

TEXAS REGISTER

IN THIS ISSUE

Volume 20, Number 38 May 19, 1995

Page 3693-3795

Proposed Sections

Banking Department of Texas

Prepaid Funeral Contracts
7 TAC §25.25.....3703

Texas State Board of Public Accountancy

Fee Schedule
22 TAC §521.1.....3705

Texas Department of Human Services

Food Distribution and Processing
40 TAC §11.107.....3706

Withdrawn Sections

Banking Department of Texas

Prepaid Funeral Contracts
7 TAC §25.25.....3709

Texas Water Development Board

State Water Pollution Control Revolving Fund
31 TAC §375.39.....3709

Adopted Sections

Texas Board of Public Accountancy

Professional Conduct
22 TAC §501.2.....3717
22 TAC §501.3.....3717
22 TAC §501.4.....3717
22 TAC §501.40.....3717

Texas Department of Mental Health and Mental Retardation

System Administration
25 TAC §401.54.....3718

Texas Department of Insurance

Texas Department of Insurance
28 TAC §§21.1002, 21.1004, 21.1005.....3719

Contents Continued Inside



The Texas Register is printed on recycled paper



a section of the Office of the Secretary of State P.O. Box 13824 Austin, TX 78711-3824 (512) 463-5561 FAX (512) 463-5569

Secretary of State Antonio O. Garza, Jr.

Director Dan Procter

Assistant Director Doc Wright

Circulation/Marketing Tamara Joiner Jill S. Ledbetter

TAC Editor Dana Blanton

TAC Typographer Madeline Chrisher

Documents Section Supervisor Patty Webster

Document Editors Roberta Knight

Open Meetings/Editor Jamie Alworth

Production Section Supervisor Ann Franklin

Production Editors/Typographers Carla Carter Roy Felps Mimi Sanchez

Receptionist Darlene Jarzombek

Texas Register, ISSN 0362-4781, is published semi-weekly 100 times a year except July 7, November 10, November 28, and December 29, 1995. Issues will be published by the Office of the Secretary of State, 1019 Brazos, Austin, Texas 78701. Subscription costs: one year - printed, \$95 and electronic, \$90; six-month printed, \$75 and electronic, \$70. Single copies of most issues are available at \$7 per copy. Material in the Texas Register is the property of the State of Texas. However, it may be copied, reproduced, or republished by any person without permission of the Texas Register Director, provided no such republication shall bear the legend Texas Register or "Official" without the written permission of the director. The Texas Register is published under the Government Code, Title 10, Chapter 2002. Second class postage is paid at Austin, Texas.

POSTMASTER: Please send form 3579 changes to the Texas Register, P.O. Box 13824, Austin, TX 78711-3824.

How to Use the Texas Register

Information Available: The 11 sections of the Texas Register represent various facets of state government. Documents contained within them include:

Governor - Appointments, executive orders, and proclamations.

Attorney General - summaries of requests for opinions, opinions, and open records decisions.

Secretary of State - opinions based on the election laws.

Texas Ethics Commission - summaries of requests for opinions and opinions.

Emergency Rules- sections adopted by state agencies on an emergency basis.

Proposed Rules - sections proposed for adoption.

Withdrawn Rules - sections withdrawn by state agencies from consideration for adoption, or automatically withdrawn by the Texas Register six months after the proposal publication date.

Adopted Rules - sections adopted following a 30-day public comment period.

Tables and Graphics - graphic material from the proposed, emergency and adopted sections.

Open Meetings - notices of open meetings.

In Addition - miscellaneous information required to be published by statute or provided as a public service.

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

How to Cite: Material published in the Texas Register is referenced by citing the volume in which the document appears, the words "TexReg" and the beginning page number on which that document was published. For example, a document published on page 2402 of Volume 19 (1994) is cited as follows: 19 TexReg 2402.

In order that readers may cite material more easily, page numbers are now written as citations. Example: on page 2 in the lower-left hand corner of the page, would be written "19 TexReg 2 issue date," while on the opposite page, page 3, in the lower right-hand corner, would be written "issue date 19 TexReg 3."

How to Research: The public is invited to research rules and information of interest between 8 a.m. and 5 p.m. weekdays at the Texas Register office, Room 245, James Earl Rudder Building, 1019 Brazos, Austin. Material can be found using Texas Register indexes, the Texas Administrative Code, section numbers, or TRD number.

Texas Administrative Code

The Texas Administrative Code (TAC) is the official compilation of all final state agency rules published in the Texas Register. Following its effective date, a rule is entered into the Texas Administrative Code. Emergency rules, which may be adopted by an agency on an interim basis, are not codified within the TAC. West Publishing Company, the official publisher of the TAC, publishes on an annual basis.

The TAC volumes are arranged into Titles (using Arabic numerals) and Parts (using Roman numerals)

The Titles are broad subject categories into which the agencies are grouped as a matter of convenience. Each Part represents an individual state agency. The Official TAC also is available on WESTLAW, West's computerized legal research service, in the TX-ADC database.

To purchase printed volumes of the TAC or to inquire about WESTLAW access to the TAC call West: 1-800-328-9352.

The Titles of the TAC, and their respective Title numbers are:

- 1. Administration
4. Agriculture
7. Banking and Securities
10. Community Development
13. Cultural Resources
16. Economic Regulation
19. Education
22. Examining Boards
25. Health Services
28. Insurance
30. Environmental Quality
31. Natural Resources and Conservation
34. Public Finance
37. Public Safety and Corrections
40. Social Services and Assistance
43. Transportation

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

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

How to update: To find out if a rule has changed since the publication of the current supplement to the Texas Administrative Code, please look at the Table of TAC Titles Affected. The table is published cumulatively in the blue-cover quarterly indexes to the Texas Register (January 21, April 15, July 12, and October 11, 1994). In its second issue each month the Texas Register contains a cumulative Table of TAC Titles Affected for the preceding month. If a rule has changed during the time period covered by the table, the rule's TAC number will be printed with one or more Texas Register page numbers, as shown in the following example

TITLE 40 SOCIAL SERVICES AND ASSISTANCE
Part I. Texas Department of Human Services
40 TAC §3.704.....950, 1820

The Table of TAC Titles Affected is cumulative for each volume of the Texas Register (calendar year).

Update by FAX. An up-to-date Table of TAC Titles Affected is available by FAX upon request. Please specify the state agency and the TAC number(s) you wish to update. This service is free to Texas Register subscribers. Please have your subscription number ready when you make your request. For non-subscribers there will be a fee of \$2.00 per page (VISA, MasterCard). (512) 463-5561.

**Texas Natural Resource
Conservation Commission**

Industrial Solid Waste and Municipal Hazardous Waste

30 TAC §§335.1, §335.6 3730
 30 TAC §§335.501, 335.503, 335.505, 335.507-335.510, 335.514, 335.515, 335.521 3731

Teacher Retirement System of Texas

Membership Credit

34 TAC §25.1 3733
 34 TAC §25.21 3733
 34 TAC §25.182 3733

Termination of Membership and Refunds

34 TAC §27.2, §27.10 3734

Benefits

34 TAC §29.11 3734
 34 TAC §29.17 3734
 34 TAC §29.34 3734
 34 TAC §29.40 3734
 34 TAC §§29.50-29.54 3735

Texas Department of Human Services

Community Care for Aged and Disabled

40 TAC §§48.2702, 48.2707, 48.2710, 48.2711..... 3735

Tables and Graphics Section

Tables and Graphics 3737

Open Meetings Section

Texas Department of Agriculture 3767
 Texas Alcoholic Beverage Commission..... 3768
 Texas Board of Architectural Examiners 3768
 The State Bar of Texas 3769
 Children's Trust Fund of Texas Council 3769
 Conservatorship Board 3769
 Texas Diabetes Council 3769
 Texas Education Agency 3770
 State Employee Charitable Campaign 3770
 Texas Employment Commission 3770
 Texas Commission on Fire Protection..... 3771
 Texas Genetic Network (TEXGENE) 3771
 Interagency Council for Genetic Services (IAC)..... 3771
 Office of the Governor 3771
 Office of the Governor, Criminal Justice Division.....3771

Texas Department of Health.....3772
 Health Professions Council3772
 Texas Department of Human Services.....3772
 Commission on Jail Standards3772
 Texas Natural Resource Conservation Commission.....3772
 Texas Board of Nursing Facility Administrators..... 3773
 Texas Board of Pardons and Paroles.....3774
 State Pension Review Board3774
 Texas State Board of Pharmacy3774
 Public Utility Commission of Texas3774
 Railroad Commission of Texas3775
 Center for Rural Health Initiatives3776
 Teacher Retirement System of Texas.....3776
 The Texas A&M University System, Board of Regents..... 3776
 Texas State Technical College System3776
 Board for Lease of University Lands3776
 University of Texas Health Science Center at San Antonio.....3777
 University of Texas M. D. Anderson Cancer Center.....3777
 Regional Meetings.....3777

In Addition Sections

Texas Department of Commerce

Request for Proposals.....3781

Office of Consumer Credit Commissioner

Notice of Rate Ceilings3781

Texas Employment Commission

Request for Proposal3782

Texas State Board of Registration for Professional Engineers

Continuing Professional Competency Guidelines.....3782

Texas Department of Health

Development of a Curriculum in Cultural Diversity.....3783
 A Study of Infants of Low Birth Weight and Very Low Birth Weight.....3784

Texas Department of Insurance

Notice3785
 Notice of Public Hearing.....3785
 Third Party Administrator Applications.....3786
 Notice of Hearing.....3786

Texas Department of Mental Health and Mental Retardation

Announcement of State Plan Amendments.....3786

**Texas Natural Resource
Conservation Commission**

Enforcement Orders 3787
Notice of Applications for Waste Disposal Permits..... 3787
Notice of Opportunity to Comment on Permitting Actions-
For the Week Ending May 12, 1995 3789
Notice of Opportunity to Comment on Settlement Agree-
ments of Administrative Enforcement Actions..... 3789
Provisionally-Issued Temporary Permits to Appropriate
State Water 3790
Public Notice..... 3791

Public Utility Commission of Texas

Notice of Intent to File Pursuant to Public Utility Commis-
sion Substantive Rule 23.27 3791
Public Notice..... 3791

Texas Rehabilitation Commission

Request for Proposal..... 3792

**Texas Department of
Transportation**

Request for Proposals 3792

Texas State Treasury

Tax and Revenue Anticipation Notes Bond Counsel Ser-
vices Proposal Request 3793
Tax and Revenue Anticipation Notes Co-Bond Counsel
Services Proposal Request..... 3793

Texas Water Development Board

Applications Received 3794
Public Hearing Notice..... 3795
Request for Proposals for Water Research 3795

Name: Richard Jackson
Grade: 12
School: Lancaster High School, Lancaster ISD



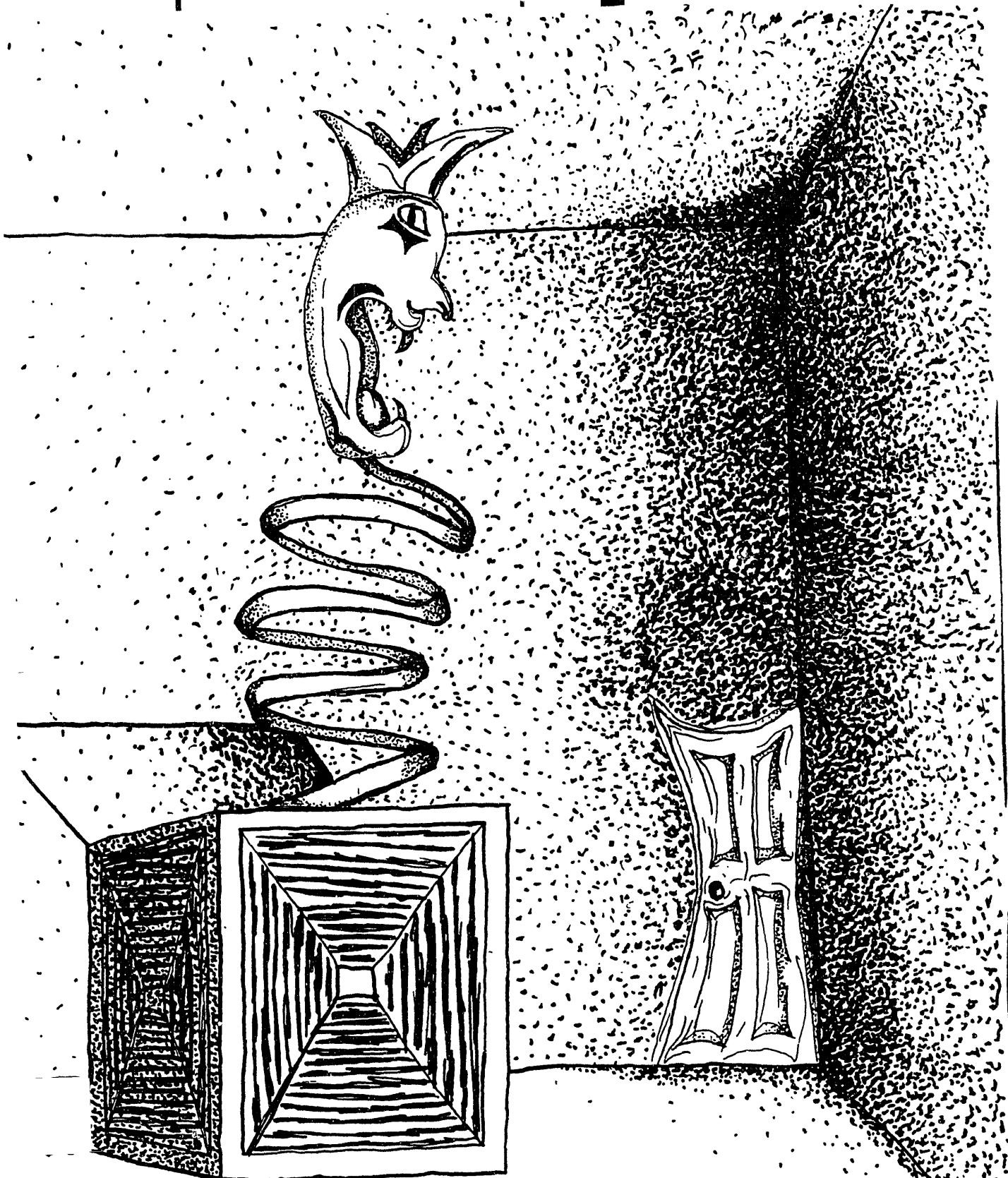
BJA

Name: Kris Taylor

Grade:

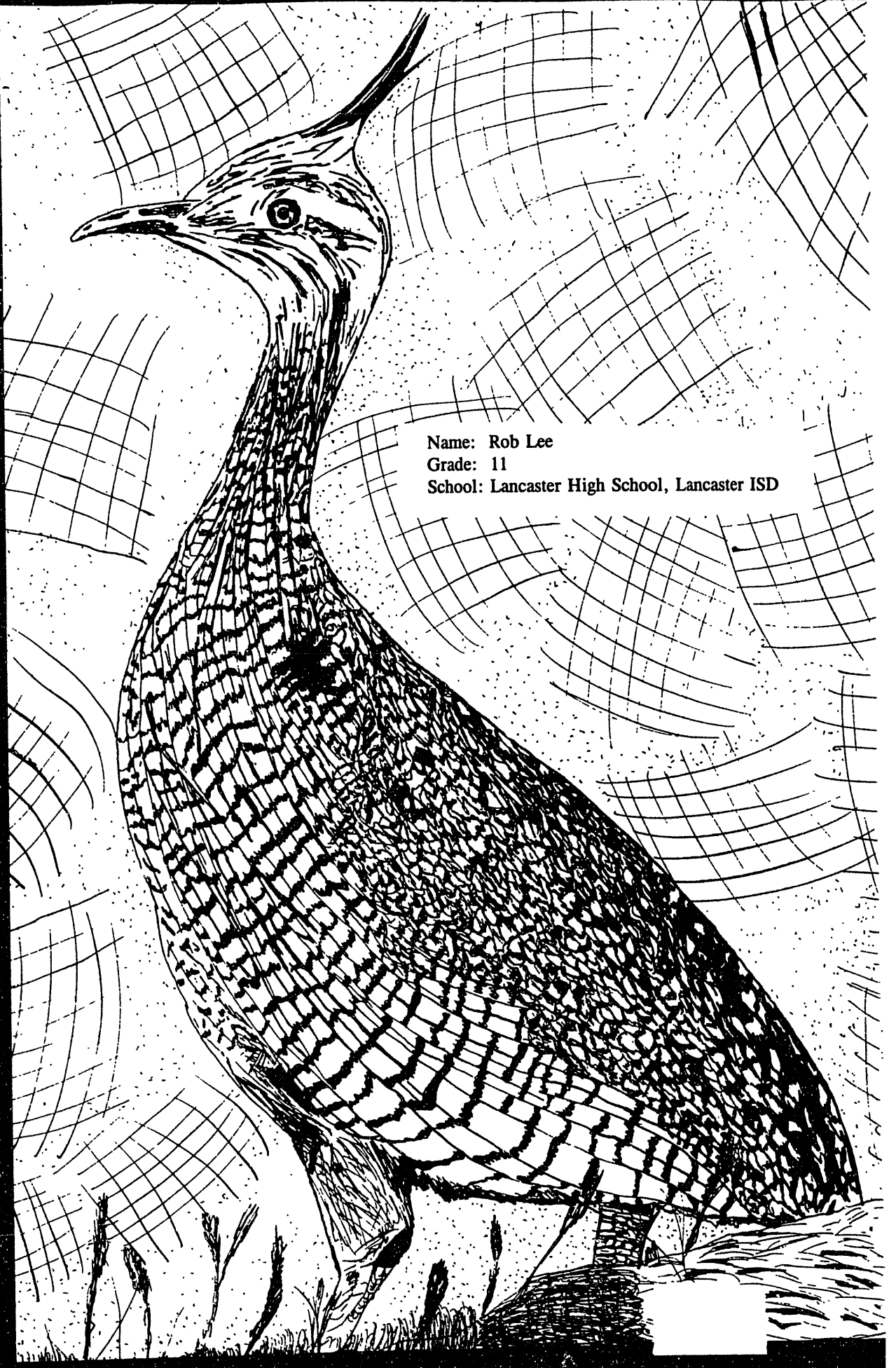
School: Lancaster High School, Lancaster ISD





Name: Shaun Roberds
Grade: 11
School: Lancaster High School, Lancaster ISD

Shaun Roberds
94



Name: Rob Lee
Grade: 11
School: Lancaster High School, Lancaster ISD



Name: Cheri Fojtik
Grade: 10
School: Boling High School, Boling ISD

Name: Melissa K. Clark

Grade: 10

School: Boling High School, Boling ISD



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 use of **bold text**. [Brackets] indicate deletion of existing material within a section.

TITLE 7. BANKING AND SECURITIES

Part II. Banking Department of Texas

Chapter 25. Prepaid Funeral Contracts

Subchapter B. Regulation of Licenses

• 7 TAC §25.25

The Banking Department of Texas (the Department) proposes new §25.25, concerning the conversion of prepaid funeral contracts from trust funded benefits to insurance funded benefits, as provided for under Texas Civil Statutes, Article 548b (the Act), §1A

The conversion of prepaid funeral contracts to insurance funded benefits from trust funded benefits is permissible under the Act, §1A if the insurance funded arrangement will safeguard the rights and interests of the individual prepaid funeral contract purchasers to substantially the same degree as or greater degree than the trust funded arrangement. In the past, the Department has reviewed insurance conversion applications and based its determination on the quality and extent of benefits under the insurance policy, as well as the status and condition of the applicant funeral home and the insurer, as a way of determining whether the proposed insurance funded arrangement would safeguard the rights and interests of the individual prepaid funeral contract purchasers to the same degree as or a greater degree than provided under the existing trust funded arrangement, see Texas Attorney General's Opinion Number MW-336 (1981). While relatively few insurance companies have been involved in these conversions in the past, interest in insurance conversions has grown among insurers in Texas.

The Department proposes new §25.25 in order to more clearly outline the basic requirements for an application for conversion under the Act, §1A. As proposed, §25.25 would also set forth the standards for approval of the conversion application and the required documentation that must accompany an application for conversion, as well as information relevant to requesting a hearing on an application prior to final denial by the Department

The Department received several comments on the originally proposed rule, published in the April 29, 1994, issue of the *Texas Register* (19 TexReg 3213) and 15 letters requested that a public hearing be conducted prior to adoption of the final rule. Generally, comments focused on specific problems associated with ambiguities or inconsistencies in the language of the proposed rule, as well as requirements expressed in the proposed rule that, in the opinion of the commenters, were impracticable, outside of the control of the entities affected by the rule, or beyond the statutory authority of the Department. The Department appreciates all comments received and, after thorough review of the comments, has concluded that the proposed rule should be substantially revised and re-proposed for a further comment period. Every attempt has been made to clarify all apparent ambiguities and inconsistencies in the rule as originally proposed. The Department, where appropriate, has made other substantive revisions to address concerns with respect to the other issues raised by the commenters.

However, two points raised by one commenter should be addressed specifically. First, the comment seems to argue that the Department may not examine a licensee more than once a year unless the Department has substantial evidence of current violations or irregularities. That statement is incorrect; §8(a) of the Act provides that the Department can conduct such additional examinations as it deems necessary. Frequency of examinations is solely within the discretion of the Department.

Second, the commenter argues that the proposed rule failed to take into account certain insurance conversion plans that are grandfathered by §4(a) of the 1993 amendatory act (Acts 1993, 73rd Legislature, Chapter 808, effective September 1, 1993). The Department disagrees with the notion that any insurance policy or annuity to be issued in connection with future conversions constitutes a plan envisioned by §4 of the amendatory act, whether or not an identical insurance product was approved by the Department in a conversion that occurred prior to the effective date of the amendatory act.

Brian R. Herrick, Assistant General Counsel, Texas Department of Banking, has determined that for each year of the first five year period the section is in effect there will be no fiscal implications for state or local govern-

ment as a result of enforcing or administering the section.

Mr. Herrick also has determined that for each of the first five years the section is in effect, the public benefit anticipated as a result of enforcing the section will be the clarification and streamlining of the conversion application process under the Act, §1A. This should enhance the orderly administration of the Act and ensure that the purposes of the Act, as they relate to the conversion of prepaid funeral contracts from trust funded benefits to insurance funded benefits, are substantially fulfilled.

There will be no greater economic cost to individuals who choose to apply for conversion under the Act, §1A. Section §25.25 should shorten the time period required to process and approve or reject an application by setting forth the requirements for applications and the standards against which those applications will be measured.

Comments on the proposal may be submitted to Brian R. Herrick, Assistant General Counsel, Texas Department of Banking, 2601 North Lamar Boulevard, Austin, Texas, 78705-4294.

The new section is proposed under Texas Civil Statutes, Article 548b, §2, which authorize the Department to prescribe reasonable rules and regulations concerning all matters incidental to the enforcement and orderly administration of Article 548b.

Texas Civil Statutes, Article 548b is affected by the newly proposed §25.25.

§25.25. Conversion From Trust to Insurance Funded Benefits.

(a) Purpose. Existing prepaid funeral contracts that utilize trust funded prepaid funeral benefits may be converted to an insurance funded prepaid funeral benefits arrangement pursuant to the Act, §1A(d). Application for conversion must be made on forms prescribed by the Department and must meet the requirements of the Act and this section.

(b) Definitions. The words and terms used in this section shall be defined according to Texas Civil Statutes (the Act), Article 548b, §1(b) and 7 TAC §25.23(a) and §25.24(a) of this title (relating to Appli-

cation Fees; Examination Costs and Assessment Fees), unless otherwise defined herein or unless the context clearly indicates otherwise:

(1) Applicant-A permit holder under the Act who files an application with the Department to convert its trust funded prepaid funeral benefits under existing contracts to insurance funded prepaid funeral benefits.

(2) Cash value-The net amount due the policy owner from the insurer upon surrender of an insurance policy.

(3) Commission, allowance, or load-Any commission or other compensation paid to an agent, expense load, premium expense, administrative charge or expense, policy fees, or other fee or expense associated with or occurring by reason of the sale, issuance, lapse, surrender, or redemption of an insurance policy in connection with the conversion of any trust funded prepaid funeral contract to insurance funded benefits.

(4) Insurance policy-A life insurance policy or annuity contract.

(5) Net policy premium-The gross amount transferred to the insurance company for purchase of an insurance policy less the applicable commission, allowance, or load.

(6) Post-conversion permit holder-The permit holder who will hold, administer, and assume responsibility for the delivery of the funeral service or merchandise or payment of the funeral provider, as the case may be, under the prepaid funeral contracts after conversion to insurance funding.

(7) Required reserves-The reserve liabilities for all outstanding life insurance policies and annuity contracts valued or calculated pursuant to actuarial standards and statutory accounting standards not inconsistent with the Texas Insurance Code.

(8) Reserve assets-Those assets of an insurer which are authorized investments for policy reserves in accordance with the Texas Insurance Code.

(9) TDI-The Texas Department of Insurance.

(c) Applications.

(1) When applying for permission to convert trust funded benefits under existing prepaid funeral contracts to insurance funded benefits, an applicant must, at a minimum:

(A) hold a valid permit issued by the Department under the Act;

(B) be in good standing with the Department;

(C) submit a completed conversion application to the Special Audits Division of the Department; and

(D) as of its most recent examination by the Department, not have been found to be in violation of any applicable laws or regulations, or to have any other deficiencies of any significance, which have not been remedied or corrected to the satisfaction of the Department.

(2) The Department may, if it deems it necessary to protect the interests of the prepaid funeral contract purchasers, conduct an examination of the applicant within 45 days of the date the application is accepted by the Department for filing.

(3) Each application for conversion must be accompanied by:

(A) a copy of a letter from an insurance company authorized to do business in Texas to the applicant that:

(i) sets forth the insurance company's agreement to issue insurance policies to convert the prepaid funeral contracts from trust funded benefits to insurance funded benefits; and

(ii) identifies all of the permit holders with whom the insurance company has contracted during the previous two years for conversion of prepaid funeral contracts from trust to insurance funded benefits;

(B) a copy of the written commitment to the Commissioner containing the agreement between or among the insurance company, the applicant, and the post-conversion permit holder regarding the transfer, receipt, and application of the trust funds upon conversion, which commitment must:

(i) include the full name of the agent or agents who will be receiving any commission, allowance, or load and their respective TDI license numbers, if applicable; and

(ii) require that a copy of the policies issued be furnished to the respective prepaid funeral contract purchasers;

(C) a pre-conversion summary of the individual prepaid funeral contracts, which must include, at a minimum, the following information, as well as aggregated totals for each category of information, if appropriate:

(i) purchaser's name and, if available, date of birth;

(ii) date of execution of the prepaid funeral contract;

(iii) face amount;

(iv) amount paid in and amount left owing;

(v) accumulated earnings;

(vi) amount due the prepaid funeral contract purchaser upon cancellation and the amount due the applicant upon death of the prepaid funeral contract purchaser, assuming death were to occur on or about the date of the application; and

(vii) amount retained by the applicant under the Act, §5(a)(1);

(D) a post-conversion summary of the individual prepaid funeral contracts, which must include, at a minimum, the following information, as well as aggregated totals for each category of information, if appropriate:

(i) insured's or annuitant's name;

(ii) amount paid in;

(iii) amount applied to the purchase of the insurance policy;

(v) initial cash value and initial death benefit under the insurance policy; and

(vi) amount retained by the applicant under the Act, §5(a)(1);

(E) a copy of the insurance policy to be issued upon conversion showing the approval stamp of TDI;

(F) a copy of the proposed negative response notification letter to the prepaid funeral contract purchasers from the applicant containing a statement explaining the purchaser has only 30 days to file a request with the Department to have the contract converted back to trust funded benefits with the applicant;

(G) current financial statements for the insurance company (dated no more than six months prior to the date of the application) and an actuarial certification certifying that the reserve assets to be held with respect to the conversion will be adequate to pay claims as they become due;

(H) a copy of the insurance company's most recent actuarial certification, dated no more than one year prior the date of application;

(I) a copy of the proposed notification letter from the insurance company to the prepaid funeral contract purchasers regarding the conversion;

(J) a statement defining the insurance policy commission, allowance, or load, including the percentage and dollar amount of the commission, allowance, or load, the time at which it is to be imposed, and how the commission, allowance, or load will be distributed;

(K) a copy of the mortality tables, if any, for life insurance policies issued in connection with the conversion, which must include cash values, required reserves, and net policy premiums;

(L) a copy of the form of assignment, if any, to be used in assigning insurance policy rights or proceeds to the post-conversion permit holder; and

(M) the conversion application fee prescribed in §25.23 of this chapter.

