailer determines that the ticket is a valid winning ticket by validating the ticket, and the claimant presents proper identification, the Texas Lottery Retailer shall make payment of the amount due the claimant and physically void the ticket. In the event the Texas Lottery Retailer cannot verify the claim, the Texas Lottery Retailer shall provide the claimant with a claim form and instruct the claimant on how to file a claim with the Texas Lottery. If the claim is validated by the Texas Lottery, a check shall be forwarded to the claimant in the amount due. In the event the claim is not validated, the claim shall be denied and the claimant shall be notified promptly. A claimant may also claim any of the above prizes under the procedures described in sections 2.3.B and 2.3.C of these Game Procedures.

B. To claim a "3 ACROSS" Instant Game prize of \$1,000, the claimant must sign the winning ticket, must thoroughly complete a claim form, and may present both at Texas Lottery Headquarters in Austin. If the claim is validated by the Texas Lottery, payment will be made to the bearer of the validated winning ticket for that prize upon presentation of proper identification. When paying a prize of \$600 or more, the Texas Lottery shall file the appropriate income reporting form with the Internal Revenue Service (IRS) and shall withhold federal income tax at a rate set by the IRS if required. In the event that the claim is not validated by the Texas Lottery, the claim shall be denied and the claimant shall be notified promptly.

C. As an alternative method of claiming any "3 ACROSS" Instant Game prize, the claimant must sign the winning ticket, must thoroughly complete a claim form, and may present both at any Texas Lottery Claim Center. If the claim is validated by the Texas Lottery, payment will be made to the bearer of the validated winning ticket for that prize upon presentation of proper identification. A claimant may also claim a prize by signing the winning ticket, thoroughly completing a claim form, and mailing both to: Texas Lottery Commission, Post Office Box 16630, Austin, Texas 78761-6630. In the event that the claim is not validated by the Texas Lottery, the claim shall be denied and the claimant shall be notified promptly.

D. Prior to payment by the Texas Lottery of any prize, the Texas Lottery shall deduct a sufficient amount from the winnings of a person who has been finally determined to be:

1. delinquent in the payment of a tax or other money collected by the Comptroller, the Texas Workforce Commission, or the Texas Alcoholic Beverage Commission;
2. delinquent in making child support payments administered or collected by the Attorney General;
3. delinquent in reimbursing the Texas Department of Human Services for a benefit granted in error under the food stamp program or the program of financial assistance under the Human Resource Code, Chapter 31;
4. in default on a loan made under the Education Code, Chapter 52; or,
5. in default on a loan guaranteed under the Education Code, Chapter 57.

E. If a person is indebted or owes delinquent taxes to the State, other than those specified in the preceding paragraph, the winnings of a person shall be withheld until the debt or taxes are paid.

2.4 Allowance for Delay of Payment. The Texas Lottery may delay payment of the prize pending a final determination by the Executive Director, under any of the following circumstances:

- A. if a dispute occurs, or it appears likely that a dispute may occur, regarding the prize;
- B. if there is any question regarding the identity of the claimant;
- C. if there is any question regarding the validity of the ticket presented for payment; or,
- D. if the claim is subject to any deduction from the payment otherwise due, as described in section 2.3E of these Game Procedures. No liability for interest for any delay shall accrue to the benefit of the claimant pending payment of the claim.

2.5 Payment of Prizes to Persons Under 18. If a person under the age of 18 years is entitled to a cash prize of less than \$600 from

the "3 ACROSS" Instant Game, the Texas Lottery shall deliver to an adult member of the minor's family or the minor's guardian a check or warrant in the amount of the prize payable to the order of the minor.

2.6 If a person under the age of 18 years is entitled to a cash prize of more than \$600 from the "3 ACROSS" Instant Game, the Texas Lottery shall deposit the amount of the prize in a custodial bank account, with an adult member of the minor's family or the minor's guardian serving as custodian for the minor.

2.7 Instant Ticket Claim Period. All Instant Game prizes must be claimed within 180 days following the end of the Instant Game. Any prize not claimed within that period, and in the manner specified in these Game Procedures and on the back of each ticket, shall be forfeited.

3.0 Instant Ticket Ownership.

A. Until such time as a signature is placed upon the back portion of an Instant Game ticket in the space designated, a ticket shall be owned by the physical possessor of said ticket. When a signature is placed on the back of the ticket in the space designated, the player whose signature appears in that area shall be the owner of the ticket and shall be entitled to any prize attributable thereto. Notwithstanding any name or names submitted on a claim form, the Executive Director shall make payment to the player whose signature appears on the back of the ticket in the space designated therefor. If more than one name appears on the back of the ticket, the Executive Director will require that one of those players whose name appears thereon be designated by such players to receive payment.

B. The Texas Lottery shall not be responsible for lost or stolen Instant Game tickets and shall not be required to pay on a lost or stolen Instant Game ticket.

4.0 Number and Value of Instant Prizes. There will be approximately 60,000,000 tickets in the Instant Game Number 79. The expected number and value of prizes in the game are as follows:

Prize Amount	Approximate Number of Winners	Chances of Winning
\$1.00	9,540,000	1:9.43
\$2.00	5,130,000	1:17.54
\$3.00	1,890,000	1:47.62
\$5.00	1,710,000	1:52.63
\$10.00	630,000	1:142.86
\$20.00	360,000	1:250.00
\$200	30,000	1:3,000.00
\$1,000	750	1:120,000.00
Total	19,290,750 / 90,000,000	1:4.67

A. The actual number of tickets in the game may be increased or decreased at the sole discretion of the Executive Director.

5.0 Termination of the Instant Game. The Executive Director may, at any time, announce a termination date for the Instant Game Number 79 without advance notice, at which point no further tickets in that game may be sold.

6.0 Governing Law. In purchasing an Instant Game ticket, the player agrees to comply with, and abide by, these Game Procedures for Instant Game Number 79, the State Lottery Act (Texas Government Code, Chapter 466), applicable rules adopted by the Texas Lottery pursuant to the State Lottery Act and referenced in 16 TAC, Chapter 401, and all final decisions of the Executive Director.

TRD-9808630

Kimberly L. Kiplin

General Counsel

Texas Lottery Commission

Filed: May 27, 1998



Game Procedures - Instant Game Number 115

1.0 Name and Style of Game.

A. The name of Instant Game Number 115 is "GRIDIRON CASH". The play style of the game is a "Your Score Beats Their Score with Automatic Win" play style.

1.1 Price of Instant Ticket.

A. Tickets for Instant Game Number 115 shall be \$2.00 per ticket.

1.2 Definitions in Instant Game Number 115.

A. Display Printing - That area of the instant game ticket outside of the area where the Overprint and Play Symbols appear.

B. Latex Overprint - The removable scratch-off covering over the Play Symbols on the front of the ticket.

C. Play Symbol - One of the symbols which appears under the Latex Overprint on the front of the ticket. Each Play Symbol is printed in Symbol font in black ink in positive. The possible Play Symbols are: 6, 7, 10, 13, 14, 17, 20, 21, 23, 24, 27, 28, 30, 31, 34, 35, 37, 38, 41, 42, 44, 48, FOOTBALL, \$1.00, \$2.00, \$4.00, \$5.00, \$10.00, \$20.00, \$50.00, \$100, \$200, \$1,000, \$2,000 and \$10,000.

D. Play Symbol Caption - the small printed material appearing below each Play Symbol which explains the Play Symbol. One and only one of these Play Symbol Captions appears under each Play Symbol and each is printed in Caption font in black ink in positive. The Play Symbol Caption which corresponds with and verifies each Play Symbol is as follows:

PLAY SYMBOL	CAPTION
\$1.00	ONES
\$2.00	TWOS
\$4.00	FOURS
\$5.00	FIVES
\$10.00	TENS
\$20.00	TWENTY
\$50.00	FIFTY
\$100	ONEHUND
\$200	TWOHUND
\$1,000	ONETHOU
\$2,000	TWOTHOU
\$10,000	TENTHOU
[FOOTBALL]	FOOTBL
6	SIX
7	SEVEN
10	TEN
13	THRTN
14	FORTN
17	SVNTN
20	TWENTY
21	TWNONE
23	TWNTHR
24	TWNFOR
27	TWNSVN

28	TWNEGT
30	THIRTY
31	THRONE
34	THRFOR
35	THRFIV
37	THRSVN
38	THREGT
41	FORONE
42	FORTWO
44	FORFOR
48	FOREGT

E. Retailer Validation Code - Three small letters found under the removable scratch-off covering over the Play Symbol area, which

retailers use to verify and validate instant winners. The possible validation codes are:

CODE	PRIZE
TWO	\$2.00
FOR	\$4.00
SVN	\$7.00
TEN	\$10.00
TWN	\$20.00

Non-winning and high-tier winning tickets will have different combinations of any three of the following letters, excluding the combinations listed above: E, F, G, H, I, L, N, Ø, R, S, T, V, W, X

All codes from \$1 through \$24 not used for this game are protected. Other combinations of these letters are to be used for commons and high-tier winners. The letter "Ø" is only to be used for the appropriate winning codes and will always have a slash through it.

F. Validation Number- A unique 12 digit number appearing under the latex scratch-off covering on the front of the ticket. Nine digits of the Validation Number relate to the game Play Symbols. There is a one digit prize code and a two digit check digit, which will verify the recording accuracy of the ten digit Validation Number, or VIRN (Void If Removed Number). There is a four digit control number which will be boxed and placed randomly within the VIRN number. The Validation Number is positioned beneath the bottom row of play data in the scratched-off play area.

The format will be : 0000 0000 0000.

G. Low-Tier Prize - A prize of \$2.00, \$4.00, \$7.00, \$10.00 or \$20.00.

H. Mid-Tier Prize - A prize of \$50.00, \$100 or \$200.

I. High-Tier Prize - A prize of \$1,000, \$2,000 or \$10,000.

J. Bar Code - A 20 character interleaved two of five bar code which will include a three digit game ID, the seven digit pack number and eight digits of the Validation Number and a two digit filler. The bar code appears on the back of the ticket.

K. Pack-Ticket Number - A 13 digit number consisting of the three digit game number (115), a seven digit pack number and a three digit ticket number. Ticket numbers start with 000 and end with 249 within each pack. The format will be : 115-0000001-000.

L. Pack - A pack of "GRIDIRON CASH" Instant Game tickets contains 250 tickets, which are packed in plastic shrink-wrapping and fanfolded in pages of two. Tickets 000 to 001 are on the top page; tickets 002 to 003 are on the next page, and so forth with tickets 248 to 249 on the last page. Ticket 249 will be folded down to expose the pack-ticket number through the shrink-wrap.

M. Non-Winning Ticket - A ticket which is not programmed to be a winning ticket or a ticket that does not meet all of the requirements of these Game Procedures, the State Lottery Act (Texas Government Code, Chapter 466), and applicable rules adopted by the Texas Lottery pursuant to the State Lottery Act and referenced in 16 TAC, Chapter 401.

N. Ticket or Instant Game Ticket, or Instant Ticket - A Texas Lottery "GRIDIRON CASH" Instant Game Number 115 ticket.

2.0 Determination of Prize Winners. The determination of prize winners is subject to the ticket validation requirements set forth in Texas Lottery Rule, 16 TAC §401.302, Instant Game Rules, these Game Procedures, and the requirements set out on the back of each instant ticket. A prize winner in the "GRIDIRON CASH" Instant Game is determined once the latex on the ticket is scratched off to expose the "YOUR SCORE", "THEIR SCORE", and "PRIZE" Symbols on the front of the ticket. If any "YOUR SCORE" Symbols are greater than the "THEIR SCORE" Symbols in any game, the holder of the ticket wins the "PRIZE" shown for that game. A ticket may contain up to eight winners if all of the numbers under "YOUR SCORE" are greater than the numbers under "THEIR SCORE". A ticket may also be an automatic winner of the "PRIZE" shown for that game if a FOOTBALL Symbol is uncovered under "YOUR SCORE". No portion of the display printing nor any extraneous matter whatsoever shall be usable or playable as a part of the Instant Game.

2.1 Instant Ticket Validation Requirements.

A. To be a valid Instant Game ticket, all of the following requirements must be met:

1. Exactly 24 Play Symbols must appear under the latex overprint on the front portion of the ticket;
2. Each of the Play Symbols must have a Play Symbol Caption underneath, and each Play Symbol must agree with its Play Symbol Caption;
3. Each of the Play Symbols must be present in its entirety and be fully legible;
4. Each Play Symbol Caption must be present in its entirety and be fully legible;

5. Each of the Play Symbols and the Play Symbol Captions must be printed in black ink;

6. The ticket shall be intact;

7. The Validation Number, Retailer Validation Code and Pack-Ticket Number must be present in their entirety and be fully legible;

8. The Validation Number must correspond, using the Texas Lottery's codes, to the Play Symbols on the ticket;

9. The ticket must not have a hole punched through it, be mutilated, altered, unreadable, reconstituted or tampered with in any manner;

10. The ticket must not be counterfeit in whole or in part;

11. The ticket must have been issued by the Texas Lottery in an authorized manner;

12. The ticket must not have been stolen, nor appear on any list of omitted tickets or non-activated tickets on file at the Texas Lottery;

13. The Play Symbols, Play Symbol Captions, Validation Number, Retailer Validation Code and Pack-Ticket Number must be right side up and not reversed in any manner;

14. The ticket must be complete and not miscut, and have exactly 24 Play Symbols with 24 Play Symbol Captions under the latex overprint on the front of the ticket, exactly one Validation Number, exactly one Retailer Validation Code, and exactly one Pack-Ticket Number on the ticket;

15. The Validation Number of an apparent winning ticket shall correspond with the Texas Lottery's Validation Numbers for winning tickets, and a ticket with that Validation Number shall not have been paid previously;

16. The ticket must not be blank or partially blank, misregistered, defective or printed or produced in error;

17. Each of the 24 Play Symbols must be exactly one of those described in section 1.2.C of these Game Procedures, and each of the Play Symbol Captions to those Play Symbols must be exactly one of those described in section 1.2.D of these Game Procedures;

18. Each of the 24 Play Symbols on the ticket must be printed in the Symbol font and must correspond precisely to the artwork on file at the Texas Lottery; the ticket Validation Numbers must be printed in the Validation font and must correspond precisely to the artwork on file at the Texas Lottery; and the Pack-Ticket Number must be printed in the Pack-Ticket Number font and must correspond precisely to the artwork on file at the Texas Lottery;

19. The display printing on the ticket must be regular in every respect and correspond precisely to the artwork on file at the Texas Lottery; and

20. The ticket must have been received or recorded by the Texas Lottery by applicable deadlines.

B. The ticket must pass all additional validation tests provided for in these Game Procedures, the Texas Lottery's Rules governing the award of prizes of the amount to be validated, and any confidential validation and security tests of the Texas Lottery.

C. Any Instant Game ticket not passing all of the validation requirements is void and ineligible for any prize and shall not be paid. However, the Executive Director may, solely at the Executive Director's discretion, replace an invalid ticket with an unplayed ticket in that Instant Game (or ticket of equivalent sales price from any other current Instant Lottery game) or refund the retail sales price of the ticket. In the event a defective ticket is purchased, the only

responsibility or liability of the Texas Lottery shall be to replace the defective ticket with another unplayed ticket in that Instant Game (or a ticket of equivalent sales price from any other current Instant Lottery game) or refund the retail sales price of the ticket. The decision as to which action to take with a defective ticket is solely within the Executive Director's discretion.

2.2 Programmed Game Parameters.

- A. There will never be three or more like play symbols on a ticket.
- B. Non-winning prize symbols on winning tickets will never be the same as the winning prize symbols.
- C. Adjacent tickets will not have identical patterns.
- D. There will never be three or more like non-winning prize symbols.
- E. There will be no ties between Your Score and Their Score.
- F. The Football automatic win symbol will never appear in the THEIR SCORE play spots.

2.3 Procedure for Claiming Prizes.

A. To claim a "GRIDIRON CASH" Instant Game prize of \$2.00, \$4.00, \$7.00, \$10.00, \$20.00, \$50.00, \$100 or \$200, a claimant shall sign the back of the ticket in the space designated on the ticket and may present the winning ticket to any Texas Lottery Retailer. The Texas Lottery Retailer, acting pursuant to applicable Lottery rules, may validate the claim. If the Texas Lottery Retailer determines that the ticket is a valid winning ticket by validating the ticket and the claimant presents proper identification, the Texas Lottery Retailer shall make payment of the amount due the claimant and physically void the ticket. In the event the Texas Lottery Retailer cannot validate the claim, the Texas Lottery Retailer shall provide the claimant with a claim form and instruct the claimant on how to file a claim with the Texas Lottery. If the claim is validated by the Texas Lottery, a check shall be forwarded to the claimant in the amount due. In the event the claim is not validated, the claim shall be denied and the claimant shall be notified promptly. A claimant may also claim any of the above prizes under the procedure described in sections 2.3.B and 2.3.C of these Game Procedures.

B. To claim a "GRIDIRON CASH" Instant Game prize of \$1,000, \$2,000 or \$10,000, the claimant may sign the winning ticket, thoroughly complete a claim form and present both at Texas Lottery Headquarters in Austin. If the claim is validated by the Texas Lottery, payment will be made to the bearer of the validated winning ticket for that prize upon presentation of proper identification. When paying a prize of \$600 or more, the Texas Lottery shall file the appropriate income reporting form with the Internal Revenue Service (IRS) and shall withhold federal income tax at a rate set by the IRS if required. In the event that the claim is not validated by the Texas Lottery, the claim shall be denied and the claimant shall be notified promptly.

C. As an alternative method of claiming any "GRIDIRON CASH" Instant Game prize, the claimant may sign the winning ticket, thoroughly complete a claim form, and present both at any Texas Lottery claim center. If the claim is validated by the Texas Lottery, payment will be made to the bearer of the validated winning ticket for that prize upon presentation of proper identification. A claimant may also claim a prize by signing the winning ticket, thoroughly completing a claim form, and mailing both to: Texas Lottery Commission, Post Office Box 16630, Austin, Texas 78761-6630. In the event that the claim is not validated by the Texas Lottery, the claim shall be denied and the claimant shall be notified promptly.

D. Prior to payment by the Texas Lottery of any prize, the Texas Lottery shall deduct a sufficient amount from the winnings of a person who has been finally determined to be:

- 1. delinquent in the payment of a tax or other money collected by the Comptroller, the Texas Workforce Commission, or the Texas Alcoholic Beverage Commission;
- 2. delinquent in making child support payments administered or collected by the Attorney General;
- 3. delinquent in reimbursing the Texas Department of Human Services for a benefit granted in error under the food stamp program or the program of financial assistance under Human Resource Code, Chapter 31;
- 4. in default on a loan made under Education Code, Chapter 52; or,
- 5. in default on a loan guaranteed under Education Code, Chapter 57.

E. If a person is indebted or owes delinquent taxes to the State, other than those specified in the preceding paragraph, the winnings of a person shall be withheld until the debt or taxes are paid.

2.4 Allowance for Delay of Payment. The Texas Lottery may delay payment of the prize pending a final determination by the Executive Director, under any of the following circumstances:

- A. if a dispute occurs, or it appears likely that a dispute may occur, regarding the prize;
- B. if there is any question regarding the identity of the claimant;
- C. if there is any question regarding the validity of the ticket presented for payment; or,
- D. if the claim is subject to any deduction from the payment otherwise due, as described in section 2.3E of these Game Procedures.

2.5 No liability for interest for any delay shall accrue to the benefit of the claimant pending payment of the claim.

2.6 Payment of Prizes to Persons Under 18. If a person under the age of 18 years is entitled to a cash prize of less than \$600 from the "GRIDIRON CASH" Instant Game, the Texas Lottery shall deliver to an adult member of the minor's family or the minor's guardian a check or warrant in the amount of the prize payable to the order of the minor.

2.7 If a person under the age of 18 years is entitled to a cash prize of more than \$600 from the "GRIDIRON CASH" Instant Game, the Texas Lottery shall deposit the amount of the prize in a custodial bank account, with an adult member of the minor's family or the minor's guardian serving as custodian for the minor.

2.8 Instant Ticket Claim Period. All Instant Game prizes must be claimed within 180 days after the end of the Instant Game. Any prize not claimed within that period, and in the manner specified in these Game Procedures and on the back of each ticket, shall be forfeited.

3.0 Instant Ticket Ownership.

A. Until such time as a signature is placed upon the back portion of an Instant Game ticket in the space designated therefor, a ticket shall be owned by the physical possessor of said ticket. When a signature is placed on the back of the ticket in the space designated therefor, the player whose signature appears in that area shall be the owner of the ticket and shall be entitled to any prize attributable thereto. Notwithstanding any name or names submitted on a claim form, the Executive Director shall make payment to the player whose

signature appears on the back of the ticket in the space designated therefor. If more than one signature appears on the back of the ticket, the Executive Director will require that one of those players whose signature appears thereon be designated by such players to receive payment.

B. The Texas Lottery shall not be responsible for lost or stolen Instant Game tickets and shall not be required to pay on a lost or stolen Instant Game ticket.

4.0 Number and Value of Instant Prizes. There will be approximately 40,320,000 tickets in the Instant Game Number 115. The expected number and value of prizes in the game are as follows:

[graphic 6]

A. The actual number of tickets in the game may be increased or decreased at the sole discretion of the Executive Director.

5.0 Termination of the Instant Game. The Executive Director may, at any time, announce a termination date for the Instant Game Number 115 without advance notice, at which point no further tickets in that game may be sold.

6.0 Governing Law. In purchasing an Instant Game ticket, the player agrees to comply with, and abide by, these Game Procedures for Instant Game Number 115, the State Lottery Act (Texas Government Code, Chapter 466), applicable rules adopted by the Texas Lottery pursuant to the State Lottery Act and referenced in 16 TAC, Chapter 401, and all final decisions of the Executive Director.

TRD-9808631
Kimberly L. Kiplin
General Counsel
Texas Lottery Commission
Filed: May 27, 1998



Game Procedures - Instant Game Number 116

1.0 Name and Style of Game.

A. The name of Instant Game Number 116 is "MATCHING SUIT". The play style of the game is a "Key Symbol Match" play style.

1.1 Price of Instant Ticket.

A. Tickets for Instant Game Number 116 shall be \$1.00 per ticket.

1.2 Definitions in Instant Game Number 116.

A. Display Printing - That area of the instant game ticket outside of the area where the Overprint and Play Symbols appear.