(4) An applicant shall not be required to submit the documentation required under paragraph (3)(E), (G), (H), (I), (K), or (L) of this subsection with each application with which it is associated if that information already has been submitted to the Department, generally or in connection with a previous application. If the information was submitted in connection with a previous application, the current application must identify in connection with which previous application the information was submitted.

(d) Standards for Approval of Application.

(1) An applications for conversion will be approved by the Commissioner if, in the Commissioner's opinion, the rights and interests of the prepaid funeral contract purchasers under the insurance funded benefits arrangement will be safeguarded to the same degree as or to a greater degree than provided under the trust funded benefits arrangement. An application may be approved without the necessity of a hearing.

(2) In order for insurance funded benefits under an application for conversion to be considered to safeguard the rights and interests of the prepaid funeral contract purchasers to the same degree as or a greater degree than the trust funded benefits, the insurance benefits must comply with this subsection.

(A) The insurance funded benefits arrangement must apply to all of the applicant's prepaid funeral contract purchasers, as of the date of the application, and the insurance policy must provide each prepaid funeral contract purchaser with an initial cash value that is greater than or equal to the cancellation benefit provided for under the trust funded arrangement.

(B) The cancellation benefit must be the obligation of the post-conversion permit holder and not a third party.

(C) The transfer of the trust funds to the insurance company must include the full sum required to be deposited as principal by the applicant pursuant to the Act under the trust funded prepaid funeral contracts proposed for conversion, plus all net earnings accumulated with respect thereto, as of the transfer date. No commission, allowance, or load may be deducted from the trust funds transferred pursuant to the conversion application.

(D) No provision may appear in the insurance policy that provides or allows for contesting coverage, limited death benefits in the case of suicide, or makes reference to a physical examination, or any other provision that would operate as an exclusion, limitation, or condition, other than submittal of proof of death or surrender of the policy, upon the funding, at maturity, or cancellation, as the case may be, of the original trust funded prepaid funeral contract or the benefits thereof.

(E) The death benefit under the insurance policy at all times must be no less than the death benefit prior to conversion.

(F) The insurance company must demonstrate that, in the previous seven years, the average death benefit growth under the same or substantially similar insurance policies issued by the insurance company to fund prepaid funeral contracts has been at least 3.0% per annum. If the insurance company cannot so demonstrate, then the insurance policy must provide for guaranteed growth of the death benefit of no less than 2.0% per annum beginning in the first year of the policy.

(G) The post-conversion permit holder must pay all death and cancellation claims in accordance with the provisions of the Act.

(H) The post-conversion permit holder must have a current valid permit issued by the Department under the Act to hold the post-conversion insurance funded contracts, and must be in good standing with the Department.

(I) The post-conversion permit holder of prepaid funeral contracts must have been examined by the Department within the 24 month period immediately

preceding the date of the application and not have been found to be in violation of any applicable laws or regulations, or to have any other deficiencies of any significance, which have not been remedied or corrected to the satisfaction of the Department. If the post-conversion permit holder has not been examined by the Department within such time period, the Department may, if it deems necessary, conduct an examination of the post-conversion permit holder within 45 days of the date the application is accepted for filing or waive this requirement.

(J) The insurance company must be a member of the Texas Life, Accident, Health, and Hospital Service Insurance Guaranty Association.

(e) Hearings. The Commissioner may order a hearing on an application. A hearing, if ordered, shall be conducted pursuant to the Department's rules governing hearings. The applicant shall have the burden to demonstrate the existence of all factors necessary to entitle the applicant to convert to insurance funded benefits from trust funded benefits by a preponderance of the evidence.

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

Issued in Austin, Texas, on May 11, 1995.

TRD-9505769

Everette D. Jobe
General Counsel
Banking Department of
Texas

Earliest possible date of adoption: June 19, 1995

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

◆ ◆ ◆
**TITLE 22. EXAMINING
BOARDS**

**Part XXII. Texas State
Board of Public
Accountancy**

Chapter 521. Fee Schedule

• 22 TAC §521.1

The Texas State Board of Public Accountancy proposes an amendment to §521.1, concerning License Fees.

The proposed amendment reduces the annual fee for a license issued to a practice unit.

William Treacy, Executive Director, has determined that for the first five-year period the rule is in effect there will be no fiscal implications for state or local government as a result of enforcing or administering this rule.

Mr. Treacy also has determined that during the first five-year period the rule is in effect,

the anticipated public benefit as a result of enforcing or administering the rule will be a reduced fee which is closer to the cost of processing the practice unit's registration.

There is no effect on small businesses. There is no anticipated economic cost to persons required to comply with the section as proposed.

Comments on the proposal may be submitted to J. Randel (Jerry) Hill, General Counsel, 333 Guadalupe, Tower III, Suite 900, Austin, Texas, 78701-3942.

The amendment is proposed under Texas Civil Statutes, Article 41a-1, §6, which provide the Texas State Board of Public Accountancy with the authority to make such rules as may be necessary or advisable to effect the purposes of the law.

The rule implements Texas Civil Statutes, Article 41a-1, §6

§521.1 License Fees.

(a) (No change.)

(b) Effective January 1, 1996, the [the] annual fee for a license issued to a practice unit shall be \$25 [\$100] and may not be prorated.

(c) (No change.)

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

Issued in Austin, Texas, on May 1, 1995.

TRD-9505842

William Treacy
Executive Director
Texas State Board of
Public Accountancy

Earliest possible date of adoption: June 19, 1995

For further information, please call: (512) 505-5566

TITLE 40. SOCIAL SERVICES AND ASSISTANCE

Part I. Texas Department of Human Services

Chapter 11. Food Distribution and Processing

Food Distribution Program

• 40 TAC §11.107

The Texas Department of Human Services (DHS) proposes an amendment to §11.107, concerning warehousing and distribution of donated foods, in its Food Distribution and Processing chapter. The purpose of the amendment is to allow recipient agencies who meet the criteria to receive commodities by direct shipment instead of commercial distribution. Currently, all recipient agencies must use commercial distribution.

Burton F. Raiford, commissioner, has determined that for the first five-year period the proposed section will be in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the section.

Mr. Raiford also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be a reduction of warehousing and distribution costs of recipient agencies who qualify for direct shipment. However, because distributors will probably increase their rates to make up for lost volume, costs for recipient agencies who must continue to use commercial distribution will probably increase. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the proposed section.

Questions about the content of the proposal may be directed to Johnny D. Adams at (512) 467-5822 in DHS's Special Nutrition Programs. Written comments on the proposal may be submitted to Nancy Murphy, Agency Liaison, Media and Policy Services-309, Texas Department of Human Services E-205, P.O. Box 149030, Austin, Texas 78714-9030, within 30 days of publication in the *Texas Register*.

The amendment is proposed under the Human Resources Code, Title 2, Chapters 22 and 33, which provides the department with the authority to administer public and nutritional assistance programs.

The amendment implements the Human Resources Code, §§22.001-22-024 and §§33.001-33.024.

§11.107. Warehousing and Distribution of Donated Foods.

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

(c) DHS has contracted for a commercial warehousing and distribution system. Recipient agencies must operate under the commercial warehousing and distribution system, unless they qualify for direct shipments of donated food as specified in subsections (d)-(f) of this section. [DHS uses a commercial warehousing and distribution system. Recipient agencies must operate under the commercial warehousing and distribution system. Exception: Effective January 1, 1993, only recipient agencies that are receiving direct shipments may choose to continue receiving direct shipments. These agencies may also choose to convert to the commercial warehousing and distribution system; however, those that convert to the commercial system may not switch back to direct shipments.]

(d) For an individual recipient agency to qualify for direct shipments of United States Department of Agriculture (USDA)-donated commodities, the recipient agency must:

(1) enter into a written agreement with DHS to receive direct shipments of donated food;

(2) accept delivery of a single product in a quantity of no less than one truckload. DHS will allocate the food USDA makes available to Texas on a "fair-share" basis; a fair share that is less than 1/2 a truckload will be rounded to zero and a fair-share that is at least 1/2 of a truckload will be rounded to a truckload;

(3) have storage facilities for dry, chilled, and frozen products;

(4) meet USDA and DHS requirements for receiving and storing commodities, including requirements for sanitation, odor control, and temperature;

(5) ensure availability of storage facility staff to schedule appointments and receive shipments throughout the year, including summer and holidays;

(6) provide DHS with three months advance notice when ordering or changing orders for commodities;

(7) designate in its agreement with DHS only one facility to receive shipments of commodities, and provide DHS with four months advance notice before changing a direct shipment destination;

(8) process and submit receiving orders (ONRRs) to DHS daily;

(9) comply with the requirements of Food and Nutrition Services (FNS) Instruction 709-5, titled "Shipment and Receipt of Food," and comply with other requirements for receiving and storing commodities as specified by DHS;

(10) allow USDA, DHS, and their representatives to inspect and monitor warehousing operations and to conduct inventories and audits;

(11) provide to DHS, during the warehouse approval process, a copy of a current health inspection certificate for the warehouse facility;

(12) maintain a physical and book inventory of all commodities;

(13) maintain records for processed foods according to DHS specifications;

(14) retain DHS-required records for three years and 90 days after the date the contract ends or, if applicable, until all litigation, claims, and audits are resolved;

(15) submit all reports required by DHS;

(16) accept all scheduled shipments, regardless of the shipment or loading method;

(17) have sufficient warehouse space to accommodate all inbound freight; and

(18) assume responsibility for all commodities in the recipient agency's care and control, including financial responsibility and bearing the risk of loss, damage, and theft.

(e) For a cooperative representing recipient agency schools, such as school co-ops, to qualify for direct shipments of USDA-donated commodities, the co-op must:

(1) meet the requirements for individual recipient agencies specified in subsection (d) of this section;

(2) provide to DHS a copy of a legal agreement, signed by representatives of each recipient agency and meeting the requirements of state laws governing interlocal cooperation contracts;

(3) agree to use DHS specifications to equitably allocate USDA-donated commodities to each member of the school co-op;

(4) follow DHS specifications for submitting worksheets for ordering commodities;

(5) maintain for each recipient agency in the school co-op an ongoing planned assistance level (PAL) balance and to report it monthly, as specified by DHS;

(6) provide proof of purchase of "all risk" escalating insurance with coverage equal to or greater than the cost value of commodities on hand at any time or, as a condition of ongoing eligibility, provide proof that such insurance remains in effect; and

(7) meet local, state, and federal requirements for temperature and sanitation when delivering commodities.

(f) For an organization, association, or a combination of two or more non-school, recipient agencies, such as a non-school co-op, to qualify for direct shipments of USDA-donated commodities, the non-school co-op must:

(1) meet the requirements for individual recipient agencies specified in subsection (d) of this section;

(2) agree to use DHS specifications to equitably allocate USDA-donated commodities to each member of the non-school co-op;

(3) follow DHS specifications for submitting worksheets for ordering commodities;

(4) provide proof of purchase of "all risk" escalating insurance with coverage equal to or greater than the cost value of commodities on hand at any time or, as a condition of ongoing eligibility, provide proof that such insurance remains in effect; and

(5) meet local, state, and federal requirements for temperature and sanitation when delivering commodities.

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

Issued in Austin, Texas, on May 12, 1995.

TRD-9505848

Nancy Murphy
Section Manager, Media
and Policy Services
Texas Department of
Human Services

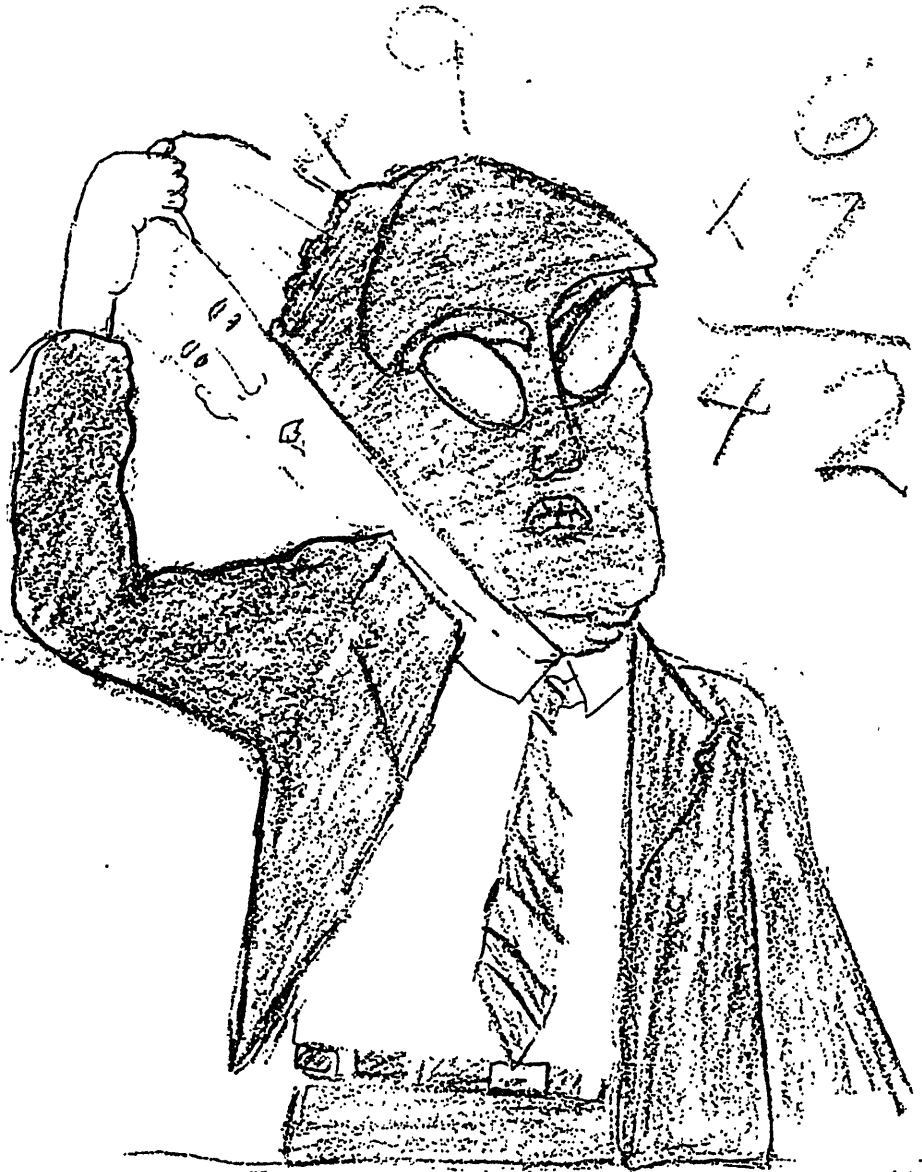
Proposed date of adoption: August 1, 1995

For further information, please call: (512) 450-3765

◆ ◆ ◆

4 a B b C c D d E e F f G g H h I i J j

$$\begin{array}{r} \times 2 \\ 2 \\ \hline 4 \end{array}$$



Name: Edgar Ortega
Grade: 5
School: Sanborn Elementary School, Amarillo ISD

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 7. BANKING AND SECURITIES

Part II. Banking

Department of Texas

Chapter 25. Prepaid Funeral Contracts

- 7 TAC §25.25

The Banking Department of Texas has withdrawn from consideration for permanent adoption a proposed new §25.25, which appeared in the May 9, 1995, issue of the *Texas Register* (20 TexReg 3405). The effective date of this withdrawal is May 11, 1995.

Issued in Austin, Texas, on May 11, 1995.

TRD-9505768 Everette D. Jobe
 General Counsel
 Banking Department of
 Texas

Effective date: May 11, 1995

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



TITLE 31. NATURAL RE- SOURCES AND CON- SERVATION

Part X. Texas Water Development Board

Chapter 375. State Water Pollution Control Revolving Fund

Application for Assistance

- 31 TAC §375.39

The Texas Water Development Board has withdrawn from consideration for permanent adoption a proposed repeal of §375.39, which appeared in the May 12, 1995, issue of the *Texas Register* (20 TexReg 3563). The effective date of this withdrawal is May 11, 1995.

Issued in Austin, Texas, on May 11, 1995.

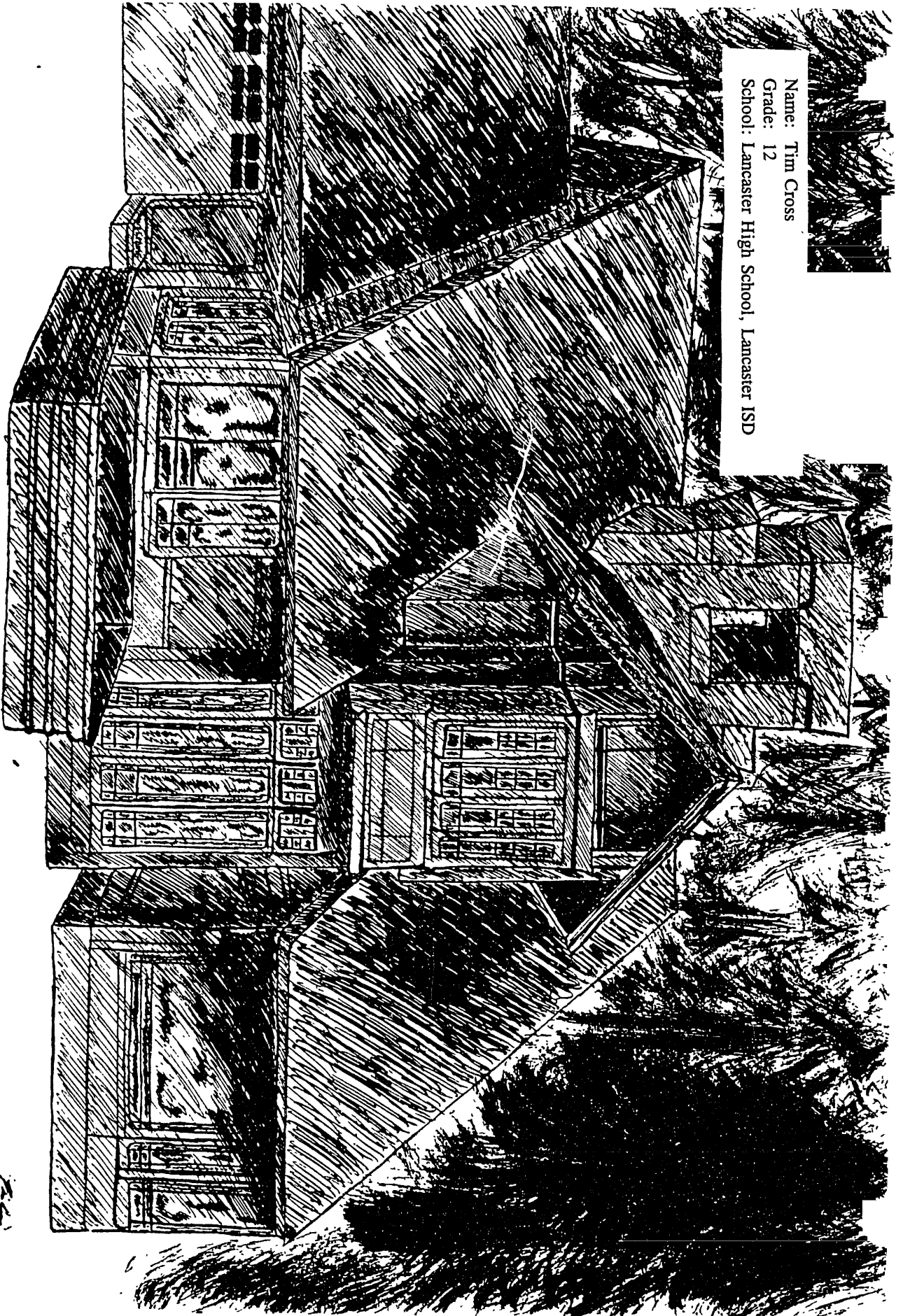
TRD-9505740 Craig D. Pedersen
 Executive Administrator
 Texas Water Development
 Board

Effective date: May 11, 1995

For further information, please call: (512)
463-7981



Name: Tim Cross
Grade: 12
School: Lancaster High School, Lancaster ISD



201

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 22. EXAMINING BOARDS

Part XXII. Texas State Board of Public Accountancy

Chapter 501. Professional Conduct

The Texas State Board of Public Accountancy adopts amendments to §§501.2-501.4, and 501.40, concerning professional conduct. Section 501.2 and §501.40 are adopted with changes to the proposed text as published in the March 17, 1995, issue of the *Texas Register* (20 TexReg 1851). Section 501.3 and §501.4 are adopted without changes and will not be republished.

The changes for rule 501.2 are the inclusion of the word "routinely" before the word "require" in subparagraph (A)(iv) of the definition of the practice of public accountancy, and the replacement of the words "is conventionally understood to imply such assurance and/or such" with the word "implies" as part of the definition of Report.

The changes to §501.40 are the replacing of the word "resumes" with the word "reserve" in the second paragraph of the preamble to rule 501.40; the changing of the word "holders" to the word "holder" in subsection (b); the replacement of the word "or" with the word "and" in subsection (a)(1) before the words "is required to register"; and the replacement of the words "other printed" with the word "written" in subsection (b) before the word "statement," and after the words "advertisement or"; and the inclusion of the word "the" before the word "certificate" in the subsection (b). The insertion of the phrase "as such" following the word "principal" in subsection (b), and the deletion of the word "both" and the phrase "and the name of the certificate or registration holder" in the same subsection. The words "authorized by" are replaced with the phrase "qualified to register with" in subsection (b). The last line of subsection (b) includes the new sentence "If the advertisement is in audio format only, the foregoing notation shall be clearly declared at the conclusion of each such presentation." Under subsection (c)(2) the words "institution's" and "fiduciary capacity" have been deleted. The last line of subsection (c)(2) now includes the phrase

"activities of the institution's trust department".

The amendments allow for a clearer understanding of the definitions, divide the definition of practice of public accountancy into two categories, client practice and industry or government practice; and comply with the U. S. Supreme Court decision in *Ibanez v. The Florida State Board of Public Accountancy*.

The amendments will function by establishing clearer definitions of terms used in other rules such as §501.40.

Comments concerning §§501.2-501.4 and 501.40 were received at the Board. The following people expressed the comments listed.

1. Chenok, Philip B. President, AICPA, New York, New York

The American Institute of Certified Public Accountants (AICPA) stated in its comments to the Board that the Board should reconsider the adoption of the proposed rules. The AICPA stated that the proposed disclaimer will confuse and mislead the public and in order to assure compliance with the highest ethical and professional standards a CPA should practice in a firm that adheres to the same ethical and professional standards as the CPA. Its comments further stated that constitutional law does not mandate the Disclaimer.

RESPONSE:

The Board recognizes and appreciates the concerns identified in the AICPA's comments. The Board is also sensitive however to the individual CPA's right to commercial free speech and unobtrusive regulation.

The profession has changed dramatically in the last 30 years. The Board believes that it has an obligation to address these changes by its regulations and to recognize that a large majority of CPAs in the State of Texas are no longer practicing public accounting in the traditional CPA firm. The Board has determined that the proposed rules recognize and accommodate the CPA who wishes to practice through a CPA firm as well as those who choose to provide accounting services to their employer or provide the services to the public as a person with specialized training but without providing auditing, compilation and reviews.

The proposed regulation does not prohibit a CPA from telling the public that he or she is a

CPA while practicing through a non-registered entity. The Board believes that such a practice is at best difficult to monitor and enforce as well as unfair to the CPA who has earned the recognition. What the proposed rule provides is three options from which to choose. The CPA may practice through a CPA firm. The CPA may also practice through a non-CPA firm that does not provide audits, compilations and review and use the Disclaimer language when he or she is identified in a written statement or audio advertisement as a CPA. The CPA may also choose to provide accounting services through a non-CPA firm not providing the attest function without being identified as a CPA.

Subsumed in the Board's mission to protect the public is an obligation to allow consumers to make their own informed, educated choices. The Board believes that the proposed rule permits the CPA to choose a form of practice which recognizes the CPA's accomplishment and administers a regulatory program that creates a better informed public. Regardless of whether the CPA licensee provides services through a registered entity or not, the CPA licensee is required to comply with the Board's Rules of Professional Conduct.

2. Baker, W. Hank, Senior Vice President Secured Trust Corporation, Tyler, Texas.

Mr. Baker said using the term "federally-insured depository institution" is inappropriate because the term refers to insuring time and demand deposits and does not relate to fiduciary activities because trust deposits are not covered by the FDIC. He points out that financial institutions may be chartered by the State of Texas, and that both state and federal charters may be issued solely for fiduciary activities. Mr. Baker suggests replacing the term with "an institution regulated by the Texas Department of Banking, the Office of the Comptroller of the Currency."

RESPONSE:

The Board considered these issues to some degree and, while further study may be appropriate, there was a conclusion that federal insurance would be used as the exemption trigger, not because of the insurance of deposits but because federal insurance triggers the full scope of federal regulation. Whether a bank is state chartered or federally chartered, to obtain federal insurance the bank must submit to the full scope of federal regulation.

and it was this extent of regulation that the Board felt comfortable using as the benchmark for exemption. The Board's initial review concluded that purely state regulated trust companies were subject to less onerous state regulatory schemes than is the case for the trust departments of traditional, federally-insured and regulated commercial banks. Furthermore, the state "change of control" regulations over pure trust companies, as compared to federally regulated banks with trust departments, possibly render such trust companies subject to manipulation and use as conduits by commercial enterprises seeking to obtain the benefit of the exemption. This "conduit" concern also arises from the fact that state regulated trust companies with limited assets exist which could be obtained by a commercial enterprise at comparatively low cost.

The Board members also felt the exemption should be based on the fact that existing federal law allows tax return preparation and other related accounting services within the trust departments of federally regulated commercial banks, under a Constitutional preemption concept. This preemption argument would not apply to state regulated trust companies.