B. Latex Overprint - The removable scratch-off covering over the Play Symbols on the front of the ticket.

C. Play Symbol - One of the symbols which appears under the Latex Overprint on the front of the ticket. Each Play Symbol is printed in Symbol font in black ink in positive. The possible Play Symbols

are: \$1.00, \$2.00, \$5.00, \$10.00, \$15.00, \$25.00, \$50.00, \$100, \$200, \$4,000, CLUB, DIAMOND, HEART, SPADE.

D. Play Symbol Caption - the small printed material appearing below each Play Symbol which explains the Play Symbol. One and only one of these Play Symbol Captions appears under each Play Symbol and each is printed in Caption font in black ink in positive. The Play Symbol Caption which corresponds with and verifies each Play Symbol is as follows:

PLAY SYMBOL	CAPTION
\$1.00	ONES
\$2.00	TWOS
\$5.00	FIVES
\$10.00	TENS
\$15.00	FIFTNS
\$25.00	TWFIVS
\$50.00	FIFTY
\$100	ONEHUND
\$200	TWOHUND
\$4,000	FORTHOU
[CLUB]	CLUB
[DIAMOND]	DIAMOND
[HEART]	HEART
[SPADE]	SPADE

E. Retailer Validation Code - Three small letters found under the removable scratch-off covering over the Play Symbol area, which

retailers use to verify and validate instant winners. The possible validation codes are:

CODE	PRIZE
ONE	\$1.00
TWO	\$2.00
FIV	\$5.00
EGT	\$8.00
TEN	\$10.00
FTN	\$15.00

Non-winning and high-tier winning tickets will have different combinations of any three of the following letters, excluding the combinations listed above: E, F, G, H, I, L, N, Ø, R, S, T, V, W, X

All codes from \$1 through \$24 not used for this game are protected. Other combinations of these letters are to be used for commons and high-tier winners. The letter "Ø" is only to be used on the appropriate winning codes and will always have a slash through it.

F. Validation Number- A unique 12 digit number appearing under the latex scratch-off covering on the front of the ticket. Nine digits of the Validation Number relate to the game Play Symbols. There is a one digit prize code and a two digit check digit, which will verify the recording accuracy of the ten digit Validation Number, or VIRN (Void If Removed Number). There is a four digit control number which will be boxed and be randomly placed within the VIRN number. The Validation Number is positioned beneath the bottom row of play data in the scratched-off play area.

The format will be : 00000000⁰⁰⁰.

G. Low-Tier Prize - A prize of \$1.00, \$2.00, \$5.00, \$8.00, \$10.00 or \$15.00

H. Mid-Tier Prize - A prize of \$25.00, \$50.00, \$100 or \$200.

I. High-Tier Prize - A prize of \$4,000.

J. Bar Code - A 20 character interleaved two of five bar code which will include a three digit game ID, the seven digit pack number and eight digits of the Validation Number and a two digit filler. The bar code appears on the back of the ticket.

K. Pack-Ticket Number - A 13 digit number consisting of the three digit game number (116), a seven digit pack number and a three digit ticket number. Ticket numbers start with 000 and end with 249 within each pack. The format will be : 116-0000001-000.

L. Pack - A pack of "MATCHING SUIT" Instant Game tickets contains 250 tickets, which are packed in plastic shrink-wrapping and fanfolded in pages of five. Tickets 000 to 004 are on the top page; tickets 005 to 009 are on the next page, and so forth with tickets 245 to 249 on the last page. Tickets 000 and 249 are folded down to expose the pack-ticket number through the shrink-wrap.

M. Non-Winning Ticket - A ticket which is not programmed to be a winning ticket or a ticket that does not meet all of the requirements of these Game Procedures, the State Lottery Act (Texas Government Code, Chapter 466), and applicable rules adopted by the Texas Lottery pursuant to the State Lottery Act and referenced in 16 TAC, Chapter 401.

N. Ticket or Instant Game Ticket, or Instant Ticket - A Texas Lottery "MATCHING SUIT" Instant Game Number 116 ticket.

2.0 Determination of Prize Winners. The determination of prize winners is subject to the ticket validation requirements set forth in Texas Lottery Rule, 16 TAC §401.302, Instant Game Rules, these Game Procedures, and the requirements set out on the back of each instant ticket. A prize winner in the "MATCHING SUIT" Instant Game is determined once the latex on the ticket is scratched off to expose the "DEALER SUIT", "YOUR SUITS", and Prize amount Symbols on the front of the ticket. If any "YOUR SUITS" Symbols match the "DEALER SUIT" Symbol, the holder of the ticket wins the Prize amount for that number. There may be up to four wins on one ticket. No portion of the display printing nor any extraneous matter whatsoever shall be usable or playable as a part of the Instant Game.

2.1 Instant Ticket Validation Requirements.

A. To be a valid Instant Game ticket, all of the following requirements must be met:

1. Exactly nine Play Symbols must appear under the latex overprint on the front portion of the ticket;
2. Each of the Play Symbols must have a Play Symbol Caption underneath, and each Play Symbol must agree with its Play Symbol Caption;
3. Each of the Play Symbols must be present in its entirety and be fully legible;
4. Each Play Symbol Caption must be present in its entirety and be fully legible;
5. Each of the Play Symbols and the Play Symbol Captions must be printed in black ink;
6. The ticket shall be intact;

7. The Validation Number, Retailer Validation Code and Pack-Ticket Number must be present in their entirety and be fully legible;
8. The Validation Number must correspond, using the Texas Lottery's codes, to the Play Symbols on the ticket;
9. The ticket must not have a hole punched through it, be mutilated, altered, unreadable, reconstituted or tampered with in any manner;
10. The ticket must not be counterfeit in whole or in part;
11. The ticket must have been issued by the Texas Lottery in an authorized manner;
12. The ticket must not have been stolen, nor appear on any list of omitted tickets or non-activated tickets on file at the Texas Lottery;
13. The Play Symbols, Play Symbol Captions, Validation Number, Retailer Validation Code and Pack-Ticket Number must be right side up and not reversed in any manner;
14. The ticket must be complete and not miscut, and have exactly nine Play Symbols with exactly nine Play Symbol Captions under the latex overprint on the front of the ticket, exactly one Validation Number, exactly one Retailer Validation Code, and exactly one Pack-Ticket Number on the ticket;
15. The Validation Number of an apparent winning ticket shall correspond with the Texas Lottery's Validation Numbers for winning tickets, and a ticket with that Validation Number shall not have been paid previously;
16. The ticket must not be blank or partially blank, misregistered, defective or printed or produced in error;
17. Each of the nine Play Symbols must be exactly one of those described in section 1.2.C of these Game Procedures, and each of the Play Symbol Captions to those Play Symbols must be exactly one of those described in section 1.2.D of these Game Procedures;
18. Each of the nine Play Symbols on the ticket must be printed in the Symbol font and must correspond precisely to the artwork on file at the Texas Lottery; the ticket Validation Numbers must be printed in the Validation font and must correspond precisely to the artwork on file at the Texas Lottery; and the Pack-Ticket Number must be printed in the Pack-Ticket Number font and must correspond precisely to the artwork on file at the Texas Lottery;
19. The display printing on the ticket must be regular in every respect and correspond precisely to the artwork on file at the Texas Lottery; and
20. The ticket must have been received or recorded by the Texas Lottery by applicable deadlines.

B. The ticket must pass all additional validation tests provided for in these Game Procedures, the Texas Lottery's Rules governing the award of prizes of the amount to be validated, and any confidential validation and security tests of the Texas Lottery.

C. Any Instant Game ticket not passing all of the validation requirements is void and ineligible for any prize and shall not be paid. However, the Executive Director may, solely at the Executive Director's discretion, replace an invalid ticket with an unplayed ticket in that Instant Game (or ticket of equivalent sales price from any other current Instant Lottery game) or refund the retail sales price of the ticket. In the event a defective ticket is purchased, the only responsibility or liability of the Texas Lottery shall be to replace the defective ticket with another unplayed ticket in that Instant Game (or a ticket of equivalent sales price from any other current Instant Lottery game) or refund the retail sales price of the ticket. The decision as

to which action to take with a defective ticket is solely within the Executive Director's discretion.

2.2 Programmed Game Parameters.

A. Non-winning prize symbols will never be the same as the winning prize symbols.

B. Adjacent tickets will not have identical patterns.

C. Non-winning prize symbols will be unique.

2.3 Procedure for Claiming Prizes.

A. To claim a "MATCHING SUIT" Instant Game prize of \$1.00, \$2.00, \$5.00, \$8.00, \$10.00, \$15.00, \$25.00, \$50.00, \$100 or \$200, a claimant may sign the back of the ticket in the space designated on the ticket and present the winning ticket to any Texas Lottery Retailer. The Texas Lottery Retailer, acting pursuant to applicable Lottery rules, may validate the claim. If the Texas Lottery Retailer determines that the ticket is a valid winning ticket by validating the ticket and the claimant presents proper identification, the Texas Lottery Retailer shall make payment of the amount due the claimant and physically void the ticket. In the event the Texas Lottery Retailer cannot verify the claim, the Texas Lottery Retailer shall provide the claimant with a claim form and instruct the claimant on how to file a claim with the Texas Lottery. If the claim is validated by the Texas Lottery, a check shall be forwarded to the claimant in the amount due. In the event the claim is not validated, the claim shall be denied and the claimant shall be notified promptly. A claimant may also claim any of the above prizes under the procedure described in sections 2.3.B and 2.3.C of these Game Procedures.

B. To claim a "MATCHING SUIT" Instant Game prize of \$4,000, the claimant may sign the winning ticket, thoroughly complete a claim form, and present both at Texas Lottery Headquarters in Austin. If the claim is validated by the Texas Lottery, payment will be made to the bearer of the validated winning ticket for that prize upon presentation of proper identification. When paying a prize of \$600 or more, the Texas Lottery shall file the appropriate income reporting form with the Internal Revenue Service (IRS) and shall withhold federal income tax at a rate set by the IRS if required. In the event that the claim is not validated by the Texas Lottery, the claim shall be denied and the claimant shall be notified promptly.

C. As an alternative method of claiming any "MATCHING SUIT" Instant Game prize, the claimant may sign the winning ticket, thoroughly complete a claim form, and present both at any Texas Lottery Claim Center. If the claim is validated by the Texas Lottery, payment will be made to the bearer of the validated winning ticket for that prize upon presentation of proper identification. A claimant may also claim a prize by signing the winning ticket, thoroughly completing a claim form, and mailing both to: Texas Lottery Commission, Post Office Box 16630, Austin, Texas 78761-6630. In the event that the claim is not validated by the Texas Lottery, the claim shall be denied and the claimant shall be notified promptly.

D. Prior to payment by the Texas Lottery of any prize, the Texas Lottery shall deduct a sufficient amount from the winnings of a person who has been finally determined to be:

1. delinquent in the payment of a tax or other money collected by the Comptroller, the Texas Workforce Commission, or the Texas Alcoholic Beverage Commission;
2. delinquent in making child support payments administered or collected by the Attorney General;
3. delinquent in reimbursing the Texas Department of Human Services for a benefit granted in error under the food stamp program

or the program of financial assistance under Human Resource Code, Chapter 31;

4. in default on a loan made under Education Code, Chapter 52; or,

5. in default on a loan guaranteed under Education Code, Chapter 57.

E. If a person is indebted or owes delinquent taxes to the State, other than those specified in the preceding paragraph, the winnings of a person shall be withheld until the debt or taxes are paid.

2.4 Allowance for Delay of Payment. The Texas Lottery may delay payment of the prize pending a final determination by the Executive Director, under any of the following circumstances:

A. if a dispute occurs, or it appears likely that a dispute may occur, regarding the prize;

B. if there is any question regarding the identity of the claimant;

C. if there is any question regarding the validity of the ticket presented for payment; or,

D. if the claim is subject to any deduction from the payment otherwise due, as described in section 2.3.E of these Game Procedures.

2.5 No liability for interest for any delay shall accrue to the benefit of the claimant pending payment of the claim.

2.6 Payment of Prizes to Persons Under 18. If a person under the age of 18 years is entitled to a cash prize of less than \$600 from the "MATCHING SUIT" Instant Game, the Texas Lottery shall deliver to an adult member of the minor's family or the minor's guardian a check or warrant in the amount of the prize payable to the order of the minor.

2.7 If a person under the age of 18 years is entitled to a cash prize of more than \$600 from the "MATCHING SUIT" Instant Game, the

Texas Lottery shall deposit the amount of the prize in a custodial bank account, with an adult member of the minor's family or the minor's guardian serving as custodian for the minor.

2.8 Instant Ticket Claim Period. All Instant Game prizes must be claimed within 180 days following the end of the Instant Game. Any prize not claimed within that period, and in the manner specified in these Game Procedures and on the back of each ticket, shall be forfeited.

3.0 Instant Ticket Ownership.

A. Until such time as a signature is placed upon the back portion of an Instant Game ticket in the space designated therefor, a ticket shall be owned by the physical possessor of said ticket. When a signature is placed on the back of the ticket in the space designated therefor, the player whose signature appears in that area shall be the owner of the ticket and shall be entitled to any prize attributable thereto. Notwithstanding any name or names submitted on a claim form, the Executive Director shall make payment to the player whose signature appears on the back of the ticket in the space designated therefor. If more than one name appears on the back of the ticket, the Executive Director will require that one of those players whose name appears thereon be designated by such players to receive payment.

B. The Texas Lottery shall not be responsible for lost or stolen Instant Game tickets and shall not be required to pay on a lost or stolen Instant Game ticket.

4.0 Number and Value of Instant Prizes. There will be approximately 60,000,000 tickets in the Instant Game Number 116. The expected number and value of prizes in the game are as follows:

Figure 9

Prize Amount	Approximate Number of Winners	Chances of Winning
\$1.00	7,380,000	1:8.13
\$2.00	3,240,000	1:18.52
\$5.00	480,000	1:125.00
\$8.00	420,000	1:142.86
\$10.00	300,000	1:200.00
\$15.00	300,000	1:200.00
\$25.00	50,000	1:1,200.00
\$50.00	20,000	1:3,000.00
\$100	3,500	1:17,142.86
\$200	500	1:120,000.00
\$4,000	50	1:1,200,000.00
Total	12,194,050 / 60,000,000	1:4.92

A. The actual number of tickets in the game may be increased or decreased at the sole discretion of the Executive Director.

5.0 Termination of the Instant Game. The Executive Director may, at any time, announce a termination date for the Instant Game Number 116 without advance notice, at which point no further tickets in that game may be sold.

6.0 Governing Law. In purchasing an Instant Game ticket, the player agrees to comply with, and abide by, these Game Procedures for Instant Game Number 116, the State Lottery Act (Texas Government Code, Chapter 466), applicable rules adopted by the Texas Lottery

pursuant to the State Lottery Act and referenced in 16 TAC, Chapter 401, and all final decisions of the Executive Director.

TRD-9808632

Kimberly L. Kiplin

General Counsel

Texas Lottery Commission

Filed: May 27, 1998

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Game Procedures - Instant Game Number 118

1.0 Name and Style of Game.

A. The name of Instant Game Number 118 is "LEAPIN LIZARDS". The play style of the game is a "Match 3 of 9 with Tripler" play style.

1.1 Price of Instant Ticket.

A. Tickets for Instant Game Number 118 shall be \$1.00 per ticket.

1.2 Definitions in Instant Game Number 118.

A. Display Printing - That area of the instant game ticket outside of the area where the Overprint and Play Symbols appear.

B. Latex Overprint - The removable scratch-off covering over the Play Symbols on the front of the ticket.

C. Play Symbol - One of the symbols which appears under the Latex Overprint on the front of the ticket. Each Play Symbol is printed in Symbol font in black ink in positive. The possible Play Symbols are: \$1.00, \$2.00, \$3.00, \$5.00, \$15.00, \$25.00, \$100, \$1,000, \$3,000 and LIZARD.

D. Play Symbol Caption - the small printed material appearing below each Play Symbol which explains the Play Symbol. One and only one of these Play Symbol Captions appears under each Play Symbol and each is printed in Caption font in black ink in positive. The Play Symbol Caption which corresponds with and verifies each Play Symbol is as follows:

PLAY SYMBOL	CAPTION
\$1.00	ONES
\$2.00	TWOS
\$3.00	THREE\$
\$5.00	FIVES
\$15.00	FIFTN\$
\$25.00	TWFIV\$
\$100	ONEHUND
\$1,000	ONETHOU
\$3,000 [LIZARD]	THRTHOU TRIPLER

E. Retailer Validation Code - Three small letters found under the removable scratch-off covering over the Play Symbol area, which

retailers use to verify and validate instant winners. The possible validation codes are:

CODE	PRIZE
ONE	\$1.00
TWO	\$2.00
THR	\$3.00
FIV	\$5.00
SIX	\$6.00
NIN	\$9.00
FTN	\$15.00

Non-winning and high-tier winning tickets will have different combinations of any three of the following letters, excluding the combinations listed above: E, F, G, H, I, L, N, Ø, R, S, T, V, W, X

All codes from \$1 through \$24 not used for this game are protected. Other combinations of these letters are to be used for commons and high-tier winners. The letter "Ø" is only to be used on the appropriate winning codes and will always have a slash through it.

F. Validation Number- A unique 12 digit number appearing under the latex scratch-off covering on the front of the ticket. Nine digits of the Validation Number relate to the game Play Symbols. There is a one digit prize code and a two digit check digit, which will verify the recording accuracy of the ten digit Validation Number, or VIRN (Void If Removed Number). There is a four digit control number which will be boxed and be randomly placed within the VIRN number. The Validation Number is positioned beneath the bottom row of play data in the scratched-off play area.

The format will be : 00000000⁰⁰⁰⁰.

G. Low-Tier Prize - A prize of \$1.00, \$2.00, \$3.00, \$5.00, \$6.00, \$9.00 or \$15.00.

H. Mid-Tier Prize - A prize of \$25.00, \$75.00, \$100 or \$300.

I. High-Tier Prize - A prize of \$3,000.

J. Bar Code - A 20 character interleaved two of five bar code which will include a three digit game ID, the seven digit pack number and eight digits of the Validation Number and a two digit filler. The bar code appears on the back of the ticket.

K. Pack-Ticket Number - A 13 digit number consisting of the three digit game number (118), a seven digit pack number and a three digit ticket number. Ticket numbers start with 000 and end with 249 within each pack. The format will be: 118-0000001-000.

L. Pack - A pack of "LEAPIN LIZARDS" Instant Game tickets contains 250 tickets, which are packed in plastic shrink-wrapping and fanfolded in pages of five. Tickets 000 to 004 are on the top page; tickets 005 to 009 are on the next page, and so forth with tickets 245 to 249 on the last page. Tickets 000 and 249 are folded down to expose the pack-ticket number through the shrink-wrap.

M. Non-Winning Ticket - A ticket which is not programmed to be a winning ticket or a ticket that does not meet all of the requirements of these Game Procedures, the State Lottery Act (Texas Government Code, Chapter 466), and applicable rules adopted by the Texas Lottery pursuant to the State Lottery Act and referenced in 16 TAC, Chapter 401.

N. Ticket or Instant Game Ticket, or Instant Ticket - A Texas Lottery "LEAPIN' LIZARDS" Instant Game Number 118 ticket.

2.0 Determination of Prize Winners. The determination of prize winners is subject to the ticket validation requirements set forth in Texas Lottery Rule, 16 TAC §401.302. Instant Game Rules, these Game Procedures, and the requirements set out on the back of each instant ticket. A prize winner in the "LEAPIN LIZARDS" Instant Game is determined once the latex overprint on the ticket is scratched off to expose the Play Symbols on the front of the ticket. A player can win the prize indicated by matching three identical Play Symbols out of nine. A player can also win triple the prize amount shown by matching two identical Play Symbols and a "LIZARD" Symbol. No portion of the display printing nor any extraneous matter whatsoever shall be usable or playable as a part of the Instant Game.

2.1 Instant Ticket Validation Requirements.

A. To be a valid Instant Game ticket, all of the following requirements must be met:

1. Exactly nine Play Symbols must appear under the latex overprint on the front portion of the ticket;

2. Each of the Play Symbols must have a Play Symbol Caption underneath, and each Play Symbol must agree with its Play Symbol Caption;
 3. Each of the Play Symbols must be present in its entirety and be fully legible;
 4. Each Play Symbol Caption must be present in its entirety and be fully legible;
 5. Each of the Play Symbols and the Play Symbol Captions must be printed in black ink;
 6. The ticket shall be intact;
 7. The Validation Number, Retailer Validation Code and Pack-Ticket Number must be present in their entirety and be fully legible;
 8. The Validation Number must correspond, using the Texas Lottery's codes, to the Play Symbols on the ticket;
 9. The ticket must not have a hole punched through it, be mutilated, altered, unreadable, reconstituted or tampered with in any manner;
 10. The ticket must not be counterfeit in whole or in part;
 11. The ticket must have been issued by the Texas Lottery in an authorized manner;
 12. The ticket must not have been stolen, nor appear on any list of omitted tickets or non-activated tickets on file at the Texas Lottery;
 13. The Play Symbols, Play Symbol Captions, Validation Number, Retailer Validation Code and Pack-Ticket Number must be right side up and not reversed in any manner;
 14. The ticket must be complete and not miscut, and have exactly nine Play Symbols and exactly nine Play Symbol Captions under the latex overprint on the front of the ticket, exactly one Validation Number, exactly one Retailer Validation Code, and exactly one Pack-Ticket Number on the ticket;
 15. The Validation Number of an apparent winning ticket shall correspond with the Texas Lottery's Validation Numbers for winning tickets, and a ticket with that Validation Number shall not have been paid previously;
 16. The ticket must not be blank or partially blank, misregistered, defective or printed or produced in error;
 17. Each of the nine Play Symbols must be exactly one of those described in section 1.2.C of these Game Procedures, and each of the Play Symbol Captions to those Play Symbols must be exactly one of those described in section 1.2.D of these Game Procedures;
 18. Each of the nine Play Symbols on the ticket must be printed in the Symbol font and must correspond precisely to the artwork on file at the Texas Lottery; the ticket Validation Numbers must be printed in the Validation font and must correspond precisely to the artwork on file at the Texas Lottery; and the Pack-Ticket Number must be printed in the Pack-Ticket Number font and must correspond precisely to the artwork on file at the Texas Lottery;
 19. The display printing on the ticket must be regular in every respect and correspond precisely to the artwork on file at the Texas Lottery; and
 20. The ticket must have been received or recorded by the Texas Lottery by applicable deadlines.
- B. The ticket must pass all additional validation tests provided for in these Game Procedures, the Texas Lottery's Rules, and any confidential validation and security tests of the Texas Lottery.