If financial institutions can provide the Board with evidence of like regulation the Board would be receptive to revisiting this issue in the form of a future rulemaking.

3. Barr, Robert H., CPA.

Mr. Barr objects to the Disclaimer because he believes: it tarnishes the image of the CPA designation; creates a misunderstanding for the public; creates a second class CPA status; there is no substantial difference between a CPA in commercial enterprise and a CPA in a CPA firm; the Disclaimer is a misrepresentation of fact; and, the Disclaimer would stop CPAs from doing work they are more qualified to perform. Mr. Barr says the matrix and the rules are not in agreement because the rule says the Disclaimer is required even when the CPA designation is not used, while the matrix implies a Disclaimer is required only when the CPA designation is used. He agrees with the proposed rules regarding attest and compilation.

RESPONSE:

The Disclaimer has been re-written to be informative and accurate for the consumer, and non-derogatory and positive for the CPAs whose employers will make the disclosure. Although the matrix is not a rule, language has been added to make it clear that the disclaimer is required when there is reference by a firm to any CPA's association with the firm offering accounting services.

4. Blair, Vickie L., CPA, Rockwall, Texas

Ms. Blair objects to the Disclaimer because it strengthens the position of the large CPA firms in areas other than attest and compilation, because she is as qualified as any other CPA, and because the Disclaimer is discriminatory.

RESPONSE:

See response in Number 3.

5. Broussard, Jana K., CPA, Hallsville, Texas.

Ms. Broussard objects to the Disclaimer to the extent its disclosure is required in areas other than attest, compilation and report preparation because it implies her CPA designation is invalid. She suggests the possibility of a third category of CPA for the attest function alone or a restating of the disclaimer in a positive manner.

RESPONSE:

See response in Number 3.

6. Burgher, Jeffrey, CPA, Dallas, Texas.

Mr. Burgher is a property appraiser. He is concerned that the definition of accounting may apply to him because of inconsistent answers. If the definition does apply to him then he objects to the Disclaimer Mr Burgher is appalled that the current and proposed definition of accounting is so broad. He states compilation services are not a concern and if attestation services are the concern then the board should be more specific. Mr. Burgher says this is a restraint of trade by CPA firms.

RESPONSE:

The reasons for the responses were explained to Mr. Burgher in a letter dated April 17.

The definition and the Disclaimer would not apply to Mr. Burgher.

The definition of accounting was created by the Texas Legislature and not this proposed rulemaking.

7. Cannelax, Terry, Assistant Vice President Accounting Policy and Procedure, USAA, San Antonio, Texas

Mr. Cannelax asks 5 questions requiring interpretation and application of the proposed rules including whether the proposed rules prohibit CPAs performing pro bono work for charities unless they have registered practice units. He wants the exemption to include employees of life insurance companies and investment management/broker dealers because they occasionally give financial advice to their employer's customers like bank trust departments.

RESPONSE:

CPAs performing pro bono work will not be held accountable by the Board for their pro bono work so long as they reasonably adhere to professional standards. CPAs who perform as investment managers/broker dealers and sell life insurance are not in the practice of public accountancy and may display their CPA designation without having to practice through a registered entity or use the Disclaimer language of rule 501.40(b).

8. Chovantez, Frank

Mr. Chovantez wants the Board to retain the asterisk by the CPA's name and wants the Disclaimer to read "Not authorized" instead of "Not qualified" to register.

RESPONSE:

The Board does not believe that the Disclaimer language appended to the CPA's name and firm name would be an accurate statement. Only the firm is not registered by

the Board of Public Accountancy. If a CPA licensed by the Board is required to insert a disclaimer stating "not qualified" alongside his name, the public could be misled into believing that the CPA is not fully accredited.

The Board has chosen the term "qualified" in order to track the language of the section of the Public Accountancy Act that requires registration. The Board believes "qualified" is a more accurate representation of legislative intent.

9. Corbin, Ray W

Mr Corbin is a shareholder in an independent trust company regulated by the Texas Department of Banking and wants the exemption expanded to exempt state or federally regulated corporate trustee services.

RESPONSE:

See response in Number 2

10 Douglas, Melvyn L, attorney/CPA, Dallas, Texas.

Mr Douglas supports the exemption for attorneys

RESPONSE:

The rules express long-standing Board policy regarding attorney/CPAs.

11. Texas Credit Union League (TCUL) and TCUL Services

(TCULS) commented through their attorneys, Gail Watkins and Lisa Dreishmire, Haynes and Boone, Austin, Texas

The member credit unions own TCUL, TCUL owns TCULS, TCULS employs CPAs to perform accounting services for its member credit unions. TCULS believes the CPAs are employees of the member credit unions and in the industry category. TCULS wants additional rule language to allow it to perform specific review and examination functions, not opinion or attestations, as required by state or federal statutes or regulations on credit unions

RESPONSE:

The Board agrees with the comment as presented that the CPAs with TCULS are in the industry or government practice of public accountancy. Paragraph B in the definition of public accountancy states that a CPA is in industry or government practice when preparing or reporting on financial statements of the CPA's employer or an entity "affiliated with" the employer. Paragraph D states that the CPA is "affiliated with" a licensee's employer when the employer possess the power to direct the management of the entity through ownership. TCULS must recognize, however, that when preparing financial statements for their owner/employer credit unions they must comply with §501.4(b) of the Board rules. That section prevents a licensee not in the client practice of public accountancy from claiming or implying independence from his or her employer.

12. TCUL and TCULS

In a subsequent comment TCUL significantly changed the wording of the language it had earlier proposed for a rule to apply to its specific situation.

RESPONSE:

The response in Number 11 still applies

13. Feher, Theodore M., CPA, National Conference of CPA Practitioners (NCCPAP), Lake Success, New York.

Mr. Feher wants the board to require all CPAs to follow the same ethical standards. He does not want CPAs to be licensed unless they are employed by licensed CPA firms. He asked the Board to conduct additional public hearings on these rules. Mr. Feher wants the definition of public accountancy defined as anything a licensed CPA does, a CPA may be licensed only if employed by a CPA firm; anyone not licensed is not practicing public accountancy; anyone not licensed may not refer to themselves as a CPA. Mr. Feher dislikes the 5-minute limit on addressing the Board at public hearings on the rules, and the 8:30 a. m. public hearing starting time because they are disincentives to CPAs living outside Austin.

RESPONSE:

All CPAs are held to the same ethical standards. Depending on a CPA's work, different professional and industry standards may apply but the standards apply uniformly to every CPA engaged in that particular line of work.

The Board held public hearings on these rules on January 19, 1994 and on April 18, 1995. No reason is given to support the request for further hearings. The Board is not required to conduct a third public hearing and believes that it has received enough evidence over the last two years it has studied this issue to make an informed decision.

NCCPAP's definition may be too exclusive.

There were no limits imposed on the length of written comments to be submitted to the Board, and all written comments on the proposed rules were photocopied and made available to all Board members. It is reasonable for an organization to impose time limits on speakers. Early starting times allow persons to return to work without losing the entire day. It is unlikely any time limit and starting time would satisfy everyone.

14 Feher, Theodore

In a subsequent comment Mr. Feher states he was under the impression from the April 18, 1995 public hearing that the Board would not consider the rules until the June 29, 1995 Board meeting. He believes the Board's meeting dates are arbitrary, impulsive and inconsistent and that the Board is trying to "railroad" a decision.

RESPONSE:

At the April 18, 1995 public hearing there was some discussion that the next regularly scheduled Board meeting was on June 29, 1995. At the April 19, 1995 Board meeting the full Board decided to hold a Board meeting on May 1, 1995 to consider these and other rules. Notice of the Board meeting was personally mailed to each individual attending the April 18, 1995 public hearing and to each person who submitted written comments to the Board as well as being published in the *Texas Register*.

With regard to the Board acting impulsively on these rules, the Board has been examining these revisions for approximately 2 1/2 years. On two occasions the Board has personally provided mail outs to over 50,000 people advising them of the Board's proposals, explaining them and soliciting their comments. Two public hearings have been conducted to receive and consider public comments and the Board has discussed the proposed rulemaking at most of the Board's public meetings for the past two years. The proposed rulemakings have been published in the *Texas Register* pursuant to state law and the Board has received more written comments on these rules than the Board has received in its recent history. It is not a fair nor accurate comment to accuse the Board of attempting to "railroad" its decisions.

15. Flanagan, Sam, CPA, Austin, Texas

Mr. Flanagan is 100% in support of the proposed rules. He favors a waiver of continuing professional education requirements and a reduction of license fees for commercial enterprise CPAs, and thinks specialty designations are needed.

RESPONSE:

The licensing fee is being reduced. As low as the fee will be, it would serve little purpose to distinguish between commercial enterprises and CPA firms.

CPE, license fees and specialty designations are outside the scope of the proposed rules.

CPAs are free to move among CPA firms, commercial enterprise, industry and government, and the Board may set a minimum continuing professional education requirement for all CPAs.

16 Freeman, L DeLynn, Dallas, Texas

Mr. Freeman opposes the Disclaimer because it implies someone is less qualified.

RESPONSE:

See response in Number 3

17. Guinn, G. Kyle, Southwest Guaranty Trust Company, Houston, Texas

Mr. Guinn endorses the language proposed by Dianne Hughes and states that independent trust companies are regulated similarly to bank trust departments.

RESPONSE:

See the response to Ms. Hughes at item 22. See response in Number 2.

18 Harris, Susan R

Ms. Harris wants the exemption extended to other entities which meet the same criteria. Registered Investment Advisors (RIAs) are highly regulated by the Securities and Exchange Commission and the State Securities Board. Both the SEC and the State Securities Board perform compliance audits of RIAs. She points out the similarity to bank trust departments and feels excluding other groups which satisfy the criteria is unfair, discriminatory and provides an unfair competitive advantage. She suggests a process whereby other entities could apply for exemption. Ms. Harris included approximately 1/4 inch of ma-

terials supporting her exemption request, which is useful.

In a subsequent comment Ms. Harris said there are attorneys performing the same services as she offers and they may use the CPA designation without a Disclaimer. The Disclaimer is negative and she suggests an alternate, but lengthier language. The Disclaimer should only address the attest function. Either there should be no exemptions or the exemptions should be fair and available to anyone who satisfies the criteria.

RESPONSE:

There is no intent, desire or design to exclude any group or to favor one group over another.

The Board has not satisfied itself that any industry that is regulated should be able to be exempted. The nature, scope and goals of regulation, and enforcement policies, vary for each regulated industry and, accordingly, the potential for abuse at the entity level varies as well. Some regulatory schemes, while stringent as to their primary purpose and goal, may offer no relief or safety with regard to accounting services rendered by individuals within those regulated businesses. After consideration of historical experience and legal analysis, the Board only felt confident with the two exemptions provided for in proposed Rule 501.40.

The rules can be amended to recognize any exemptions the Board feels qualify for exemption.

The board already has procedures whereby CPAs can apply for exemptions from other requirements, and this exemption can be included.

19 Hay, Fred, CPA, Austin, Texas

Mr. Hay requested clarification on the proposed rules' impact on his practice.

RESPONSE:

In a letter dated April 17, 1995 the staff informed Mr. Hays that the proposed rules did not affect his occasionally serving as a client's internal controller since he has a registered practice unit.

20. Hochberg, Scott, State Representative from District 132, Houston, Texas

Representative Hochberg suggested the insertion of "routinely" between "recommendations" and "require" in §501.2(A)(iv) to clarify that periodic recommendations or advice are not prohibited.

RESPONSE:

His recommendation has been included in the most recent draft.

21. Holeman, Roger A.

Mr. Holeman inquired whether private practice CPAs would have a different "stature" from public practice CPAs, and said the large public accounting firms were lobbying to deny private practice CPAs the same rights and privileges granted public practice CPAs.

RESPONSE:

Both CPAs in client practice and CPAs in Industry and Government practice are permit-

ted to use their CPA designation. A CPA in the client practice of public accountancy who is not practicing through an entity registered with the Board must advise the public of that fact. This does not provide any distinction in stature between CPAs. It does result in informing the public when a CPA chooses not to practice through a registered CPA firm.

22. Hughes, Dianne, Executive Director, Trust Financial Services Division/Texas Bankers Association, Austin, Texas.

Ms. Hughes feels the rules discriminate against independent trust companies and other financial institutions like credit unions, and exclude state chartered independent trust companies and federally chartered trust companies. She recommends against referencing specific regulatory agencies because of overlapping authority and possible future government downsizing. She recommends using "state or federally regulated financial institution that provides depository or corporate trustee services."

RESPONSE:

See responses in Numbers 2, 11, and 18. Excluding some groups from exemption for a reasonable period of time to allow the Board to study whether exemption is appropriate for any of the excluded groups does not rise to the level of discrimination

As to Ms. Hughes' comment about not referencing a particular regulatory agency, the Board recognizes the extent and quality of oversight and regulation varies by regulatory body and prefers to avoid expressing a blanket approval of all regulatory bodies

23. Joiner, J. David, CPA, Dallas, Texas

Mr. Joiner supports the Disclaimer and feels CPAs not involved in client practice should not identify themselves to the public as CPAs.

RESPONSE:

See response to Number 3.

Limiting the CPA designation to only CPAs in client practice would be overly limiting.

24. Kanaly, E. Deane, Chairman Kanaly Trust Company, Houston, Texas.

Ms. Kanaly seconds Dianne Hughes' comments regarding independent trust companies.

RESPONSE:

The response to Ms. Hughes is at item 22.

25. M. Travis Keath, CPA, Mary Beth Petruska, CPA, and Ray A. Sheeler, CPA, Business Valuation Services (BVS), Dallas, Texas

BVS objects to the Disclaimer because it believes it is blatantly anti competitive. The Disclaimer would impair the utility of the CPA designation at unregistered firms, implies some CPAs are less qualified, and places them at a distinct marketing disadvantage. BVS acknowledges the unauthorized provision of attestation and compilation services is undesirable, but suggests this be addressed via annual affidavits requiring disclosure of any attestation or compilation services performed.

RESPONSE:

See response to Number 3.

Licensee affidavits which admit to having performed attest or compilations during the previous year fail to protect those members of the public who retained or relied upon the attestations or compilations during the year ended. Affidavits are neither prohibitions nor always reliable.

26. Kuhlwein, Michael R., CPA, Dallas, Texas.

Mr. Kuhlwein objects to the Disclaimer, categorizing it as sheer discrimination and an attempt to circumvent Ibanez. He states the true reason for the proposed rules is to strengthen the position of the large CPA firms in service areas other than attest and compilation.

RESPONSE:

The proposed rules are an attempt to regulate fairly, and inform and educate the public; they are not an attempt to favor one group of CPAs over another.

27. Liles, Mitch, Garland, Texas.

Mr. Liles' comments were general and did not address any particular rules. He feels whatever rules are adopted should not cause a CPA to have to surrender his certificate; the current dilemma could be resolved by not requiring practice unit registration; and, the Board's genuine attempt to be fair is resulting in over regulation and excessive definition.

RESPONSE:

The proposed rules are not designed to cause surrenders of certificates; they should result in more compliance with the Board's rules.

Practice unit registration does not pose any problem addressed by the proposed rules. To the extent there is a "problem," the "problems" are caused by CPAs, not by inanimate legal entities.

In order to place everyone on notice and to be fair, sometimes rules and definitions have to be lengthy

28. Lucksinger, Michael, attorney/CPA, Burnet, Texas.

Mr Lucksinger supports the proposed rules, especially as they apply to attorneys.

RESPONSE:

The rules express long-standing Board policy regarding attorney/CPAs

29. Luckenback, Byron, CPA, Green & McElreath

The commenter stated that the asterisk footnoting the Disclaimer language should be by the written name of the CPA as well as the firm name. He was concerned that the public would be confused and not understand the distinction. He also recommended that the Disclaimer language contain "not authorized" as opposed to "not qualified to register with."

RESPONSE:

The Board does not believe that the Disclaimer language appended to the CPA's

name and firm name would be an accurate statement. Only the firm is not registered by the Board of Public Accountancy. If a CPA licensed by the Board is required to insert a disclaimer stating "not qualified" alongside his name, the public could be misled into believing that the CPA is not fully accredited.

The Board prefers to state "not qualified" rather than "not authorized" since qualified is the term used in §10 of the Public Accountancy Act that requires firm registration. The Board believes qualified more accurately reflects the legislative intent.

30. Lyons, E. Keith, CPA, Investigative Group Inc., Houston, Texas.

Mr. Lyons is part owner of a private investigation firm. He feels he is in commercial practice and objects to the Disclaimer because it creates the false impression that he is not a "real" CPA. He thinks CPA firms are forcing other CPAs to use the Disclaimer to give potential clients the wrong impression, resulting in unfair competition.

RESPONSE:

See response to Number 3.

One result of the proposed rules will be increased information and more accurate information being available to the consumer.

Favoring one group of CPAs over another group is neither this Board's mandate nor its desire.

A private investigator is not in the practice of public accountancy and thus not required to use the Disclaimer language.

31. McCullough, Thomas W., attorney, President American Association of Attorney-Certified Public Accountants, Houston, Texas.

Mr. McCullough supports the proposed rules, especially as applied to attorney/CPAs. He suggests the exemption be moved to the definitions section and modified to clarify it is the legal services which are excepted. Mr. McCullough discusses separation of powers since attorneys are under the judicial branch of government and this board is under the executive branch.

RESPONSE:

The proposed rules express the board's long-standing policy regarding attorney/CPAs.

The suggested language is inappropriate because it is not the attorney's practice of law that is being exempted, it is the attorney/CPA's unregistered practice unit practice of public accountancy that is being exempted.

The separation of powers doctrine is inapplicable. This Board has no jurisdiction over the practice of law. This Board does have jurisdiction over the practice of accountancy. Whenever anyone receives this Board's licensure they automatically become subject to this Board's jurisdiction as to the practice of public accountancy.

32. McElreath, Ross, CPA, Green & McElreath

The concerns expressed in his written statement mirrored the concerns expressed in

Number 29.

RESPONSE:

See response contained in Number 29.

33. McKenzie, Sarah, National Director-Firm Development, American Express Tax and Business Services (AMX), Minneapolis, Minnesota.

Ms. McKenzie submitted lengthy comments on compiled financial statements and the Disclaimer.

Compilations.

Ms McKenzie says equating compilations with audit and attest functions gives CPA firms a monopoly on compilations. She says only CPAs employed by CPA firms will be able to provide client services that include compilations. Compiled financial statements, and the reports thereon, are not expressions of opinion by CPAs and present no risk to third party users. The proposed rules would lock AMX out of tax and management services because they are integrally linked to compilations. CPAs are prohibited from offering the same services that non CPAs may lawfully provide. Ms. McKenzie cites the Opella case which permits unlicensed accountants to issue transmittal letters with compilations. The Board is attempting to prohibit CPAs employed by non CPA firms from issuing compilations and transmittal letters in the same form as unlicensed accountants are permitted to do. More qualified professionals are prohibited from doing what less qualified non CPAs may do. Ms McKenzie disagrees with the conclusion that the rules will not adversely affect small businesses and will not impose costs on those businesses. She says the rules will drive competitors in tax and business services out of business entirely, will greatly reduce the revenues of others, and are anti-consumer, pro-monopoly.

Disclaimer.

The Disclaimer conveys materially false information to consumers. The individual CPAs and the unlicensed firms may provide tax and consulting services. The Disclaimer is grossly over broad and unnecessary. Ms. McKenzie cites a Supreme Court Justice's comment during oral argument of Ibanez to the effect that if a potential client were to seek attest services from a CPA employed by a non CPA firm the CPA would simply inform the potential client that the attest service was not available. The Disclaimer is so negatively worded that it creates a ban on using the credential. If CPAs choose to not use the CPA designation the consumer is not aware they have a right to file a complaint with the IRS. The Disclaimer must not be necessary because banks and law firms are exempted. It would be more effective to restate the Disclaimer positively.

RESPONSE:

Compilations.

CPAs do not receive a monopoly on compilations by these proposed rules. Non CPA firms may prepare financial statements so long as no opinion is expressed and no report is included which violates §8 of the Act, and so long as they are not performed by CPAs.

There is an exemption in SSARS for financial statements prepared in connection with tax return preparation.

The commenter states that compilations do not present a risk to third party users. Third parties do rely on these compilations and if a bank, for example, sees a compilation signed by a CPA it will give it greater weight than one signed by a non CPA. The bank would expect the compilation performed by the CPA to be performed in accordance with CPA standards, i.e. SSARS. The public needs to be protected and is being protected when CPAs are required to perform in accordance with stricter standards than non CPAs. The CPA firm ownership requirement is one of these stricter standards, in that it assures that all of the owners of the firm are licensed and subject to the professional standards applicable to CPAs.

Disclaimer.

See response in Number 3

34. Mintz, Steven.

Professor Mintz says some individuals required to issue a Disclaimer may actually perform some services through unregistered entities.

He suggested new and additional language for the Disclaimer.

RESPONSE:

The circumstances under which disclosure is required has been changed to require disclosure by the employer, not the employee.

See response to Number 3.

35. Neely, Karen M., General Counsel, Independent Bankers Association of Texas, Austin, Texas.

Ms. Neely says the trust department exemption only applies to fiduciary activities. She wants the exemption expanded to apply whenever the bank was acting within the scope of its legally permitted activities.

RESPONSE:

The exemption is limited to trust activities because that is the banking activity with the extensive federal regulatory oversight. The other banking activities do not receive the same level of regulatory oversight.

36. Newlin, Clarke R., Senior Vice President, Advent Trust Company, Houston, Texas

Mr. Newlin concurs with Ms. Hughes comments at item 22. He suggests the exemption for attorneys be expanded to include employees of an attorney because his company has some tax work performed by an affiliated law firm.

RESPONSE:

The suggested language is unnecessary.

The exemption is based on the fact that attorney/CPAs are regulated by the State Supreme Court and by this Board.

Employees of an attorney may not be licensed by the State Supreme Court, by this Board, or by any regulatory authority.

Other banking activities do not receive the same level of regulatory oversight.

Also see responses to Numbers 2 and 18.

37. Owen, Bob, President, TSCPA, Dallas, Texas.

Mr. Owen is in favor of the proposed rules. He feels compilation services must be performed by registered entities. He wants the Board to aggressively enforce the Disclaimer requirement.

RESPONSE:

None required.

38. Robinson, John C, CPA, Garland, Texas.

Mr. Robinson objects to the definition of accountancy including the sale of computer software. Mr. Robinson says the Board's rules are intended to protect users of audited financial statements by policing the competency of those who prepare the statements.

RESPONSE:

The sale of computer software is not regulated. It becomes regulated when a purchaser makes a decision to purchase computer software based upon the expert advice of a CPA. When the public relies upon the advice of a CPA in the sale of accounting software, the CPA is in the practice of public accounting.

39. Rucker, Guy W., CPA, Addison, Texas

Mr. Rucker says the giving of tax advice and management consulting are the practice of law, and the Board is infringing on the State Bar and the Supreme Court which regulate the practice of law. He also says the preparation of tax returns is regulated by the IRS, not by this Board.

RESPONSE:

The Board has a long-standing policy of exempting attorney/CPAs.

The Board has concurrent and independent jurisdiction over CPAs who are attorneys, and over CPAs who are subject to IRS regulation.

40. Rye, Joe T.

Mr. Rye thinks it is a mistake to grant an exemption because others will want the exemption resulting in selective enforcement. He says the matrix and rules are inconsistent. He says the rules require the Disclaimer even if the designation is not used, while the matrix requires the Disclaimer only if the designation is used. He says a CPA owner of a corporation ineligible to register would have to surrender his certificate.

RESPONSE:

If the Board grants an exemption when certain requirements are satisfied, then it would be a mistake to not grant exemptions to anyone who satisfied the criteria. This is equal treatment, it is not selective enforcement. Selective enforcement occurs when only some suspected violators are regularly prosecuted and other similarly situated suspects are regularly not prosecuted.

The rule has been revised to be in agreement with the matrix.

41. Scott, Dr. Edward R., Los Angeles, California.

Dr. Scott stated that expanding the definition of the practice of accountancy places an unreasonable burden on many accountants. The proposed definition will deprive some CPAs of their certificate, will deprive some employers of the value of their employee/CPA's certificate, and will deprive some CPAs of potential jobs. He suggests having CPAs indicate the last year they were licensed, establishing a second category of certificate for MIGIs with minimum annual requirements, and allowing MIGI CPAs to honorably "retire" their certificate.

RESPONSE:

The Board is not expanding the definition of Public Accountancy. The definition was created by the Texas Legislature.

42. Texas Commerce Bank National Association (TCB) commented through its attorney, Carroll Shaddock, Houston, Texas

TCB wants the exemption to apply to all activities undertaken as an employee of a federally insured depository. If not, TCB says the exemption language is unclear and wants the exemption language clarified.

RESPONSE:

The Board does not believe that the other banking activities receive the same level of oversight as trust departments.

In response to the issue raised concerning the clarity of the exemption, the Board has revised the language in §501.40(c)(2) to address his concern.

43. EDS commented through its attorney, Marc Shivers of Hughes & Luce, Austin, Texas.

EDS says it is unclear when the Disclaimer must be used, suggests alternate Disclaimer language, believes the Disclaimer should not be used by the CPA's name, and suggests a shorter Disclaimer for the CPA's business card.

In a subsequent comment EDS said the last clause in §501.40(a)(1) referencing §20 was confusing and unnecessary.

RESPONSE:

The Disclaimer has been rewritten.

EDS' observation was correct. The "or" was changed to "and." The end of this clause should read: "...eligible for registration, and is required to register..."

44. Sterkx, Albert D., CPA, Katy, Texas.

Mr. Sterkx complains about fee increases, the current confusing fee structure, and the continuing professional education requirement. He believes any CPA should be able to offer his services to the public.

RESPONSE:

By letter dated April 17, 1995 Mr. Sterkx was informed the fees are legislatively mandated, that the current fee structure is a conversion to birth month licensing, and about practice unit registration.

The remainder of Mr. Sterkx' comments do not address the proposed rules.

45. Tenenbaum, Marvin A., Vice President & General Counsel, Peterson Consulting, Chicago, Illinois.

Mr. Tenenbaum objects to the negativity of the Disclaimer and suggests more neutral language be used. He objects to the exception for banks and lawyers as being arbitrary, unlawful and unwarranted. He says the statement that lawyers' practice of public accountancy is the practice of law is totally incorrect. He says the rules will allow a law firm to use non lawyer CPAs to perform public accounting and will allow the law firms' non lawyer CPAs to use the CPA designation.

RESPONSE:

The Disclaimer has been rewritten.

When attorneys interpret the Internal Revenue Code, Tax Court opinions, and prepare inventories and financial statements for use in courts, they are engaged in the practice of law. CPAs who prepare tax returns and offer tax advice are not subject to charges of unauthorized practice of law due to long-standing policy agreements between the two professions.

An attorney/CPA may use the CPA designation. The CPA designation may not be used by a non CPA attorney and may not be used by a non CPA employee of the attorney.

A non CPA attorney may not engage in the practice of accountancy unless it is incidental to the practice of law. A CPA/attorney may not perform an audit or issue an audit report as part of his practice of law.