C. Any Instant Game ticket not passing all of the validation requirements is void and ineligible for any prize and shall not be paid. However, the Executive Director may, solely at the Executive Director's discretion, replace an invalid ticket with an unplayed ticket in that Instant Game (or ticket of equivalent sales price from any other current Instant Lottery game) or refund the retail sales price of the ticket. In the event a defective ticket is purchased, the only responsibility or liability of the Texas Lottery shall be to replace the defective ticket with another unplayed ticket in that Instant Game (or a ticket of equivalent sales price from any other current Instant Lottery game) or refund the retail sales price of the ticket. The decision as to which action to take with a defective ticket is solely within the Executive Director's discretion.

2.2 Programmed Game Parameters.

- A. No ticket will have four or more of the same prize amount on a ticket.
- B. Adjacent tickets will not have identical patterns.
- C. No ticket will have three pairs of prize amounts.
- D. No ticket will contain more than one "LIZARD" symbol.
- E. No ticket will contain a "LIZARD" symbol and more than one pair.
- F. No ticket will contain more than one set of three matching symbols.
- G. No ticket will contain a "LIZARD" symbol and more than two like play symbols or a pair of \$3,000 prize symbols.

2.3 Procedure for Claiming Prizes.

A. To claim a "LEAPIN' LIZARD" Instant Game prize of \$1.00, \$2.00, \$3.00, \$5.00, \$6.00, \$9.00, \$15.00, \$25.00, \$75.00, \$100 or \$300, a claimant shall sign the back of the ticket in the space designated on the ticket and may present the winning ticket to any Texas Lottery Retailer. The Texas Lottery Retailer, acting pursuant to applicable Lottery rules, may validate the claim. If the Texas Lottery Retailer determines that the ticket is a valid winning ticket by validating the ticket, and the claimant presents proper identification, the Texas Lottery Retailer shall make payment of the amount due the claimant and physically void the ticket. In the event the Texas Lottery Retailer cannot validate the claim, the Texas Lottery Retailer shall provide the claimant with a claim form and instruct the claimant on how to file a claim with the Texas Lottery. If the claim is validated by the Texas Lottery, a check shall be forwarded to the claimant in the amount due. In the event the claim is not validated, the claim shall be denied and the claimant shall be notified promptly. A claimant may also claim any of the above prizes under the procedure described in sections 2.3.B and 2.3.C of these Game Procedures.

B. To claim a "LEAPIN' LIZARDS" Instant Game prize of \$3,000, the claimant shall sign the winning ticket, shall thoroughly complete a claim form, and may present both at Texas Lottery Headquarters in Austin. If the claim is validated by the Texas Lottery, payment will be made to the bearer of the validated winning ticket for that prize upon presentation of proper identification. When paying a prize of \$600 or more, the Texas Lottery shall file the appropriate income reporting form with the Internal Revenue Service (IRS) and shall withhold federal income tax at a rate set by the IRS if required. In the event that the claim is not validated by the Texas Lottery, the claim shall be denied and the claimant shall be notified promptly.

C. As an alternative method of claiming any "LEAPIN LIZARDS" Instant Game prize, the claimant must sign the winning ticket, thoroughly complete a claim form, and may present both at any Texas Lottery Claim Center. If the claim is validated by the Texas

Lottery, payment will be made to the bearer of the validated winning ticket for that prize upon presentation of proper identification. A claimant may also claim a prize by signing the winning ticket, thoroughly completing a claim form, and mailing both to: Texas Lottery Commission, Post Office Box 16630, Austin, Texas 78761-6630. In the event that the claim is not validated by the Texas Lottery, the claim shall be denied and the claimant shall be notified promptly.

D. Prior to payment by the Texas Lottery of any prize, the Texas Lottery shall deduct a sufficient amount from the winnings of a person who has been finally determined to be:

1. delinquent in the payment of a tax or other money collected by the Comptroller, the Texas Workforce Commission, or the Texas Alcoholic Beverage Commission;
2. delinquent in making child support payments administered or collected by the Attorney General;
3. delinquent in reimbursing the Texas Department of Human Services for a benefit granted in error under the food stamp program or the program of financial assistance under the Human Resource Code, Chapter 31;
4. in default on a loan made under the Education Code, Chapter 52; or,
5. in default on a loan guaranteed under the Education Code, Chapter 57.

E. If a person is indebted or owes delinquent taxes to the State, other than those specified in the preceding paragraph, the winnings of a person shall be withheld until the debt or taxes are paid.

2.4 Allowance for Delay of Payment. The Texas Lottery may delay payment of the prize pending a final determination by the Executive Director, under any of the following circumstances:

- A. if a dispute occurs, or it appears likely that a dispute may occur, regarding the prize;
- B. if there is any question regarding the identity of the claimant;
- C. if there is any question regarding the validity of the ticket presented for payment; or
- D. if the claim is subject to any deduction from the payment otherwise due, as described in section 2.3E of these Game Procedures. No

liability for interest for any delay shall accrue to the benefit of the claimant pending payment of the claim.

2.5 Payment of Prizes to Persons Under 18. If a person under the age of 18 years is entitled to a cash prize of less than \$600 from the "LEAPIN LIZARDS" Instant Game, the Texas Lottery shall deliver to an adult member of the minor's family or the minor's guardian a check or warrant in the amount of the prize payable to the order of the minor.

2.6 If a person under the age of 18 years is entitled to a cash prize of more than \$600 from the "LEAPIN LIZARDS" Instant Game, the Texas Lottery shall deposit the amount of the prize in a custodial bank account, with an adult member of the minor's family or the minor's guardian serving as custodian for the minor.

2.7 Instant Ticket Claim Period. All Instant Game prizes must be claimed within 180 days following the end of the Instant Game. Any prize not claimed within that period, and in the manner specified in these Game Procedures and on the back of each ticket, shall be forfeited.

3.0 Instant Ticket Ownership.

A. Until such time as a signature is placed upon the back portion of an Instant Game ticket in the space designated therefor, a ticket shall be owned by the physical possessor of said ticket. When a signature is placed on the back of the ticket in the space designated therefor, the player whose signature appears in that area shall be the owner of the ticket and shall be entitled to any prize attributable thereto. Notwithstanding any name or names submitted on a claim form, the Executive Director shall make payment to the player whose signature appears on the back of the ticket in the space designated therefor. If more than one name appears on the back of the ticket, the Executive Director will require that one of those players whose name appears thereon be designated by such players to receive payment.

B. The Texas Lottery shall not be responsible for lost or stolen Instant Game tickets and shall not be required to pay on a lost or stolen Instant Game ticket.

4.0 Number and Value of Instant Prizes. There will be approximately 40,080,000 tickets in the Instant Game Number 118. The expected number and value of prizes in the game are as follows:

Prize Amount	Approximate Number of Winners	Chances of Winning
\$1.00	4,488,960	1:8.93
\$2.00	1,523,040	1:26.32
\$3.00	1,082,160	1:37.04
\$5.00	240,480	1:166.67
\$6.00	120,240	1:333.33
\$9.00	240,480	1:166.67
\$15.00	120,240	1:333.33
\$25.00	64,462	1:621.76
\$75.00	16,700	1:2,400.00
\$100	3,340	1:12,000.00
\$300	501	80,000.00
\$3,000	10	4,008,000.00
Total	7,900,613 / 40,080,000	1:5.07

A. The actual number of tickets in the game may be increased or decreased at the sole discretion of the Executive Director.

5.0 Termination of the Instant Game. The Executive Director may, at any time, announce a termination date for the Instant Game Number 118 without advance notice, at which point no further tickets in that game may be sold.

6.0 Governing Law. In purchasing an Instant Game ticket, the player agrees to comply with, and abide by, these Game Procedures for Instant Game Number 118, the State Lottery Act (Texas Government Code, Chapter 466), applicable rules adopted by the Texas Lottery pursuant to the State Lottery Act and referenced in 16 TAC, Chapter 401, and all final decisions of the Executive Director.

TRD-9808633

Kimberly L. Kiplin

General Counsel

Texas Lottery Commission

Filed: May 27, 1998



Game Procedures - Instant Game Number 131

1.0 Name and Style of Game.

A. The name of Instant Game Number 131 is "DOUBLE ROLL". The play style of the game is a "Add Up with Doubler" play style.

1.1 Price of Instant Ticket.

A. Tickets for Instant Game Number 131 shall be \$1.00 per ticket.

1.2 Definitions in Instant Game Number 131.

A. Display Printing - That area of the instant game ticket outside of the area where the Overprint and Play Symbols appear.

B. Latex Overprint - The removable scratch-off covering over the Play Symbols on the front of the ticket.

C. Play Symbol - One of the symbols which appears under the Latex Overprint on the front of the ticket. Each Play Symbol is printed in Symbol font in black ink in positive. The possible Play Symbols are DICE 1, DICE 2, DICE 3, DICE 4, DICE 5, DICE 6, \$1.00, \$2.00, \$4.00, \$10.00, \$20.00, \$40.00, \$100, \$500 and \$5,000.

D. Play Symbol Caption - the small printed material appearing below each Play Symbol which explains the Play Symbol. One and only one of these Play Symbol Captions appears under each Play Symbol and each is printed in Caption font in black ink in positive. The Play Symbol Caption which corresponds with and verifies each Play Symbol is as follows:

PLAY SYMBOL	CAPTION
\$1.00	ONES
\$2.00	TWOS
\$4.00	FOURS
\$10.00	TENS
\$20.00	TWENTY
\$40.00	FORTY
\$100	ONE HUND
\$500	FIV HUND
\$5,000	FIV THOU

E. Retailer Validation Code - Three small letters found under the removable scratch-off covering over the Play Symbol area, which

retailers use to verify and validate instant winners. The possible validation codes are:

CODE	PRIZE
ONE	\$1.00
TWO	\$2.00
FOR	\$4.00
SVN	\$7.00
TEN	\$10.00
TWN	\$20.00

Non-winning and high-tier winning tickets will have different combinations of any three of the following letters, excluding the combinations listed above: E, F, G, H, I, L, N, Ø, R, S, T, V, W, X

All codes from \$1 through \$24 not used for this game are protected. Other combinations of these letters are to be used for commons and high-tier winners. The letter "Ø" will only be used on the appropriate winning codes and will always have a slash through it.

F. Validation Number- A unique 12 digit number appearing under the latex scratch-off covering on the front of the ticket. Nine digits of the Validation Number relate to the game Play Symbols. There is a one digit prize code and a two digit check digit, which will verify the recording accuracy of the ten digit Validation Number, or VIRN (Void If Removed Number). There is a four digit control number which will be boxed and placed randomly within the VIRN number. The Validation Number is positioned beneath the bottom row of play data in the scratched-off play area.

The format will be : 0000⁰⁰⁰⁰ 0000.

G. Low-Tier Prize - A prize of \$1.00, \$2.00, \$4.00, \$7.00, \$10.00 or \$20.00.

H. Mid-Tier Prize - A prize of \$40.00, \$100 or \$500.

I. High-Tier Prize - A prize of \$5,000.

J. Bar Code - A 20 character interleaved two of five bar code which will include a three digit game ID, the seven digit pack number and eight digits of the Validation Number and a two digit filler. The bar code appears on the back of the ticket.

K. Pack-Ticket Number - A 13 digit number consisting of the three digit game number (131), a seven digit pack number and a three digit ticket number. Ticket numbers start with 000 and end with 249 within each pack. The format will be : 131-0000001-000.

L. Pack - A pack of "DOUBLE ROLL" Instant Game tickets contain 250 tickets, which are packed in plastic shrink-wrapping and fanfolded in pages of five. Tickets 000 to 004 are on the top page, tickets 005 to 009 are on the next page, and so forth with tickets 245 to 249 on the last page. Tickets 000 and 249 will be folded down to expose the pack-ticket number through the shrink-wrap.

M. Non-Winning Ticket - A ticket which is not programmed to be a winning ticket or a ticket that does not meet all of the requirements of these Game Procedures, the State Lottery Act (Texas Government Code, Chapter 466), and applicable rules adopted by the Texas Lottery pursuant to the State Lottery Act and referenced in 16 TAC, Chapter 401.

N. Ticket or Instant Game Ticket, or Instant Ticket - A Texas Lottery "DOUBLE ROLL" Instant Game Number 131 ticket.

2.0 Determination of Prize Winners. The determination of prize winners is subject to the general ticket validation requirements set forth in Texas Lottery Rule, 16 TAC §401.302, Instant Game Rules, these Game Procedures, and the requirements set out on the back of each instant ticket. A prize winner in the "DOUBLE ROLL" Instant Game is determined once the latex overprint on the ticket is scratched off to expose the play symbols on the front of the ticket. If the 2 dice in each Roll add up to 7, the holder of the ticket wins the prize amount for that Roll. If the 2 dice in each Roll add up to 11, the holder of the ticket wins DOUBLE the prize amount for that Roll. A ticket may contain up to four winners if the dice in any of the four Rolls add up to either 7 or 11. No portion of the display printing nor any extraneous matter whatsoever shall be usable or playable as a part of the Instant Game.

2.1 Instant Ticket Validation Requirements.

A. To be a valid Instant Game ticket, all of the following requirements must be met:

1. Exactly 12 Play Symbols must appear under the latex overprint on the front portion of the ticket;
2. Each of the Play Symbols must have a Play Symbol Caption underneath, and each Play Symbol must agree with its Play Symbol Caption;
3. Each of the Play Symbols must be present in its entirety and be fully legible;
4. Each Play Symbol Caption must be present in its entirety and be fully legible;
5. Each of the Play Symbols and the Play Symbol Captions must be printed in black ink;

6. The ticket shall be intact;

7. The Validation Number, Retailer Validation Code and Pack-Ticket Number must be present in their entirety and be fully legible;

8. The Validation Number must correspond, using the Texas Lottery's codes, to the Play Symbols on the ticket;

9. The ticket must not have a hole punched through it, be mutilated, altered, unreadable, reconstituted or tampered with in any manner;

10. The ticket must not be counterfeit in whole or in part;

11. The ticket must have been issued by the Texas Lottery in an authorized manner;

12. The ticket must not have been stolen, nor appear on any list of omitted tickets or non-activated tickets on file at the Texas Lottery;

13. The Play Symbols, Play Symbol Captions, Validation Number, Retailer Validation Code and Pack-Ticket Number must be right side up and not reversed in any manner;

14. The ticket must be complete and not miscut, and have exactly 12 Play Symbols and exactly 12 Play Symbol Captions under the latex overprint on the front of the ticket, exactly one Validation Number, exactly one Retailer Validation Code, and exactly one Pack-Ticket Number on the ticket;

15. The Validation Number of an apparent winning ticket shall correspond with the Texas Lottery's Validation Numbers for winning tickets, and a ticket with that Validation Number shall not have been paid previously;

16. The ticket must not be blank or partially blank, misregistered, defective or printed or produced in error;

17. Each of the 12 Play Symbols must be exactly one of those described in section 1.2.C of these Game Procedures, and each of the Play Symbol Captions to those Play Symbols must be exactly one of those described in section 1.2.D of these Game Procedures;

18. Each of the 12 Play Symbols on the ticket must be printed in the Symbol font and must correspond precisely to the artwork on file at the Texas Lottery; the ticket Validation Numbers must be printed in the Validation font and must correspond precisely to the artwork on file at the Texas Lottery; and the Pack-Ticket Number must be printed in the Pack-Ticket Number font and must correspond precisely to the artwork on file at the Texas Lottery;

19. The display printing on the ticket must be regular in every respect and correspond precisely to the artwork on file at the Texas Lottery; and

20. The ticket must have been received or recorded by the Texas Lottery by applicable deadlines.

B. The ticket must pass all additional validation tests provided for in these Game Procedures, the Texas Lottery's Rules governing the award of prizes of the amount to be validated, and any confidential validation and security tests of the Texas Lottery.

C. Any Instant Game ticket not passing all of the validation requirements is void and ineligible for any prize and shall not be paid. However, the Executive Director may, solely at the Executive Director's discretion, replace an invalid ticket with an unplayed ticket in that Instant Game (or ticket of equivalent sales price from any other current Instant Lottery game) or refund the retail sales price of the ticket. In the event a defective ticket is purchased, the only responsibility or liability of the Texas Lottery shall be to replace the defective ticket with another unplayed ticket in that Instant Game (or a ticket of equivalent sales price from any other current Instant Lottery

game) or refund the retail sales price of the ticket. The decision as to which action to take with a defective ticket is solely within the Executive Director's discretion.

2.2 Programmed Game Parameters.

A. Tickets can win up to four times.

B. Multiple win tickets will win using different permutations of winning dice numbers in each winning roll, excluding the winners with doublers.

C. Adjacent tickets will not have identical patterns.

D. There will not be two or more like non-winning prize amounts on a ticket.

E. No non-winning game will have the same prize amount as a winning game on the same ticket.

F. The four dice numbers in each column will not add up to 7 or 11.

2.3 Procedure for Claiming Prizes.

A. To claim a "DOUBLE ROLL" Instant Game prize of \$1.00, \$2.00, \$4.00, \$7.00, \$10.00, \$20.00, \$40.00, \$100 or \$500, a claimant shall sign the back of the ticket in the space designated on the ticket and present the winning ticket to any Texas Lottery Retailer. The Texas Lottery Retailer, acting pursuant to applicable Lottery rules, may validate the claim. If the Texas Lottery Retailer determines that the ticket is a valid winning ticket by validating the ticket, and the claimant presents proper identification, the Texas Lottery Retailer shall make payment of the amount due the claimant and physically void the ticket. In the event the Texas Lottery Retailer cannot verify the claim, the Texas Lottery Retailer shall provide the claimant with a claim form and instruct the claimant on how to file a claim with the Texas Lottery. If the claim is validated by the Texas Lottery, a check shall be forwarded to the claimant in the amount due. In the event the claim is not validated, the claim shall be denied and the claimant shall be notified promptly. A claimant may also claim any of the above prizes under the procedure described in sections 2.3.B and 2.3.C of these Game Procedures.

B. To claim a "DOUBLE ROLL" Instant Game prize of \$5,000, the claimant may sign the winning ticket, thoroughly complete a claim form, and present both at Texas Lottery Headquarters in Austin, Texas. If the claim is validated by the Texas Lottery, payment will be made to the bearer of the validated winning ticket for that prize upon presentation of proper identification. When paying a prize of \$600 or more, the Texas Lottery shall file the appropriate income reporting form with the Internal Revenue Service (IRS) and shall withhold federal income tax at a rate set by the IRS if required. In the event that the claim is not validated by the Texas Lottery, the claim shall be denied and the claimant shall be notified promptly.

C. As an alternative method of claiming a "DOUBLE ROLL" Instant Game prize, the claimant must sign the winning ticket, thoroughly complete a claim form, and present both at any Texas Lottery Claim Center. If the claim is validated by the Texas Lottery, payment will be made to the bearer of the validated winning ticket for that prize upon presentation of proper identification. A claimant may also claim a prize by signing the winning ticket, thoroughly completing a claim form, and mailing both to: Texas Lottery Commission, Post Office Box 16630, Austin, Texas 78761-6630. In the event that the claim is not validated by the Texas Lottery, the claim shall be denied and the claimant shall be notified promptly.

D. Prior to payment by the Texas Lottery of any prize, the Texas Lottery shall deduct a sufficient amount from the winnings of a person who has been finally determined to be:

1. delinquent in the payment of a tax or other money collected by the Comptroller, the Texas Workforce Commission, or the Texas Alcoholic Beverage Commission;

2. delinquent in making child support payments administered or collected by the Attorney General;

3. delinquent in reimbursing the Texas Department of Human Services for a benefit granted in error under the food stamp program or the program of financial assistance under the Human Resource Code, Chapter 31;

4. in default on a loan made under the Education Code, Chapter 52; or,

5. in default on a loan guaranteed under the Education Code, Chapter 57.

E. If a person is indebted or owes delinquent taxes to the State, other than those specified in the preceding paragraph, the winnings of a person shall be withheld until the debt or taxes are paid.

2.4 Allowance for Delay of Payment. The Texas Lottery may delay payment of the prize pending a final determination by the Executive Director, under any of the following circumstances:

A. if a dispute occurs, or it appears likely that a dispute may occur, regarding the prize;

B. if there is any question regarding the identity of the claimant;

C. if there is any question regarding the validity of the ticket presented for payment; or

D. if the claim is subject to any deduction from the payment otherwise due, as described in section 2.3.E of these Game Procedures.

2.5 No liability for interest for any delay shall accrue to the benefit of the claimant pending payment of the claim.

2.6 Payment of Prizes to Persons Under 18. If a person under the age of 18 years is entitled to a cash prize of less than \$600 from the "DOUBLE ROLL" Instant Game, the Texas Lottery shall deliver to an adult member of the minor's family or the minor's guardian a check or warrant in the amount of the prize payable to the order of the minor.

2.7 If a person under the age of 18 years is entitled to a cash prize of more than \$600 from the "DOUBLE ROLL" Instant Game, the Texas Lottery shall deposit the amount of the prize in a custodial bank account, with an adult member of the minor's family or the minor's guardian serving as custodian for the minor.

2.8 Instant Ticket Claim Period. All Instant Game prizes must be claimed within 180 days following the end of the Instant Game. Any prize not claimed within that period, and in the manner specified in these Game Procedures and on the back of each ticket, shall be forfeited.

3.0 Instant Ticket Ownership.

A. Until such time as a signature is placed upon the back portion of an Instant Game ticket in the space designated therefor, a ticket shall be owned by the physical possessor of said ticket. When a signature is placed on the back of the ticket in the space designated therefor, the player whose signature appears in that area shall be the owner of the ticket and shall be entitled to any prize attributable thereto. Notwithstanding any name or names submitted on a claim form, the Executive Director shall make payment to the player whose signature appears on the back of the ticket in the space designated therefor. If more than one name appears on the back of the ticket, the Executive

Director will require that one of those players whose name appears thereon be designated by such players to receive payment.

B. The Texas Lottery shall not be responsible for lost or stolen Instant Game tickets and shall not be required to pay on a lost or stolen Instant Game ticket.

4.0 Number and Value of Instant Prizes. There will be approximately 20,160,000 tickets in the Instant Game Number 131. The expected number and value of prizes in the game are as follows:

Prize Amount	Approximate Number of Winners	Chances of Winning
\$1.00	2,298,240	1:8.77
\$2.00	1,249,920	1:16.13
\$4.00	221,760	1:90.91
\$7.00	120,960	1:166.67
\$10.00	120,960	1:166.67
\$20.00	60,480	1:333.33
\$40.00	23,520	1:857.14
\$100	504	1:40,000.00
\$500	168	1:120,000.00
\$5,000	13	1:1,550,769.23
Total	4,096,525 / 20,160,000	1:4.92

A. The actual number of tickets in the game may be increased or decreased at the sole discretion of the Texas Lottery.

5.0 Termination of the Instant Game. The Executive Director may, at any time, announce a termination date for the Instant Game Number 131 without advance notice, at which point no further tickets in that game may be sold.

6.0 Governing Law. In purchasing an Instant Game ticket, the player agrees to comply with, and abide by, these Game Procedures for Instant Game Number 131, the State Lottery Act (Texas Government Code, Chapter 466), applicable rules adopted by the Texas Lottery pursuant to the State Lottery Act and referenced in 16 TAC, Chapter 401, and all final decisions of the Executive Director.

TRD-9808634

Kimberly L. Kiplin

General Counsel

Texas Lottery Commission

Filed: May 27, 1998

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Texas Lottery Commission

Due to a technical error by the Texas Register in the May 29, 1998, issue (23 TexReg 5822) the following document submitted by the Texas Lottery Commission is being republished. Under "F. Validation Number" the format should appear as 0000⁰⁰⁰⁰0000.

Game Procedures - Instant Game Number 133

1.0 Name and Style of Game.

A. The name of Instant Game Number 133 is "BUCKS 'N TRUCKS". The play style of the game is a "Key Number Match" play style.

1.1 Price of Instant Ticket.

A. Tickets for Instant Game Number 133 shall be \$2.00 per ticket.

1.2 Definitions in Instant Game Number 133.

A. Display Printing - That area of the instant game ticket outside of the area where the Overprint and Play Symbols appear.

B. Latex Overprint - The removable scratch-off covering over the Play Symbols on the front of the ticket.

C. Play Symbol - One of the symbols which appears under the Latex Overprint on the front of the ticket. Each Play Symbol is printed in Symbol font in black ink in positive. The possible Play Symbols are: 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, \$2.00, \$4.00, \$5.00, \$10.00, \$20.00, \$50.00, \$100, \$200, \$1,000 and TRUCK.

D. Play Symbol Caption - the small printed material appearing below each Play Symbol which explains the Play Symbol. One and only one of these Play Symbol Captions appears under each Play Symbol and each is printed in Caption font in black ink in positive. The Play Symbol Caption which corresponds with and verifies each Play Symbol is as follows:

PLAY SYMBOL	CAPTION
\$2.00	TWOS
\$4.00	FOURS
\$5.00	FIVES
\$10.00	TENS
\$20.00	TWENTY
\$50.00	FIFTY
\$100	ONEHUND
\$200	TWOHUND
\$1,000	ONETHOU
[TRUCK]	TRUCK
1	ONE
2	TWO
3	THREE
4	FOUR
5	FIVE
6	SIX
7	SEVEN
8	EIGHT
9	NINE
10	TEN
11	ELVN
12	WLV
13	THRTN
14	FORTN

15	FIFTN
16	SIXTN
17	SVNTN
18	EGHTN
19	NINTN

E. Retailer Validation Code - Three small letters found under the removable scratch-off covering over the Play Symbol area, which

retailers use to verify and validate instant winners. The possible validation codes are:

CODE	PRIZE
TWØ	\$2.00
FØR	\$4.00
EGT	\$8.00
TEN	\$10.00
TWN	\$20.00

Non-winning and high-tier winning tickets will have different combinations of any three of the following letters, excluding the combinations listed above: E, F, G, H, I, L, N, Ø, R, S, T, V, W, X

All codes from \$1 through \$24 not used for this game are protected. Other combinations of these letters are to be used for commons and high-tier winners. The letter "Ø" will always have a slash through it.

F. Validation Number- A unique 12 digit number appearing under the latex scratch-off covering on the front of the ticket. Nine digits of the Validation Number relate to the game Play Symbols. There is a one digit prize code and a two digit check digit, which will verify the recording accuracy of the ten digit Validation Number, or VIRN (Void If Removed Number). There is a four digit control number which will be boxed and placed randomly within the VIRN number. The Validation Number is positioned beneath the bottom row of play data in the scratched-off play area.

The format will be : 0000⁰⁰⁰⁰0000

G. Low-Tier Prize - A prize of \$2.00, \$4.00, \$8.00, \$10.00, or \$20.00

H. Mid-Tier Prize - A prize of \$50.00, \$100 or \$200.

I. High-Tier Prize - A prize of \$1,000 or a truck.

J. Bar Code - A 20 character interleaved two of five bar code which will include a three digit game ID, the seven digit pack number and eight digits of the Validation Number and a two digit filler. The bar code appears on the back of the ticket.

K. Pack-Ticket Number - A 13 digit number consisting of the three digit game number (133), a seven digit pack number and a three digit ticket number. Ticket numbers start with 000 and end with 249 within each pack. The format will be : 133-0000001-000.

L. Pack - A pack of "BUCKS 'N TRUCKS" Instant Game tickets contain 250 tickets, which are packed in plastic shrink-wrapping and fanfolded in pages of two. Tickets 000 to 001 are on the top page, tickets 002 to 003 are on the next page, and so forth with tickets 248 to 249 on the last page. Ticket 249 will be folded down to expose the pack-ticket number through the shrink-wrap.

M. Non-Winning Ticket - A ticket which is not programmed to be a winning ticket or a ticket that does not meet all of the requirements of these Game Procedures, the State Lottery Act (Texas Government Code, Chapter 466), and applicable rules adopted by the Texas Lottery pursuant to the State Lottery Act and referenced in 16 TAC, Chapter 401.

N. Ticket or Instant Game Ticket, or Instant Ticket - A Texas Lottery "BUCKS 'N TRUCKS" Instant Game Number 133 ticket.

2.0 Determination of Prize Winners. The determination of prize winners is subject to the ticket validation requirements set forth in Texas Lottery Rule, 16 TAC, §401.302, Instant Game Rules, these Game Procedures, and the requirements set out on the back of each instant ticket. A prize winner in the "BUCKS 'N TRUCKS" Instant Game is determined once the latex on the ticket is scratched off to expose the "LUCKY NUMBERS", "YOUR NUMBERS" and Prize amount Symbols on the front of the ticket. If any "YOUR NUMBERS" Symbols match the "LUCKY NUMBERS" Symbols, the holder of the ticket wins the Prize amount directly beneath the matching number. A ticket may contain up to ten winners if there are ten matches under "YOUR NUMBERS". If a truck symbol is directly beneath the matching number, the holder of the ticket wins a 1998 Dodge Ram 1500 Special Edition Truck. No portion of the display printing nor any extraneous matter whatsoever shall be usable or playable as a part of the Instant Game.

2.1 Instant Ticket Validation Requirements.

A. To be a valid Instant Game ticket, all of the following requirements must be met:

1. Exactly 22 Play Symbols must appear under the latex on the front of the ticket;
2. Each of the Play Symbols must have a Play Symbol Caption underneath, and each Play Symbol must agree with its Play Symbol Caption;
3. Each of the Play Symbols must be present in its entirety and be fully legible;
4. Each Play Symbol Caption must be present in its entirety and be fully legible;
5. Each of the Play Symbols and the Play Symbol Captions must be printed in black ink;
6. The ticket shall be intact;
7. The Validation Number, Retailer Validation Code and Pack-Ticket Number must be present in their entirety and be fully legible;
8. The Validation Number must correspond, using the Texas Lottery's codes, to the Play Symbols on the ticket;
9. The ticket must not have a hole punched through it, be mutilated, altered, unreadable, reconstituted or tampered with in any manner;
10. The ticket must not be counterfeit in whole or in part;
11. The ticket must have been issued by the Texas Lottery in an authorized manner;
12. The ticket must not have been stolen, nor appear on any list of omitted tickets or non-activated tickets on file at the Texas Lottery;
13. The Play Symbols, Play Symbol Captions, Validation Number, Retailer Validation Code and Pack-Ticket Number must be right side up and not reversed in any manner;
14. The ticket must be complete and not miscut, and have exactly 22 Play Symbols and exactly 22 Play Symbol Captions under the latex on the front of the ticket, exactly one Validation Number, exactly one Retailer Validation Code, and exactly one Pack-Ticket Number on the ticket;
15. The Validation Number of an apparent winning ticket shall correspond with the Texas Lottery's Validation Numbers for winning tickets, and a ticket with that Validation Number shall not have been paid previously;
16. The ticket must not be blank or partially blank, misregistered, defective or printed or produced in error;
17. Each of the 22 Play Symbols must be exactly one of those described in section 1.2.C, of these Game Procedures, and each of the Play Symbol Captions to those Play Symbols must be exactly one of those described in section 1.2.D, of these Game Procedures;
18. Each of the 22 Play Symbols on the ticket must be printed in the Symbol font and must correspond precisely to the artwork on file at the Texas Lottery; the ticket Validation Numbers must be printed in the Validation font and must correspond precisely to the artwork on file at the Texas Lottery; and the Pack-Ticket Number must be printed in the Pack-Ticket Number font and must correspond precisely to the artwork on file at the Texas Lottery;
19. The display printing on the ticket must be regular in every respect and correspond precisely to the artwork on file at the Texas Lottery; and
20. The ticket must have been received or recorded by the Texas Lottery by applicable deadlines.

B. The ticket must pass all additional validation tests provided for in these Game Procedures, Texas Lottery Rules, and any confidential validation and security tests of the Texas Lottery.

C. Any Instant Game ticket not passing all of the validation requirements is void and ineligible for any prize and shall not be paid. However, the Executive Director may, solely at the Executive Director's discretion, replace an invalid ticket with an unplayed ticket in that Instant Game (or ticket of equivalent sales price from any other current Instant Lottery game) or refund the retail sales price of the ticket. In the event a defective ticket is purchased, the only responsibility or liability of the Texas Lottery shall be to replace the defective ticket with another unplayed ticket in that Instant Game (or a ticket of equivalent sales price from any other current Instant Lottery game) or refund the retail sales price of the ticket. The decision as to which action to take with a defective ticket is solely within the Executive Director's discretion.

2.2 Programmed Game Parameters.

A. Numeric play symbols 1-19 will be used for a winning match approximately evenly.

B. Non-winning prize symbols on winning tickets will never be the same as the winning prize symbols.

C. Adjacent tickets will not have identical patterns.

D. There will never be two or more identical non-winning YOUR NUMBERS play symbols.

E. There will never be identical LUCKY NUMBER play symbols.

F. Winning YOUR NUMBER play spots will be approximately evenly distributed among the ten play positions.

G. Winning tickets will use each LUCKY NUMBER match approximately evenly.

H. Each of the numeric play symbols 1-19 will be used approximately equally as the LUCKY NUMBER symbols.

I. There will never be three or more like prize symbols on a ticket except on intended multiple winners.

2.3 Procedure for Claiming Prizes.

A. To claim a "BUCKS 'N TRUCKS" Instant Game prize of \$2.00, \$4.00, \$8.00, \$10.00, \$20.00, \$50.00, \$100 or \$200, a claimant shall sign the back of the ticket in the space designated on the ticket and present the winning ticket to any Texas Lottery Retailer. The Texas Lottery Retailer, acting pursuant to applicable Lottery rules, may validate the claim. If the Texas Lottery Retailer determines that the ticket is a valid winning ticket by validating the ticket, and the claimant presents proper identification, the Texas Lottery Retailer shall make payment of the amount due the claimant and physically void the ticket. In the event the Texas Lottery Retailer cannot validate the claim, the Texas Lottery Retailer shall provide the claimant with a claim form and instruct the claimant on how to file a claim with the Texas Lottery. If the claim is validated by the Texas Lottery, a check shall be forwarded to the claimant in the amount due. In the event the claim is not validated, the claim shall be denied and the claimant shall be notified promptly. A claimant may also claim any of the above prizes under the procedures described in sections 2.3.B, and 2.3 D of these Game Procedures.

B. To claim a "BUCKS 'N TRUCKS" Instant Game prize of \$1,000, the claimant must sign the winning ticket and present it at any Texas Lottery Claim Center. If the claim is validated by the Texas Lottery, payment will be made to the bearer of the validated winning ticket for that prize upon presentation of proper identification. When paying a

cash prize of \$600 or more, the Texas Lottery shall file the appropriate income reporting form with the Internal Revenue Service (IRS) and shall withhold federal income tax at a rate set by the IRS if required. In the event that the claim is not validated by the Texas Lottery, the claim shall be denied and the claimant shall be notified promptly.

C. To claim the top prize of a 1998 Dodge Ram 1500 Special Edition Truck, the claimant must sign the winning ticket, thoroughly complete a claim form, and present both at any Texas Lottery Claim Center. The claimant must also present a valid driver's license and proof of automobile liability insurance. If the claim is validated by the Texas Lottery and the claimant presents a valid driver's license and proof of automobile liability insurance, the claimant will be given a specific time, within ten business days of the initial visit, to return to the Texas Lottery Claim Center to be awarded the vehicle. The claimant must return to the Claim Center at the pre-scheduled time. This will be the claimant's only chance to get the vehicle at the location where the claimant presented the ticket. When awarding the top non-cash prize, the Texas Lottery shall file the appropriate income reporting form with the Internal Revenue Service (IRS) and shall pay the federal income tax at a rate set by the IRS for withholding, if required.

D. As an alternative method of claiming a "BUCKS 'N TRUCKS" Instant Game cash prize, the claimant must sign the winning ticket, thoroughly complete a claim form, and present both at any Texas Lottery Claim Center. If the claim is validated by the Texas Lottery, payment will be made to the bearer of the validated winning ticket for that prize upon presentation of proper identification. A claimant may also claim a cash prize by signing the winning ticket, thoroughly completing a claim form, and mailing both to: Texas Lottery Commission, Post Office Box 16630, Austin, Texas 78761-6630. In the event that the claim is not validated by the Texas Lottery, the claim shall be denied and the claimant shall be notified promptly.

E. Prior to payment by the Texas Lottery of a cash prize, the Texas Lottery shall deduct a sufficient amount from the winnings of a person who has been finally determined to be:

1. delinquent in the payment of a tax or other money collected by the Comptroller, the Texas Workforce Commission, or the Texas Alcoholic Beverage Commission;

2. delinquent in making child support payments administered or collected by the Attorney General;

3. delinquent in reimbursing the Texas Department of Human Services for a benefit granted in error under the food stamp program or the program of financial assistance under the Human Resource Code, Chapter 31;

4. in default on a loan made under the Education Code, Chapter 52; or

5. in default on a loan guaranteed under the Education Code, Chapter 57..

F. If a person is indebted or owes delinquent taxes to the State, other than those specified in the preceding paragraph, any cash winnings of a person shall be withheld until the debt or taxes are paid.

G. If a claimant of a non-cash prize is delinquent or in default on a debt listed in sections E or F, the claimant will have 30 days from the date the claim is made to satisfy the debt or delinquency. The Texas Lottery must receive prior notice from the agency reporting the debt that the debt has been satisfied. If the debt or delinquency is not satisfied within the 30 days, the claimant will forfeit the non-cash prize. The date the claim is made is the date the claimant submits the claim form to a Texas Lottery Claim Center.

H. If a claimant of a non-cash prize is unable to present a valid driver's license and proof of automobile liability insurance, the claimant will have 30 days from the date the claim is made to obtain a valid driver's license and proof of automobile liability insurance. If the claimant is unable to present a valid driver's license and proof of automobile liability insurance within this 30 day period, the claimant will forfeit the non-cash prize. The date the claim is made is the date the claimant submits the claim form to a Texas Lottery Claim Center.

2.4 Allowance for Delay of Payment or Award. The Texas Lottery may delay payment or award of the prize pending a final determination by the Executive Director, under any of the following circumstances:

A. if a dispute occurs, or it appears likely that a dispute may occur, regarding the prize;

B. if there is any question regarding the identity of the claimant;

C. if there is any question regarding the validity of the ticket presented for payment;

D. if the claim is subject to any deduction from the payment otherwise due, as described in section 2.3F, of these Game Procedures.

E. if there is a 30 day period for the claimant to satisfy any debts or delinquencies pursuant to section 2.3G; or,

F. if there is a 30 day period to allow the claimant to obtain a valid driver's license and proof of automobile liability insurance pursuant to section 2.3H.

2.5 No liability for interest for any delay shall accrue to the benefit of the claimant pending payment or award of the claim.

2.6 Payment of Prizes to Persons Under 18. If a person under the age of 18 years is entitled to a cash prize of less than \$600 from the "BUCKS 'N TRUCKS" Instant Game, the Texas Lottery shall deliver to an adult member of the minor's family or the minor's guardian a check or warrant in the amount of the prize payable to the order of the minor.

2.7 If a person under the age of 18 years is entitled to a cash prize of more than \$600 from the "BUCKS 'N TRUCKS" Instant Game,

the Texas Lottery shall deposit the amount of the prize in a custodial bank account, with an adult member of the minor's family or the minor's guardian serving as custodian for the minor.

2.8 If a person under the age of 18 years is entitled to a non-cash prize from the "BUCKS 'N TRUCKS" Instant Game, the Texas Lottery shall pay the cash equivalent of the prize by depositing the amount, less any withholding, in a custodial bank account, with an adult member of the minor's family or the minor's guardian serving as custodian for the minor. The cash equivalent of the non-cash prize is \$34,950.00. The Texas Lottery shall file the appropriate income reporting form with the Internal Revenue Service (IRS) and shall withhold federal income tax at a rate set by the IRS, if required.

2.9 Instant Ticket Claim Period. All Instant Game prizes must be claimed within 180 days after the end of the Instant Game. Any prize not claimed within that period, and in the manner specified in these Game Procedures, Texas Lottery rules, and on the back of each ticket, shall be forfeited.

3.0 Instant Ticket Ownership.

A. Until such time as a signature is placed upon the back portion of an Instant Game ticket in the space designated therefor, a ticket shall be owned by the physical possessor of said ticket. When a signature is placed on the back of the ticket in the space designated therefor, the player whose signature appears in that area shall be the owner of the ticket and shall be entitled to any prize attributable thereto. Notwithstanding any name or names submitted on a claim form, the Executive Director shall make payment to the player whose signature appears on the back of the ticket in the space designated therefor. If more than one name appears on the back of the ticket, the Executive Director will require that one of those players whose name appears thereon be designated by such players to receive payment.

B. The Texas Lottery shall not be responsible for lost or stolen Instant Game tickets and shall not be required to pay on a lost or stolen Instant Game ticket.

4.0 Number and Value of Instant Prizes. There will be approximately 50,160,000 tickets in the Instant Game Number 133. The expected number and value of prizes in the game are as follows:

Prize Amount	Approximate Number of Winners	Chances of Winning
\$2.00	5,818,560	1:8.62
\$4.00	2,558,160	1:19.61
\$8.00	802,560	1:62.50
\$10.00	802,560	1:62.50
\$20.00	250,800	1:200.00
\$50.00	154,660	1:324.32
\$100	29,260	1:1,714.29
\$200	5,225	1:9,600.00
\$1,000	418	1:120,000.00
TRUCK	50 (exact)	1:1,003,200.00
Total	10,422,253 / 50,160,000	1:4.81



A. The actual number of tickets in the game may be increased or decreased at the sole discretion of the Executive Director.

5.0 Termination of the Instant Game. The Executive Director may, at any time, announce a termination date for the Instant Game Number 133 without advance notice, at which point no further tickets in that game may be sold.

6.0 Governing Law. In purchasing an Instant Game ticket, the player agrees to comply with and abide by these Game Procedures for Instant Game Number 133, the State Lottery Act (Texas Government Code, Chapter 466), applicable rules adopted by the Texas Lottery pursuant to the State Lottery Act and referenced in 16 TAC, Chapter 401, and all final decisions of the Executive Director.

TRD-9808139
Kimberly L. Kiplin
General Counsel
Texas Lottery Commission
Filed: May 19, 1998

Game Procedures - Instant Game Number 135

1.0 Name and Style of Game.

A. The name of Instant Game Number 135 is "BREAK THE BANK". The play style of the game is a "Key Number Match with Automatic Win Feature" play style.

1.1 Price of Instant Ticket.

A. Tickets for Instant Game Number 135 shall be \$2.00 per ticket.

1.2 Definitions in Instant Game Number 135.

A. Display Printing - That area of the instant game ticket outside of the area where the Overprint and Play Symbols appear.

B. Latex Overprint - The removable scratch-off covering over the Play Symbols on the front of the ticket.

C. Play Symbol - One of the symbols which appears under the Latex Overprint on the front of the ticket. Each Play Symbol is printed in Symbol font in black ink in positive. The possible Play Symbols are:

1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, MONEY STACK, \$1.00, \$2.00, \$4.00, \$6.00, \$10.00, \$20.00, \$50.00, \$200, \$1,000, \$3,000 and \$30,000.

D. Play Symbol Caption - the small printed material appearing below each Play Symbol which explains the Play Symbol. One and only

one of these Play Symbol Captions appears under each Play Symbol and each is printed in Caption font in black ink in positive. The Play Symbol Caption which corresponds with and verifies each Play Symbol is as follows:

PLAY SYMBOL	CAPTION
\$1.00	ONES
\$2.00	TWOS
\$4.00	FOURS
\$6.00	SIXS
\$10.00	TENS
\$20.00	TWENTY
\$50.00	FIFTY
\$200	TWO HUND
\$1,000	ONE THOU
\$3,000	THR THOU
\$30,000	30 THOU
[MONEY STACK]	\$\$\$
1	ONE
2	TWO
3	THREE
4	FOUR
5	FIVE
6	SIX
7	SVN
8	EGT
9	NIN
10	TEN
11	ELV
12	TWL

13	THT
14	FRT
15	FFT

E. Retailer Validation Code - Three small letters found under the removable scratch-off covering over the Play Symbol area, which

retailers use to verify and validate instant winners. The possible validation codes are:

CODE	PRIZE
TWO	\$2.00
FOR	\$4.00
SIX	\$6.00
EGT	\$8.00
TEN	\$10.00
TWL	\$12.00
TWN	\$20.00

Non-winning and high-tier winning tickets will have different combinations of any three of the following letters, excluding the combinations listed above: E, F, G, H, I, L, N, Ø, R, S, T, V, W, X

All codes from \$1 through \$24 not used for this game are protected. Other combinations of these letters are to be used for commons and high-tier winners. The letter "Ø" will only be used on the appropriate winning codes and will always have a slash through it.