46. Vest, Herb, chairman, HD Vest Financial Services, Irving, Texas.

Mr. Vest comments about the short time allowed in which to comment on the proposed rules and says this is due to the Board's hidden agenda. He says expressing an opinion on a set of financial statements is the only area exclusive to a CPA. Including other service areas is designed to regulate the competitive process and not to protect the public.

RESPONSE:

The Board has been considering these rules since 1993 and has written about them in two Board Reports and had two public hearings and two separate comment periods. The public participation is unprecedented and it is thus difficult to justify accusing the Board of hiding anything.

The definition of accountancy is also in the Public Accountancy Act and it is not limited to attestations.

47. Vickers, F. Charles, CPA, Dallas, Texas.

Mr. Vickers wants §501.2(B)(1) and (D) to include the situation where a wealthy family employs CPAs to perform accounting, tax and compilation services for the individual family members, for the trusts established for family members, and for companies owned by family members. Services are not performed for any persons not related "in some way" to this particular family.

RESPONSE:

Rather than grant an exception for a nebulous but small category, case-by-case examination is more appropriate.

Mr. Vickers does not define either "family" or "in some way." These terms could be extended to include a large number of persons who are remotely related to each other. It is unclear whether the companies are fully owned only by some or all of the family members or whether there is non-family ownership.

48. Walker, David G., CPA, Vice President, Mercantile Partners, Fort Worth, Texas.

Mr. Walker says if the rules mean a CPA in industry or government is prohibited from allowing internally generated financial statements from getting into the hands of third party users such as banks, then there is no reason to hire a CPA or for a CPA to use his designation. He also says CPAs in industry or government should be allowed to practice on the side without paying a \$250 fee and being subject to quality review.

RESPONSE:

By letter dated April 17, 1995 staff informed Mr. Walker that CPAs may practice on the side, that the practice unit fee is \$100, and under what circumstances quality review is required.

The rules do not require a CPA to prevent his employer's dissemination of financial statements.

49. Wilshire, Rick, President, National Association of Enrolled Agents, Gaithersburg, Maryland.

Mr. Wilshire objects that Enrolled Agents (EA) are not exempted because they are regulated by the IRS. He says EAs prepare financial statements for their practice before the IRS and the proposed rules restrict this ability.

In a subsequent comment Mr. Wilshire took exception to a Board member's comment at the April 18, 1995 public hearing and offered citations to federal statutes and regulations regarding regulation of EAs by the Internal Revenue Service.

RESPONSE:

Enrolled Agent CPAs who are licensed by the State of Texas agree to abide by the terms of their licensure. They can not agree to licensure and its terms and simultaneously argue that the terms they have agreed to do not apply to them because of federal preemption. When the public sees the CPA designation, they expect and should expect that the CPA is complying with the requisites of being a CPA.

50. Wilson, Pat, CPA, Alamo Investment Management, San Antonio, Texas.

Mr. Wilson is an institutional money manager who manages investment portfolios. It seems he believes he may not be able to use the CPA designation under the proposed rules. He suggests he be allowed to use the CPA designation as long as he tells the public he does not practice accountancy.

RESPONSE:

Mr. Wilson is in the industry or government practice of public accountancy.

Based upon the information provided he does not provide financial advisory services and may therefore use the CPA designation without the Disclaimer language.

General Provisions

• 22 TAC §501.2

The amendment is adopted under Texas Civil Statutes, Article 41a-1, §6, which provide the Texas State Board of Public Accountancy with the authority to make such rules as may be necessary or advisable to carry in effect the purposes of the law.

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

Practice of public accountancy—The practice of public accountancy includes the client practice of public accountancy and the industry or government practice of public accountancy.

(A) Client Practice. Client practice of public accountancy is the offer to perform or the performance by a certificate or registration holder for a client or a potential client (other than the certificate or registration holder's employer or an entity affiliated with the employer) of a service involving the use of accounting, attesting, or auditing skills. The phrase "service involving the use of accounting, attesting, or auditing skills" includes:

(i) the issuance of reports on, or the preparation of, financial statements—including historical or prospective financial statements or any element thereof,

(ii) the furnishing of management or financial advisory or consulting services,

(iii) the preparation of tax returns or the furnishing of advice or consultation on tax matters; and/or

(iv) the advice or recommendations in connection with the sale or offer for sale of products (including the design and implementation of computer software), when the advice or recommendations routinely require or imply the possession of accounting or auditing skills or expert knowledge in auditing or accounting.

(B) Industry or government practice. Industry or government practice of public accountancy is:

(i) the preparation of, or reporting on, financial statements (including historical or prospective financial statements or any element thereof) by an individual licensed under the Act, of the individual's employer or an entity affiliated with the employer, when the financial state-

ment or report is to be used by an investor, a third party, or a financial institution;

(ii) the preparation of a tax return of the individual's employer or an entity affiliated with the employer, if the tax return is filed with a taxing authority; or

(iii) the supervision of those activities described in clauses (i) and (ii) of this subparagraph.

(C) A certificate or registration holder not engaged or employed to any extent in either the client practice of public accountancy or the industry or government practice of public accountancy is not engaged in the practice of public accountancy. Furthermore, the preparation of reports by an individual licensed under the Act exclusively for internal use by the management and/or board of directors of the individual's employer or an entity affiliated with the employer is not the practice of public accountancy.

(D) For purposes of the foregoing provisions of this section defining the practice of public accountancy, an entity shall be deemed "affiliated with" a licensee's employer only if, and so long as, the employer (directly or indirectly through another entity affiliated with the employer) possesses the power to direct the management of the entity through ownership of a majority of the voting securities or other applicable voting equity interests of the entity.

(E) The requirements for the registration of the client practice of public accountancy are found in §501.40 of this title (relating to Registration Requirements). The provisions of §501.40 do not apply to certificate or registration holders employed exclusively in the industry or government practice of public accountancy and do not apply to certificate or registration holders not engaged in the practice of public accountancy.

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

Issued in Austin, Texas, on May 10, 1995.

TRD-9505726 William Treacy
Executive Director
Texas State Board of
Public Accountancy

Effective date: May 31, 1995

Proposal publication date: March 17, 1995

For further information, please call: (512) 505-5566

• 22 TAC §501.3

The amendment is adopted under Texas Civil Statutes, Article 41a-1, §6, which provide the Texas State Board of Public Accountancy with the authority to make such rules as may be necessary or advisable to carry in effect the purposes of the law.

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

Issued in Austin, Texas, on May 10, 1995.

TRD-9505727 William Treacy
Executive Director
Texas State Board of
Public Accountancy

Effective date: May 31, 1995

Proposal publication date: March 17, 1995

For further information, please call: (512) 505-5566

• 22 TAC §501.4

The amendment is adopted under Texas Civil Statutes, Article 41a-1, §6, which provide the Texas State Board of Public Accountancy with the authority to make such rules as may be necessary or advisable to carry in effect the purposes of the law.

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

Issued in Austin, Texas, on May 10, 1995.

TRD-9505728 William Treacy
Executive Director
Texas State Board of
Public Accountancy

Effective date: May 31, 1995

Proposal publication date: March 17, 1995

For further information, please call: (512) 505-5566

Licensing/Registration Requirements

• 22 TAC §501.40

The amendment is adopted under Texas Civil Statutes, Article 41a-1, §6, which provide the Texas State Board of Public Accountancy with the authority to make such rules as may be necessary or advisable to carry in effect the purposes of the law.

§501.40. Registration Requirements.

(a) A certificate or registration holder engaged in the client practice of public accountancy as defined in §501.2 of this title (relating to Definitions) must practice through an entity meeting the ownership requirements of the Public Accountancy Act and registered with the board pursuant to the Public Accountancy

Act, §10, if:

(1) the certificate or registration holder engages in the client practice of public accountancy as a sole proprietorship or as an employee, partner, shareholder, member or independent contractor of a firm or person that is eligible for registration, and is required to register, under the Act, §§10, 17, 19 and/or 20; or

(2) the services offered or performed include the performance of attest or compilation services, or issuance of reports on financial statements—including historical or prospective financial statements or any element thereof.

(b) A certificate or registration holder engaged in the client practice of public accountancy as defined in §501.2 of this title (relating to Definitions) who is not required to practice through an entity registered with the board pursuant to subsection (a) of this section must, in each advertisement or written statement by the certificate or registration holder and/or by his or her employer or principal, in which reference is made to the certificate or registration holder or his or her association with the employer or principal as such, whether or not the specific certificate or registration holder is named, include an asterisk by the name of the employer or principal, which asterisk shall refer to a notation included within conspicuous proximity and with reasonable prominence that says "Not qualified to register with the Texas State Board of Public Accountancy to practice public accountancy in Texas." The notation must be printed in type not less bold than that contained in the body of the advertisement or written statement. If the advertisement is in audio format only, the foregoing notation shall be clearly declared at the conclusion of each such presentation.

(c) Notwithstanding the foregoing, the requirements of this section do not apply with regard to a certificate or registration holder performing services:

(1) as a licensed attorney at law of this state while in the practice of law; or

(2) as an employee, officer, or director of a federally-insured depository institution, when lawfully acting within the scope of the legally permitted activities of the institution's trust department.

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

Issued in Austin, Texas, on May 10, 1995.

TRD-9505729

William Treacy
Executive Director
Texas State Board of
Public Accountancy

Effective date: May 31, 1995

Proposal publication date: March 17, 1995

For further information, please call: (512) 505-5566

TITLE 25. HEALTH SERVICES

Part II. Texas Department of Mental Health and Mental Retardation

Chapter 401. System Administration

Subchapter B. Interagency Agreements

• 25 TAC §401.54

The Texas Department of Mental Health and Mental Retardation (TDMHMR) adopts an amendment to §401.54, concerning Interagency Agreements, with changes to the proposed text as published in the February 21, 1995, issue of the *Texas Register* (20 TexReg 1258).

The amended section adopts by reference rules of the Texas Education Agency (TEA) contained in 19 TAC §89.246 (relating to Memorandum of Understanding on Transition Planning for Students Receiving Special Education Services). The adopted text of the TEA rules was published in the April 18, 1995, issue of the *Texas Register* (20 TexReg 2823).

The TEA rule constitutes a memorandum of understanding (MOU) between TDMHMR, TEA, the Texas Employment Commission, the Texas Department of Human Services, the Texas Department of Protective and Regulatory Services, the Texas Rehabilitation Commission (TRC), and the Texas Commission for the Blind required by the Texas Education Code, §21.510. The MOU establishes the respective responsibilities of each agency for the provision of services necessary to prepare students enrolled in special education programs for a successful transition to life outside the public school system. The MOU also incorporates new federal requirements and clarifies the goals of, and responsibilities for, the transition planning process.

The TEA rule/MOU originally was adopted in July 1992. The current rule/MOU reflects months of negotiation between the named agencies. As stated in 19 TAC §89.246(g), the MOU becomes effective when it has been adopted by each of the named agencies. Revisions to the proposed text of the TEA rule/MOU are discussed in the adoption preamble of the TEA rule published in the April 18, 1995, issue of the *Texas Register* (20 TexReg 2823).

In a technical revision to the title of §401.54, the word "in" has been dropped. The word inadvertently was not marked for deletion in the proposed text.

No public hearing was held concerning the proposal. Written comments were received from Gulf Bend Center, Victoria; Heart of Texas Mental Health and Mental Retardation Center, Waco; Life Management Center for

MH/MR Services, El Paso; Texas United Regional Networks (TURN), Conroe, Texas.

One commenter questioned whether the department would provide community MHMR centers with the necessary staff to attend meetings of admission, review, and dismissal (ARD) committees and complete necessary paper work. The department responds that participation by community MHMR centers in the transition planning process for individuals currently being served by the community center is not a new requirement. The department notes that reference to the ARD process is included in the MOU for clarification of how it differs from the transition planning process and how the school district responsibility for transition planning is carried out in the individual education plan developed later at an ARD meeting. The revised MOU places increased emphasis on the community center representative meeting with the school district to develop and implement a plan for what the community center involvement in the transition process will be.

A commenter expressed agreement with the purpose of the MOU but stated that as a community MHMR center, the commenter had experienced very little cooperation from the school districts in the area served by the MHMRA. The commenter commended TRC for the funds and training opportunities provided by the agency. The department appreciates the commenters' support of the MOU's purpose and has shared the comments concerning lack of cooperation on the part of school districts with TEA. The comments concerning TRC have been shared with that agency.

A commenter stated that the MOU places too great a burden for the individual transition planning process on the student and/or parent since they are required to call the meeting and determine which agencies are to attend. The commenter suggested that the student and/or parent can't possibly know what services they need unless someone informs them; therefore, they would not know which agencies to invite. The department responds that the MOU specifies that the school district—not the student and/or parents—is required to initiate transition planning, invite the appropriate participants, and provide 30-day advance of the meeting, and refers the commenter to §89.246(c)(6) and (d)(2)(A) of the TEA rule. The department notes that the student and/or parents "may invite other interested individuals to the meeting," as may other participants. In addition, the department refers to §89.246(d)(3) which states that the student and/or parents "are responsible for planning for and attending" the meetings and "should be prepared to discuss their ideas and visions for the student's adulthood." The school district is required to provide information about transition planning annually to the student and family beginning by age 14 until the first individual transition plan is developed as described in §89.246(d)(7)(B)(v).

The same commenter stated that the individual transition plan should allow for a smooth transition from school to adult services and that there should be some system which permits community MHMR centers to inform the students and their families of MHMR services

such as supported living, residential living, and case management well before exiting the school system. The commenter noted that schools frequently contact community centers in the spring just before the students are to graduate and want something done. The department agrees with the commenter's characterization of what the individual transition plan should accomplish and believes that the local collaborative planning and sharing of written information detailed in the MOU promotes that vision

One commenter requested that the parent of a child who is currently in the targeted service arena or has recently experienced the transition period of their education be included in the roster listed on page 1251 of the proposed TEA rule as it was published in the February 21, 1995 issue of the *Texas Register*. The department responds that the "roster" described by the commenter is a listing of the state agencies which are required by statute to mutually develop and adopt the MOU as a rule. Therefore, it would be inappropriate to comply with the commenter's request. The department further notes that the transition planning process discussed in the MOU stresses coordination between families, their local school districts, and local service providers, and refers the commenter to §89.246(d)(3)(A) of the TEA rule which codifies the MOU. In addition, the department notes that representatives from The Arc of Texas and the Transition Task Force were involved in rewriting the MOU and represented the consumer voice.

A commenter requested clarification concerning the phrase "other steps" used in §89.246(c)(9) of the TEA rule. The department responds that the MOU requires the school district to "take other steps" to obtain participation by a agency which has not sent a representative to transition planning meeting as invited. What form those steps takes is left up to the individual school district, although they could be part of the plan developed in the collaborative planning meetings discussed in §89.246(d) of the TEA rule.

A commenter suggested that the "availability of personnel" language contained in §89.246(d)(2)(D) of the TEA rule be included in subsection (d) (6)(B). The department notes that the rule language reflects provisions currently in place with the existing MOU and also the department's commitment to coordinate with other agencies on behalf of the students we serve.

A commenter stated that training must be in line with the collaborative models of the Child and Adolescent Services System Program (CASSP). The department responds that (e)(2)(C) details the responsibilities of each signatory agency for training, and that the commenter's suggestion will be shared with each of those agencies.

The amendment is adopted under the Texas Health and Safety Code, §532.015, which provides the Texas Mental Health and Mental Retardation Board with broad rulemaking authority, and with Texas Education Code, §21.510, which requires the MOU to be adopted by rule

§401.54. Memorandum of Understanding (MOU) on Transition Planning for Students Receiving Special Education Services

(a) Texas Department of Mental Health and Mental Retardation (TDMHMR) adopts by reference rules of the Texas Education Agency (TEA) contained in 19 TAC §89.246 (relating to Memorandum of Understanding on Transition Planning for Students Receiving Special Education Services).

(b) The MOU is required by the Texas Education Code, §21.510. Agencies involved in the development, adoption, and implementation of the MOU include TDMHMR, TEA, Texas Employment Commission, Texas Department of Human Services, Texas Department of Protective and Regulatory Services, Texas Rehabilitation Commission, and the Commission for the Blind.

(c) Copies of the MOU are filed in the Office of Policy Development, TDMHMR, 4405 North Lamar Boulevard, Austin, Texas 78756, and may be reviewed during regular business hours.

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

Issued in Austin, Texas, on May 12, 1995.

TRD-9505831

Ann Utley
Chair
Texas Department of
Mental Health and
Mental Retardation

Effective date June 2, 1995

Proposal publication date. February 21, 1995

For further information, please call: (512) 206-4516

◆ ◆ ◆
TITLE 28. INSURANCE

Part I. Texas Department of Insurance

Chapter 21. Texas Department of Insurance

Subchapter J. Prohibited Trade Practices

• **28 TAC §§21.1002, 21.1004, 21.1005**

The Texas Department of Insurance adopts amendments to §§21.1002, 21.1004, and 21.1005, concerning the change in implementation date in the use of unfair underwriting guidelines for private passenger automobile and residential property insurance, discrimination in the sale of insurance, and the use of underwriting guidelines by private passenger automobile insurers based on the purchase of types or amounts of coverage in excess of the minimum automobile liability coverage by law, without changes to the proposed text as

published in the March 17, 1995, issue of the *Texas Register* (20 TexReg 1873). A public hearing on the amendments was requested, and conducted May 10, 1995 before the Commissioner of Insurance.

The amendments are necessary to change the implementation date of the sections from June 1, 1995 to September 1, 1995, to allow the commissioner sufficient time to review the impact of these sections on consumers and industry. The amendments will also provide the department time to make any changes to the sections which may be necessary based on any changes in statutory provisions addressing the same subject matter made during this legislative session.

The adoption of amendments to §§21.1002, 21.1004, and 21.1005 will change the effective date of these sections to September 1, 1995.

general comments against proposal

Several commenters oppose any delay in implementation of the sections. Numerous groups have worked hard for adoption of these sections. Sufficient evidence has been presented to support the sections and it is time to implement the sections to protect consumers without further delay. The issue of redlining and unfair discrimination has been studied for a long time. People with disabilities are arbitrarily denied insurance or placed in companies with higher rates. Many people with disabilities are no more expensive to insure than their able-bodied counterparts. It is unfair and inappropriate to discriminate against persons unless there are sound actuarial principles employed and real actuarial data exist that clearly demonstrate a causal link to the risk of loss for the insurer. Some commenters do not believe that pending legislation and the sections adopted in January are interchangeable. They do not believe that a legislative enactment, in any form, obviates the need for strong regulatory action, including rules, in the area of discrimination. These commenters believe there is no conflict between provisions of CSHB 668 and the rules, and further that there is a clear and convincing need for two of the sections to be implemented on June 1. Commenters also agree that the commissioner must follow the directive set forth by the legislature, but believe there is clear statutory authority to address the redlining issues. Concern is expressed by a commenter that any delay will result in a public perception that the government is not responding to its needs. A commenter believes that CSHB 1367 inadequately addresses the issue of redlining.

department response

The department believes that a short delay is reasonable. It is important for the commissioner to have the opportunity to review and consider the sections. This opportunity for the commissioner has become increasingly more important because of the interest the legislature has shown in this area. Likewise, the delay appropriately provides the legislature an opportunity to consider the subject matter of the sections and to exercise its judgment with respect to possible legislative enactment. The commissioner believes that the legislature should be provided decision-making dis-

cretion to the fullest extent possible. The 20 discrimination-related bills filed this session indicate the legislature's desire to address the issues raised by these sections. In deference to the legislature as the policy-making body of the state, the department is persuaded it is necessary to have a brief delay in the implementation of these sections. The department agrees with the commenters that vigorous enforcement action should be taken to enforce statutes and rules prohibiting discrimination. The department disagrees that a rule can permit the department to take action contrary to what the legislation authorizes.

consumer Harm

A few commenters claim the sections will benefit Texas and implementation should not be delayed. The contention is made that the department has already determined that use of the prohibited/unfair underwriting guidelines cause substantial harm to consumers. Delay of implementation will deny substantial benefits to consumers and result in substantial harm. Language from the order which initially adopted these sections in January is presented as support for no delay in implementation. A commenter claims that no concern is shown for the interests of low income and minority persons who are being placed in substandard insurers or risk being denied insurance by insurers who engage in unfair practices. Commenters contend the department is protecting the interests of the insurance industry and not the interest of consumers who are treated unfairly. Commenters claim the department is not protecting consumers from unfair discrimination and compounding the effects of redlining.

department response

The department disagrees. The department does not believe that a short delay in implementation of the sections will cause substantial harm to consumers. The legislature is considering bills that will directly impact on these sections. The department is supporting legislation specifically designed to make insurance more affordable and available to consumers in underserved areas. The department believes some of the pending bills provide a more comprehensive approach to availability and affordability of insurance in the state. It is important and appropriate for the department to briefly delay the implementation of these sections to allow the legislature to act.

Sufficient Time to review, Costs to Consumers

Any delay in implementation of the sections is opposed. The commenters' position is that the sections adopted in January address the fundamental unfairness of denying insurance or charging excessive rates due to insurance underwriting factors which have nothing to do with actual risk of loss. They claim Texas consumers will be harmed by further delay in implementation of the sections and incorporate by reference the record of the hearings on these sections. Two commenters complain that the department did not calculate the cost of delay of the sections to Texas consumers. Some commenters believe that the consumer bears the cost of unfair practices, so that whatever costs are incurred as a result of

June 1 implementation would not be unnecessary or wasted. A few commenters state that nowhere in the proposal is there an attempt to challenge the evidence showing the problem of unfair insurance discrimination and its effect on Texas consumers. Some commenters recognized that §21.1002 and §21.1004 are highly controversial and probably need more work before they are implemented.

Department Response

It is evident to the department from bills filed thus far that there could be substantial changes to the statutes affecting availability and affordability of insurance to consumers. The legislature is deliberating on statutes that will directly impact these sections and it is important and appropriate for the department to briefly delay implementation of these sections to provide the legislature an opportunity to act. It seemed premature to the department to implement rules which are arguably litigious and highly controversial when waiting a brief period for implementing the sections would afford more clear legislative guidance to the department.

Increase in taipa rates

Some commenters contend that the delay of the sections' implementation will harm consumers because of the substantial increase in TAIPA rates which take effect June 1, 1995. Recently, large rate increases have been approved for TAIPA which provides mandatory automobile liability insurance to hundreds of thousands of Texans, many with clean accident and ticket records. They claim that the good drivers currently in TAIPA would be protected by the sections being implemented June 1, 1995. They also claim that delay of the sections will pose significant hardship to those good drivers who are not able to find coverage in the standard market. A few commenters suggest that the proposal will compound the effects of redlining for those individuals who are forced to purchase auto insurance through TAIPA. It is suggested that permitting the sections to be implemented on June 1, 1995, prevents the good drivers in TAIPA from having to pay the higher rates in TAIPA. A commenter suggests that the Commissioner's decision to raise UMBI rates by 306% mandates immediate protection for those consumers who are being penalized for living in a low income neighborhood where there are higher percentages of uninsured drivers. This commenter believes that TAIPA drivers should not have to pay more than the voluntary market drivers for uninsured motorist coverage because it is not a person's fault if the driver who hits you is uninsured.

Department Response

The department disagrees. The department believes the rates set for TAIPA are fair because they are based on the statutory requirement that premiums be sufficient to pay claims to maturity. The TAIPA hearing record supports the increase in the UMBI rates and does not support setting TAIPA uninsured motorist coverage at the same level as the voluntary market. The comments on TAIPA rates are not pertinent to the change in implementation date of the sections. The department is aware that some people may be

placed improperly in TAIPA and is currently taking several steps to address this problem. The delay in implementation is necessary and appropriate to allow the legislature to act and to avoid potentially greater harm to consumers and industry if these arguably litigious and highly controversial sections were implemented, especially in light of pending legislation. The department is committed to improving insurance availability to Texas consumers and is actively working with the legislature to improve insurance availability and affordability. The department is committed to implementing and enforcing rules that address these issues after the legislature has had an opportunity to issue its policy on the topic.

Justification Inadequate

A few commenters contend the justification for delaying the sections is inadequate. They believe that the issue of unfair discrimination has been studied at length and no further review or study of the issue is necessary. It is felt that the department has had "months" to study the rules since adoption and no further time is necessary for analysis. They contend the proposal ignores the system of regulation in place in Texas and that the Texas Legislature has provided the department specific rulemaking authority to adopt regulations which define and prohibit unfair practices in particular. The commenters assert the department is not proposing to delay implementation of other rules because the legislature is in session and may act on other statutes which might affect these rules, interpretations or actions. They claim the department is being inconsistent and the rationale for delay is based on speculation of legislative action and results. A few commenters believe that implementation should not be delayed because the department has the power and responsibility to enforce, through its rule-making authority, existing law. These commenters further state that it is not the department's role to predict potential legislation, its possibility of enactment and its potential effect. One commenter complains that the department doesn't identify the specific bills to allow the public to comment on the potential impact of the bills. The commenters claim the rationale is inadequate to allow insurers to continue to engage in unfair practices that result in consumer harm.

department response

The department disagrees. It is ensuring that it is acting within the statutory framework in a manner designed to ensure harmony with any legislative mandates on the requirements on availability and affordability of insurance or other related statutory provisions. The possible enactment of legislation which seriously affects a portion of the legal basis for a rule necessitates a short-term delay in the implementation of that rule. The department agrees with the commenters who recognize the highly controversial nature of §21.1002 and §21.1004 and that the commissioner should have the opportunity to review these sections especially in light of pending legislation.

Use of the word "Effective"

Two commenters claim a substantive change has been made which is not reflected in the published notice. They contend that the change of the word "after" to "effective" raises questions about the department's intent to adopt the changes to the sections and provides the department the opportunity to pull down the sections without a discussion of the substance of the sections. They state that the department should provide notice of any proposed repeal of the sections, provide the public an opportunity to comment and hold a public hearing if requested.

department response

The department disagrees that changing the word "after" to "effective" is a substantive change. The change of the word "after" to "effective" was to give opportunity to make any other necessary changes, via proper rulemaking procedures, before the sections became effective, not to withdraw the sections without opportunity for review and comment by anyone. Also, the word "effective" is standard language used by the Legislative Council in the drafting of bills.

Lack of consumer input

A commenter complains that consumers were not given a meaningful opportunity to comment or a fair hearing before the amendments were proposed. The commenter claims the commissioner had input from insurers before proposing the sections but did not solicit input from consumers or representatives of consumers. The commenter argues that the right to file comments does not make up for the lack of opportunity to provide input prior to publication. This commenter claims it appears the commissioner has already made up his mind to adopt the amendments and only industry had any input.

Department response

The department disagrees. Input on the proposed sections was not solicited from either industry or consumers prior to publication of the proposal. The purpose of the 30-day comment period is to obtain comments on the proposed sections, and the department has certainly received such comments. It was obvious that these same issues were being considered by the legislature and it seemed prudent to the department to delay implementation and give the legislature, as well as the commissioner, adequate time to properly address the subject matter of these sections.