F. Validation Number- A unique 12 digit number appearing under the latex scratch-off covering on the front of the ticket. Nine digits of the Validation Number relate to the game Play Symbols. There is a one digit prize code and a two digit check digit, which will verify the recording accuracy of the ten digit Validation Number, or VIRN (Void If Removed Number). There is a four digit control number which will be boxed and placed randomly within the VIRN number. The Validation Number is positioned beneath the bottom row of play data in the scratched-off play area.

The format will be : 0000 0000 0000.

G. Low-Tier Prize - A prize of \$2.00, \$4.00, \$6.00, \$8.00, \$10.00, \$12.00 or \$20.00

H. Mid-Tier Prize - A prize of \$50.00 or \$200.

I. High-Tier Prize - A prize of \$1,000, \$3,000 or \$30,000.

J. Bar Code - A 20 character interleaved two of five bar code which will include a three digit game ID, the seven digit pack number and eight digits of the Validation Number and a two digit filler. The bar code appears on the back of the ticket.

K. Pack-Ticket Number - A 13 digit number consisting of the three digit game number (135), a seven digit pack number and a three digit ticket number. Ticket numbers start with 000 and end with 249 within each pack. The format will be : 135-0000001-000.

L. Pack - A pack of "BREAK THE BANK" Instant Game tickets contain 250 tickets, which are packed in plastic shrink-wrapping and fanfolded in pages of two. Tickets 000 to 001 are on the top page, tickets 002 to 003 are on the next page, and so forth with tickets 248 to 249 on the last page. Ticket 249 will be folded down to expose the pack-ticket number through the shrink-wrap.

M. Non-Winning Ticket - A ticket which is not programmed to be a winning ticket or a ticket that does not meet all of the requirements of these Game Procedures, the State Lottery Act (Texas Government Code, Chapter 466), and applicable rules adopted by the Texas Lottery pursuant to the State Lottery Act and referenced in 16 TAC, Chapter 401.

N. Ticket or Instant Game Ticket, or Instant Ticket - A Texas Lottery "BREAK THE BANK" Instant Game Number 135 ticket.

2.0 Determination of Prize Winners. The determination of prize winners is subject to the ticket validation requirements set forth in Texas Lottery Rule, 16 TAC §401.302, Instant Game Rules, these Game Procedures, and the requirements set out on the back of each instant ticket. A prize winner in the "BREAK THE BANK" Instant Game is determined once the latex on the ticket is scratched off to expose the "LUCKY NUMBERS", "YOUR NUMBERS", and prize amount symbols on the front of the ticket. If any "YOUR NUMBERS" symbols match the "LUCKY NUMBERS" symbols, the holder of the ticket wins the prize amount directly beneath the matching number. A ticket may contain up to eight winners if there are eight matches under "YOUR NUMBERS". A ticket may also be an automatic winner of the prize amount directly below if a MONEY STACK symbol is uncovered. No portion of the display printing nor any extraneous matter whatsoever shall be usable or playable as a part of the Instant Game.

2.1 Instant Ticket Validation Requirements.

A. To be a valid Instant Game ticket, all of the following requirements must be met:

1. Exactly 19 Play Symbols must appear under the latex overprint on the front of the ticket;
2. Each of the Play Symbols must have a Play Symbol Caption underneath, and each Play Symbol must agree with its Play Symbol Caption;
3. Each of the Play Symbols must be present in its entirety and be fully legible;
4. Each Play Symbol Caption must be present in its entirety and be fully legible;

5. Each of the Play Symbols and the Play Symbol Captions must be printed in black ink;

6. The ticket shall be intact;

7. The Validation Number, Retailer Validation Code and Pack-Ticket Number must be present in their entirety and be fully legible;

8. The Validation Number must correspond, using the Texas Lottery's codes, to the Play Symbols on the ticket;

9. The ticket must not have a hole punched through it, be mutilated, altered, unreadable, reconstituted or tampered with in any manner;

10. The ticket must not be counterfeit in whole or in part;

11. The ticket must have been issued by the Texas Lottery in an authorized manner;

12. The ticket must not have been stolen, nor appear on any list of omitted tickets or non-activated tickets on file at the Texas Lottery;

13. The Play Symbols, Play Symbol Captions, Validation Number, Retailer Validation Code and Pack-Ticket Number must be right side up and not reversed in any manner;

14. The ticket must be complete and not miscut, and have exactly 19 Play Symbols and 19 Play Symbol Captions under the latex overprint on the front of the ticket, exactly one Validation Number, exactly one Retailer Validation Code, and exactly one Pack-Ticket Number on the ticket;

15. The Validation Number of an apparent winning ticket shall correspond with the Texas Lottery's Validation Numbers for winning tickets, and a ticket with that Validation Number shall not have been paid previously;

16. The ticket must not be blank or partially blank, misregistered, defective or printed or produced in error;

17. Each of the 19 Play Symbols must be exactly one of those described in section 1.2.C of these Game Procedures, and each of the Play Symbol Captions to those Play Symbols must be exactly one of those described in section 1.2.D of these Game Procedures;

18. Each of the 19 Play Symbols on the ticket must be printed in the Symbol font and must correspond precisely to the artwork on file at the Texas Lottery; the ticket Validation Numbers must be printed in the Validation font and must correspond precisely to the artwork on file at the Texas Lottery; and the Pack-Ticket Number must be printed in the Pack-Ticket Number font and must correspond precisely to the artwork on file at the Texas Lottery;

19. The display printing on the ticket must be regular in every respect and correspond precisely to the artwork on file at the Texas Lottery; and

20. The ticket must have been received or recorded by the Texas Lottery by applicable deadlines.

B. The ticket must pass all additional validation tests provided for in these Game Procedures, the Texas Lottery's Rules governing the award of prizes of the amount to be validated, and any confidential validation and security tests of the Texas Lottery.

C. Any Instant Game ticket not passing all of the validation requirements is void and ineligible for any prize and shall not be paid. However, the Executive Director may, solely at the Executive Director's discretion, replace an invalid ticket with an unplayed ticket in that Instant Game (or ticket of equivalent sales price from any other current Instant Lottery game) or refund the retail sales price of the ticket. In the event a defective ticket is purchased, the only

responsibility or liability of the Texas Lottery shall be to replace the defective ticket with another unplayed ticket in that Instant Game (or a ticket of equivalent sales price from any other current Instant Lottery game) or refund the retail sales price of the ticket, solely at the Executive Director's discretion.

2.2 Programmed Game Parameters.

A. There will be no correlation between the matching symbols and the prize amount.

B. Non-winning prize symbols on winning tickets will never be the same as the winning prize symbols.

C. Adjacent tickets will not have identical patterns.

D. There will never be two or more identical non-winning YOUR NUMBERS play symbols.

E. There will never be two or three identical LUCKY NUMBER play symbols.

2.3 Procedure for Claiming Prizes.

A. To claim a "BREAK THE BANK" Instant Game prize of \$2.00, \$4.00, \$6.00, \$8.00, \$10.00, \$12.00, \$20.00, \$50.00 or \$200, a claimant shall sign the back of the ticket in the space designated on the ticket and present the winning ticket to any Texas Lottery Retailer. The Texas Lottery Retailer, acting pursuant to applicable Lottery rules, may validate the claim. If the Texas Lottery Retailer determines that the ticket is a valid winning ticket by validating the ticket, and the claimant presents proper identification, the Texas Lottery Retailer shall make payment of the amount due the claimant and physically void the ticket. In the event the Texas Lottery Retailer cannot verify the claim, the Texas Lottery Retailer shall provide the claimant with a claim form and instruct the claimant on how to file a claim with the Texas Lottery. If the claim is validated by the Texas Lottery, a check shall be forwarded to the claimant in the amount due. In the event the claim is not validated, the claim shall be denied and the claimant shall be notified promptly. A claimant may also claim any of the above prizes under the procedure described in sections 2.3.B and 2.3.C of these Game Procedures.

B. To claim a "BREAK THE BANK" Instant Game prize of \$1,000, \$3,000 or \$30,000, the claimant must sign the winning ticket and present it at Texas Lottery Headquarters in Austin, Texas. If the claim is validated by the Texas Lottery, payment will be made to the bearer of the validated winning ticket for that prize upon presentation of proper identification. When paying a prize of \$600 or more, the Texas Lottery shall file the appropriate income reporting form with the Internal Revenue Service (IRS) and shall withhold federal income tax at a rate set by the IRS if required. In the event that the claim is not validated by the Texas Lottery, the claim shall be denied and the claimant shall be notified promptly.

C. As an alternative method of claiming a "BREAK THE BANK" Instant Game prize, the claimant must sign the winning ticket, thoroughly complete a claim form, and present both at any Texas Lottery claim center. If the claim is validated by the Texas Lottery, payment will be made to the bearer of the validated winning ticket for that prize upon presentation of proper identification. A claimant may also claim a prize by signing the winning ticket, thoroughly completing a claim form, and mailing both to: Texas Lottery Commission, Post Office Box 16630, Austin, Texas 78761-6630. In the event that the claim is not validated by the Texas Lottery, the claim shall be denied and the claimant shall be notified promptly.

D. Prior to payment by the Texas Lottery of any prize, the Texas Lottery shall deduct a sufficient amount from the winnings of a person who has been finally determined to be:

1. delinquent in the payment of a tax or other money collected by the Comptroller, Texas Workforce Commission, or Texas Alcoholic Beverage Commission;

2. delinquent in making child support payments administered or collected by the Attorney General;

3. delinquent in reimbursing the Texas Department of Human Services for a benefit granted in error under the food stamp program or the program of financial assistance under the Human Resource Code, Chapter 31;

4. in default on a loan made under the Education Code, Chapter 52; or

5. in default on a loan guaranteed under the Education Code Chapter 57.

E. If a person is indebted or owes delinquent taxes to the State, other than those specified in the preceding paragraph, the winnings of a person shall be withheld until the debt or taxes are paid.

2.4 Allowance for Delay of Payment. The Texas Lottery may delay payment of the prize pending a final determination by the Executive Director, under any of the following circumstances:

A. if a dispute occurs, or it appears likely that a dispute may occur, regarding the prize;

B. if there is any question regarding the identity of the claimant;

C. if there is any question regarding the validity of the ticket presented for payment; or

D. if the claim is subject to any deduction from the payment otherwise due, as described in section 2.3.E of these Game Procedures.

2.5 No liability for interest for any delay shall accrue to the benefit of the claimant pending payment of the claim.

2.6 Payment of Prizes to Persons Under 18. If a person under the age of 18 years is entitled to a cash prize of less than \$600 from the "BREAK THE BANK" Instant Game, the Texas Lottery shall deliver to an adult member of the minor's family or the minor's guardian a check or warrant in the amount of the prize payable to the order of the minor.

2.7 If a person under the age of 18 years is entitled to a cash prize of more than \$600 from the "BREAK THE BANK" Instant Game, the Texas Lottery shall deposit the amount of the prize in a custodial bank account, with an adult member of the minor's family or the minor's guardian serving as custodian for the minor.

2.8 Instant Ticket Claim Period. All Instant Game prizes must be claimed within 180 days after the end of the Instant Game. Any prize not claimed within that period, and in the manner specified in these Game Procedures and on the back of each ticket, shall be forfeited.

3.0 Instant Ticket Ownership.

A. Until such time as a signature is placed upon the back portion of an Instant Game ticket in the space designated therefor, a ticket shall be owned by the physical possessor of said ticket. When a signature is placed on the back of the ticket in the space designated therefor, the player whose signature appears in that area shall be the owner of the ticket and shall be entitled to any prize attributable thereto. Notwithstanding any name or names submitted on a claim form, the

Executive Director shall make payment to the player whose signature appears on the back of the ticket in the space designated therefor. If more than one name appears on the back of the ticket, the Executive Director will require that one of those players whose name appears thereon be designated by such players to receive payment.

B. The Texas Lottery shall not be responsible for lost or stolen Instant Game tickets and shall not be required to pay on a lost or stolen Instant Game ticket.

4.0 Number and Value of Instant Prizes. There will be approximately 24,960,000 tickets in the Instant Game Number 135. The expected number and value of prizes in the game are as follows:

Prize Amount	Approximate Number of Winners	Chances of Winning
\$2.00	2,296,320	1:10.87
\$4.00	1,472,640	1:16.95
\$6.00	424,320	1:58.82
\$8.00	99,840	1:250.00
\$10.00	224,640	1:111.11
\$12.00	249,600	1:100.00
\$20.00	174,720	1:142.86
\$50.00	92,560	1:269.66
\$200	20,800	1:1,200.00
\$1,000	520	1:48,000.00
\$3,000	75	1:332,800.00
\$30,000	12	1:2,080,000.00
Total	5,056,047 / 24,960,000	1:4.94

A. The actual number of tickets in the game may be increased or decreased at the sole discretion of the Texas Lottery.

5.0 Termination of the Instant Game. The Executive Director may, at any time, announce a termination date for the Instant Game Number 135 without advance notice, at which point no further tickets in that game may be sold.

6.0 Governing Law. In purchasing an Instant Game ticket, the player agrees to comply with, and abide by, these Game Procedures for Instant Game Number 135, the State Lottery Act (Texas Government Code, Chapter 466), applicable rules adopted by the Texas Lottery pursuant to the State Lottery Act and referenced in 16 TAC, Chapter 401, and all final decisions of the Executive Director.

TRD-9808635

Kimberly L. Kiplin

General Counsel

Texas Lottery Commission

Filed: May 27, 1998

Texas Natural Resource Conservation Commission

Enforcement Orders, Week Ending May 27, 1998

An agreed order was entered regarding SOUTHERN WASTE MANAGEMENT COMPANY, Docket Number 96-1669-IHW-E; TNRCC ID Number 40383; Enforcement ID Number 1722 on May 13, 1998 assessing \$197,960 in administrative penalties with \$197,360 deferred.

Information concerning any aspect of this order may be obtained by contacting Barbara M. Lazard, Staff Attorney at (512)239-0674 or Anne Rhyne, Enforcement Coordinator at (512)239-1291, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711-3087.

An order was entered regarding PENCCO, INCORPORATED, Docket Number 96-0863-AIR-E; SOAH Docket Number 582-97-0708 on May 13, 1998 assessing \$1,250 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Mary R. Risner, Staff Attorney at (512)239-6224, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711-3087.

An order was entered regarding DONALD SIMPSON, Docket Number 96-1815-OSI-E; SOAH Docket Number 582-97-1061 on May 8, 1998 assessing \$2,880 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Cecily Small, Staff Attorney at (512)239-2940, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711-3087.

An default order was entered regarding LEE LIMAS DBA LEE LIMAS MOBILE HOME PARK, Docket Number 96-1112-PWS-E; SOAH Docket Number 582-97-1443 on April 22, 1998 assessing \$3,850 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Hodgson Eckel, Staff Attorney at (512)239-3400 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 T C TUBB, DEE ANDERSON & BILL DAVID DBA WESTGATE MOBILE HOME PARK, Docket Number 96-0679-PWS-E TNRCC ID Number 1650047; Enforcement ID Number 6887 on May 13, 1998 assessing \$930 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Tracy L Harrison, Staff Attorney at (512)239-1736 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 SAFE TIRE DISPOSAL CORPORATION OF TEXAS, Docket Number 96-0058-MSW-E; MSW Numbers 44109, 79507, 44104, 79504 and 29565 on May 13, 1998 assessing \$367,680 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Paul Sarahan, Staff Attorney at (512)239-3422 or John Mead, Enforcement Coordinator at (512)239-6010, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding HENRY HARRIS DBA PLAZA WATER, Docket Number 97-0875-PWS-E; PWS Number 0140167; Enforcement ID Number 11752 on May 13, 1998 assessing \$1,030 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 PINE TRAILS UTILITY COMPANY, INCORPORATED, Docket Number 97-0783-PWS-E; PWS Number 1010535; CCN Number 10938 on May 13, 1998 assessing \$780 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Sabelyn Pussman, Enforcement Coordinator at (512)239-6061, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding CENTERLINE WATER SUPPLY CORPORATION, Docket Number 97-1001-PWS-E; PWS

Number 0260012; Enforcement ID Number 11748 on May 13, 1998 assessing \$1,075 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 FLOMOT WATER SUPPLY CORPORATION, Docket Number 97-0228-PWS-E; PWS Number 1730003; CCN Number 12577; Enforcement ID Number 6961 on May 13, 1998 assessing \$11,823 in administrative penalties with \$11,223 deferred.

Information concerning any aspect of this order may be obtained by contacting Sabelyn Pussman, Enforcement Coordinator at (512)239-6061, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding HUNTER MINISTRIES CITY OF LIGHT, Docket Number 97-0558-PWS-E; PWS Number 1700425 on May 13, 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 FRIO WATER, INCORPORATED, Docket Number 97-0708-PWS-E; PWS Number 0590010; CCN Number 12327 on May 13, 1998 assessing \$630 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Sabelyn Pussman, Enforcement Coordinator at (512)239-6061, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding THOMAS AND JEAN DAVIS DBA EAST CEDAR CREEK WS, Docket Number 97-0591-PWS-E; TNRCC ID Number 1450019; Enforcement ID Number 11407 on May 13, 1998 assessing \$1,375 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting 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 B.C. UTILITIES, INCORPORATED, Docket Number 97-0878-PWS-E; PWS Number 1010180 on May 13, 1998 assessing \$3,760 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.

A default order was entered regarding JOHN A. HARRIS DBA SPRING LAKE MOBILE HOME PARK, Docket Number 96-1710-PWS-E; PWS Number 2120028; Permit Number 13712-001; Enforcement ID Numbers 7103 and 8393 on May 13, 1998 assessing \$9,330 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Booker Harrison, Staff Attorney at (512)239-4113 or 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 MILFORD, Docket Number 97-0985-MWD-E; Permit Number 10730-001 (Expired);

Enforcement ID Number 8160 on May 13, 1998 assessing \$3,360 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 CITY OF KEENE, Docket Number 97-0943-MWD-E; Permit Number 10611-002; Enforcement ID Number 8211 on May 13, 1998

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 DILLEY, Docket Number 97-0818-MWD-E; Permit Number 10404-001 on May 13, 1998 assessing \$13,280 in administrative penalties.

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 BARDWELL, Docket Number 97-0938-MWD-E; Permit Number 13675-001; Enforcement ID Number 8164 on May 13, 1998 assessing \$3,360 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Brian Lehmulke, Enforcement Coordinator at (512)239-4482, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding ORANGE COUNTY WATER CONTROL & IMPROVEMENT DISTRICT Number 2, Docket Number 97-0967-MWD-E; Permit Number 10240-001; Enforcement ID Number 8640 on May 13, 1998 assessing \$10,400 in administrative penalties.

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 CORRUGATED SERVICES, INCORPORATED, Docket Number 97-0727-AIR-E; Account Number KB-0156-B on May 13, 1998 assessing \$9,000 in administrative penalties.

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 CHEVRON U.S.A. PRODUCTS COMPANY, INCORPORATED, Docket Number 97-0761-AIR-E; Account Number EE-0082-P; Enforcement ID Number 10633 on May 13, 1998 assessing \$69,500 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 E.I. DUPONT DE NEMOURS AND COMPANY, INCORPORATED, Docket Number 97-0905-AIR-E; Account Number VC-0008-Q; Enforcement ID Number

12002 on May 13, 1998 assessing \$22,800 in administrative penalties with \$4,560 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 JOHNSON PAINT AND BODY, Docket Number 97-0755-AIR-E; Account Number TA-2966-W on May 13, 1998 assessing \$750 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Paul Sarahan, Staff Attorney at (512)239-3422 or 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 TEJAS ALTERNATIVE ENERGY SYSTEMS INC. DBA TRUCK SHACK, Docket Number 96-1896-AIR-E; Account Number HX-0981-V on May 13, 1998 assessing \$2,749.92 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Tracy Harrison, Staff Attorney at (512)239-1736 or 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 SHELL OIL COMPANY, Docket Number 97-1012-IHW-E; SWR Number 30007; EPA ID Number TXD067285973; Enforcement ID Number 1021 on May 13, 1998 assessing \$23,100 in administrative penalties with \$4,620 deferred.

Information concerning any aspect of this order may be obtained by contacting Anne Nyffenegger, Enforcement Coordinator at (512)239-2554, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711-3087.

A default order was entered regarding LESLIE SKALITSKY, Docket Number 97-0258-MSW-E; TNRC ID Number 70252; Enforcement ID Number 2767 on May 13, 1998 assessing \$960 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Barbara Lazard, Staff Attorney at (512)239-0674 or Seyed Miri, Enforcement Coordinator at (512)239-6793, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711-3087.

A default order was entered regarding MR. RICHARD D. DAVIS, L.L.P., Docket Number 96-0361-PST-E; Facility ID Number 49895; Enforcement ID Number 5176 on May 13, 1998 assessing \$6,900 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Hodgson Eckel, Staff Attorney at (512)239-2195 or Mick Wilson, Enforcement Coordinator at (512)239-2228, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711-3087.

A default order was entered regarding KEES VANDERLEI, Docket Number 97-0114-AGR-E; TNRC ID Number 03158; Enforcement ID Number 9559 on May 13, 1998 assessing \$18,160 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Tracy Harrison, Staff Attorney at (512)239-1736 or Claudia Chaffin, Enforcement Coordinator at (512)239-4717, Texas

Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711-3087.

TRD-9808611

Eugenia K. Brumm, Ph. D.

Chief Clerk

Texas Natural Resource Conservation Commission

Filed: May 27, 1998



Notice of Application to Appropriate Public Waters of The State of Texas

The following notice of application for a permit to appropriate Public Waters of the State of Texas was issued on May 15, 1998.