Section 21.1005—Two commenters claim there is no need to delay implementation of this section. They claim no legislation is pending which address the underwriting guidelines prohibited by this section. They also claim it would be of substantial benefit to consumers even if in effect for only three months. The position is taken that §21.1005 does not fit into the same category as the other two sections proposed for delay of implementation. They contend there are no legislative conflicts of realistic consequence, nor does the section have the level of controversy of the other sections. A commenter believes the section is a fair common sense approach to an unfair auto insurance guideline which requires excess limits of liability or full cover-

age for an individual to be insured by a premium or standard company. He estimates that 35%-40% of insureds in TAIPA have 'no points' and are there because they want or can only afford minimum liability coverage. He feels it is unfair to those drivers who only want minimum coverage to have to remain in TAIPA with the June 1, 1995 increase in rates because this section is not in place to prohibit this type of underwriting guideline. This commenter also testified that this underwriting guideline is used by 38% of the companies that write in Texas.

department response

The department agrees in part but believes that an implementation date of September 1, 1995 is reasonable. Nearly two-thirds of the insurers in Texas write this type of insurance through standard or preferred risk companies, including numerous major insurers. The commissioner is concerned about the use of this underwriting guideline and is working with a major insurer and other insurers to eliminate this underwriting guideline prior to implementation of this section. Based on this action of the commissioner, a much larger voluntary market should be available to those persons improperly in TAIPA due to this underwriting guideline.

comments in support of the proposal

Numerous comments were received in support of the proposal. The commenters agreed with the department that an extension of the effective date would allow the legislature to continue its efforts to develop a comprehensive, incentive-based plan to address the insurance availability and affordability issues. Several commenters believe that CSHB 1367, sponsored by Representative Harold Dutton, is a more comprehensive, creative, market-based approach to availability and affordability issues in the state than the approach taken in §§21.1002, 21.1004, and 21.1005. A commenter believes this bill provides a more balanced and beneficial solution to the issue. One commenter stated that the department can only adopt rules which are sustained by statutory authority and that when that statutory authority may be changed it is imprudent to take action on those rules. One commenter explained that the sections require significant and time consuming actions on the part of the insurer to come into compliance with a June 1, 1995 implementation date and the proposed extension has been used in formulating the short term business plans of the company. Several commenters indicate that an insurer's renewal process can take as much as 60 days and no less than 30 days in advance of the effective date of renewal and literal compliance with the sections after the date of the hearing on the sections would not be possible for renewal policies effective June 1, 1995. Commenters concur with the department's explanation of the proposal that anticipation of possible action by the legislature necessitates the extension and would eliminate unnecessary costs to the department, to insurers and ultimately to consumers. A commenter believes that it is logical and prudent to delay implementation and several bills would provide a better approach to the availability and affordability issues than the sec-

tions adopted in January. This commenter believes the sections would result in severe market disruption. Commenters believe the proposed extension of effective date is a valid and reasonable response to the legislative consideration of these issues. Comments were made that the additional time is necessary to examine the many problems with the sections, both substantively and procedural. A comment was made that many concepts were included in the sections which were not discussed in the hearing on the sections. The comment was made that there were fundamental changes made to the sections at the time they were adopted in January.

department response

The department agrees with the commenters that it is impractical to implement the sections on June 1, 1995 with several bills currently pending in the legislature that affect affordability and availability of insurance. The department also agrees that the commissioner should have additional time to review the possible substantive and procedural problems with the sections, particularly in light of the pending legislation.

Comments were received against the proposal from Consumers Union, Texas Alliance for the Mentally Ill, The Disability Policy Consortium, Advocacy, Inc., Association for Advancement of Mexican Americans, Mexican American Legal Defense and Educational Fund (MALDEF), Office of Public Insurance Counsel, Texas Citizen Action and Texas Senior Citizens Association. Comments were received in favor of the proposal from Government Employees Insurance Company (GEICO), GEICO General Insurance Company, GEICO Indemnity Insurance Company, National Association of Independent Insurers (NAII), Republic Insurance group of companies, Allstate Insurance Company, American Insurance Association, Metropolitan Property and Casualty Insurance Company, Texas Farm Bureau Mutual Insurance Company, Texas Farm Bureau Underwriters, United Services Automobile Association (USAA), Association of Fire and Casualty Companies in Texas (AFACT), Alliance of American Insurers, State Farm Insurance Company, Farmers Insurance Group of Companies, Liberty Mutual Insurance Company and Preferred Risk Group.

The amendments are adopted under the Insurance Code, Articles 21.20, 21.21, 5.98, and 1.03A. Article 21.21, §13, authorizes the department to promulgate rules and regulations to accomplish the purposes of the Insurance Code, Articles 21.20 and 21.21. Article 5.98 authorizes the department to adopt reasonable rules that are appropriate to accomplish the purposes of the Insurance Code, Chapter 5. Article 1.03A authorizes the commissioner of insurance to promulgate and adopt rules and regulations for the conduct and execution of the duties and functions of the department.

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

Issued in Austin, Texas, on May 11, 1995.

TRD-9505752

Alicia M. Fechtel
General Counsel and Chief
Clerk
Texas Department of
Insurance

Effective date: September 1, 1995

Proposal publication date: March 17, 1995

For further information, please call: (512) 463-6327

TITLE 30. ENVIRONMENTAL QUALITY

Part I. Texas Natural Resource Conservation Commission

Chapter 335. Industrial Solid Waste and Hazardous Waste

(Editor's Note: Due to TNRC's technical problems, the following adopted rules were omitted from the May 16, 1995 issue of the Texas Register. The rules were submitted to the Texas Register on May 9, 1995. The effective date is May 30, 1995.)

The Texas Natural Resource Conservation Commission (TNRC or commission) adopts amendments to §§335.1, 335.6, 335.501, 335.503, 335.505, 335.507-335.510, 335.514-335.515, and new 335.521, concerning industrial solid waste and municipal hazardous waste management in general; standards applicable to generators of hazardous and industrial solid waste classification. Sections 335.1, 335.501, 335.503, 335.505, 335.508, 335.515 and 335.521 are adopted with changes to the proposed text as published in the November 18, 1994, issue of the *Texas Register* (19 TexReg 9155 and 19 TexReg 9186). Sections 335.6, 335.507, 335.509-335.510, and 335.514 are adopted without changes and will not be republished.

These rules use information gathered from the advisory group meetings and proposed amendments to the self-classification system. The commission received discussion on the amended sections of this rule from Marine Spill Response Corporation; LCRA; Fugro Environmental, Incorporated; Texas Utilities Services; Texas Electric Cooperatives, Incorporated; Exxon Chemicals; Dupont; Ameripol Synpol Corporation; Laidlaw Waste Systems, Amoco Corporation; The Light Company; and Central and South West Services, Incorporated.

The following is a discussion of the concerns received on the November 18, 1994 proposal.

In regards to the rules in general, one commenter's request that the commission clarify the assumptions that are the foundation for these rules, the commission provides information here in this preamble. The commission staff worked with a Task Force 21 subgroup with members representing the regulated community, general public, and landfills to identify areas that needed clarification or amendment. The commission utilized infor-

mation gathered during these meetings as well as information submitted in response to its "Call for Comments" and the proposed rules, both published in the *Texas Register*, to evaluate and propose changes to the rules.

Concerning §335.1 (Definitions), several commenters stated that the exclusion for polymerized materials found in the definition of a Petroleum Substance was not broad enough. One commenter stated that it did not exclude their particular form of plastic. Another commenter asked if the list of polymerized materials was an exhaustive one. Many commenters seemed to be confused by the meaning of the definition of petroleum substance.

Based upon the questions and confusion surrounding the Petroleum Substance definition, the commission felt the proposed rule needed clarification. The definition for motor fuels was moved into the definition of Petroleum Substance. The steps taken to further clarify the definition in the rule and additional information regarding the definition of a Petroleum Substance may be found in this preamble's discussion of Total Petroleum Hydrocarbons (TPH) which is discussed later. The commission feels it might be misleading to individuals to attempt to discuss the definition of Petroleum Substance separately from TPH because they are so closely related.

In regards to §335.6 concerning notification requirements, one commenter acknowledged the advantages of using the State of Texas Environmental Electronic Reporting System (STEERS) for electronic reporting, but noted that it had delays and limitations (i.e. the required submissions of written notifications for certain changes to a company's Notice of Registration (NOR)). One commenter believed that the commission's response time to notifications submitted is slow.

The commission acknowledges the commenters recommendation of the STEERS system, which has allowed many generators to perform NOR updates in the form of adding waste streams, adding waste management units, and converting old six-digit waste codes to the new eight-digit waste codes. Many companies have also taken advantage of STEERS to report their annual, shipment, and receipt summaries.

Within this calendar year, the commission plans to eliminate barriers that currently prohibit generators from changing information on their NOR such as the identity of a contact person, or mailing address by STEERS. When this occurs the STEERS user will have the means to update their NOR without the need for paper or forms.

The commission acknowledges that the amount of time from the submittal of a non-STEERS waste stream notification and receipt of an updated NOR is lengthy. The delay is due in part to the July 1, 1994 notification submittal deadline for all Texas generators (over 25,000 companies) for all industrial and hazardous wastes they generate. The commission believes that the delay is temporary and has been working diligently to minimize this inconvenience. Generators can help the commission address this problem by using the forms designed for updating

a NOR and, when possible, using the STEERS system. When a generator uses the STEERS system to update a NOR, the update generally occurs within 30 days. As more generators begin to use STEERS that time is projected to decrease.

In regards to §335.10(b)(18), manifest requirements, one commenter suggested changing the subsection to allow a generator to provide a descriptive clause in Section 11 and the waste code in Block I of the Texas manifest, which would allow additional descriptions to be added to block J. According to the commenter, this change would facilitate a clearer understanding of what type of material is being transported and would eliminate the use of the continuation sheet as noted in the current regulations.

The commission does not concur with allowing generators to use a descriptive clause for all waste shipped with a manifest in section 11 of the form. The information recorded in section 11 is federally mandated for hazardous wastes. The state regulation may be no less stringent than the federal regulations. In accordance with the federal regulations, generators should record the United States Department of Transportation (DOT) description including proper shipping name, hazard class, and ID number for hazardous wastes. For nonhazardous waste, §335.10(b) identifies information which shall be on the manifest. Although the section only requires generators to include the waste classification code description for nonhazardous waste, the commission requests that generators follow the instructions for completing a manifest that appear on the reverse of the manifest form. The manifest instructions request that the Texas Waste Code description, found in Appendix 3 (form code description), be entered in item (block) 11 for waste shipped with the manifest.

Please note that generators may enter in item J additional descriptions that apply to the waste streams entered in Section 11 which are being shipped with the manifest. In regards to the commenter's request that generators be allowed to place the waste code in block I of the manifest form, the commission concurs with the commenter. Section 335.10(b) requests that generators include on the manifest the waste classification code. The instructions for generators on the manifest form request generators to enter the TNRC state waste code in item (block) I for each waste the generator ships. The last digit of the Texas eight-digit waste code is the waste classification code. Therefore, by completing the manifest in accordance with the manifest instructions, the generator would be in compliance with the regulations and would be allowed to include the waste code in item I. The commission appreciates the commenter's noting this concern. The commission understands that this subsection needs to be amended to be consistent with the self-classification regulations and the needs of the commission; however, this subsection was not part of this rule proposal, consequently the commission cannot amend it at this time. The commission will consider amending this subsection if these rules are amended in the future.

In regards to the recycling of scrap metals and lead acid batteries, one commenter requested that the generator only have to include the storage methods and nature of the recycling activity on the NOR, not the classification or Texas waste Code. The commenter stated that the classification of items destined for recycling was burdensome and would only create economic disincentive for generators.

The commission does not concur with the commenter regarding the notification of recyclable material. The commission understands the requirement of classification and notification for these waste streams may seem cumbersome, however, the classification dictates the management of the waste stream. Also, the waste code helps to identify and characterize the waste that a facility generates and manages. To help ensure that facilities are managing their recyclable materials properly, the commission will retain the requirement of classification and notification for recyclable materials. The commission would also like to note that generators are given some relief from the regulations for waste which is recycled. The commission would like to note that recycled materials are exempted from various tracking, reporting, and billing requirements through §335.24, Subchapter H, and Subchapter J. In light of these reduced requirements, the commission believes that notification and classification of these wastes is not overly burdensome and is necessary to ensure proper identification and management for recycled wastes both by the generator and the recycler.

In regards to the Subchapter R changes, one commenter stated that the commission had not accurately assessed the impact of the changes, in that generators will be paying for more analytical tests and greater disposal costs at no additional benefit to human health and the environment.

The commission does not concur with this commenter. Minimal additional analytical tests are required by the rule amendments. The new parameter of total cyanides replaces the Toxicity Characteristic Leaching Procedure (TCLP) cyanide analysis. The rule eliminates analytical testing requirements for certain polymerized materials, solidified asphaltic materials, food grade oils and fats when addressing the TPH criteria. In addition, the cost of analytical testing may be limited by the generator applying process knowledge when evaluating a waste. If the additional constituents of concern are not present in the process generating a waste, the generator need not test for them. The generator would need only to keep documentation supporting the conclusion. Finally, the commission would like to state that when generators determine the classification of a waste, they have also determined a level of risk associated with that waste. Analytical cost to identify harmful waste and the additional cost to dispose of harmful waste are generally far less than the cost and hazard to human health and the environment in the event of the improper disposal.

In regards to the preamble of 19 TexReg November 18, 1994, one commenter requested the commission address the management of oil/water mixtures generated

during the response to large scale oil spills and provide guidance for the management of waste associated with the clean-up of these spills.

Depending upon the nature and size of the oil spill, the regulatory agency overseeing clean-up could be the Railroad commission of Texas or the Texas General Land Office or the TNRCC. Based upon additional comments by the commenter, it appears the commenter's major concern involves crude oil spills. The management of crude oil spill wastes would be regulated by the TNRCC only when the generator of such waste intends to ship the wastes to a facility regulated by the commission. Prior to shipment or acceptance by a TNRCC-regulated facility, the generator should first classify and code the wastes in accordance with these rules. Additional authorization from the Industrial and Hazardous Waste Division's Special Waste Team for disposal in a municipally permitted TNRCC regulated facility may be required if this type of waste is intended for disposal in such a facility. For technical assistance the generator may contact the Emergency Response Section of the commission for situations that are considered an emergency. In non-emergency situations, a generator may seek technical assistance from the Industrial and Hazardous Waste's Waste Evaluation Section of the commission. Depending on the situation, sequence numbers for these spill wastes would be assigned by one of the above referenced sections.

In a non-emergency situation, the generator would utilize the one-time shipment process. The one-time shipment process involves the generator submitting a form TNRCC-0757 completed with the form code and classification code for the waste generated. Once the completed form is submitted to the commission, the generator would receive a sequence number from the commission. This would complete the waste code. Please note, the commission staff continues to provide training regarding the classification and coding of wastes at the agency sponsored seminars and in guidance documents available through the commission's Publications Office.

In regards to the one-time shipment program, one commenter requested that the commission reply to faxed one-time shipment requests for temporary wastes codes, registration numbers and the US Environmental Protection Agency (EPA) Identification numbers by telephone. According to the commenter, this would avoid problems caused by the storage of wastes in non-secure areas, which may lead to the endangerment of human health through vandalism or mismanagement.

The commission would like to note that on the reverse of the one-time shipment form, the commission has identified situations in which a request would be expedited. One such situation is the potential for endangerment to human health or the environment. Due the high volume of faxed requests (approximately 630 per month), the commission does not concur with commenters suggestion that the commission telephone generators who fax requests to the one-time shipment program. When the commission determines that a re-

quest should be expedited, the form, with the commission's assigned numbers, is faxed back to the generator. The commission would like to note further that generators have classified a waste before a form is submitted to the commission. Based on the classification, the generator should manage the waste accordingly so as to protect human health and the environment.

In regards to the Texas waste classification regulations, one commenter stated that they were significantly stricter than those of the EPA and neighboring states and hence negatively affected a company's ability and cost to do business in Texas. The commission was asked to remember its commitment not to be stricter than EPA.

The commission would like to note that EPA only regulates hazardous waste. Consequently it has no compatible program for the regulation of nonhazardous, industrial waste. Therefore, the regulation of nonhazardous, industrial waste lies solely under state regulation. Since the TNRCC regulates waste from over 25,000 generators, the commission believes that the classification rules provide the safeguards needed to help protect human health and the environment from harmful waste from this large group of generators.

In regards to §335.78, concerning Conditionally Exempt Small Quantity Generators (CESQG), one commenter requested that the commission consider creating a category of CESQGs for industrial generators. As this topic does not concern the classification of waste, the commission feels it inappropriate to comment in detail on this suggestion other than to state that it has adopted rules in the April 11, 1995 issue of the *Texas Register* that would allow for certain exemptions for conditionally exempt small quantity generators of industrial wastes.

In regards to §335.501, wording was changed to clarify that generators of waste regulated by Chapter 334, Subchapter K regulations may also be subject to these rules if they generate other, non-Chapter 334, Subchapter K wastes. The original text could have been interpreted to indicate that if a generator generated any waste subject to Chapter 334, Subchapter K, then that generator did not need to comply with these rules for any waste he generated, regardless of if it were or were not regulated by Chapter 334, Subchapter K. That was not the intent of the rule amendment.

In regards to §335.501, purpose, scope, and applicability, one commenter suggested that the conversion to the new Waste Classification System be extended one year. The commenter cited the addition of 14 new constituents to the appendix (Appendix 1 Table 1) as the reason for the request. The commenter also felt the delay would not interfere with the commission's ability to make its Biennial Report to EPA since the data has already been submitted. Other commenters suggested that the commission reconsider the addition of the constituents at this time because of the additional cost in time and money it would require and that the regulated community would be immediately out of compliance.

The commission concurs with the requestor that the delay of the rules would not interfere with the Biennial Report to EPA. The Biennial Report reports only hazardous waste generated. The waste classification criteria concerning the 14 new constituents applies only to nonhazardous industrial waste. The implementation schedule of §335.501 has been added to allow additional time for generators to evaluate already classified waste streams for the new constituents included in Figure 1.30 TAC §335.521(a)(1) regarding Table 1, Appendix 1. The delay should give the regulated community the time it needs to phase in the new requirements, limit cost and time constraints, and allow generators to remain in compliance with the regulations.

In regards to §335.503 (Waste Classification and Waste Coding Required) the commission has added language to the final rule concerning the use of "CESQ" in the Texas waste code. This language recommends that facilities which receive and consolidate like waste from Municipal Conditionally Exempt Small Quantity Generators use "CESQ" in the first four positions of the waste code for any manifesting and/or reporting associated with that waste. This was felt appropriate since it has come to the commission's attention that at least one such facility was mistakenly identified as the generator of the exempt waste rather than the collector/shipper of that waste. The code "CESQ" should help identify the waste as originating from one or more Municipal Conditionally Exempt Small Quantity Generator sources. Because of this addition, re-numbering of §335.503 has also occurred.

Concerning §335.503(b)(7), Waste Classification and Coding Required, several commenters indicated that the preamble to the proposed rules contained contradictory language concerning the classification of combined wastes. For example, the preamble states that "similar types of wastes from similar types of processes, could be classified as one waste stream..." and then that "... combining multiple waste streams is inappropriate; generators are required to classify each waste stream at the point of generation. The commission must be notified of all waste streams generated by the facility at the point of generation prior to and following any mixing..." One commenter presumed that the reasonable combination of like wastes was acceptable. The commenters requested that the commission clarify these statements.

The commission hopes to provide clarification in regards to the commenters' suggestion of conflicting language concerning the classification of combined wastes/waste streams. In providing this clarification, the commission feels that it first must clarify what it means by "waste" and "waste stream." This is so because the two terms are often treated as interchangeable when they often times are not. Second, the commission hopes to provide a glimpse into its rationale for determining what is a "waste stream." Thirdly, it hopes to provide examples of the commission's view on several waste stream combining activities.

In this discussion, "waste" refers to any one particular, unique item from any one particular, unique activity. For illustration purposes,

uncontaminated asbestos ceiling tile from building "A" is one "waste" while uncontaminated asbestos ceiling tile from building "B" is another waste.

In this discussion "waste stream" refers to wastes which are generated by similar types of processes, have similar compositions, and are the same classification. In carrying the previous paragraph's illustration forward, the combined asbestos ceiling tiles from buildings "A" and "B," as long as they are of the same classification, are one "waste stream."

When a waste is generated, it has a certain history and specific characteristics about it such that it is already a particular "kind" of waste before any analysis or evaluation is performed in its regards. For example, it may be a nonindustrial or an industrial waste. It may be a hazardous waste or a Class 3 waste. The point is that the history and characteristics are already there when the waste is produced. In identifying new waste streams, the question that needs to be answered is "Does the history and characteristics match up with another waste or not?" If they match up and you combine the two, you start with and end up with the same "waste stream." Nothing has been altered by combining the two. If they do not match up, and you combine them, you started out with two waste streams and ended up with another unique third waste stream.

In other words, similar types of waste from similar types of processes are considered one waste stream. Different types of waste from different types of processes; different types of wastes from similar types of processes; and similar types of waste from different types of processes are not considered to be one waste stream.

This is important for several reasons. If you mix a hazardous waste with a nonhazardous waste, you may have just diluted that hazardous waste such that it no longer exhibits the characteristics of a hazardous waste. By federal law, most dilution of hazardous waste is prohibited. If you mix a hazardous waste with a nonhazardous waste, you may have just made the entire mixture hazardous. Most individuals, companies, and regulatory agencies do not want an increase in the quantity of hazardous waste generated. The commission assesses a fee for the generation of hazardous waste and industrial Class 1 waste. This fee aids the commission in overseeing the management of hazardous and industrial waste in Texas while at the same times promotes waste minimization. This fee is waived for recycling activities to promote recycling. It is not waived for "dilution" activities which might move wastes within classification categories but not reduce the total amount of waste produced. The identification of "waste streams" at a facility helps the commission better understand and follow the facility's waste activities which in turn helps the commission determine if the waste is being handled properly for the protection of human health.

As an example of waste stream identification, compressor oils that are generated from the maintenance of units in different areas a facility might be considered one waste stream. Although the processes occur in different ar-

reas of the facility, they are similar and they generate a similar type of waste. If the generator determines that all the used compressor oil has the same classification, the generator can identify all used compressor oil generated in this manner in different areas of the facility as one waste stream.

The facility, going through the same process described previously may determine that all its vehicle crankcase oil is one waste stream. However, the vehicle crankcase oil and the used compressor oil are not the same waste stream. Although both wastes are used oil, the two have been generated by different types of processes. If the generator chooses to combine these two wastes, the streams must be classified and coded prior to and following mixing. The generator must also provide notification to the commission for these three waste streams.

The commission cannot fully concur with the commenters' general statement that reasonable combinations of like wastes is acceptable in all situations. In general, for the purpose of management, the commission agrees that generators may combine like wastes. However the commission would like to note that, for safety reasons, generators should always be aware of adverse reaction that may occur when they mix wastes. Just because two wastes have the same form code and/or classification does not mean that the commission has determined that they are safe to mix.

In regards to point of generation, one commenter stated that the proposed rules and associated preamble suggested more regulation associated with the term "point of generation" than was discussed by the advisory committee. The commenter requested the commission provide further clarification as to the intent and possible consequences of the changes proposed to the term "point of generation."

In reviewing the proposed rule and associated preamble, commission staff could not determine where the commenters concern originated. Commission staff attempted several times to contact the commenter for clarification, but was unsuccessful. The commission does not believe that the proposed rules, associated preamble, and/or final rules impose additional requirements to the regulations associated with the "point of generation."

Two commenters requested clarification on the preamble language concerning the Treatment, Storage, and Disposal Facility (TSDF) management issues and how this affects non-commercial facilities accumulating wastes prior to shipping.

The accumulation or storage of wastes on-site by industrial or municipal facilities must be within the accumulation and storage requirements allowed for generators in the regulations. If a facility is authorized through permit or other means, additional storage time is allowed. The "TSDF" sequence number does not impact or change the accumulation, storage, or receipt rules found elsewhere in this Chapter.

Concerning the use of the "TSD" sequence code, one commenter requested clarification of the use of "TSD" and manifesting. The commenter's concern revolved around the use of "TSD" by a single company which has multiple generating facilities. According to the commenter, the multiple generating facilities ship and manifest their nonhazardous waste to a centrally located facility which terminates the manifest and consolidates similar nonhazardous waste into bulk containers. The centrally located facility then generates a new manifest for the bulked waste, using "TSD" as the waste code sequence number, and ships the bulked waste to its "final destination." The commenter is concerned that the commission wants each of the manifests from the multiple generating facilities to accompany the consolidated waste to the "final destination." The commenter feels this would create a significant and costly administrative burden on the company. According to the commenter, if one company is the "sole generator" of a type of nonhazardous waste, then the consolidated manifest which uses the sequence number "TSD" should suffice and the manifests from the multiple generating facilities need not accompany the consolidated shipment from the centrally located facility. The commission concurs with the commenter that it is not necessary for copies of manifest to accompany the described consolidated waste to the "final destination."

If one owner has three facilities which are within 50 miles of each other, the owner may ship nonhazardous waste from two of the facilities (Companies A and B) to the Third (Company C) with or without a manifest. (A manifest is not required. See §335.10(g)). If a manifest is used, Companies A and B would identify Company C as the receiving facility on the manifest and use its own unique sequence numbers (not "TSD") for shipping purposes. Company C would note receipt of that waste on a receipt summary form. (See §335.15) When it came time to ship the three like wastes to a final destination, the like waste from Companies A and B would be reassigned the sequence number "TSD" on the outgoing manifest. Company C would need to put its own unique waste code for its own waste on the outgoing manifest for tracking purposes. (In other words, Company C cannot use the sequence number "TSD" for any waste it generates.) The "final destination" receiving facility (Facility D) would then report the receipt of waste, from Company C, with the sequence number "TSD" and Company C's unique waste code. On the generators' annual reports, Company A would report how much waste it generated and that it shipped that waste to Company C, Company B would report how much waste it generated and that it shipped that waste to Company C, and Company C would report how much waste it generated (not including the waste received from Companies A and B) and that it shipped that waste to Facility D. In its receiver's reports, Facility D would report the receipt, from Company C, of the "TSD" waste and Company C's waste.

If Companies A and B are farther than 50 miles from Company C or the waste is hazardous waste and Company C stores the waste, Company C would be subject to an

Industrial and Hazardous Waste permit and Companies A and B would be required to manifest their waste to Company C. (See §335.10 and §335.2) The manifesting requirements would stay the same as described previously. (The commission would like to note that it hopes to investigate the possibility of permitting by rule certain captive facilities (such as Company C) for storage purposes.)

If Companies A and B are within 50 miles of Company C, and they choose not to manifest their nonhazardous waste to Company C, Company C would be recognized as the generator of the nonhazardous waste. Company A and B would not report the generation of this waste on their Annual Summary. Company C would report the total amount of waste from Companies A, B and C as being generated by Company C. Company C would manifest the waste to Company D using the unique sequence number Company C had assigned to the waste. The sequence number "TSD" would not be used.

If Company C is acting as a "Transfer Facility", Companies A and B would identify Facility D as the receiving facility. No waste would be reassigned the sequence number "TSD." On its Annual Summary, Company A would report how much waste it generated and that it was shipped to Facility D, Company B would report how much waste it generated and that it was shipped to Facility D, and Company C would report how much waste it generated and that it was shipped to Facility D. Facility D, on its receiver report would note how much waste it received from each company on an individual basis.

One commenter requested clarification regarding the preamble language found in the November 18, 1994, issue of the *Texas Register* (19 TexReg 9156). The commenter states that it is unclear whether the preamble language implies that certain types of facilities (e.g., service centers associated with the electric utility industry) would be required to obtain permits to receive and accumulate various wastes (e.g., spill contaminated soils and debris).

The commission believes that this concern has been addressed by the preceding discussion concerning the use of the sequence code "TSD."

In regards to §335.505(4), relating to amenable cyanides, one commenter requested that the commission allow additional time to evaluate wastes for this criteria. The commenter also requested information regarding the basis for this new requirement.

To allow generators time to re-evaluate their waste already classified under the eight-digit system, the commission has amended §335.501, relating to the conversion to the new waste notification and classification system, such that wastes which have already been classified and coded under the eight-digit system do not require re-evaluation and re-notification until January 1, 1996. The cyanide parameter has been removed from Table 1 of Appendix 1 because the acidic nature of the TCLP does not provide a suitable environment to quantify cyanides. However, due to the toxic nature of cyanides, the commission felt it appropriate to consider cyanides in

the Class 1 classification criteria, therefore the proposed rule suggested an amenable cyanide limit of 20 mg/l in the text of the rules. In this adoption, the term "amenable cyanides" has been replaced by the term "total recoverable cyanides" since the test for "amenable cyanides" is based upon the cyanides' reaction with chloride and "total recoverable cyanides" is based on the total amount of cyanide available to form hydrogen cyanide, a very toxic gas. The commission feels the "total recoverable cyanides" test is more reflective of the waste's potential to do harm. Also, the proposed rules suggested a limit of 20 mg/l. Because mg/l is a measure of liquid waste and not solids, mg/l has been changed in these rules to parts per million (ppm) which is a measure of not only liquid waste but also solid and semi-solid waste.

Concerning §335.507, regarding Class 3 criteria, several commenters felt that the TDS level was too restrictive for the Class 3 classification. One commenter felt that by raising the TDS limit from 500 mg/l to 10,000 mg/l, a waste could still be considered essentially insoluble because the waste would be still be insoluble at 99% insoluble as compared to 99.95%. Another commenter suggested that the level for TDS be raised to 2,000 mg/l or 3,000 mg/l.

Because of the numerous comments it received on the industrial Class 3 classification criteria, the commission feels additional evaluation of this criteria is warranted before any changes are considered. Therefore, the commission will maintain the Class 3 criteria as found in the original rule.

Concerning §335.507, regarding Class 3 criteria, one commenter believed that the preamble was contradictory to the definition of a solid waste. The commenter stated that the definition of a solid waste includes solids, liquids, and gases. The commenter believed that the preamble statement that liquids cannot be a Class 3 waste conflicts with that definition.

The commission would like to note that Class 3 wastes, by definition, are wastes which are insoluble. A liquid is considered to be a solute and ready to solubilize other material. A liquid, although a solid waste, is not considered insoluble under the definition of a Class 3. Solid wastes can be divided into hazardous waste, Class 1 wastes, Class 2 wastes, and Class 3 wastes. Solid wastes can also be divided into solids, liquids, semi-solids, and gases. The rules do not say that Class 3 waste can be divided into solids, liquids, semi-solids and gases.

In regards to §335.508 (specific industrial wastes), one commenter felt that a specific category of Class 2 or Class 3 classifications should be established for uncontaminated construction debris. Another commenter felt that generators should not have to sample construction debris that has no known contaminants, and that the material should automatically be considered a Class 2 waste or Class 3 waste.

The commission does not wish to give blanket approval for all construction debris to be considered Class 2 or Class 3 waste. The commission feels that the debris should be

classified based upon the characteristics of that debris. It is not unheard of for construction debris to be hazardous waste. Some construction debris can also exhibit the characteristics of Class 1 waste. Therefore, the commission feels that construction debris waste should be evaluated and classified based upon its own individual merit. However, this does not necessarily mean that the generator needs to run a bombardment of analytical tests. The commission agrees wholeheartedly with the commenter that generators should not be made to run unnecessary tests. If construction debris is uncontaminated, the generator can use that fact as process knowledge in classifying the waste. If sufficient knowledge exists about the construction debris (i.e., no contamination or constituents which would cause the construction debris to be hazardous, Class 1 or Class 2) the waste could and should be classified as a Class 3 waste without a single analytical test being run. In other words, the rules, as written already, allow generators to classify their waste (including construction debris) as Class 2 or Class 3 waste without analytical data, provided they know enough about their waste.

The commission would also like to note that it is currently in the very early stages of reviewing the possibility of identifying certain industrial waste as "unique" because they are fairly removed from "industrial" processes and could be more closely grouped with "municipal" activities. During this review, the commission hopes to determine the best way to identify and regulate these types of "unique" wastes. Construction debris could be a candidate for evaluation as a "unique" waste. In regards to §335.508(2), several commenters felt that containers with a capacity of five gallons or less, which have previously held a hazardous waste, hazardous substance, or a Class 1 waste, should be considered a Class 2 waste if the containers are empty and rendered unusable, without the provision that they be triple-rinsed or hydroblasted. The commenters indicate that rendering these containers unusable would prevent the scavenging of these from municipal landfills for reuse in a capacity which is largely difficult to regulate by the commission.

The waste generated by the triple-rinsing/hydroblasting of five gallon containers is a concern for several commenters who state that it is in conflict with the commissions' waste minimization policy, and that it creates additional costs and inefficiencies for the generator.

One commenter stated that limiting the Class 2 empty container exemption to containers less than five gallons in capacity puts an unnecessary economic burden on the regulated community.

After listening to the various comments and concerns, the commission has adopted a final rule which allows empty containers that have a capacity of five gallons or less to be considered Class 2 wastes without triple rinsing or rendering unusable. It is the commission's understanding that these size containers are not likely to be used for the storage of drinking materials. In addition §335.508(3), concerning plant trash, has been amended to

reflect that nonhazardous empty containers of five gallons or less may be considered for the "plant trash" designation.

In regards to §335.508(2)(A) (specific industrial waste), one commenter stated that the word "disposed" was improperly used and should be replaced by the words "disposed of" in the phrase "...would be classified as a Hazardous or Class 1 waste if disposed, and is empty..."

The commission concurs with this comment and the wording of the rule has been changed accordingly. Additionally, the commission has amended this subsection by retaining the term "completely" that was removed in the proposed rule. The commission feels that the extent of the removal of residues needs to be specified. The commission also replaced the word "any" with the word "the" to lessen any confusion about how much of the residues should be removed. The commission felt the terms "completely removed" and "capable of removing any waste" might appear contradictory if the term "any" was interpreted to mean "a portion of" rather than "all."

A commenter requested clarification on the empty container classification process under the non-container classification criteria. To that end, the commission would like to note that it is the generator's choice when classifying empty containers as to which criteria is used for classification purposes. Classification of empty containers under the non-container classification system would probably require generators to address many more issues at a greater expense. For example, after a hazardous waste determination of the containers in question has been made, the generator would need to address each non-hazardous criteria (i.e., Class 1 corrosives, Class 1 ignitable, Class 1 toxics, Class 1 corrosives, Class 1 RACM, Class 2 medical wastes, Class 1 polychlorinated biphenyl (PCB) waste, Class 1 TPH waste, and Class 1 new chemical substance waste). Because of the unique properties of empty containers, the commission has attempted to develop an empty container category that is protective of human health and the environment without being overly restrictive on generators.

In regards to §335.508(2)(A)(iv), concerning requirements for containers going for recycling, several commenters requested that containers which were empty (per §335.41(f)(2)) not be required to be triple-rinsed or hydroblasted and rendered unusable if they were going for recycling. It was stated by another commenter that the emphasis for the empty container classifications should be placed on only removing as much residue as is needed for proper management by the recycler, since this would put an additional burden on the generator to manage additional waste streams resulting from that rinsing process. Based on this the commenter felt that the receiver could specify what degree of residue removal would be required and this would not deter the adoption of the recycling route of management by the generators.

During the advisory committee's review of the self-classification rules, staff received information concerning the recycling process of dismantling or scrapping containers. It is ap-

parent that these containers ultimately would be rendered unusable; thus, puncturing or rendering unusable prior to the recycling process would be redundant. The commission concurred with the committee's assessment and the empty container category was amended to allow for this waste management practice. In order to clarify this requirement, clarifying language has been added to §335.508(2)(A)(iv).

The commission believes that the requirement for triple-rinsing or hydroblasting these containers is necessary to prevent the release of harmful residues to humans or the environment during storage and/or transportation. If the harmful residues were not removed and the containers were considered Class 2, there would be a substantial increase in the possibility that these residues would cause harm. This arises from the increased likelihood that the containers would be handled with less precautions than a Class 1 waste during storage and transportation as well as the fact that these containers (along with their residues) could more easily end up being used in an inappropriate manner (ie. bar-b-que pits, sleeping quarters, and drinking water containers) since their movement is not tracked by manifesting.

As an example, if a 55 gallon container were only required to be empty per §335.41(f)(2)(A) before it was classified as a Class 2 waste, as much as 1.65 gallons (or 6.24 liters) could remain in the container. This would amount to a considerable amount of waste, if it was from a large quantity of containers, which could then migrate into the environment. It would also be a large amount of waste for one individual to come into contact with in a mismanagement situation. Therefore, the commission does not concur that the stipulation that residues be removed be stricken from the rule.

Another commenter suggested that the TNRC allow containers of less than five gallons in capacity fall under the same guidelines as those greater than or equal to five gallons since this would preserve landfill space and promote recycling. Although the commission agrees that recycling should be promoted, it does not feel that the waste classification rules are the right avenue. The commission feels that its classification rules should concentrate on the potential hazard associated with a waste rather than with recycling.

One commenter expressed concern that a more stringent container classification should not be based on the fact that the containers being classified came from an industrial rather than an institutional, commercial, or municipal source.

The commission would like to note that some of the sources mentioned by the commenter may be considered industrial sources and thus subject to these classification rules (including those for containers). For those sources which are non-industrial, the commission does not have a waste classification scheme as implied by the commenter.

In regards to the exemption for containers which are to be reclaimed, §335.508(2)(A)(iv), one commenter re-

requested clarification. The commenter also noted that in a previous preamble the TNRCC stated that "...containers of all sizes which are directly re-used or re-conditioned (reclaimed for reuse for its intended purpose) are not solid wastes..." and is requesting clarification of this statement.

"Reconditioned" or "reused" in this context refer to materials which are returned for use for their intended purpose (i.e., shipment of products). For example, drums which are returned to the manufacturer to be reconditioned and refilled or just refilled would not be considered wastes. However, drums sent to be shredded for use as a feedstock replacement in a process to make metal ingots would be considered recycling. The commission further clarifies this section by amending the wording to read "recycling" rather than "reclamation."

The commission would like to reiterate that containers destined for reconditioning and returned for reuse as containers are not considered solid waste and therefore are not subject to the classification requirements of these rules.

In regard to form codes for plant trash, §335.508(3), one commenter was against having multiple codes (i.e., 999 and 902) since the waste generally ends up in the same landfill anyway.

The form codes 999 (plant trash) and 902 (supplemental plant production refuse) represent two types of wastes. Nine hundred and ninety-nine (plant trash) represents the more common type of wastes which are typically considered Class 2. For example, 999 would include such things as paper, cardboard, wooden packaging materials, food wastes, glass, stainless steel, steel, iron scrap, plastics, styrofoam, rope, twine, equipment belts, wiring, uncontaminated cloth, metal bindings, and uncontaminated floor sweepings. 902 (supplemental plant production refuse) can include ANY Class 2 waste from production, manufacturing, or laboratory operations. For example, 902 could include such things as Class 2 sludges, Class 2 off-specification chemicals, and Class 2 contaminated absorbents. Another difference between the two codes is that the quantity of wastes identified as 999 (plant trash) can be unlimited while the total quantity of waste identified as 902 (supplemental plant production refuse) is limited to 20% of the waste identified as 999 (plant trash). The reasons the two codes were established were: the commission felt it unnecessary to identify on a Notice of Registration every common, Class 2 waste as an individual waste stream; therefore, form code 999 was established (plant trash); and sometimes generators produce small quantities of Class 2 production, manufacturing and/or laboratory wastes which, because of the small quantity and classification, do not seem to warrant individual waste stream identification on the Notice of Registration. However, because the commission did not want to lose its ability to review and audit Class 2 classifications, it did not want all Class 2 wastes being identified as supplemental plant production refuse (902). For that same reason, and the fact that wastes from production, manufacturing and

laboratory operations can be classified as something other than Class 2, the commission feels it appropriate to retain the two codes at this time.

In regard to form codes for plant trash, §335.508(3), one commenter requested that the commission put the emphasis on "people-related" trash rather than industrial trash.

The commission does not wish at this time to identify "people-related" wastes as a separate form code. The commission feels that a majority of "people-related" wastes are covered by the form code 999 (plant trash), as this code includes such waste as paper, food wastes, cafeteria waste, glass, aluminum foil, aluminum cans, plastics, styrofoam, empty containers with a holding capacity of five gallons or less, uncontaminated floor sweepings, food packaging, and personal cosmetics generated by facility personnel.

In regard to form codes for plant trash, §335.508(3), it was requested that the commission allow a small percentage of Class 1 waste to be included in the plant trash, to allow small quantity generators to avoid the Class 1 requirements for notification, classification, and disposal.

The commission does not agree with the commenter's request to allow for small amounts of Class 1 waste to be included with plant trash. Class 1 wastes are wastes which may pose a potential or present risk to human health and the environment. The commission believes that allowing for such waste to be managed and disposed of alongside Class 2 wastes is not consistent with the regulations and is not protective of human health and the environment.

Because of the confusion the commission has seen in regards to form codes for plant trash, §335.508(3), it feels that the inclusion of the main parts of the plant trash definitions would be useful to generators when choosing form codes found in Appendix III; therefore, the commission has amended the rules to include a summary of those definitions.

Concerning §335.1 (definitions), several commenters stated that the exclusion for polymerized materials found in the definition of Petroleum Substance was too broad. Another commenter expressed concern that the Petroleum Substance definition did not exclude their particular form of plastic. Another commenter asked if the list of polymerized materials was an exhaustive one.

To clarify the Petroleum Substance definition to meet its intended purpose, the commission is amending it to exclude the general category of polymerized materials, and rewording it for clarification purposes. Also, for ease of reading, the commission has moved the definition of "motor fuel" into the Petroleum Substance definition rather than referencing it in the Petroleum Substance definition. Examples of common polymerized materials have been added in hopes of assisting generators in the application of the definition. The solvent subcategory of petroleum substance has been moved to its own subparagraph (B) under the petroleum substance definition; therefore, the subsection regarding what is not considered a Petroleum Substance has

been moved to subsection C. The commission does not wish to regulate materials that use minimal amounts of solvent during a process that renders the solvent no longer a risk to human health and the environment. The phrase regarding standard conditions has been moved to subsection A of the definition and standard conditions are defined.

In regard to the TPH test, §335.508(6), one commenter stated that TPH should not be a parameter for evaluation since it is not a compound, and does not have a defined risk. In addition to this, several comments were received concerning the validity of using the TPH test, since it does not distinguish between those organic compounds which are harmless to human health and the environment and those known to pose a threat.

The commission concurs with the commenters' statements that the TPH test does not identify specific compounds and does not distinguish between harmful and non-harmful compounds. This test was originally established as a screening mechanism to identify petroleum hydrocarbon contamination in various media and to establish a method to quantify that contamination. This screening mechanism was established to help generators avoid cost associated with a thorough organic analytical analysis for harmful constituents for wastes contaminated with or containing small amounts of petroleum materials. If the waste passed the screen, additional testing would not be needed. If the waste failed the screen, the commission would be willing to review information from the generator addressing the possible presence and quantity of toxic, carcinogenic and other harmful substances. This review would take place through the variance procedure. In time, the commission hoped to obtain sufficient information through the variance procedure and its Call for Comments on TPH to the regulated community (published in the *Texas Register*) that the criteria for specific waste streams bearing petroleum constituents could be narrowed. Unfortunately, the Call for Comments resulted in no responses on this issue. Therefore, based upon the limited information it has, the commission has only been able to provide relief from the variance procedure to a limited number of wastes. These are found in the Petroleum Substance Definition and include such things as hardened asphalt, plastics, cosmetics, synthetic rubber, and roofing shingles. Therefore, the commission does not feel it appropriate to remove the TPH criteria at this time.

In regard to §335.508(6), several commenters stated that the TPH requirement of 1,500 ppm was too excessive and overly restrictive for stable waste (i.e., asphalt, shingles, spent roofing materials, rubber, plastic bags, food grade lubricating oils and tires) and wastes that exhibit elevated petroleum hydrocarbons due to the raw material properties of the substances. One commenter also felt that the commission should adopt the use of volatile and semi-volatile analysis for organics related to TPH. The commenter believes that if these were not present above Appendix 1, Table 1 levels, then the waste should not be considered a Class 1, and should not have to go through a variance procedure.

The commission agrees with the comments concerning "stable" waste and has included in the definition of "Petroleum Substances" an exclusion for these types of waste. In regards to comparing the levels on the Table 1, Appendix 1 (Class 1 Toxics) to determine the classification of wastes, the commission would like to point out that the Class 1 Toxics table is not based on petroleum contaminated wastes. The commission needs more definitive information to generate a comprehensive list of harmful constituents that may be found in petroleum wastes in order to evaluate their potential for harm. In its Call for Comments that it placed in the *Texas Register*, the commission asked for assistance in this matter. It received none. Therefore, the commission must evaluate this need on an individual basis (i.e., the variance procedure) until sufficient information is gathered to allow it to address these needs more globally.

As stated previously, the commission has amended the definition of a petroleum substance to exclude specific wastes which do not pose a threat when TPH concentrations exceed 1,500 ppm. This amendment should relieve generators of some of the economic burden associated with the management of these wastes and remain protective of human health and the environment. The commission does not concur with the commenter regarding requirements for industrial generators. Nonhazardous waste generated at an industrial site is capable of coming into contact with industrial contaminants that would not be found in the same waste that is generated by a nonindustrial facility. For that reason, generators need to demonstrate that these wastes do not contain such contamination in levels that are considered potentially harmful.

In regard to §335.508(6), one commenter suggested the commission follow the Notification Advisory Committee's suggestion and assign specific classifications to wastes which contain petroleum hydrocarbons and which are regulated under another program. The commenter goes on to comment that just because this type of waste comes from an industrial source versus a commercial or residential source should not be the basis for subjecting the waste to more stringent testing and handling requirements.

The commission does not concur with assigning specific classifications for wastes regulated by other programs. In fact, the commission has stated in the classification rules that the rules do not apply to wastes resulting from the cleanup of leaking underground storage tanks which are also regulated under the Petroleum Storage Tank Program. The commission would also like to note that some of the sources mentioned by the commenter may be considered industrial sources and thus may be subject to these classification rules (including those for petroleum hydrocarbons). For those sources which are non-industrial, the commission does not have a waste classification scheme as implied by the commenter. Consequently, the commission does not have classification regulations in place that apply to petroleum hydrocarbon waste coming from a non-industrial source; thus, the comment seems to imply that petroleum hydrocarbon waste should not be subject to classification. The commission

does not agree with this suggestion due to the fact that this type of waste can be quite harmful.

One commenter also expressed concern that it is economically significant and burdensome to the generator to handle petroleum contaminated wastes as Class 1 waste due to elevated TPH levels.

The commission feels that the addition of the petroleum substance definition will eliminate cost for disposal of wastes not contaminated with a petroleum substance. Wastes that are contaminated with a petroleum substance and have a TPH concentration at a level equal to or greater than 1,500 ppm may pose a substantial risk to human health because they could contain substantial amounts of chemicals that are toxic or carcinogenic. Therefore, even though the cost for handling some waste as a Class 1 as opposed to a Class 2 may be greater, the commission feels this appropriate for the protection of human health.

In regard to §335.508(6), one commenter suggested that the commission re-establish an advisory committee to consider and evaluate prior comments received by the advisory committee concerning TPH. The commission appreciates the comment as it continues to investigate the TPH issue. The commission hopes to develop additional documentation for future review through the variance process.

In regard to §335.508(6), one commenter stated that the word "concentration" seems to have been omitted from the subsection and that it should be inserted between the words "hydrocarbon" and "less." The commission appreciates the commenter's noting the need for clarification and is clarifying this subsection of the rule in this publication.

In regard to §335.508(6), several commenters stated that the TPH criteria is not realistic of potential risk. The commenters felt that the self classification rules should take into account the new federal standards for landfills.

In regard to the federal landfill requirements, the Subtitle D landfill regulations "grandfathered" some landfills, therefore, all landfills are not consistent with the new more stringent technology requirements. Therefore, the commission can not fully agree with the commenters.

Concerning §335.508(6), one commenter suggested that the commission exclude soils with greater than 1,500 TPH from being a Class 1 waste designation if the generators demonstrate that the soils do not contain identified hydrocarbons when using EPA methods 8260 and 8270.

The commission has requested information regarding these and other TPH containing wastes, and to date has received little information. The commission has only been able to obtain information through the variance procedure. At this time the commission will determine on a case-by-case basis the acceptance of specific test methods during the variance procedure. The commission will utilize the variance procedure to review this approach to the TPH criteria. The commis-

sion requests that generators continue to utilize the variance procedure to increase the amount of information that the commission has on these types of wastes.

Concerning §335.508(6), regarding the reuse of petroleum contaminated soils, one commenter questioned whether the use of petroleum contaminated soils was a new generator self-determination and whether there were specific variance procedures or case-by-case evaluations to go through.

The commission would like to clarify that reuse or recycling of industrial wastes is not a new generator self-determination. Subchapter A addresses the reuse of industrial waste. The recycling rules were not part of these rules and as such are not addressed.

One commenter stated that the cost of disposal for contaminated soils increased from \$8.00 to \$35 per cubic yard without any evidence that 1,500 ppm cut-off provides any significant protection to human health or the environment.

The commission feels that the addition of the petroleum substance definition will eliminate any increased cost for disposal of soils not contaminated with a petroleum substance. The commission will retain the 1,500 ppm level for materials contaminated with or that are petroleum substances. Soils that are contaminated with a petroleum substance and have a TPH concentration at a level equal to or greater than 1,500 ppm may pose a substantial risk to human health because they could contain substantial amounts of chemicals that are toxic or carcinogenic. If generators feel that their particular waste does not pose this risk, they can request that the commission provide them a variance from the Class 1 classification.

Concerning §335.508(6), one commenter felt that there is confusion in the regulated community in regards to TPH contaminated soils as being industrial or municipal (nonindustrial) when being sent to a municipal landfill. The commenter goes on to state, "that all recovered oil or oil/water mixtures spilled from a pipeline, vessel, or facility (excluding exploration and production facilities) as well as any associated oily solid waste (Tyvek, sorbents, etc.) are industrial waste and subject to the commission's Industrial Solid Waste Management rules."

These types of wastes are defined as being industrial or municipal by the Texas Solid Waste Disposal Act. The Memorandum of Understanding between The Railroad Commission of Texas (RRC), the Texas Water Commission (now the TNRCC), and The Texas Department of Health (now the TNRCC) which took effect January 1, 1982 further establishes the agency which has jurisdiction over a particular waste. The commission notes that these issues are not addressed by these rules but would like to note that the management of contaminated soils and RRC wastes in municipal landfills is addressed through the Special Waste regulations of Chapter 330.

In regards to §335.508(6), one commenter stated that EPA does not have limits for TPH, and as such, the TNRCC should not be more stringent than EPA.

As noted earlier in this preamble, EPA only regulates hazardous waste from industrial sources. Consequently, it has no compatible program for the regulation of nonhazardous industrial waste. Therefore, the regulation of nonhazardous industrial waste lies solely under state regulation. Since the TNRCC regulates waste from over 25,000 generators, the commission believes that the classification rules provide the safeguards needed to help protect human health and the environment from harmful waste from this large group of generators. The commission also believes that the inclusion of TPH as a distinguishing criteria among classes of nonhazardous wastes is a necessary measure to ensure proper management of such wastes.

Regarding §335.508(6), one commenter suggested that the TPH limit be raised to 140,000 (20 times the Table 1 level set for xylene).

The commission does not concur with this comment since wastes that are contaminated with a petroleum substance and have a TPH concentration at a level equal to or greater than 1,500 ppm may pose an unacceptable risk to human health due to the potential presence of substantial amounts of chemicals that are toxic or carcinogenic. The commission cannot concur with the commenter's suggestion to base the TPH classification criteria on a single constituent.

Concerning §335.508(9), regarding out of state generated wastes, several commenters suggested that the commission provide an exemption allowing intrastate companies shipping wastes to captive facilities to declare a material a Class 2 waste or a Class 3 waste without prior approval.

At this time the commission can not fully concur with the commenters' suggestion. The commission's regulations are established to protect Texas and Texans. The "prior approval" provision of the classification rules was originally included because it is difficult to pursue enforcement actions on out-of-state generators. The classification criteria and notification requirements for waste transported into or through Texas provides the safeguards needed to help ensure proper management of waste once it enters Texas. The rules for waste classification regarding out-of-state generated wastes help protect the citizens of Texas from possible mismanagement of out-of-state waste that is managed within Texas. However, the commission would like to state that it is aware of and sympathetic to companies' desire to reduce the time and procedures now associated with transporting Class 2 and Class 3 industrial waste into Texas. Therefore, it intends to pursue the means to reduce time and procedures associated with this activity and still protect human health.

Several commenters stated that it would be against the commission's waste minimization policy to require stabilized hazardous waste to be classified as Class 1 and would be costly for transportation and disposal while taking up Hazardous and Class 1 landfill space.

The commission does not concur with the statement that this contradicts the waste mini-

mization policy since that goal is to eliminate the creation of waste, not to downgrade the waste to a less stringent classification. The commission agrees that the waste classification would increase the disposal and transportation costs and is withdrawing this proposal at this time.

Another commenter suggested that since stabilized waste was already covered as a special waste in 30 TAC Chapter 325, it would be prevented from disposal in Subtitle D exempt landfills.

The commission would like to note that the definition of Special Waste is found in 30 TAC Chapter 330. The commission does not concur with the commenter's assessment since stabilized wastes are not part of the current definition of Special Waste but as a Class 1 waste would then be a Special Waste. Stabilized waste with class 2 waste classification may or may not be considered Special Waste.

The commenter also stated that this regulation will not keep non-notifiers from stabilizing and co-disposing the waste with putrescible wastes into Subtitle D exempt landfills.

The commission agrees with the commenter on the fact that it is difficult to determine if everyone is in compliance with the regulations when you are not with the regulated entities 100% of the time or have not yet been identified as an entity to be regulated.

Also regarding §335.508(10), several commenters suggested that the commission was ignoring data showing stabilized waste will not leach and that all stabilized wastes should be subject to the complete Subchapter R criteria without §335.508(10).

The commission concurs with these comments, as the Toxicity Characteristic Leaching Procedure (TCLP) is designed to determine the mobility of both organic and inorganic analytes present in liquid, solid, and multi-phasic wastes in an acidic environment such as a landfill. TCLP analytical results will determine the waste classification, whether class 1 or class 2, of stabilized hazardous waste. The Commission acknowledges that additional information would be beneficial and welcomes input on the subject of stabilized hazardous waste, when disposed in a municipal landfill.