HUNTERS CREEK HOMEOWNERS ASSOCIATION, INC.; P. O. Box 385, Judson, Texas 75660-0385; Application Number 5608 for a permit for authorization to maintain an existing dam and 55.6 acre-foot capacity reservoir on Panther Creek, tributary of Little Cypress Creek, tributary of Big Cypress Creek, Cypress Creek Basin. The dam and reservoir will be used for in-place recreational purposes in a housing subdivision. The applicant is also requesting authorization to divert not to exceed 34 acre-feet of water per year from the perimeter of the reservoir. The water will be diverted by individual landowners in the subdivision at a combined maximum rate of 500 gallons per minute (1.11 cubic feet per second) for irrigation of their lawns. If granted in the permit, the right to the use of water for irrigation purposes will not attach to the land being irrigated. The dam and reservoir are located in Gregg County, approximately 6.5 miles northeast of Longview, Texas, and were constructed in 1983, according to the applicant.

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-9808610

Eugenia K. Brumm, Ph. D.

Chief Clerk

Texas Natural Resource Conservation Commission

Filed: May 27, 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 **July 5, 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 July 5, 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: Adrian Wheat Growers, Inc.; DOCKET NUMBER: 97-1141-PST-E; IDENTIFIER: Petroleum Storage Tank Facility Identification Number 102; LOCATION: Adrian, Oldham County, Texas; TYPE OF FACILITY: retail gasoline service station; RULE VIOLATED: 30 TAC §334.51(b)(2)(B) and (C), by failing to provide appropriate spill prevention equipment and overflow protection equipment on three underground storage tanks; PENALTY: \$600; ENFORCEMENT COORDINATOR: Kellie Prescott, (806) 353-9251; REGIONAL OFFICE: 3918 Canyon Drive, Amarillo, Texas 79109-4933, (806) 353-9251.

(2)COMPANY: Aristech Chemical Corporation; DOCKET NUMBER: 97-1031-AIR-E; IDENTIFIER: Account Number HG-1249-P; LOCATION: Pasadena, Harris County, Texas; TYPE OF FACILITY: chemical plant; RULE VIOLATED: 30 TAC §116.116(b) and the Act, §382.085(b), by failing to control vent streams as outlined in Permit Application Number 1899A; PENALTY: \$12,000; ENFORCEMENT COORDINATOR: Tel Croston, (512) 239-5717; REGIONAL OFFICE: 5425 Polk Avenue, Suite H, Houston, Texas 77023-1486, (713) 767-3500.

(3)COMPANY: Chambers County; DOCKET NUMBER: 97-1035-MSW-E ; IDENTIFIER: Municipal Solid Waste Facility Identification Number 2710; LOCATION: Anahuac, Chambers County, Texas; TYPE OF FACILITY: permitted municipal solid waste landfill; RULE VIOLATED: 30 TAC §330.301, by failing to meet the floodplain location restriction; 30 TAC §330.111, by filling above

the permitted final contour elevations and out of sequence; and 30 TAC §330.56(f), by failing to comply with the groundwater and surface water protection plan and drainage plan; PENALTY: \$31,763; ENFORCEMENT COORDINATOR: Seyed M. Miri, (512) 239-6793; REGIONAL OFFICE: 5425 Polk Avenue, Suite H, Houston, Texas 77023-1486, (713) 767-3500.

(4)COMPANY: Alfred Haas dba Chaney Point RV Park; DOCKET NUMBER: 97-1168-PWS-E; IDENTIFIER: Public Water Supply Number 2500050; LOCATION: near Alba, Wood County, Texas; TYPE OF FACILITY: public drinking water; RULE VIOLATED: 30 TAC §290.39(d), by failing to submit "as-built" plans of the existing system; 30 TAC §290.41(c)(3)(A), by failing to submit to the commission the well completion data; 30 TAC §290.46(e) and (f)(1)(A) and (2), by failing to operate the system under the direct supervision of a certified water works operator, by failing to maintain a chlorine residual of 0.2 milligrams per liter, and by failing to employ a chlorine residual test kit that uses the diethyl-p-phenylenediamine method; 30 TAC §290.106(a), by failing to collect bacteriological samples; and 30 TAC §290.45(b)(1)(A) and (c)(1), by failing to provide the community water system and the noncommunity water system with adequate well and pressure tank capacities; PENALTY: \$550; ENFORCEMENT COORDINATOR: Subhash Jain, (512) 239-5867; REGIONAL OFFICE: 2916 Teague Drive, Tyler, Texas 75701-3756, (903) 535-5100.

(5)COMPANY: City of Graham; DOCKET NUMBER: 97-1121-MSW-E; IDENTIFIER: Municipal Solid Waste Unauthorized Transfer Station Number 455030027; LOCATION: Graham, Young County, Texas; TYPE OF FACILITY: unauthorized transfer station; RULE VIOLATED: 30 TAC §330.4, by failing to register the City of Graham's citizens' collection station as a transfer station prior to acceptance of waste from contractors and commercial users; PENALTY: \$1,800; ENFORCEMENT COORDINATOR: John Mead, (512) 239-6010; REGIONAL OFFICE: 209 South Danville, Suite 200B, Abilene, Texas 79605-1451, (915) 698-9674.

(6)COMPANY: City of La Grange; DOCKET NUMBER: 97-0913-MWD-E; IDENTIFIER: Permit Number 10019-001; LOCATION: La Grange, Fayette County, Texas; TYPE OF FACILITY: wastewater treatment; RULE VIOLATED: Permit Number 10019-001 and the Code, §26.121, by exceeding the permitted total suspended solids limit; PENALTY: \$0; ENFORCEMENT COORDINATOR: Brian Lehmkuhle, (512) 239-4482; REGIONAL OFFICE: 1921 Cedar Bend, Suite 150, Austin, Texas 78758-5336, (512) 339-2929.

(7)COMPANY: Ergon Asphalt and Emulsions, Incorporated; DOCKET NUMBER: 97-0999-IWD-E; IDENTIFIER: Permit Number 03877; LOCATION: near Mount Pleasant, Titus County, Texas; TYPE OF FACILITY: wastewater treatment; RULE VIOLATED: Permit Number 03877 and the Code, §26.121, by exceeding the daily maximum total suspended solids permit limitation; PENALTY: \$9,760; ENFORCEMENT COORDINATOR: Merrilee Mears, (512) 239-4490; REGIONAL OFFICE: 2916 Teague Drive, Tyler, Texas 75701-3756, (903) 535-5100.

(8)COMPANY: Glossop Gas Company, L. C.; DOCKET NUMBER: 98-0357-AIR-E; IDENTIFIER: Account Number PE-0046-G; LOCATION: near Fort Stockton, Pecos County, Texas; TYPE OF FACILITY: natural gas processing plant; RULE VIOLATED: 30 TAC §122.130(a), §122.121, and the Act, §382.085(b), by failing to submit a timely and complete federal operating permit application and by operating emission units without a permit; PENALTY: \$5,400; ENFORCEMENT COORDINATOR: Kevin Cauble, (512) 239-1874; REGIONAL OFFICE: 3300 North A Street, Building 4, Suite 107, Midland, Texas 79705-5421, (915) 570-1359.

(9)COMPANY: Gulf Chemical and Metallurgical Corporation; DOCKET NUMBER: 97-1144-AIR-E; IDENTIFIER: Account Number BL-0029-V; LOCATION: Freeport, Brazoria County, Texas; TYPE OF FACILITY: secondary nonferrous metal recovery plant; RULE VIOLATED: 30 TAC §116.115(a), Permit Number 19793, and the Act, §382.085(b), by operating with visible emissions from the electric arc furnace building; PENALTY: \$1,800; ENFORCEMENT COORDINATOR: Miriam Hall, (512) 239-1044; REGIONAL OFFICE: 5425 Polk Avenue, Suite H, Houston, Texas 77023-1486, (713) 767-3500.

(10)COMPANY: Harbour Seafood, Incorporated; DOCKET NUMBER: 97-1157-PWS-E; IDENTIFIER: Public Water Supply Number 0840234; LOCATION: San Leon, Galveston County, Texas; TYPE OF FACILITY: public drinking water; RULE VIOLATED: 30 TAC §290.106(a)(2) and (b)(4), by failing to submit monthly water samples for bacteriological analysis and by failing to submit the required number of repeat water samples for bacteriological analysis; PENALTY: \$1,875; ENFORCEMENT COORDINATOR: Bhasker Reddi, (512) 239-6646; REGIONAL OFFICE: 5425 Polk Avenue, Suite H, Houston, Texas 77023-1486, (713) 767-3500.

(11)COMPANY: Sherman Foundry Company, Incorporated; DOCKET NUMBER: 98-0088-AIR-E; IDENTIFIER: Account Number GI-0058-D; LOCATION: Sherman, Grayson County, Texas; TYPE OF FACILITY: cast iron foundry; RULE VIOLATED: 30 TAC §116.115(a), Permit Number 5251, and the Act, §382.085(b), by operating without all pollution abatement equipment in good working order and operating properly, by allowing visible emissions to leave the plant property boundary, and by failing to vent all gases from the cupola furnace to the baghouse; PENALTY: \$3,125; ENFORCEMENT COORDINATOR: Tel Croston, (512) 239-5717; REGIONAL OFFICE: 1101 East Arkansas Lane, Arlington, Texas 76010-6499, (817) 469-6750.

(12)COMPANY: Smith Farms, Incorporated; DOCKET NUMBER: 97-1052-AIR-E; IDENTIFIER: Account Number FC-0024-L; LOCATION: Flatonia, Fayette County, Texas; TYPE OF FACILITY: grain mill; RULE VIOLATED: 30 TAC §101.4 and the Act, §382.085(a) and (b), by creating nuisance dust; and 30 TAC §101.6, §101.7, and the Act, §382.085(b), by failing to notify the TNRCC of an upset condition and of maintenance; PENALTY: \$9,375; ENFORCEMENT COORDINATOR: Tel Croston, (512) 239-5717; REGIONAL OFFICE: 1921 Cedar Bend, Suite 150, Austin, Texas 78758-5336, (512) 339-2929.

TRD-9808523
Kevin McCalla
Director, Legal Division
Texas Natural Resource Conservation Commission
Filed: May 26, 1998



Notice of Public Hearing (Chapter 115)

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, §51.102, of the United States Environmental Protection Agency regulations concerning State Implementation Plans (SIP), the Texas Natural Resource Conservation Commission (commission) will conduct a public hearing to receive testimony regarding revisions to 30 TAC Chapter 115 and to the SIP concerning consumer products definitions.

This proposal would amend the commission's consumer products rule to exclude a new type of insecticide designed to kill house dust mites from the volatile organic compound (VOC) limitation applicable to other crawling bug insecticides. The insecticide formulation necessary to kill house dust mites requires that the VOC content exceed the limitation contained in §115.612(a). The amendment adds language to the §115.600 definition of "crawling bug insecticide" to differentiate a "house dust mite" from other crawling bugs and a "house dust mite product" from crawling bug insecticides. This rule amendment will permit the sale of such products in Texas. The amendment will also number the individual definitions in the section to conform to new *Texas Register* standards.

A public hearing on this proposal will be held in Austin on June 29, 1998, at 11:00 a.m. in Building F, Room 5108, at the commission complex, located at 12100 North IH-35, Park 35 Circle, Austin. 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 will answer questions before and after the hearing.

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., July 6, 1998. For further information on this proposal, please contact Mr. Steve Ortiz, Air Policy and Regulations Division, at (512) 239-2008.

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-9808402
Kevin McCalla
Director, Legal Division
Texas Natural Resource Conservation Commission
Filed: May 22, 1998

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Provisionally-Issued Temporary Permits to Appropriate State Water

Permits issued during the period of May 27, 1998:

Application Number TA-7952 by Intercontinental Terminals Co. for diversion of 120 acre-feet in a 1-year period for industrial (hydrostatic testing) use. Water may be diverted from Buffalo Bayou (Houston Ship Channel), San Jacinto River Basin, approximately 15 miles east of Houston, Harris County, Texas near the crossing of Tidal Road and Buffalo Bayou (Houston Ship Channel).

The Executive Director of the TNRCC has reviewed each application for the permits listed and determined that sufficient water is available at the proposed point of diversion to satisfy the requirements of the application as well as all existing water rights. Any person or persons who own water rights or who are lawful users of water on a stream affected by the temporary permits listed above and who believe that the diversion of water under the temporary permit will impair their rights may file a complaint with the TNRCC. The complaint can be filed at any point after the application has been filed with the TNRCC and the time the permit expires. The Executive Director shall make an immediate investigation to determine whether there is a reasonable basis for such a complaint. If a preliminary investigation determines that diversion under the temporary permit will cause injury to the complainant the commission shall notify

the holder that the permit shall be canceled without notice and hearing. No further diversions may be made pending a full hearing as provided in §295.174. Complaints should be addressed to Water Rights Permitting Section, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711, Telephone (512) 239-4433. Information concerning these applications may be obtained by contacting the Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711, Telephone (512) 239-3300.

TRD-9808609
Eugenia K. Brumm, Ph. D.
Chief Clerk
Texas Natural Resource Conservation Commission
Filed: May 27, 1998

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North Texas Tollway Authority

Request for Qualifications Surveying Services

The following request for qualifications ("RFQ") for providing professional turnpike surveying services is filed under the provisions of Chapter 2254, Subchapter A, of the Texas Government Code.

The North Texas Tollway Authority (the "NTTA") is soliciting statements of interest and qualifications for professional surveying firms to manage, monitor, and provide surveying services for the Southwest Parkway turnpike project in Tarrant and Johnson counties.

Proposed fees or budgets shall not be submitted with any initial response or other communication of a firm. A qualification packet is being prepared for the surveying services and will be issued to each firm filing a written notice that it desires to respond and which requests a copy of the packet which will be available for distribution after June 1, 1998.

The NTTA will not accept requests for nor issue the surveying services qualification packet after June 13, 1998. No RFQ responses will be accepted by the NTTA after 5:00 p.m., CDST, June 30, 1998.

When a firm responds by filing its qualifications, it shall include a statement regarding the affirmative action program of the firm and shall include a statement that the responding surveying firm has familiarized itself with the NTTA Historically Underutilized Business Policy and will conform with that policy.

Qualifications filed will be reviewed by a selection committee to identify those most qualified and experienced respondents who may be interviewed by the committee for capabilities best suited to specific assignments. The final professional surveying firm selection will be made following completion of interviews, if any, and negotiation of a satisfactory fee.

Questions concerning this assignment shall be directed to James W. Griffin, Chief Engineer, North Texas Tollway Authority, P.O. Box 190369, Dallas, Texas 75219-0369, (214) 522-6200.

TRD-9808525
James W. Griffin
Chief Engineer
North Texas Tollway Authority
Filed: May 26, 1998

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Texas Department of Protective and Regulatory Services

Correction of Error

The Texas Department of Protective and Regulatory Services (TD-PRS) submitted new sections that contained errors as published in the May 8, 1998, issue of the *Texas Register* (23 TexReg 4551). The following item was printed incorrectly.

On page 4557, §710.49(b) should read as follows: (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.

Also on page 4557, §710.50 was omitted and should read: §710.50. Functions of the Office of Adult Protective Services. The functions of the Office of Adult Protective Services related to community center investigations are to: (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.

Request for Proposal-Healthy Families Planning Grant to Establish New Programs

The Texas Department of Protective and Regulatory Services (TD-PRS), Community Initiatives Division, announces a request for proposal (RFP) for planning grants to start new Healthy Families programs in communities across Texas.

Brief Description of Services: The Department wishes to fund five planning grants to assist community organizations in establishing intensive family visitation programs under the Healthy Families model as taught by Healthy Families America under the National Committee to Prevent Child Abuse or the Family Institute of America (formerly Healthy Start Hawaii). Healthy Families services are targeted to new parents and their newborn infants for the first three to five years of life. During fiscal year 1999, funding will be used for planning and to build community partnerships. Contractors that successfully complete the planning year and are ready to begin service delivery in year 2 will be eligible for funds to begin service delivery in fiscal year 2000. Programs established under this RFP must commit to meet the criteria for critical program elements as prescribed by Healthy Families of America or the Family Institute of America. In the first 60 days of year 2, service delivery staff must be trained by Healthy Families certified trainers using curriculum developed by the National Committee to Prevent Child Abuse (NCPA) or Healthy Start of Hawaii.

Terms and Amount: Five planning contracts for \$30,000 each will be awarded for 12 months in fiscal year 1999 with possible expansion to service delivery in fiscal year 2000, depending on available funds and contractor performance. During the planning year the contractor must provide cash or in-kind local match equal to a minimum of 20% of the total budget. These five planning grant contractors will be eligible, based on performance under the initial contract, to receive an additional contract for service delivery in fiscal year 2000 if funds are available. The service delivery contract may be renewed annually at the Department's discretion for an additional two years. It is anticipated that approximately \$600,000 will be available for the five contracts for fiscal year 2000 with a match requirement of at least 10% of the total budget. In the first year of service delivery (fiscal

year 2000) programs are expected to serve 30-60 families through the Healthy Families contract.

RFP Release Date: RFPs will be mailed to requesters on June 9, 1998 via certified mail. RFPs may be picked up at the address listed below on or after June 9, 1998 after 11 a.m.

Closing Date: All proposals must be received by July 15, 1998 at 3:00 p.m. Central Daylight Time to be considered. Contracts awarded under this proposal take effect September 1, 1998.

Written Questions: Written questions regarding the RFP may be mailed or faxed to TDPRS, and must be received by June 26, 1998, 3:00 p.m. Central Daylight Savings Time. Questions will not be accepted after this date. Written questions will be answered in writing and mailed by PRS no later than July 3, 1998.

Selection and Evaluation: Selection will be based on the Plan of Operation (70%) and the Cost Information (30%). Preference will be given to geographic areas where services are not available.

The Plan of Operation percentage points are as follows: 15%—Documentation of evidence of community need; 20%—Documentation of community collaboration and partnership; 20%—Documentation of plans for implementing services according to the Healthy Families model; 15%—Documentation of leadership, planning ability and staff qualifications; 70%—Total for plan of operation.

Contact Person: Responses must be submitted to: Mary Birnbaum, mail code E-541; Texas Department of Protective and Regulatory Services; mailing address: P. O. Box 149030; Austin, Texas 78714-9030; street address: 701 West 51st Street (Winters Building, Fifth Floor, East Tower, Section I); Austin, Texas 78751; phone: (512) 438-3755; fax: (512) 438-2031.

TRD-9808613

C. Ed Davis

Deputy Commissioner for Legal Services

Texas Department of Protective and Regulatory Services

Filed: May 27, 1998



Public Utility Commission of Texas

Applications to Introduce New or Modified Rates or Terms Pursuant to P.U.C. Substantive Rule §23.25

Notice is given to the public of an application filed with the Public Utility Commission of Texas on May 15, 1998, to introduce new or modified rates or terms pursuant to P.U.C. Substantive Rule §23.25, *Procedures Applicable to Chapter 58-Electing Incumbent Local Exchange Companies (ILECs)*.

Tariff Title and Number: Notification of Southwestern Bell Telephone Company To Institute Promotional Rates For Residence and Business Customers In All Texas LATAs Who Subscribe to Call Forwarding-Busy Line/Don't Answer Between June 1, 1998 and July 31, 1998. Tariff Control Number 19350.

The Application: Southwestern Bell Telephone Company is instituting promotional rates for residence and business customers in all Texas LATAs who subscribe to Call Forwarding-Busy Line/Don't Answer between June 1, 1998 and July 31, 1998. During the promotional period, new subscribers of Call Forward-Busy Line/Don't Answer will receive a credit equal to one month of service and a waiver of the non-recurring installation charge.

Persons who wish to intervene in this proceeding should contact the Public Utility Commission of Texas, by mail at P.O. Box

13326, Austin, Texas 78711-3326, or call the commission's Office of Customer Protection at (512) 936-7120 by the fifth working day after publication of this notice. Hearing and speech-impaired individuals with text telephone (TTY) may contact the commission at (512) 936-7136.

TRD-9808627
Rhonda Dempsey
Rules Coordinator
Public Utility Commission of Texas
Filed: May 27, 1998



Notice is given to the public of an application filed with the Public Utility Commission of Texas on May 15, 1998, to introduce new or modified rates or terms pursuant to P.U.C. Substantive Rule §23.25, *Procedures Applicable to Chapter 58-Electing Incumbent Local Exchange Companies (ILECs)*.

Tariff Title and Number: Notification of Southwestern Bell Telephone Company To Institute Promotional Rates For Business Customer Subscribing to BizSaver and THE WORKS Pursuant to PURA §58.103 and P.U.C. Substantive Rule §23.25. Tariff Control Number 19355.

The Application: Southwestern Bell Telephone Company is instituting a promotion that provides free 10% Discount Optional Calling Plan (OCP) to new business customers subscribing to the BizSaver and THE WORKS vertical services packages. During the 90-day promotional period, new customers subscribing to BizSaver and THE WORKS will receive the 10% Discount OCP with a waiver of the \$3.00 monthly fee. This promotion is effective June 1, 1998 through August 29, 1998.

Persons who wish to intervene in this proceeding should contact the Public Utility Commission of Texas, by mail at P.O. Box 13326, Austin, Texas 78711-3326, or call the commission's Office of Customer Protection at (512) 936-7120 by the fifth working day after publication of this notice. Hearing and speech-impaired individuals with text telephone (TTY) may contact the commission at (512) 936-7136.

TRD-9808628
Rhonda Dempsey
Rules Coordinator
Public Utility Commission of Texas
Filed: May 27, 1998



Notices of Amended Application for Service Provider Certificate of Operating Authority

Notice is given to the public of the filing with the Public Utility Commission of Texas of an amended application on May 18, 1998, for a service provider certificate of operating authority (SPCOA), restricted to resale, pursuant to §§54.154 - 54.159 of the Public Utility Regulatory Act (PURA). A summary of the application follows.

Docket Title and Number: Application of Trans National Telecommunications, Inc., for a Service Provider Certificate of Operating Authority, Docket Number 19277 before the Public Utility Commission of Texas.

Applicant intends to resell the existing services of the incumbent local exchange carriers where available.

Applicant's requested SPCOA geographic area includes those exchanges served by GTE Southwest, Inc., and Southwestern Bell Telephone Company within the state of Texas.

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 no later than June 5, 1998. Hearing and speech-impaired individuals with text telephone (TTY) may contact the commission at (512) 936-7136.

TRD-9808493
Rhonda Dempsey
Rules Coordinator
Public Utility Commission of Texas
Filed: May 22, 1998



Notice is given to the public of the filing with the Public Utility Commission of Texas of an amended application on May 22, 1998, for a service provider certificate of operating authority (SPCOA), restricted to resale, pursuant to §§54.154 - 54.159 of the Public Utility Regulatory Act (PURA). A summary of the application follows.

Docket Title and Number: Application of Telecom Licensing, Inc., for a Service Provider Certificate of Operating Authority, Docket Number 19309 before the Public Utility Commission of Texas.

Applicant intends to resell local exchange services offered by the incumbent local exchange carriers, including Southwestern Bell Telephone Company and GTE Southwest, Inc., and other certificated facilities-based competitive local exchange carriers. These services include dial tone, switched access services, special and private line services, and other vertical services. The Applicant proposes to package these services for the specialized functions and needs of its customers.

Applicant's requested SPCOA geographic area includes the geographic area of the entire state of Texas currently served by Southwestern Bell Telephone Company and GTE Southwest, Inc.

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 no later than June 10, 1998. Hearing and speech-impaired individuals with text telephone (TTY) may contact the commission at (512) 936-7136.

TRD-9808547
Rhonda Dempsey
Rules Coordinator
Public Utility Commission of Texas
Filed: May 26, 1998



Notice of Application for Amendment to Service Provider Certificate of Operating Authority

On May 15, 1998, LCI International Telecom Corp., filed an application with the Public Utility Commission of Texas (PUC) to amend its service provider certificate of operating authority (SPCOA) restricted to resale granted in SPCOA Certificate Number 60024. Applicant intends to remove the resale-only restriction and expand its geographic area to include the entire state of Texas.

The Application: Application of LCI International Telecom Corp., for an Amendment to its Service Provider Certificate of Operating Authority, Docket Number 19356.

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 June 10, 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 19356.

TRD-9808318

Rhonda Dempsey

Rules Coordinator

Public Utility Commission of Texas

Filed: May 21, 1998



Notice of Application for Modification to Service Provider Certificates of Operating Authority

On May 11, 1998, Time Warner Telecom of Texas, L.P., formerly Time Warner Communications of Austin, L.P., restyled on May 26, 1998, as Application of Time Warner Communications of Austin, L.P., to Transfer its Service Provider Certificate of Operating Authority to Time Warner Telecom of Texas, L.P., and Applications of Time Warner Communications - Houston and Fibrcom, Incorporated, to Relinquish Their Service Provider Certificates of Operating Authority, filed an application with the Public Utility Commission of Texas (PUC) to amend its service provider certificates of operating authority (SPCOA) granted in SPCOA Certificate Numbers 60124, 60123, and 60138. Applicant intends to transfer SPCOA Certificate Number 60124 to Time Warner Telecom of Texas, L.P., and surrender SPCOA Certificate Numbers 60123 and 60138.

The Application: Application of Time Warner Communications of Austin, L.P., to Transfer its Service Provider Certificate of Operating Authority to Time Warner Telecom of Texas, L.P., and Applications of Time Warner Communications - Houston and Fibrcom, Incorporated, to Relinquish Their Service Provider Certificates of Operating Authority, Docket Number 19302.

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 June 10, 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 19302.

TRD-9808549

Rhonda Dempsey

Rules Coordinator

Public Utility Commission of Texas

Filed: May 26, 1998



Notice of Application for Sale, Transfer, or Merger

Notice is given to the public of the filing with the Public Utility Commission of Texas an application for sale, transfer, or merger on April 28, 1998, pursuant to the Public Utility Regulatory Act, Texas Utilities Code Annotated §14.101 (Vernon 1998).

Docket Style and Number: Application for sale, transfer, or merger of Brazos Electric Power Cooperative, Inc. Docket Control Number 19250.

The Application: Brazos Electric Power Cooperative, Inc., seeks approval of its sale of its Hearne Southwest Substation to the City of Hearne, in accordance with Public Utility Regulatory Act §14.101. Brazos Electric Power Cooperative, Inc., asserts that approval of this application will not result in a rate increase for its customers.

Persons who wish to intervene in the proceeding or comment upon the action sought should contact, not later than July 23, 1998, the Public Utility Commission of Texas, P.O. Box 13326, Austin, Texas 78711-3326, or call the commission's Office of Consumer Protection at (512) 936- 7120. Hearing- and speech-impaired individuals with text telephones (TTY) may contact the commission at (512) 936-7136.

TRD-9808519

Rhonda Dempsey

Rules Coordinator

Public Utility Commission of Texas

Filed: May 22, 1998



Notice of Application for Service Provider Certificate of Operating Authority

Notice is given to the public of the filing with the Public Utility Commission of Texas of an application on May 18, 1998, for a service provider certificate of operating authority (SPCOA), to provide facilities-based services pursuant to §§54.154 - 54.159 of the Public Utility Regulatory Act (PURA). A summary of the application follows.

Docket Title and Number: Application of CoServ, L.L.C. for a Service Provider Certificate of Operating Authority, Docket Number 19206 before the Public Utility Commission of Texas.

Applicant intends to provide the entire range of local exchange and exchange access telecommunications services, as well as enhanced ISDN services.

Applicant's requested SPCOA geographic area includes the entire state of Texas except for the counties of Borden, Garza, Dawson, Gaines, Hockley, Lynn, Yoakum, Mortin, and Terry served by Poka Lambro Telephone Cooperative, Inc.

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 no later than June 10, 1998. Hearing and speech-impaired individuals with text telephone (TTY) may contact the commission at (512) 936-7136.

TRD-9808494

Rhonda Dempsey

Rules Coordinator

Public Utility Commission of Texas

Filed: May 22, 1998



Notice of Application to Reconcile Fuel Expenses

Notice is given to the public of the filing with the Public Utility Commission of Texas on May 11, 1998, of an application to reconcile fuel expenses, pursuant to §36.203 of the Public Utility Regulatory Act (PURA). A summary of the application follows.

Docket Title and Number: Application of Sam Rayburn G & Electric Cooperative, Inc., to Reconcile Fuel Expenses for the Period March 1995 Through December 1997, Docket Number 19303, before the Public Utility Commission of Texas.

Calculating a net overrecovery of \$905,796, plus interest, the Applicant proposes a refund in the form of lump sum credits to be applied to the June and July 1998 billings of its three member distribution cooperatives, Sam Houston Electric Cooperative, Inc., Houston County Electric Cooperative, Inc., and Jasper-Newton Electric Cooperative, Inc.

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 no later than July 10, 1998. Hearing and speech-impaired individuals with text telephone (TTY) may contact the commission at (512) 936-7136.

TRD-9808554
Rhonda Dempsey
Rules Coordinator
Public Utility Commission of Texas
Filed: May 26, 1998



Notices of Intent to File Pursuant to P.U.C. Substantive Rule §23.27

Notice is given to the public of the intent to file with the Public Utility Commission of Texas an application pursuant to P.U.C. Substantive Rule §23.27 for a new PLEXAR-Custom service for The SABRE Group, Inc. in Fort Worth, Texas.

Tariff Title and Number: Application of Southwestern Bell Telephone Company for a new PLEXAR-Custom service for The SABRE Group, Inc. in Fort Worth, Texas pursuant to P.U.C. Substantive Rule §23.27. Tariff Control Number 19366.

The Application: Southwestern Bell Telephone Company is requesting approval for a new PLEXAR-Custom service for The SABRE Group, Inc. in Fort Worth, Texas. The designated exchange for this service is the Fort Worth exchange, and the geographic market for this specific PLEXAR-Custom service is the San Antonio LATA.

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 commission's 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.

TRD-9808492
Rhonda Dempsey
Rules Coordinator
Public Utility Commission of Texas
Filed: May 22, 1998



Notice is given to the public of the intent to file with the Public Utility Commission of Texas an application pursuant to P.U.C. Substantive Rule §23.27 for a 265 station addition to the existing PLEXAR-Custom service for City of Fort Worth in Fort Worth, Texas.

Tariff Title and Number: Application of Southwestern Bell Telephone Company for a 265 Station Addition to the Existing PLEXAR-

Custom Service for City of Fort Worth in Fort Worth, Texas Pursuant to P.U.C. Substantive Rule §23.27. Tariff Control Number 19374.

The Application: Southwestern Bell Telephone Company is requesting approval for a 265 station addition to the existing PLEXAR-Custom service for City of Fort Worth in Fort Worth, Texas. The designated exchange for this service is the Fort Worth exchange, and the geographic market for this specific PLEXAR-Custom service is the Dallas LATA.

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 commission's 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.

TRD-9808546
Rhonda Dempsey
Rules Coordinator
Public Utility Commission of Texas
Filed: May 26, 1998



Notice of Workshop on Electric Switchover Rule

The staff of the Public Utility Commission of Texas will hold a workshop on Tuesday, June 30, 1998 to review the commission's electric switchover rule (Substantive Rule §23.44(c)(1)). This proceeding has been assigned Project Number 18876.

The workshop will be held from 9:00 a.m. to noon in the commissioners' hearing room on the seventh floor of the William B. Travis Building, 1701 N. Congress Avenue, Austin, Texas 78701. By June 4, 1998, staff will file a draft rule under Project Number 18876. Parties should file written comments by June 22, 1998. The written comments will be discussed at the workshop. If you have any questions, contact Keith Rogas at (512) 936-7277 or rogas@puc.state.tx.us.

TRD-9808548
Rhonda Dempsey
Rules Coordinator
Public Utility Commission of Texas
Filed: May 26, 1998



Red River Redevelopment Authority

Utilities Request for Proposal

The Red River Redevelopment Authority (RRRA) is seeking written and sealed statements of Qualification and Conceptual Business Plan Outlines of single companies or a consortium for the privatization of all utilities systems at Red River Army Depot (RRAD) and Lone Star Army Ammunition Plant (LSAAP). The systems included are water, sanitary sewer, industrial waste treatment, electric, natural gas, telecommunications, and steam.

Responses submitted meeting administrative criteria in the mail out request will be evaluated by a committee of Authority Board members, Staff members, and Community Business Leaders. All responses will be considered on a best business practice basis and the preferred candidate will be invited for due diligence on the systems and a negotiated agreement after approval by the full RRRA board. Alternate respondents will be designated in the event agreement cannot be reached with the preferred respondent.

Respondents are asked to consider all systems as a single package and only responses that include all systems will be considered.

All those interested in receiving a copy of the solicitation should contact the Executive Director at the following address immediately: Red River Redevelopment Authority, Attn: Richard Hall, Executive Director, P.O. Box 248, New Boston, TX, 75570 or by calling 903-628-6777, or by FAX at 903-628-6778.

POC - Rich Hall, 903-628-6777/76, e-mail: richhall@txk.net; FAX: 903-628-6778

TRD-9808664

Richard Hall

Executive Director

Red River Redevelopment Authority

Filed: May 28, 1998



Texas Savings and Loan Department

Notice of Application for Remote Service Unit of a Savings Bank

Notice is hereby given that application has been filed with the Savings and Loan Commissioner of Texas by: First American Bank Texas, Bryan, Texas, for approval to establish and operate a remote service unit at the following location: 12727 FM 2154, Wellborn and Rock Prairie Roads, College Station (Brazos County), Texas.

The applicant savings bank asserts that: the security of the savings bank's funds and that of its account holders will be maintained and the proposed service will be a substantial convenience to the public.

Anyone desiring to protest the above application must file a written protest with the Commissioner within 10 days following publication. The Commissioner may dispense with a hearing on this application.

This application is filed pursuant to rule 7 TAC §75.37 of the Rules and Regulations Applicable to Texas Savings Banks. These rules are on file with the Secretary of State, Texas Register Division, or may be seen at the Department's offices in the Finance Commission Building, 2601 North Lamar, Suite 201, Austin, Texas 78705.

TRD-9808351

James L. Pledger

Commissioner

Texas Savings and Loan Department

Filed: May 21, 1998



Texas Department of Transportation

Notice of Invitation - Contract Numbers 14-8XXP0001 and 14-8XXP0002

The Austin District of the Texas Department of Transportation (TxDOT) intends to enter into two contracts with two professional engineers 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 type is a non-listed work category. To qualify for contract award, a selected prime engineer must perform a minimum of 30% of the actual 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 who will sign and seal the work to be performed on the contract.

Contract Numbers: 14-8XXP0001 and 14-8XXP0002 - The precertified work categories and percentage of the work per category are: 12.2.1 Portland Cement Concrete (100%). The Austin District will contract with two providers to provide on call concrete sampling and testing for road and bridge construction projects within the Austin District. All sampling and testing shall be in accordance with TxDOT's "Manual of Testing Procedures" and project specifications. The consultant selection team has determined a range of scores for providers that are considered equally qualified to perform the work to be not less than 850 points out of a maximum 900 points.

Long List Criteria: TxDOT will consider the following criteria in its review of all interested providers.

Historically Underutilized Business (HUB) Goal: There is no goal for HUB participation for the work to be performed under this contract. However, the Austin District's goal is 20% of the total contract amount for all Laboratory Testing Contracts. Qualified HUB's are encouraged to respond to this Notice.

1. Past Performance Scores: Minimum requirements - Providers shall include in the Letter of Interest the name, address and telephone number of one reference regarding concrete testing for transportation projects. Preferred requirements - Providers shall include in the Letter of Interest the name, address and telephone number of two references regarding concrete testing for transportation projects.

2. Project Requirements (Team Capability/Experience): Portland Cement Concrete (12.1.2) - Minimum requirements: As established by the minimum precertification standards. Preferred requirements: In addition to the minimum requirements, the provider must demonstrate the capability to test at several sites simultaneously.

3. Special (similar) Project Related Experience of Project Manager And Team Members. Portland Cement Concrete (12.1.2) - Minimum requirements: As established by the minimum precertification standards. Preferred requirements: In addition to the minimum requirements, the Team must demonstrate experience in the testing of concrete for bridge components.

4. Evidence of Compliance with Assigned HUB Goal: All providers receive three points for this item.

Deadline: A letter of interest notifying TxDOT of the provider's intent to submit a proposal will be accepted by fax at (512) 832-7080, by mail addressed to TxDOT, Austin District, Attention: Robert B. Daigh P.E., P.O. Drawer 15426, Austin Texas 78761-5426 or by hand delivery to TxDOT, Austin District, Attention: Robert B. Daigh P.E., 7901 N. IH 35 Austin, Texas 78753. Letters of interest will be received until 5:00 p.m. on Friday, June 26, 1998.

Letter of Interest Requirements: The letter of interest is limited in length to four 8 1/2 x 11 inch pages, 12 pitch font size, single sided with no attachments or appendices, and must include the contract numbers 14-8XXP0001 and 14-8XXP5002; an organizational chart (organizational chart may use smaller font size) containing the names, address, telephone and fax numbers of the prime provider and any subprovider(s) 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; project related experience performed since precertification; and other pertinent information addressed in the notice including a reference list for related projects.

Agency Contact: Requests for additional information regarding this notice of invitation should be addressed to Robert B. Daigh, P.E. at (512) 832-7086 or fax (512) 832-7080.

TRD-9808603

Bob Jackson

Acting General Counsel

Texas Department of Transportation

Filed: May 27, 1998



Notice of Invitation - Contracts 14-8XXP0003, 14-8XXP0004 and 14-8XXP0005

The Austin District of the Texas Department of Transportation (TxDOT) intends to enter into three contracts with three professional engineers 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 type is a non-listed work category. To qualify for contract award, a selected prime engineer must perform a minimum of 30% of the actual 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 who will sign and seal the work to be performed on the contract.

Contract Numbers: 14-8XXP0003, 14-8XXP0004 and 14-8XXP0005 - The precertified work category is: 12.1.1 Asphaltic Concrete (100%). The Austin District will contract for on call asphaltic concrete sampling and testing for road and bridge construction projects within the Austin District. All sampling and testing shall be in accordance with TxDOT's "Manual of Testing Procedures" and project specifications. The consultant selection team has determined that a range of scores for providers that are considered equally qualified to perform the work to be not less than 850 points out of a maximum of 900 points.

Long List Criteria: TxDOT will consider the following criteria in its review of all interested providers.

Historically Underutilized Business (HUB) Goal: There is no goal for HUB participation for the work to be performed under this contract. However, the Austin District's goal is 20% of the total contract amount for all Laboratory Testing Contracts. Qualified HUB's are encouraged to respond to this Notice.

1. Past Performance Scores: Minimum requirements: Providers shall include in the Letter of Interest the name, address and telephone number of one reference regarding asphaltic concrete testing for transportation projects. Preferred requirements: Providers shall include in the Letter of Interest the name, address and telephone number of two references regarding asphaltic concrete testing for transportation projects.

2. Project Requirements (Team Capability /Experience): Asphaltic Concrete (12.1.1) - Minimum requirements: As established by the minimum precertification standards. Preferred requirements: In

addition to the minimum requirements, the provider must demonstrate the capability to test at several sites simultaneously.

3. Special (similar) Project Related Experience of project Manager and Team Members: Asphaltic Concrete (12.1.1) - Minimum requirements: As established by the minimum precertification standards. Preferred requirements: In addition to the minimum requirements, the provider must demonstrate experience in asphaltic testing for roadway projects.

4. Evidence of Compliance with Assigned HUB Goal: All providers receive three points for this item.

Deadline: A letter of interest notifying TxDOT of the provider's intent to submit a proposal will be accepted by fax at (512) 832-7080, by mail addressed to TxDOT Austin District, Attention: Robert B. Daigh P.E., P.O. Drawer 15426, Austin, Texas 78761-5426 or by hand delivery to TxDOT, Austin District, Attention: Robert B. Daigh P.E., 7901 N. IH 35 Austin, Texas 78753. Letters of interest will be received until 5:00 p.m. on Friday, June 26, 1998.

Letter of Interest Requirements: The letter of interest is limited in length to four 8 1/2 x 11 inch pages, 12 pitch font size, single sided with no attachments or appendices, must include the contract numbers 14-8XXP0003, 14-8XXP0004 and 14-8XXP0005; an organizational chart (organizational chart may use smaller font size) containing the names, address, telephone and fax numbers of the prime provider and any subprovider(s) 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; project related experience performed since precertification; and other pertinent information addressed in the notice including a reference list for related projects.

Agency Contact: Requests for additional information regarding this notice of invitation should be addressed to Robert B. Daigh, P.E. at (512) 832-7086 or fax (512) 832-7080.

TRD-9808604

Bob Jackson

Acting General Counsel

Texas Department of Transportation

Filed: May 27, 1998



Notice of Invitation - Contract Number 4-8XXP0006

The Austin District of the Texas Department of Transportation (TxDOT) intends to enter into 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 type is a non-listed work category. To qualify for contract award, a selected prime engineer must perform a minimum of 30% of the actual 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 who will sign and seal the work to be performed on the contract.

Contract Number: 14-8XXP0006- The precertified work categories and percentage of the work per category are : 14.1.1 - Soil Exploration (50%) and 14.2.1 - Geotechnical Testing (50%). The contractor will provide engineering assistance to the Austin District regarding soil exploration and geotechnical testing for bridge, retaining wall and roadway design within the Austin District.

Long List Criteria: TxDOT will consider the following criteria in its review of all interested providers.

Historically Underutilized Business (HUB) Goal: There is no goal for HUB participation for the work to be performed under this contract. However, the Austin District's goal is 20% of the total contract amount for all Laboratory Testing Contracts. Qualified HUB's are encouraged to respond to this Notice.

1. Past Performance Scores: Minimum requirements: Providers shall include in the Letter of Interest the name, address and telephone number of one reference regarding concrete testing for transportation projects. Preferred requirements: Providers shall include in the Letter of Interest the name, address and telephone number of two references regarding soil exploration and testing for transportation projects.

2. Project Requirements (Team Capability/Experience):

Soil Exploration (14.1.1) - Minimum requirements: As established by the minimum precertification standards. Preferred requirements: In addition to the minimum requirements, the provider must demonstrate the capability to drill at several sites simultaneously.

Geotechnical Testing (14.2.1) - Minimum requirements: As established by the minimum precertification standards. Preferred requirements: In addition to the minimum requirements, the provider must demonstrate the capability to test samples from several sites simultaneously.

3. Special (similar) Project Related Experience of Project Manager and Team Members:

Soil Exploration (14.1.1) - Minimum requirements: As established by the minimum precertification standards. Preferred requirements: In addition to the minimum requirements, the Team must demonstrate experience in this category of work for transportation projects.

Geotechnical Testing (14.2.1) - Minimum requirements: As established by the minimum precertification standards. Preferred requirements: In addition to the minimum requirements, the Team must demonstrate experience in this category of work for transportation projects.

4. Evidence of Compliance with Assigned HUB Goal: All providers receive three points for this item.

Deadline: A letter of interest notifying TxDOT of the provider's intent to submit a proposal will be accepted by fax at (512) 832-7080, by mail addressed to TxDOT, Austin District, Attention: Robert B. Daigh P.E., P.O. Drawer 15426, Austin, Texas 78761-5426 or by hand delivery to TxDOT, Austin District, Attention: Robert B. Daigh P.E., 7901 N. IH 35 Austin, Texas 78753. Letters of interest will be received until 5:00 p.m. on Friday, June 26, 1998.

Letter of Interest Requirements: The letter of interest is limited in length to four 8 1/2 x 11 inch pages, 12 pitch font size, single sided with no attachments or appendices, and must include the contract number 14-8XXP0006; an organizational chart (organizational chart may use smaller font size) containing the names, address, telephone and fax numbers of the prime provider and any subprovider(s) 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; project related experience performed since precertification; and other pertinent information addressed in the notice, including a reference list for related projects.

Agency Contact: Requests for additional information regarding this notice of invitation should be addressed to Robert B. Daigh, P.E. at (512) 832-7086 or fax (512) 832-7080.

TRD-9808601

Bob Jackson

Acting General Counsel

Texas Department of Transportation

Filed: May 27, 1998



Notice of Invitation - Contract Number 14-8XXP0007

The Austin District of the Texas Department of Transportation (TxDOT) intends to enter into 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 type is a non-listed work category. To qualify for contract award, a selected prime engineer must perform a minimum of 30% of the actual 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 who will sign and seal the work to be performed on the contract.

Contract Number: 14-8XXP0007 - The precertified work categories and percentage of the work per category are: 14.2.1 - Geotechnical Testing (100%). The Austin District will contract with a provider to sample and test flexible base for road construction projects within the Austin District. All sampling and testing shall be in accordance with TxDOT's "Manual of Testing Procedures" and project specifications.