In regards to §335.514, concerning variances from classification, the following comments were received: the publication of variances is not necessary since waste management information is public information, the publication of variances should not include company name and location, and the commission should maintain a historically detailed record of variances granted so as not to lose process knowledge through loss of institutional memory by movement of staff.

The commission stated previously in the preamble to the proposed regulations that it is investigating ways to publish variances granted. The commission is considering the possibility of publishing variances granted via the commission's bulletin board system (BBS) and the *Texas Register*. The commission is considering this action as an effort to inform the public of classification variances.

Company names and addresses would aid in the identification of the generator requesting the variance. This procedure may also be useful to those who are considering applying for a variance for one of their own wastes. The commission concurs with the commenter regarding the maintenance of historically detailed records of variances granted. The commission is committed to continued improvements and maintenance of information gathered and generated during the variance process.

In response to the request of one commenter that the commission clarify the process involved in reviewing a variance request, the commission refers to 30 TAC §335.514.

In this section the requirements and procedures for variance requests are set out for the regulated community. When a request is submitted to the commission it is first assigned to a chemist for evaluation and review. The chemist is looking for information regarding the nature of the waste, its composition, the generation process, and the justification for a variance. A review of any historical records which may be applicable to the current request is also part of the evaluation process. If additional information is required from the generator, it is requested at this time. The variance is sent to the division director for final decision. After this decision has been made, a letter is sent to the generator of the waste.

Regarding §335.515 and §335.521, there was a typographical error in the November 18, 1994 publication in which the tables in the appendixes were misnumbered. This numbering has been corrected.

In regards to Figure 1: 30 TAC §335.521(a)(1), Table 1, Appendix 1, the following comments were submitted in regards to the Maximum Concentration levels for new constituents: request that constituents added to the table be done so with very detailed records; request for the toxicological information for all of the additional compounds be added to the table; and request for the formulas used to derive the Maximum Concentration levels found in the table.

The commission provides the information maintained for the additional new constituents requested herein in this preamble. The equation used to determine the maximum concentration for toxic chemicals is:

$$C_w = [RFD \times W] / [I \times A] \times 100$$

C_w = Action level in water

RFD = Reference Dose (mg/kg/day)

W = Body weight (70 kg for an adult)

A = Absorption factor (1)

I = Intake assumption (2 liters/day)

The equation for determining the maximum concentration for carcinogenic chemicals is:

$$C_w = \{[R \times W \times LT] / [CSF \times I \times A \times ED]\} \times 10,000$$

C_w = Action level in water

W = Body weight (70 kg-adult)

A = Absorption factor (1)

I = Intake Assumption (2 liter/day)

R = Assumed Risk Level (Class A or B = 1.0×10^{-6})

(Class C = 1.0×10^{-5})

LT = Assumed lifetime (70 years)

CSF = Oral carcinogenic slope factor

ED = Exposure duration (70 years)

The toxicological information for the new constituents for Figure 1: 30 TAC §335.521(a)(1) is:

Acenaphthene-RFD = 6.00×10^{-2}

Anthracene-RFD = 3.00×10^{-1}

Chlor-m-cresol, p-RFD = 2.00×10^0

2,4 dimethylphenol-RFD = 2.00×10^{-2}

2,6 dimethylphenol-RFD = 6.00×10^{-3}

Dinoseb-RFD = 1.00×10^{-3}

2-ethoxyethanol-RFD = 4.00×10^{-1}

Ethylene glycol-RFD = 2.00×10^0

Fluoranthene-RFD = 4.00×10^{-2}

Fluorene-RFD = 4.00×10^{-2}

2-methoxyethanol-RFD = 4.00×10^{-3}

Mirex-RFD = 2.00×10^{-4}

Pyrene (Class C)-CSF = 5.91×10^{-1}

The following paragraph provides additional background information regarding the addition of these constituents.

Several commenters requested information regarding the reason for the addition of the new constituents in Figure 1: 30 TAC §335.521(a)(1), Table 1, Appendix 1. Since the adoption of these rules in 1992, the commission has become aware of additional constituents that may pose risk to human health. After review of these constituents by the commission's toxicologists, additions were made to the list. These RFD and CSF can be found in the Integrated Risk Information System (IRIS) database. IRIS is EPA's data system which contains summaries of health risk and EPA regulatory information on specific chemicals. Several commenters have asked for one year to comply with the new constituents. As addressed previously in this preamble, the commission will delay implementation for these constituents for waste generated, classified and coded prior to the effective date of these rules.

One commenter suggested that the commission reconsider two compounds on Figure 1: 30 TAC §335.521(a)(1), Table 1, Appendix 1 because of the inability to quantify these constituents. The two compounds were epichlorohydrin (EPI) and thiosemicarbazide. EPI may hydrolyze in water (i.e., the TCLP extract) and therefore it may not be detected as EPI. The analytical method stated in the preamble of 19 TexReg (November 18, 1994) *Texas Register* (Method 632) for thiosemicarbazide does not list it as a constituent analyzed in the method. Methods 632 and 632.1 test for similar compounds with similar structures. The analysis for this thio-urea compound does not at this time have an approved method by the EPA. Accordingly,

the commission is at this time removing thiosemicarbazide and EPI from the Figure 1: 30 TAC §335.521(a)(1), regarding Table 1, Appendix 1

One commenter request that Figure 1: 30 TAC §335.521(a)(1), Table 1, Appendix 1 be replaced with Table 1 in 40 CFR §261.24.

The commission does not agree with this since this table is only for the determination of the hazardous characteristic of toxicity and does not represent a complete list of chemicals that pose a risk to human health and the environment. The commission feels that Figure 1: 30 TAC §335.521(a)(1) is not exhaustive but is better representative of risk for nonhazardous waste than using only the 40 compounds found in the federal regulations.

In regards to Figure 1: 30 TAC §335.521(a)(1), several commenters stated that the addition of 2-Methylphenol, 3-Methylphenol and 4-Methylphenol is a duplication of constituents on the table and that the levels conflict with the cresols already on the table.

The commission concurs with the commenter that the constituents are a duplication of the cresols found on the table and in conflict with levels published. Therefore, the commission is removing these constituents in this publication.

In regards to Figure 1: 30 TAC §335.521(a)(1), a commenter also stated that the commission should reconsider adding constituents to the table at this time. One commenter felt that the evaluation of the new constituents for generators of existing classified waste stream was both burdensome and expensive.

The commission acknowledges that the review may be burdensome for some generators. The commission does not concur with reconsideration of adding constituents at this time; however, generators will be allowed additional time to comply with the new requirements of this table. The commission recommends generators utilize process knowledge whenever possible to eliminate potential constituents and minimize the cost of evaluation.

In regards to Figure 2: 30 TAC §335.521(a)(2), Table 2, Appendix 1, one commenter requested additional time to comply with the additional examples of ignitable solids.

The commission would like to point out that the examples are intended to serve only as examples. The revised rule does not change this. It only provides additional "examples" for consideration. The commission does not believe that the expanded list adds to the generator's responsibility and does not concur with the request for additional time to comply. The table, as previously published and as presently published, is not an all inclusive list. It is a list of materials which are examples of ignitable solids. The table is published to provide generators a list of examples of materials that are considered to be ignitable, combustible, and water-reactive solids and was expanded to provide generators with the most recent information from the DOT. The commission would like to again note that gen-

erators may utilize process knowledge to review all waste streams.

Subchapter A. Industrial Solid Waste and Municipal Hazardous Waste in General

• 30 TAC §335.1, §335.6

The amendments are adopted pursuant to the Texas Water Code, §5.103, which authorizes the Texas Natural Resource Conservation Commission (TNRCC) to promulgate rules necessary to carry out the powers and duties under the provisions of the Texas Water Code, and other laws of this state; and pursuant to the Texas Health and Safety Code, §361.017 and §361.024, which further authorizes the TNRCC to promulgate rules necessary to manage industrial solid and municipal hazardous wastes.

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

Petroleum substance—A crude oil or any refined or unrefined fraction or derivative of crude oil which is a liquid at standard conditions of temperature and pressure.

(A) Except as provided in subparagraph (C) of this section for the purposes of this chapter, a "petroleum substance" shall be limited to a substance in or a combination or mixture of substances within the following list (except for any listed substance regulated as a hazardous waste under the federal Solid Waste Disposal Act, Subtitle C (42 United States Code §§6921, et seq)) and which is liquid at standard conditions of temperature (200 Centigrade) and pressure (1 atmosphere):

(i) basic petroleum substances—i.e., crude oils, crude oil fractions, petroleum feedstocks, and petroleum fractions;

(ii) motor fuels—a petroleum substance which is typically used for the operation of internal combustion engines and/or motors (which includes but is not limited to stationary engines and engines used in transportation vehicles and marine vessels);

(iii) aviation gasolines—i.e., Grade 80, Grade 100, and Grade 100-LL;

(iv) aviation jet fuels—i.e., Jet A, Jet A-1, Jet B, JP-4, JP-5, and JP-8;

(v) distillate fuel oils—i.e., Number 1-D, Number 1, Number 2-D, and Number 2;

(vi) residual fuel oils—i.e., Number 4-D, Number 4 light, Number 4, Number 5-light, Number 5-heavy, and Number 6;

(vii) gas-turbine fuel oils—i.e., Grade O-GT, Grade 1GT, Grade 2-GT, Grade 3-GT, and Grade 4-GT;

(viii) illuminating oils—i.e., kerosene, mineral seal oil, long-time burning oils, 300 oil, and mineral colza oil;

(ix) lubricants—i.e., automotive and industrial lubricants;

(x) building materials—i.e., liquid asphalt and dust-laying oils;

(xi) insulating and waterproofing materials—i.e., transformer oils and cable oils;

(xii) used oils—(See definition for "used oil" in this section); and

(B) For the purposes of this chapter, a "petroleum substance" shall include solvents or a combination or mixture of solvents (except for any listed substance regulated as a hazardous waste under the federal Solid Waste Disposal Act, Subtitle C (42 United States Code §§6921, et seq)) and which is liquid at standard conditions of temperature (20o Centigrade) and pressure (1 atmosphere)—i.e., Stoddard solvent, petroleum spirits, mineral spirits, petroleum ether, varnish makers' and painters' naphthas, petroleum extender oils, and commercial hexane.

(C) The following materials are not considered petroleum substances:

(i) polymerized materials, i.e., plastics, synthetic rubber, polystyrene, high and low density polyethylene;

(ii) animal, microbial, and vegetable fats;

(iii) food grade oils,

(iv) hardened asphalt and solid asphaltic materials—i.e., roofing shingles, roofing felt, hot mix (and cold mix); and

(v) cosmetics.

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

Issued in Austin, Texas, on May 8, 1995.

TRD-9505732

Lydia Gonzalez-Gromatzky
Acting Director, Legal
Services Division
Texas Natural Resource
Conservation
Commission

Effective date: May 30, 1995

Proposal publication date: November 18, 1994

For further information, please call: (512) 239-6087

Subchapter R. Waste Classification

• 30 TAC §§335.501, 335.503, 335.505, 335.507-335.510, 335.514, 335.515, 335.521

The amendments and new section are adopted under the Texas Water Code, §5 103 and §26.011, which authorizes the Texas Natural Resource Conservation Commission (TNRCC) to promulgate rules necessary to carry out its power and duty to protect water quality in the state; and under Texas Health and Safety Code, §361.017 and §361.024, which authorizes the TNRCC to promulgate rules necessary to manage industrial solid and municipal hazardous wastes.

§335.501. *Purpose, Scope, and Applicability.* Persons who generate industrial solid waste or municipal hazardous waste shall comply with the provisions of this subchapter. Wastes that are regulated under Chapter 334, Subchapter K, of this title (relating to Storage, Treatment and Reuse Procedures for Petroleum-Substance Contaminated Soil) are not subject to the provisions of this subchapter. Persons who generate wastes in Texas shall classify their own waste according to the standards set forth in this subchapter and may do so without any prior approval or communication with the commission other than notification of waste generation activities pursuant to §335.6 of this title (relating to Notification Requirements) and submittal of required documentation pursuant to §335.513 of this title (relating to Documentation Required). A generator of industrial solid waste or special waste as defined by §330.2 of this title (relating to Definitions) shall refer to Chapter 330 of this title (relating to Municipal Solid Waste) for regulations regarding the disposal of such waste prior to shipment to a municipal landfill. This subchapter will.

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

(3) after June 7, 1995, apply to all classifications involving new waste streams and existing unclassified waste streams; and

(4) on January 1, 1996, require the completion of all existing waste stream notifications in accordance with the classification requirements of this subchapter

§335.503. *Waste Classification and Waste Coding Required.*

(a) (No change.)

(b) As required under the schedule provided in §335.501 of this title (relating to Conversion to New Waste Notification and Classification System), all industrial solid waste and municipal hazardous waste generated, stored, processed, transported, or

disposed of in the state shall be coded with an eight-digit waste code number which shall include a four-digit waste sequence number, a three-digit form code, and a one-character classification (either H, 1, 2, or 3). Form codes are provided in §335.521(c) of this title (relating to Appendix 3). Procedures for assigning waste code numbers and sequence numbers are outlined as follows and are available from the commission at the address listed in §335.521(b) of this title (relating to Appendix 2).

(1)-(6) (No change.)

(7) A facility which receives and consolidates like waste from Municipal Conditionally Exempt Small Quantity Generators should use "CESQ" in the first four positions of the waste code for any manifesting and/or reporting associated with that waste.

(8) A facility which receives a waste and consolidates that waste with other like waste, other than its own, (thus not changing the form code of the waste stream or its composition, hazardous, or Texas waste class), or stores a waste without treating, processing (as defined in §335.1 of this title (relating to Definitions)), or changing the form or composition of that waste may ship that waste to a storage, treatment, or disposal facility using the sequence code "TSDf" in the first four positions of the waste code. This does not pertain to wastes which are treated or altered or combined with unlike wastes. This "TSDf" designation is only to be used by facilities that store and/or accumulate a quantity of wastes from more than one site for subsequent shipment to a treatment or disposal facility. Manifest documents must note a final destination designated to receive a consolidated waste. The designated "final destination" receiving facility noted on the manifest must be a permitted facility in order to terminate the manifest, unless the waste is nonhazardous and does not require manifesting in accordance with §335.10(g) of this title (relating to Shipping and Reporting Procedures Applicable to Generators of Hazardous Waste or class 1 Waste and Primary Exporters of Hazardous Waste) and is going to a facility described in §335.10(g) of this title (relating to Shipping and Reporting Procedures Applicable to Generators of Hazardous Waste or class 1 Waste and Primary Exporters of Hazardous Waste). A consolidated waste shipped to a non-permitted facility prior to being shipped to the final destination must proceed with the original manifests (noted with any appropriate changes) to the facility designated on the manifest for final handling

§335.505. *Class 1 Waste Determination.* A non-hazardous industrial solid waste is a Class 1 waste if:

(1) it contains specific constituents which equal or exceed the levels listed in §335.521(a) (1) of this title (relating to Appendix 1, Table 1) as determined by the methods outlined in this section. A nonhazardous waste is a Class 1 waste if, using the test methods described in 40 CFR Part 261 Appendix II, or equivalent methods approved by the executive director under the procedures set forth in §335.509 of this title (relating to Waste Analysis), the extract from a representative sample of the waste contains any of the contaminants listed in §335.521(a)(1) at a concentration equal to or greater than the Maximum Concentration given in that table. Information on representative samples is set forth in §335.509 of this title (relating to Waste Analysis). Where matrix interferences of the waste cause the Practical Quantitation Limit (PQL) of the specific analysis to be greater than the Maximum Concentration listed in §335.521(a)(1), then the achievable PQL becomes the Maximum Concentration, provided that the generator maintains documentation which would satisfactorily demonstrate to the executive director that lower levels of quantitation of a sample are not possible. A satisfactory demonstration includes the results from the analysis of the waste for that specific analyte by a laboratory utilizing an appropriate method described in "Test Methods for the Evaluation of Solid Waste, Physical/Chemical Methods" (EPA SW-846), "Methods for Chemical Analysis of Water and Wastes" (EPA-600/4-79/020), "Standard Methods for the Examination of Water and Wastewater", "American Society for Testing and Materials (ASTM) Standard Methods", any EPA-approved method, or an equivalent method approved by the executive director under procedures set forth in §335.509 of this title (relating to Waste Analysis);

(2) it is Class 1 ignitable. A nonhazardous waste is Class 1 ignitable if a representative sample of the waste has any of the following properties:

(A) (No change.)

(B) it is a physical solid or semi-solid under which conditions normally incident to storage, transportation, and disposal is capable of causing fires through friction, or retained heat from manufacturing or processing, or which can be ignited readily, and when ignited burns both vigorously and persistently such that it creates a serious hazard. Included in this class are spontaneously combustible and water-reactive materials, including but not necessarily limited to the substances listed in §335.521(a)(2) of this title (relating to Appendix 1, Table 2) and found in 49 CFR Part 173 Subchapter E. Generators should demonstrate that a waste with significant

concentrations of these constituents is not Class 1 ignitable;

(3) (No change.)

(4) it contains amenable cyanides equal to or greater than 20 mg/l;

(5) there is an absence of analytical data and/or documented process knowledge (as described in §335.511 of this title (relating to Use of Process Knowledge)) which proves a waste is Class 2 or Class 3;

(6) it is identified as a Class 1 waste in §335.508 of this title (relating to Classification of Specific Industrial Solid Wastes); or

(7) it is not a hazardous waste pursuant to §335.504 of this title (relating to Hazardous Waste Determination) and a generator chooses to classify the waste as Class 1.

§335.508. *Classification of Specific Industrial Solid Wastes.* The following nonhazardous industrial solid wastes shall be classified no less stringently than according to the provisions of this section:

(1) (No change.)

(2) Empty containers that are a solid waste as defined in §335.1 (relating to Definitions) shall be subject to the following criteria:

(A) A container which has held a Hazardous Substance as defined in 40 CFR Part 302, a Hazardous waste, a Class 1 waste, or a material which would be classified as a Hazardous or Class 1 waste if disposed of, and is empty per §335.41(f)(2) of this title (relating to Purpose, Scope and Applicability concerning empty containers):

(i) (No change.)

(ii) may be classified as a Class 2 waste if the container has a capacity of five gallons or less; or

(iii) may be classified as a Class 2 waste if the container has a capacity greater than five gallons and:

(I) the residue has been completely removed either by triple rinsing with a solvent capable of removing the waste, by hydroblasting, or by other methods which remove the residue; and

(II) the container has been crushed, punctured, or subjected to other mechanical treatment which renders the container unusable; or

(iv) may be classified as a Class 2 waste if the container is to be sent for recycling and:

(I) the residue has been completely removed either by triple rinsing with a solvent capable of removing the waste, by hydroblasting, or by other methods which remove the residue; and

(II) the container is not regulated under the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA) 40 CFR Part 165; and

(III) the generator maintains documentation in accordance with §335.513 of this title (relating to Documentation Required) that demonstrates the container is being reclaimed, and

(IV) the recycling activity involves shredding, dismantling, scrapping, melting, or other method that renders the container unusable.

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

(3) Plant trash refers only to paper, cardboard, food wastes, and general plant trash. These wastes shall be subject to the following classification criteria:

(A) The form code 999 ("PLANT TRASH") refers only to Class 2 waste originating in the facility offices or plant production area that is composed of paper, cardboard, linings, wrappings, paper and/or wooden packaging materials, food wastes, cafeteria waste, glass, aluminum foil, aluminum cans, aluminum scrap, stainless steel, steel, iron scrap, plastics, styrofoam, rope, twine, uncontaminated rubber, uncontaminated wooden materials, equipment belts, wirings, uncontaminated cloth, metal bindings, empty containers with a holding capacity of five gallons or less, uncontaminated floor sweepings, and/or food packaging, that are produced as a result of plant production, manufacturing, laboratory, general office, cafeteria, or food services operations. Also included in plant trash are personal cosmetics generated by facility personnel, excluding those cosmetics generated as a result of manufacturing or plant production operations. Plant refuse shall not include oils, lubricants of any type, oil filters, contaminated soils, sludges, wastewaters, bulk liquids of any type, or Special Wastes as defined by §330.2 of this title (relating to Definitions).

(B) The form code 902 ("SUPPLEMENTAL PLANT PRODUCTION REFUSE") only applies to Class 2 Waste from production, manufacturing, or laboratory operations. The total amount of the supplemental plant production refuse (form code 902) shall not exceed 20% of the annual average of the total plant refuse

(form code 999) volume or weight, whichever is less. Individual wastes which have been designated supplemental plant production refuse may be designated by the generator at a later time as a separate waste in order to maintain the supplemental plant production refuse at or below 20% of the appropriate plant refuse amount. For any waste stream, included with, removed from, or added to the supplemental plant refuse designation (form code 902), the generator must provide the notification information required pursuant to this subchapter.

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

(6) Wastes which are petroleum substances or contain contamination from petroleum substances, as defined in §335.1 of this title (relating to Definitions) shall be classified as a Class 1 waste until a generator demonstrates that the waste's total petroleum hydrocarbon concentration (TPH) is less than or equal to 1,500 parts per million (ppm). Where hydrocarbons can not be differentiated into specific petroleum substances, then such wastes with a TPH concentration of greater than 1500 ppm shall be classified as a Class 1 waste. Wastes resulting from the cleanup of leaking underground storage tanks (USTs) which are regulated under Chapter 334, Subchapter K, of this title (relating to Petroleum Substance Waste) are not subject to classification under this subchapter

(7)-(9) (No change.)

(10) Wastes which are hazardous solely because they exhibit a hazardous characteristic, which are not considered hazardous debris as defined in 40 CFR §268.2(g), which are subsequently stabilized and no longer exhibit a hazardous characteristic and which meet the land disposal restrictions as defined in 40 CFR Part 268 may be classified according to the Class 1 or Class 2 classification criteria as defined in §335.505, §335.506, and §335.508 of this title (relating to Class 1 Waste Determination; Class 2 Waste Determination; and Classification of Specific Industrial Solid Wastes).

§335.515. Enforcement.

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

(c) When establishing corrective actions and penalty amounts involving violations of this subchapter, the executive director should consider circumstances which mitigate the nature or extent of the violations in accordance with applicable rules and statutes.

§335.521. Appendices.

(a) Appendix 1.

(1) Table 1. Figure 1: 30 TAC §335.521(a)(1)

(2) Table 2. Figure 2: 30 TAC §335.521(a)(2)

(3) Table 3. Figure 3: 30 TAC §335.521(a)(3)

(b) Appendix 2. Figure 4: 30 TAC §335.521(b)

(c) Appendix 3. Figure 5: 30 TAC §335.521(c)

(d) Appendix 4. Figure 6: 30 TAC §335.521(d)

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

Issued in Austin, Texas, on May 8, 1995.

TRD-9505733 Lydia Gonzalez-Gromatzky
Acting Director, Legal
Services Division
Texas Natural Resource
Conservation
Commission

Effective date: May 30, 1995

Proposal publication date. November 18, 1994

For further information, please call: (512) 239-6087

TITLE 34. PUBLIC FINANCE

Part III. Teacher Retirement System of Texas

Chapter 25. Membership Credit

The Teacher Retirement System of Texas (TRS) adopts amendments to §§25.1, 25.21, and 25.182, concerning the meaning of full-time service, compensation subject to deposit and credit, and yearly increments of credit, without changes to the proposed text as published in the December 13, 1994, issue of the *Texas Register* (19 TexReg 9839). The justification for the amendments is clarification for tax qualification purposes and clarification of installment payments for certain types of service.

The amendment to §25.1 adds an inclusive floor needed for tax qualification purposes to the guidelines set out in this section for full-time service. The amendment to §25.21 reflects federal law dealing with maximum amounts of annual compensation that may be reported and used for calculating benefits. The amendment to §25.182 allows members purchasing out-of-state credit to have multiple installment agreements. The law was changed by the Legislature in 1993 to allow purchase of credit after five years and allows an additional year with each year of actual credit up to a maximum of ten years.

No comments were received regarding adoption of the amendments.

Service Eligible for Membership

• 34 TAC §25.1

The amendment is adopted under the Government Code, Chapter 825, §825.102,

which authorizes the Teacher Retirement System to adopt rules for the administration of the funds of the retirement system.

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

Issued in Austin, Texas, on May 10, 1995

TRD-9505753 John R. Mercer
Interim Executive Director
Teacher Retirement
System of Texas

Effective date: June 1, 1995

Proposal publication date: December 13, 1994

For further information, please call. (512) 370-0506

Compensation

• 34 TAC §25.21

The amendment is adopted under the Government Code, Chapter 825, §825.102, which authorizes the Teacher Retirement System to adopt rules for the administration of the funds of the retirement system

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

Issued in Austin, Texas, on May 10, 1995.

TRD-9505754 John R. Mercer
Interim Executive Director
Teacher Retirement
System of Texas

Effective date: June 1, 1995

Proposal publication date: December 13, 1994

For further information, please call: (512) 370-0506

Installment Payments

• 34 TAC §25.182

The amendment is adopted under the Government Code, Chapter 825, §825.102, which authorizes the Teacher Retirement System to adopt rules for the administration of the funds of the retirement system.

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

Issued in Austin, Texas, on May 10, 1995.

TRD-9505755 John R. Mercer
Interim Executive Director
Teacher Retirement
System of Texas

Effective date: June 1, 1995

Proposal publication date: December 13, 1994

For further information, please call (512) 370-0506

Chapter 27. Termination of Membership and Refunds

• 34 TAC §27.2, §27.10

The Teacher Retirement System of Texas (TRS) adopts an amendment to §27.2 and new §27.10, concerning the withdrawal of funds by a non-eligible person and forfeitures which may not increase benefits, without changes to the proposed text as published in the December 13, 1994, issue of the *Texas Register* (19 TexReg 9840).

The justification for the amendment and the new section is to clarify TRS' compliance with Federal Internal Revenue Code requirements related to qualified plans.

The amendment to §27.2 makes it clear that picked up deposits by an employer cannot be withdrawn until the member terminates employment with the employer. The new §27.10 makes it clear that benefits to remaining members may not be increased due to termination of membership.

No comments were received regarding adoption of the amendment and new section

The amendment and new section are adopted under the Government Code, Chapter 825, §825.102, which authorizes the Teacher Retirement System to adopt rules for the administration of the funds of the retirement system.

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

Issued in Austin, Texas, on May 10, 1995.