Long List Criteria: TxDOT will consider the following criteria in its review of all interested providers.

Historically Underutilized Business (HUB) Goal: There is no goal for HUB participation for the work to be performed under this contract. However, the Austin District's goal is 20% of the total contract amount for all Laboratory Testing Contracts. Qualified HUB's are encouraged to respond to this Notice.

1. Past Performance Scores: Minimum requirements: Providers shall include in the Letter of Interest the name, address and telephone number of one reference regarding flexible base testing for transportation projects. Preferred requirements: Providers shall include in the Letter of Interest the name, address and telephone number of two references regarding flexible base testing for transportation projects.

2. Project Requirements (Team Capability /Experience): Geotechnical Testing (14.2.1) - Minimum requirements: As established by the minimum precertification standards. Preferred requirements: In addition to the minimum requirements, the provider must demonstrate extensive experience in the density testing of flexible base material.

3. Special (similar) Project Related Experience of Project Manager and Team Members: Geotechnical Testing (14.2.1) - Minimum requirements: As established by the minimum precertification stan-

dards. Preferred requirements: In addition to the minimum requirements, the provider must demonstrate experience in the density testing of flexible base material for transportation projects.

4. Evidence of Compliance with Assigned HUB Goal: All providers receive three points for this item.

Deadline: A letter of interest notifying TxDOT of the provider's intent to submit a proposal will be accepted by fax at (512) 832-7080, by mail addressed to TxDOT Austin District, Attention Robert B. Daigh P.E., P.O. Drawer 15426, Austin Texas 78761-5426 or by hand delivery to TxDOT, Austin District, Attention Robert B. Daigh P.E., 7901 N. IH 35, Austin Texas 78753. Letters of interest will be received until 5:00 p.m. on Friday, June 26, 1998.

Letter of Interest Requirements: The letter of interest is limited in length to four 8 1/2 x 11 inch pages, 12 pitch font size, single sided with no attachments or appendices, must include the contract number 14-8XXP0007; an organizational chart (organizational chart may use smaller font size) containing the names, address, telephone and fax numbers of the prime provider and any subprovider(s) 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; project related experience performed since precertification; and other pertinent information addressed in the notice, including a reference list for related projects.

Agency Contact: Requests for additional information regarding this notice of invitation should be addressed to Robert B. Daigh, P.E. at (512) 832-7086 or fax (512) 832-7080.

TRD-9808602

Bob Jackson

Acting General Counsel

Texas Department of Transportation

Filed: May 27, 1998



Notice of Invitation - Contract Number 14-845P5001

The Austin District of the Texas Department of Transportation (TxDOT) intends to enter into 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 type is a non-listed work category. To qualify for contract award, a selected prime engineer must perform a minimum of 30% of the actual 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, architect, landscape architect, or surveyor registered in Texas who will sign and seal the work to be performed on the contract.

Contract Number 14-845P5001 - The precertified work categories and percentage of the work per category are: 1.3.1 - Subarea/Corridor Planning (1%); 1.4.1 - Land Planning/ Engineering (1%); 1.6.1 - Major Investment Studies (53%); 2.1.1 - Traffic Noise Analysis (1%); 2.2.1 - Air Quality Analysis (1%); 2.3.1 - Wetland Delineation (1%); 2.4.1 - Nationwide Permit (1%); 2.4.2 - §404

(Title 33, United States Code §1344) Individual Permits (1%); 2.5.1 - Water Pollution Abatement Plan (1%); 2.6.1 - Protected Special Determination (1%); 2.6.2 - Biological Assessments (1%); 2.6.3 - Biological Surveys (1%); 2.7.1 - §4(f)(Title 23, Code of Federal Regulations §771.135) and/or §6(f) (Title 49, United States Code §303) Evaluations (1%); 2.8.1 - Surveys, Research and Documentation of Historic Buildings, Structures, and Objects (1%); 2.10.1 - Archaeological Surveys, Documentation, Excavations, Testing Reports and Data Recovery Plans (1%); 2.12.1 - Socio-Economic and Environmental Justice Analyses (1%); 2.13.1 - Hazardous Materials Assessment (1%); 2.14.1 - Environmental Document Preparation (5%); 3.3.1 - Route Studies and Schematic Design (Complex Highways) (5%); 3.6.1 - Multi-Level Interchange and Exotic Bridge Layout (5%); 7.1.1 - Traffic Engineering Studies (1%); 7.2.1 - Highway-Rail Grade Crossing Studies (1%); 7.3.1 -Traffic Signal Timing (1%); 7.5.1 - Intelligent Transportation System (1%); 8.1.1 -Signing, Pavement Marking and Channelization (1%); 8.2.1 - Illumination (1%); 9.1.1 -Bicycle and Pedestrian Facility Devel(1%); 10.1.1 - Hydrologic Studies (1%); 10.3.1 - Complex Hydraulic Design (1%); 10.4.1 - Pump Stations (1%); 14.1.1 -Soil Exploration (1%); 14.2.1 - Geotechnical Testing (1%); 14.3.1 - Transportation Foundation Studies (1%); 15.3.1- Aerial Mapping (1%); 15.4.1 - Horizontal and Vertical Control for Aerial Mapping (1%); and 17.1.1 - Functional and Aesthetically Pleasing Outdoor Spaces (1%).

The work to be performed shall consist of engineering assistance to the Austin District regarding the development of the IH 35 MIS from RM 2243 in Georgetown to FM 2001 in Buda. Increased congestion has caused TxDOT to evaluate alternatives for increasing the capacity of IH 35 through Austin. Six strategies involving combinations of rail, HOV lanes and increased numbers of travel lanes have been developed. The Austin District is seeking a provider to assist in the continued evaluation of these alternatives and completion of the ongoing MIS process.

Historically Underutilized Business (HUB) Goal: The assigned goal for HUB participation for 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: Providers shall include in the Letter of Interest the name, address and telephone number of one reference regarding major transportation projects of similar scope to the IH 35 project included in this notice. Preferred requirements: Providers shall include in the Letter of Interest the name, address and telephone number of two references regarding major transportation projects of similar scope to the IH 35 project included in this notice.

2. Project Requirements (Team Capability/Experience):

Subarea/Corridor Planning (1.3.1) - Minimum requirements: As established by the minimum precertification standards. Preferred requirements: In addition to the minimum requirements, the Team must demonstrate extensive experience in Corridor Planning for highway facilities.

Land Planning/Engineering (1.4.1) - Minimum requirements: As established by the minimum precertification standards. Preferred requirements: In addition to the minimum requirements, the Team must demonstrate experience in land use planning adjacent to transportation facilities.

Major Investment Studies (1.6.1) - Minimum requirements: As established by the minimum precertification standards. Preferred requirements: In addition to the minimum requirements, the Team

must demonstrate successful completion MIS studies for major highway facilities.

Traffic Noise Analysis (2.1.1) - Minimum requirements: As established by the minimum precertification standards. Preferred requirements: In addition to the minimum requirements, the Team must demonstrate experience in highway noise sampling and evaluations for sound walls.

Air Quality Analysis (2.2.1) - Minimum requirements: As established by the minimum precertification standards. Preferred requirements: In addition to the minimum requirements, the Team must demonstrate experience in this category of work in central Texas.

Wetland Delineation (2.3.1) - Minimum requirements: As established by the minimum precertification standards. Preferred requirements: In addition to the minimum requirements, the Team must demonstrate experience in wetland determination for transportation projects.

Nationwide Permit (2.4.1) - Minimum requirements: As established by the minimum precertification standards. Preferred requirements: In addition to the minimum requirements, the Team must demonstrate successful completion of several permits for transportation projects.

Section 404 (Title 33, United States Code §1344) Individual Permits (2.4.2) - Minimum requirements: As established by the minimum precertification standards. Preferred requirements: In addition to the minimum requirements, the Team must demonstrate that several permits have been applied for and received.

Water Pollution Abatement Plan (2.5.1) - Minimum requirements: As established by the minimum precertification standards. Preferred requirements: In addition to the minimum requirements, the Team must demonstrate experience in this category of work for freeway projects.

Protected Species Determination (2.6.1), Biological Assessments (2.6.2) and Biological Surveys (2.6.3) - Minimum requirements: As established by the minimum precertification standards. Preferred requirements: In addition to the minimum requirements, the Team must demonstrate experience in these categories of work for species in the Austin Area.

Section 4(f) (Title 23, Code of Federal Regulations §771.135) and/or §6(f) (Title 49, United States Code §303) Evaluations (2.7.1) - Minimum requirements: As established by the minimum precertification standards. Preferred requirements: In addition to the minimum requirements, the Team must demonstrate experience in this category of work for transportation projects.

Surveys, Research and Documentation of Historic Building, Structures and Objects (2.8.1) and Archaeological Surveys, Documentation, Excavations, Testing Reports and Data Recovery Plans (2.10.1) - Minimum requirements: As established by the minimum precertification standards. Preferred requirements: In addition to the minimum requirements, the Team must demonstrate experience in these tasks related to structures typical to the central Texas area.

Socio-Economic and Environmental Justice Analyses (2.12.1) and Hazardous Materials Assessment (2.13.1) - Minimum requirements: As established by the minimum precertification standards. Preferred requirements: In addition to the minimum requirements, the Team must demonstrate experience in this category of work for transportation projects.

Environmental Document Preparation (2.14.1) - Minimum requirements: As established by the minimum precertification standards. Preferred requirements: In addition to the minimum requirements,

the Team must demonstrate experience in this category of work for major freeway projects.

Route Studies and Schematic Design (Complex Highways) (3.3.1), Multi-Level Interchange and Exotic Bridge Layout (3.6.1), Intelligent Transportation System (7.5.1) and Traffic Signal Timing (7.3.1) - Minimum requirements: As established by the minimum precertification standards. Preferred requirements: In addition to the minimum requirements, the Team must demonstrate experience in these categories of work for major freeway projects in metropolitan areas.

Traffic Engineering Studies (7.1.1) - Minimum requirements: As established by the minimum precertification standards. Preferred requirements: In addition to the minimum requirements, the Team must demonstrate experience in traffic forecasting and dynamic simulation modeling.

Highway-Rail Grade Crossing Studies (7.2.1) - Minimum requirements: As established by the minimum precertification standards. Preferred requirements: In addition to the minimum requirements, the Team must demonstrate experience in this category of work for transit systems.

Bicycle and Pedestrian Facility Development (9.1.1), Complex Hydraulic Design (10.3.1), Aerial Mapping (15.3.1), Horizontal and Vertical Control for Aerial Mapping (15.4.1), Signing, Pavement Marking and Channelization (8.1.1), Illumination (8.2.1) Hydrologic Studies (10.1.1), Pump Stations (10.4.1), Soil Exploration (14.1.1), Geotechnical Testing (14.2.1) and Transportation Foundation Studies (14.3.1) - Minimum requirements: As established by the minimum precertification standards. Preferred requirements: In addition to the minimum requirements, the Team must demonstrate experience in this category of work in urban or metropolitan areas.

Functional and Aesthetically Pleasing Outdoor Spaces (17.1.1) - Minimum requirements: As established by the minimum precertification standards. Preferred requirements: In addition to the minimum requirements, the Team must demonstrate experience in this category of work in urban or metropolitan areas in the southwestern United States.

3. Special (Similar) Project Related Experience of project manager and team members:

Subarea/Corridor Planning (1.3.1), Land Planning/Engineering (1.4.1), Traffic Noise Analysis (2.1.1), Wetland Delineation (2.3.1), Nationwide Permit (2.4.1), §404 (Title 33, United States Code §1344) Individual Permits (2.4.2), Water Pollution Abatement Plan (2.5.1), Protected Species Determination (2.6.1), Biological Assessments (2.6.2), Biological Surveys (2.6.3), §4(f) (Title 23, Code of Federal Regulations §771.135) and/or §6(f) (Title 49, United States Code §303) Evaluations (2.7.1), Surveys, Research and Documentation of Historic Building, Structures and Objects (2.8.1), Archaeological Surveys, Documentation, Excavations, Testing Reports and Data Recovery Plans (2.10.1), Socio-Economic and Environmental Justice Analyses (2.12.1), Hazardous Materials Assessment (2.13.1), Traffic Engineering Studies (7.1.1), Highway-Rail Grade Crossing Studies (7.2.1), Traffic Signal Timing (7.3.1), Intelligent Transportation System (7.5.1), Bicycle and Pedestrian Facility Development (9.1.1), Complex Hydraulic Design (10.3.1), Aerial Mapping (15.3.1), Horizontal and Vertical Control for Aerial Mapping (15.4.1), Air Quality Analysis (2.2.1), Signing, Pavement Marking and Channelization (8.1.1), Illumination (8.2.1), Hydrologic Studies (10.1.1), Pump Stations (10.4.1), Soil Exploration (14.1.1), Geotechnical Testing (14.2.1), Transportation Foundation Studies (14.3.1) and Functional and Aesthetically Pleasing Outdoor Spaces

(17.1.1): Special (similar) project related experience in this category is not required for this contract.

Major Investment Studies (1.6.1) - Minimum requirements: As established by the minimum precertification standards. Preferred requirements: In addition to the minimum requirements, the Team must demonstrate participation as an MIS project team.

Environmental Document Preparation (2.14.1), Route Studies and Schematic Design (Complex Highways) (3.3.1) and Multi-Level Interchange and Exotic Bridge Layout (3.6.1) - Minimum requirements: As established by the minimum precertification standards. Preferred requirements: In addition to the minimum requirements, the Team must demonstrate experience in this category of work for major highway projects in urban or metropolitan areas.

4. Evidence of Compliance with Assigned HUB Goal: A provider gets 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 (512) 832-7080, by mail addressed to TxDOT Austin District, Attention Robert B. Daigh P.E., P.O. Drawer 15426, Austin Texas 78761-5426 or by hand delivery to TxDOT, Austin District, Attention Robert B. Daigh P.E., 7901 N. IH 35, Austin Texas 78753. Letters of interest will be received until 5:00 p.m. on Friday, June 26, 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 no attachments or appendices, and must include the contract number 14-845P5001; an organizational chart (organizational chart may use smaller font size) containing the names, address, telephone and fax numbers of the prime provider and any subprovider(s) 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 precertification; and other pertinent information addressed in the notice, including a reference list for related projects.

Agency Contact: Requests for additional information regarding this notice of invitation should be addressed to Robert B. Daigh, P.E. at (512) 832-7086 or fax (512) 832-7080.

TRD-9808605
Bob Jackson
Acting General Counsel
Texas Department of Transportation
Filed: May 27, 1998



Public Notice

The Texas Department of Transportation (department) is considering proposing amendments to 43 Texas Administrative Code, Chapter 28, concerning Oversize and Overweight Vehicles and Loads. The department intends to consider amendments to: streamline and reorganize existing rules for clarity; create standard permit weights for trunion axles; collect the vehicle supervision fee at the time an applicant applies for a superheavy permit; expand time permits for statewide use; and allow rig up trucks to haul trailers. The

department is requesting comments on these subjects as well as any other suggestions for streamlining the permit issuance process. The potential amendments are scheduled for proposed adoption by early Fall 1998.

Deadline: Written comments should be submitted to the Texas Department of Transportation, MCD-BC, 125 East 11th Street, Austin, Texas 78701-2483. All comments received will be available to the public for examination at 4203 Bull Creek Road, Building 22, Austin, Texas from 8:00 a.m. to 5:00 p.m. (CST), Monday through Friday, except State and Federal holidays. Comments must be received on or before June 22, 1998.

Contact Person: For further information, contact Lawrance Smith, Director, Motor Carrier Division at the previously stated address, (512) 465-3500; or Monty Chamberlain, Division Administrative Manager, (512) 465-3573.

TRD-9808600
Bob Jackson
Acting General Counsel
Texas Department of Transportation
Filed: May 27, 1998



Texas Water Development Board

Request for Proposals for Bond Counsel

The Texas Water Development Board (Board) and Texas Water Resources Finance Authority (Authority) are requesting proposals for bond counsel services. The deadline for proposal submission is 5:00 p.m., June 17, 1998.

The Board's/Authority's Boards of Directors will make their selection based upon demonstrated competence, experience, knowledge and qualifications, as well as the reasonableness of the proposed fee for the services to be rendered. Firms responding to the Request For Proposal must maintain a Texas office staffed with personnel who are responsible for providing bond counsel services to the Board/Authority. All things being equal, the Board/Authority will give first consideration to firms whose principal place of business is located in Texas. By the Request for Proposal the Board/Authority have not committed themselves to employ bond counsel nor does the suggested scope of service or term of agreement therein require that the bond counsel be employed for any or all of those purposes. The Board/Authority reserves the right to make those decisions after receipt of proposals and the Board's/Authority's decision on these matters is final. The Board/Authority reserves the right to negotiate individual elements of the Firm's proposal and to reject any and all proposals.

Copies of the Request For Proposal may be obtained by calling or writing Anna Espinosa at 936-2246, fax 463-5580.

TRD-9808413
Suzanne Schwartz
General Counsel
Texas Water Development Board
Filed: May 22, 1998



Request for Proposals for Water Research, Research and Planning Fund

Pursuant to 31 TAC §355.3, the Texas Water Development Board (board) requests the submission of water research proposals leading to the possible award of contracts for Fiscal Year 1998. Guidelines

for water research proposals, which include an application form and more detailed research topic information, will be supplied by the board.

Description of Research Objectives. All water research applications must address a portion of the water research topic priority list. Proposals are requested for the following nine priority research topics: 1) Compensation of Interbasin Water Transfers - research to identify how the basin of origin could be compensated, and what form the compensation could take; 2) Water Marketing - research examining the incremental steps for the creation of a free market in water, with the development and evaluation of various legislative options; 3) Assessment of Weather Modification as a Water Management Strategy - research to include the evaluation of the quantity, reliability, and cost of weather modification as a water supply for both agricultural and municipal purposes, utilizing statistical and hydrological methodologies; 4) Assessment of Current Membrane Desalinization Technology and Cost of Treatment of Brackish and Saline Waters in Texas- evaluate state of the art membrane technologies and membrane research, and determine the cost to produce water of a specific qualities or quality ranges for municipal and industrial use; 5) Rainwater Harvesting as a Water Management Strategy - evaluate the quantity, reliability, and cost of providing water supply through rainwater harvesting and identify the regulatory and financial impediments; 6) Assessment of Brush Control as a Water Management Strategy - research to include the evaluation of the quantity, reliability, and cost of brush control as a water supply for both agricultural and municipal purposes, utilizing statistical and hydrological methodologies; 7) Market Strategies for Improved Service by Water Utilities- identify and evaluate methods, including privatization, competition, and other market strategies, to obtain cost savings and improve service for ratepayers of water utilities, the advantages and disadvantages of each method, and any statutory changes that would be needed under each method; 8) Regional Rural Water and Wastewater Authorities in Economically Distressed Areas - evaluate the need and possibility to establish regional rural authorities and the start-up requirements for the authorities; 9) Compilation, Evaluation, and Synthesis of Hydrogeologic Characterization Data for the Carrizo-Wilcox Aquifer in Texas - research project should locate and compile all aquifer test data, evaluate previous aquifer-test interpretation methods and reanalyze existing data, conduct geostatistical analyses to characterize spatial variability of hydraulic properties, prepare a series of Geographic Information System coverages and tabular data describing the spatial distribution and variability of hydraulic conductivity, transmissivity, and storage coefficient throughout the aquifer.

Description of Funding Consideration. Up to \$500,000 has been initially authorized for water research assistance from the board's Research and Planning Fund for this research. Following the receipt and evaluation of all applications, the board may adjust the amount of funding initially authorized for water research. Up to 100% funding may be provided to individual applicants; however, applicants are encouraged to contribute matching funds or services, and funding will not include reimbursement for indirect expenses incurred by political subdivisions of the state or other state agencies. In the event that acceptable proposals are not submitted, the board retains the right to not award funds for the contracts.

Deadline, Review Criteria, and Contact Person for Additional Information. Ten double-sided copies of a complete water research application form, including the required attachments, must be filed with

the board prior to 5:00 PM, July 3, 1998. Proposals must be directed either in person to Ms. Phyllis Lightner-Gaynor, Texas Water Development Board, Stephen F. Austin Building, 1700 North Congress Avenue, Austin, Texas; or by mail to Ms. Phyllis Lightner-Gaynor, Texas Water Development Board, P.O. Box 13231-Capitol Station, Austin, Texas 78711-3231. Applications will be evaluated according to 31 TAC §355.5 and the proposal rating form included in the board's Guidelines for Water Research Grants. Research shall not duplicate work planned or underway by state agencies. All potential applicants must contact the board to obtain these guidelines. Requests for information, the board's rules covering the Research and Planning Fund, detailed evaluation criteria, more detailed research topic information, and the guidelines may be directed to Ms. Phyllis Lightner-Gaynor at the preceding address or by calling (512) 463-3154.

TRD-9808618
Suzanne Schwartz
General Counsel
Texas Water Development Board
Filed: May 27, 1998

Texas Workforce Commission

Notice of Public Hearing

To All Persons Interested in the Proposed Proprietary School Rules Under Consideration by the Texas Workforce Commission:

The Texas Workforce Commission (Commission) will conduct a **PUBLIC HEARING** on the proposed Proprietary School Rules to receive comments on the proposed rules as published in the *Texas Register* on May 22, 1998 (23 TexReg 5391). The hearing begins at 1 P.M. on June 18, 1998 at 101 East 15th Street, 6th Floor, Room 644, Austin, Texas 78778.

Persons wishing to present comments at the public hearing may do so by advising the Commission of their intent prior to the hearing date with correspondence addressed to Mr. Michael De Long, Proprietary School Coordinator, Texas Workforce Commission, 101 East 15th Street, Austin, Texas 78778-0001; telephone number (512) 936-3104; facsimile number (512) 936-3111; e-mail address Michael.Delong@twc.state.tx.us, or by completing a registration form which will be available at the entrance to Room 644 on the day of the public hearing.

Speakers are encouraged to provide written copies of their comments. While any person with relevant comments will be provided an opportunity to present them during the hearing, the Commission reserves the right to restrict statements in terms of time or repetitive content.

Persons needing special accommodations or having any questions should contact Mr. Michael De Long at the address and telephone number listed above.

TRD-9808591
J. Randel (Jerry) Hill
General Counsel
Texas Workforce Commission
Filed: May 27, 1998

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