TRD-9505756 John R. Mercer
Interim Executive Director
Teacher Retirement
System of Texas

Effective date: June 1, 1995

Proposal publication date: December 13, 1994

For further information, please call (512) 370-0506

Chapter 29. Benefits

The Teacher Retirement System of Texas (TRS) adopts amendments to §§29.11, 29.34, 29.40, 29.50, and 29.51; and new §§29.17 and 29.52-29.54. Section 29.17, concerning the latest date for the commencement of benefits, is adopted with changes to the proposed text as published in the February 28, 1995, issue of the *Texas Register* (20 TexReg 1406). Amendment to §29.11, concerning amendments to actuarial tables, is adopted without changes to the proposed text as published in the December 30, 1994, issue of the *Texas Register* (19 TexReg 10491). Amendments to §§29.34, 29.40, 29.50, and 29.51; and new §§29.52-29.54 are adopted

without changes to the proposed text as published in the December 13, 1994, issue of the *Texas Register* (19 TexReg 9840)

The change in §29.17 consists of deleting language in paragraph (2) requiring a member to apply for retirement upon termination of employment in order for benefits to commence to be distributed

The justification for the new sections and amendments is to clarify TRS' compliance with Federal Internal Revenue Code requirements related to qualified plans

The amendment to §29.11 protects members from adverse consequences from changing tables and adds protection for TRS as a qualified plan. New §29.17 further clarifies the latest date for the commencement of benefits. The amendment to §29.34 makes the distribution of death benefits clear for Internal Revenue purposes. The amendment to §29.40 makes it clear that distributions to beneficiaries are at least as rapid as the option elected by the member. The amendment to §29.50 defines annual benefit, annual additions, annual compensation code, defined benefit plan fraction, defined contribution plan, defined contribution plan fraction, employer, and member contributions. Amendment to §29.51 makes the plan limitation on retirement benefits clear. New §29.52 explains adjustments to annual benefit limits. New §29.53 explains the limitations for participants in defined contribution plans as they relate to TRS. New §29.54 defines some special provisions as to high paid participants in the plan

No comments were received regarding adoption of the new sections and amendments

Retirement

• 34 TAC §29.11

The amendment is adopted under the Government Code, Chapter 825, §825.102, which authorizes the Teacher Retirement System to adopt rules for the administration of the funds of the retirement system.

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

Issued in Austin, Texas, on May 10, 1995

TRD-9505757 John R. Mercer
Interim Executive Director
Teacher Retirement
System of Texas

Effective date: June 1, 1995

Proposal publication date: December 30, 1994

For further information, please call (512) 370-0506

• 34 TAC §29.17

The new section is adopted under the Government Code, Chapter 825, §825.102, which authorizes the Teacher Retirement System to adopt rules for the administration of the funds of the retirement system

§29.17 Latest Date for Commencement of Benefits. A member's benefits shall be distributed, or commence to be distributed to the member no later than April 1 of the year following the calendar year in which such member:

(1) attains age 70 1/2; or

(2) terminates employment, whichever of this paragraph or paragraph (1) of this section occurs later. Distributions to the member and the member's beneficiary shall be made in accordance with the Internal Revenue Code, §401(a)(9)(D) thereof relating to incidental death benefits.

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

Issued in Austin, Texas, on May 10, 1995.

TRD-9505759 John R. Mercer
Interim Executive Director
Teacher Retirement
System of Texas

Effective date: June 1, 1995

Proposal publication date: February 28, 1995

For further information, please call (512) 370-0506

Death Before Retirement

• 34 TAC §29.34

The amendment is adopted under the Government Code, Chapter 825, §825.102, which authorizes the Teacher Retirement System to adopt rules for the administration of the funds of the retirement system

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

Issued in Austin, Texas, on May 10, 1995

TRD-9505760 John R. Mercer
Interim Executive Director
Teacher Retirement
System of Texas

Effective date: June 1, 1995

Proposal publication date: December 13, 1994

For further information, please call (512) 370-0506

Post Retirement Increases

• 34 TAC §29.40

The amendment is adopted under the Government Code, Chapter 825, §825.102, which authorizes the Teacher Retirement System to adopt rules for the administration of the funds of the retirement system.

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

Issued in Austin, Texas, on May 10, 1995.

TRD-9505761

John R. Mercer
Interim Executive Director
Teacher Retirement
System of Texas

Effective date: June 1, 1995

Proposal publication date: December 13, 1994

For further information, please call: (512) 370-0506

◆ ◆ ◆
Plan Limitations

• **34 TAC §§29.50-29.54**

The amendments and new sections are adopted under the Government Code, Chapter 825, §825.102, which authorizes the Teacher Retirement System to adopt rules for the administration of the funds of the retirement system

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

Issued in Austin, Texas, on May 10, 1995.

TRD-9505762

John R. Mercer
Interim Executive Director
Teacher Retirement
System of Texas

Effective date: June 1, 1995

Proposal publication date: December 13, 1994

For further information, please call: (512) 370-0506

◆ ◆ ◆
TITLE 40. SOCIAL SERVICES AND ASSISTANCE

Part I. Texas Department of Human Services

Chapter 48. Community Care for Aged and Disabled

In-Home and Family Support Program

• **40 TAC §§48.2702, 48.2707, 48.2710, 48.2711**

The Texas Department of Human Services (DHS) adopts amendments to §§48. 2702, 48.2707, 48.2710, and 48.2711, without changes to the proposed text as published in the March 24, 1995, issue of the *Texas Register* (20 TexReg 2195).

The justification for the amendments is to update procedures for applications, receipts, and time frames for client notifications.

The amendments will function by providing a faster reconciliation of subsidy grants in some situations, by providing possible faster services for applicants removed from the waiting list, and more clearly defining time frames for written notifications

No comments were received regarding adoption of the amendments.

The amendments are adopted under the Human Resources Code, Title 2, Chapters 22 and 35, which provides the department with the authority to administer public and support services for persons with disabilities programs.

The amendments implement the Human Resources Code, §§22.001-22.024 and §§35.001-35.012.

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

Issued in Austin, Texas, on May 11, 1995.

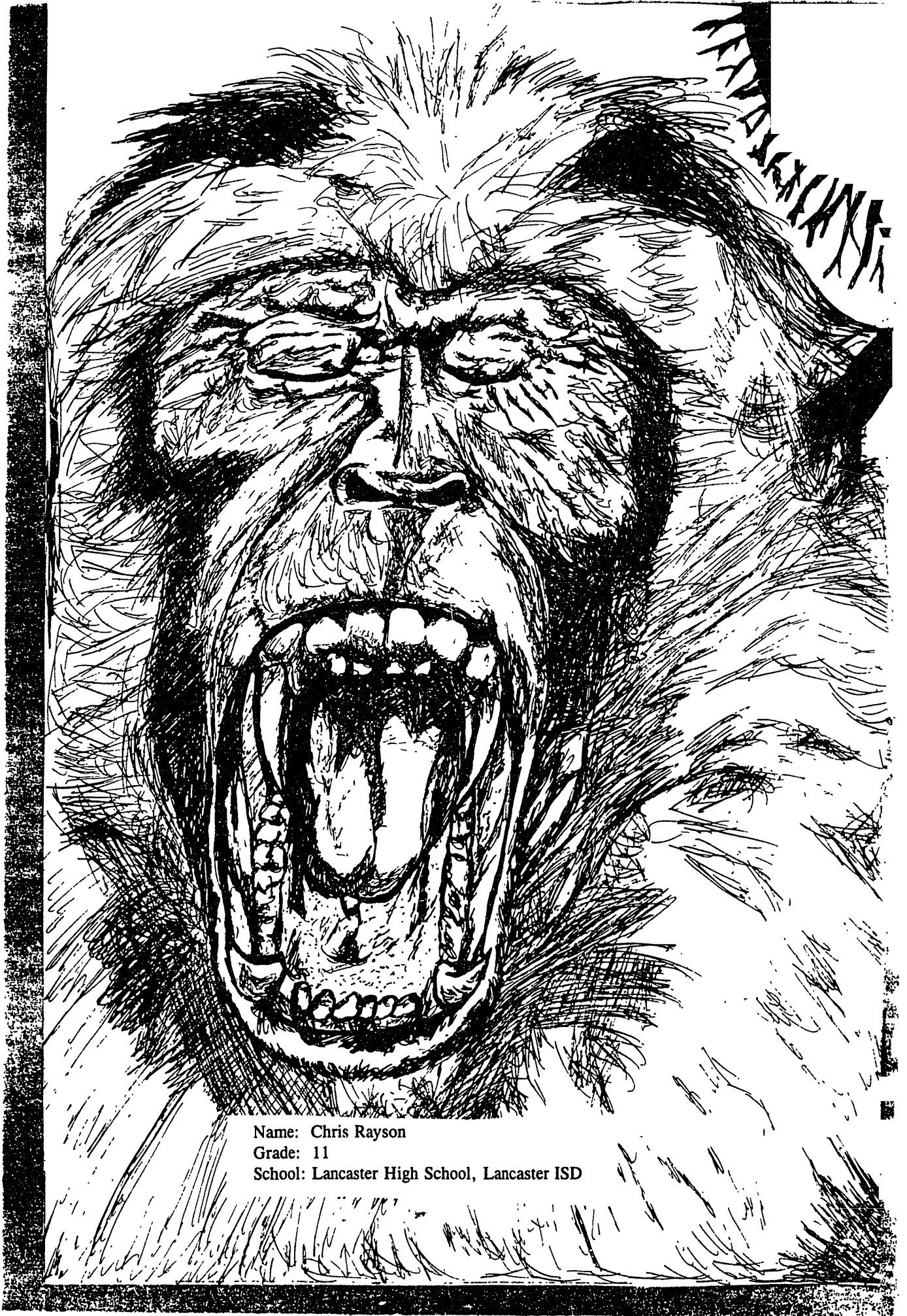
TRD-9505747

Nancy Murphy
Section Manager, Media
and Policy Services
Texas Department of
Human Services

Effective date: June 15, 1995

Proposal publication date: March 24, 1995

For further information, please call: (512) 450-3765



Name: Chris Rayson
Grade: 11
School: Lancaster High School, Lancaster ISD

TABLES AND 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 1: 30 TAC §335.521(a)(1)

Table 1. Constituents of Concern and
Their Maximum Leachable Concentrations.

Values are based on information contained in Federal Registers
Vol. 55 / Friday, July 27, 1990; Vol. 56 / June 7, 1991; and
Integrated Risk Information Systems, U.S. Environmental
Protection Agency, and 40 CFR 264 Appendix 9.

Compound	CAS No.	Concentration (mg/l)
#Acenaphthene	83-32-9	210
Acetone	67-64-1	400
Acetonitrile	75-05-8	20
Acetophenone	98-86-2	400
Acrylamide	79-06-1	0.08
Acrylonitrile	107-13-1	0.6
Aniline	62-53-3	60

#Anthracene	120-12-7	1050
Antimony	7440-36-0	1
Arsenic	7440-38-2	1.8
Barium	7440-39-3	100.0
Benzene	71-43-2	0.50
Benzidine	92-87-5	0.002
Beryllium	7440-41-7	0.08
Bis(2-chloroethyl) ether	111-44-4	0.3
Bis(2-ethylhexyl) phthalate	117-81-7 --	30 --
Bromodichloromethane	75-27-4	0.3
Bromomethane	74-83-9	5
Butylbenzyl phthalate	85-68-7	700
Cadmium	7440-43-9	0.5
Carbon disulfide	75-15-0	400
Carbon tetrachloride	56-23-5	0.50
Chlordane	57-74-9	0.03
Chlorobenzene	108-90-7	70
Chloroform	67-66-3	6.0
#Chloro-m-cresol, p	59-50-7	7000
2-Chlorophenol	95-57-8	20
Chromium	7440-47-3	5.0
m-Cresol	108-39-4	200.0*
o-Cresol	95-48-7	200.0*

p-Cresol	106-44-5	200.0*
DDD	72-54-8	1
DDE	72-55-9	1
DDT	50-29-3	1
Dibutyl phthalate	84-74-2	400
1,4-Dichlorobenzene	106-46-7	7.5
3,3-Dichlorobenzidine	91-94-1	0.8
1,2-Dichloroethane	107-06-2	0.50
Dichlorodifluoromethane	75-71-8	700
1,1-Dichloroethylene	75-35-4	0.6
1,3-Dichloropropene	542-75-6	1
2,4-Dichlorophenol	120-83-2	10
2,4-Dichlorophenoxy-	94-75-7	10.0
acetic acid (2,4-D)	--	--
Dieldrin	60-57-1	0.02
Diethyl phthalate	84-66-2	3000
Dimethoate	60-51-5	70
#2,4-Dimethylphenol	105-67-9	70
#2,6-Dimethylphenol	576-26-1	21
m-Dinitrobenzene	99-65-0	0.4
2,4-Dinitrophenol	51-28-5	7
2,4 -Dinitrotoluene	602-01-7	0.13
(and 2,6-, mixture)	--	--
#Dinoseb	88-85-7	3.5

1,4-Dioxane	123-91-1	30
Dioxins (Poly chlorinated dibenzo-p-dioxins)		
2,3,7,8-TCDD	1746-01-6	0.005
1,2,3,7,8-PeCDD	40321-76-4	0.010
1,2,3,4,7,8-HxCDD	57653-85-7	0.050
1,2,3,6,7,8-HxCDD	34465-46-8	0.050
1,2,3,7,8,9-HxCDD		0.050
Diphenylamine	122-39-4	90
1,2-Diphenylhydrazine	122-66-7	0.4
Disulfoton	298-04-4	0.1
Endosulfan	959-98-8	0.2
Endrin	72-20-8	.02
#2-Ethoxyethanol	110-80-5	1400
Ethylbenzene	100-41-4	400
Ethylene dibromide	106-93-4	0.004
#Ethylene Glycol	107-21-1	7000
#Fluoranthene	206-44-0	140
#Fluorene	86-73-7	140
Furans (Polychlorinated dibenzo furans)		
2,3,7,8-TCDF	51207-31-9	0.050
1,2,3,7,8-PeCDF		0.100
2,3,4,7,8-PeCDF		0.010
1,2,3,4,7,8-HxCDF		0.050
1,2,3,6,7,8-HxCDF		0.050

1,2,3,7,8,9-HxCDF		0.050
Heptachlor	76-44-8	0.008
(and its hydroxide)	--	--
Heptachlor epoxide	1024-57-3	0.04
Hexachlorobenzene	118-74-1	0.13
Hexachloro-1,3-butadiene	87-68-3	0.4
Hexachlorocyclopentadiene	77-47-4	20
Hexachloroethane	67-72-1	3.0
Hexachlorophene	70-30-4	1
Isobutyl alcohol	78-83-1	1000
Isophorone	78-59-1	90
Lead	7439-92-1	1.5
Lindane	58-89-9	0.3
Mercury	7439-97-6	0.2
Methacrylonitrile	126-98-7	0.4
Methomyl	16752-77-5	90
Methoxychlor	72-43-5	10.0
#2-Methoxyethanol	109-86-4	14.0
Methyl ethyl ketone	78-93-3	200.0
Methyl isobutyl ketone	108-10-1	200
Methylene chloride	75-09-2	50
Methyl parathion	298-00-0	0.9
#Mirex	2385-85-5	0.7
Nickel	7440-02-0	70

Nitrobenzene	98-95-3	2.0
N-Nitroso-di-n-butylamine	924-16-3	0.06
N-Nitrosodiphenylamine	86-30-6	70
N-Nitrosomethylethylamine	10595-95-6	0.02
N-Nitroso-n-propylamine	621-64-7	0.05
N-Nitrosopyrrolidine	930-55-2	0.2
p-Phenylene diamine	106-50-3	20
Parathion	56-38-2	20
Pentachlorobenzene	608-93-5	3
Pentachloronitrobenzene	82-68-8	10
Pentachlorophenol	87-86-5	100.0
Phenol	108-95-2	2000
Pronamide	23950-58-5	300
#Pyrene	129-00-0	5.9
Pyridine	110-86-1	4
Selenium	7782-49-2	1.0
Silver	7440-22-4	5.0
Styrene	100-42-5	700
1,1,1,2-Tetrachloroethane	630-20-6	10
1,1,2,2-Tetrachloroethane	79-34-5	2
Tetrachloroethylene	127-18-4	0.7
2,3,4,6-Tetrachlorophenol	58-96-2	100
Toluene	108-88-3	1000
Toxaphene	8001-35-2	0.3

trans-1,3-Dichloro-	542-75-6	1
propene	--	--
Tribromomethane	75-25-2	70
(Bromoform)		
1,2,4-Trichlorobenzene	120-82-1	70
1,1,1-Trichloroethane	71-55-6	300
Trichloroethylene	79-01-6	0.5
1,1,2-Trichloroethane	79-00-5	6
Trichlorofluoromethane	75-69-4	1000
2,4,5-Trichlorophenoxy-	93-72-1	1.0
propionic acid	--	--
(2,4,5 TP or Silvex)		
1,2,3-Trichloropropane	96-18-4	20
2,4,5-Trichlorophenol	95-95-4	400.0
2,4,6-Trichlorophenol	88-06-2	2
Vanadium Pentoxide	1314-62-1	30
Vinyl chloride	75-01-4	0.2
Xylenes (all isomers)	1330-82-1	7000

Constituent added since original rule publication.

* If o-, m-, and p-Cresol concentrations cannot be differentiated, the total cresol concentration is used. The Maximum Concentration for total cresol is 200.0 mg/l.

Figure 2: 30 TAC §335.521(a)(2)

Table 2. Examples of Ignitable Solids.

Constituents listed from Department of Transportation Regulations, 49 CFR Part 173 Subpart E, October 1, 1993. (Note: The presence of a constituent on this table in a non-hazardous waste does not automatically identify that waste as a Class 1 ignitable waste. The constituents on this table are examples of materials which could be considered Class 1 ignitable waste. The physical characteristics of the waste will be the determining factor as to whether or not a waste is ignitable. Refer to §335.505(2) of this title (relating to Class 1 Waste Determination) for the Class 1 ignitable criteria.)

Compound or Material

Aluminum, metallic, powder

Alkali metal amalgams

Alkali metal amides

Aluminum alkyl halides

Aluminum alkyl hydrides
Aluminum alkyls
Aluminum borohydrides
Aluminum carbide
Aluminum ferrosilicon powder
Aluminum hydride
Aluminum phosphide
Aluminum resinate
Aluminum silicon powder
Ammonium picrate
2, 2'-Azodi-(2,4-dimethyl-4-methoxyvaleronitrile)
2, 2'-Azodi-(2,4-dimethylvaleronitrile)
1, 1' Azodi-(hexahydrobenzonitrile)
2,2'-Azodi (2-methyl-butyronitrile)
Azodiisobutyronitrile
Barium, metallic
Barium alloys, pyrophoric
Barium azide
Benzene-1,3-disulfohydrazide
Benzene sulfohydrazide
4-(Benzyl(ethyl)amino)-3-ethoxybenzenediazonium zinc chloride
4-(Benzyl(methyl)amino)-3-ethoxybenzenediazonium zinc chloride
Borneol
Boron trifluoride dimethyl etherate

5-tert-Butyl-2,4,6-trinitro-m-xylene
Calcium, metallic
Calcium carbide
Calcium chlorite
Calcium cyanamide
Calcium dithionite
Calcium hypochlorite
Calcium manganese silicon
Calcium silicon powder
Calcium phosphide
Calcium pyrophoric
Calcium resinate
Calcium silicide
Camphor, synthetic
Carbon, activated
Celluloid
Cerium
Cesium metal
Chromic acid or chromic acid mixture, dry
Cobalt naphthenates, powder
Cobalt resinate
Decaborane
2-Diazo-1-naphthol-4-sulpho-chloride
2-Diazo-1-naphthol-5-sulpho-chloride

2,5-Diethoxy-4-morpholinobenzenediazonium zinc chloride
Diethylzinc
4-Dimethylamino-6-(2-dimethylaminoethoxy) toluene-2-diazonium zinc
chloride
Dimethylzinc
Dinitrophenolates
Dinitroresorcinol
N,N'-Dinitroso-N,N'-dimethyl terephthalamide
N,N'-Dinitrosopentamethylenetetramine
Diphenyloxide-4,4'-disulfohydrazide
Dipicryl sulfide
4-Dipropylaminobenzenediazonium zinc chloride
Ferrocerium
Ferrosilicon
Ferrous metal
Hafnium powder
Hexamine
Hydrides, metal
3-(2-Hydroxyethoxy)-4-pyrrolidin-1-ylbenzenediazonium zinc
chloride
Iron oxide, spent
Isosorbide dinitrate mixture
Lead phosphite, dibasic
Lithium acetylide-ethylene diamine complex

Lithium alkyls
Lithium aluminum hydride
Lithium amide, powdered
Lithium borohydride
Lithium ferro silicon
Lithium hydride
Lithium metal
Lithium nitride
Lithium silicon
Magnesium granules
Magnesium aluminum phosphide
Magnesium diamide
Magnesium phosphide
Magnesium silicide
Maneb
Manganese resinate
Methyl magnesium bromide
Methyldichlorosilane
Mono-(trichloro) tetra-(monopotassium dichloro)-
penta-s-triazinetriene
N-methyl-N'-nitro-Nitrosoguanidine
Naphthalene
Nitrocellulose mixtures
Nitroguanidine

p-Nitrosodimethylaniline
Paraformaldehyde
Pentaborane
Peratic acid
Phosphorous, amorphous, red
Phosphorous, white or yellow
Phosphoric anhydride
Phosphorous pentachloride
Phosphorus pentasulfide
Phosphorus sesquisulfide
Phosphorus trisulfide
Picric acid
Potassium, metallic
Potassium dichloro-s-triazine-trione
Potassium borohydride
Potassium dithionite
Potassium phosphide
Potassium sulfide, anhydrous
Rubidium metal
Silicon powder, amorphous
Silver picrate
Sodium, metallic
Sodium aluminum hydride
Sodium amide

Sodium borohydride
Sodium chlorite
Sodium 2-diazo-1-naphthol-4-sulphonate
Sodium 2-diazo-1-naphthol-5-sulphonate
Sodium dichloro-s-triazine-trione
Sodium dinitro-ortho-cresolate
Sodium hydride
Sodium hydrosulfite
Sodium methyrate
Sodium nitrite and mixtures
Sodium picramate, wet
Sodium potassium alloys
Sodium sulfide, anhydrous
Stannic phosphide
Strontium phosphide
Sulfur
Titanium metal powder
Titanium hydride
Trichloroisocyanuric acid
Trichlorosilane
Trichloro-s-triazinetriene
Trinitrobenzoic acid
Trinitrophenol
Trinitrotoluene

Urea nitrate

Zinc ammonium nitrite

Zinc phosphide

Zinc powder

Zinc resinate

Zirconium hydride, powdered

Zirconium picramate

Zirconium powder

Zirconium scrap

Figure 3: 30 TAC §335.521(a) (3)

Table 3. Maximum Contaminant Levels (MCLs).

Values obtained from 40 CFR Part 141, Subparts B and G, Maximum Contaminant Levels and 40 CFR Part 143, Total Dissolved Solids.

Constituent	MCL (mg/l)
Arsenic	0.05
Barium	1
*Benzene	0.005
Cadmium	0.005
*Carbon tetrachloride	0.005
Chlordane	0.002
*Chlorobenzene	0.1
Chromium	0.1
2,4-D	0.07
*Dibromochloropropane	0.0002
*ortho-Dichlorobenzene	0.6
*para-Dichlorobenzene	0.075
*1,2-Dichloroethane	0.005
*1,1-Dichloroethylene	0.007

*trans-1,2-Dichloroethylene	0.1
*1,2-Dichloropropane	0.005
*Ethylbenzene	0.7
Heptachlor	.0004
Heptachlor epoxide	0.0002
Lead	0.05
Mercury	0.002
Methoxychlor	0.04
Pentachlorophenol	0.001
Selenium	0.05
Silver	0.05
*Styrene	0.1
*Tetrachloroethylene	0.005
*1,1,1-Trichloroethane	0.20
*Trichloroethylene	0.005
*Toluene	1
Toxaphene	0.003
2,4,5-TP (Silvex)	0.05
*Vinyl chloride	0.002
*Xylenes (total)	10
Total Dissolved Solids	500

* For a class 3 waste classification, these constituents must also be evaluated using the test methods described in 40 Code of Federal Regulations Part 261, Appendix II. See 335.507(4)(A)(ii) for additional information.

Figure 4: 30 TAC §335.521(b)

Appendix 2

Texas Natural Resource Conservation Commission

Industrial and Hazardous Waste Division

Waste Evaluation Section

MC 129

P.O.Box 13087

Austin, Texas 78711-3087

Figure 5: 30 TAC §335.521(c)

Appendix 3. FORM CODES

Code	Waste description
------	-------------------

LAB PACKS

LAB PACKS - Lab packs of mixed wastes, chemicals, lab wastes

- 001 Lab packs of old chemicals only
- 002 Lab packs of debris only
- 003 Mixed lab packs
- 004 Lab packs containing acute hazardous wastes
- 009 Other lab packs (Specify in Comments)

LIQUIDS

INORGANIC LIQUIDS - Waste that is primarily inorganic and highly fluid (e.g., aqueous), with low suspended inorganic solids and low organic content

- 101 Aqueous waste with low solvents
- 102 Aqueous waste with low other toxic organics
- 103 Spent acid with metals
- 104 Spent acid without metals
- 105 Acidic aqueous waste
- 106 Caustic solution with metals but no cyanides
- 107 Caustic solution with metals and cyanides

- 108 Caustic solution with cyanides but no metals
- 109 Spent caustic
- 110 Caustic aqueous waste
- 111 Aqueous waste with reactive sulfides
- 112 Aqueous waste with other reactives (e.g., explosives)
- 113 Other aqueous waste with high dissolved solids
- 114 Other aqueous waste with low dissolved solids
- 115 Scrubber water
- 116 Leachate
- 117 Waste liquid mercury
- 119 Other inorganic liquids (Specify in Comments)
- 198 Nonhazardous photographic chemical wastes (inorganic)
- 199 Brine solution that could also bear the form code 113

ORGANIC LIQUIDS - Waste that is primarily organic and is highly fluid, with low inorganic solids content and low-to-moderate water content

- 201 Concentrated solvent-water solution
- 202 Halogenated (e.g., chlorinated) solvent
- 203 Non-halogenated solvent
- 204 Halogenated/non-halogenated solvent mixture
- 205 Oil-water emulsion or mixture
- 206 Waste oil
- 207 Concentrated aqueous solution of other organics

- 208 Concentrated phenolics
- 209 Organic paint, ink, lacquer, or varnish
- 210 Adhesives or epoxies
- 211 Paint thinner or petroleum distillates
- 212 Reactive or polymerizable organic liquids
- 219 Other organic liquids (Specify in Comments)
- 296 Ethylene glycol based antifreeze
- 297 Nonhazardous liquids containing greater than or equal to (\geq)
50 and less than ($<$) 500 ppm PCBs
- 298 Nonhazardous liquids containing greater than or equal to (\geq)
500 ppm PCBs
- 299 Nonhazardous photographic chemical waste (organic)

SOLIDS

INORGANIC SOLIDS - Waste that is primarily inorganic and solid, with low organic content and low-to-moderate water content; not pumpable

- 301 Soil Contaminated with organics
- 302 Soil contaminated with inorganics only
- 303 Ash, slag, or other residue from incineration of wastes
- 304 Other "dry" ash, slag, or thermal residue
- 305 "Dry" lime or metal hydroxide solids chemically "fixed"
- 306 "Dry" lime or metal hydroxide solids not "fixed"
- 307 Metal scale, filings, or scrap

- 308 Empty or crushed metal drums or containers
- 309 Batteries or battery parts, casings, cores
- 310 Spent solid filters or adsorbents
- 311 Asbestos solids and debris
- 312 Metal-cyanide salts/chemicals
- 313 Reactive cyanide salts/chemicals
- 314 Reactive sulfide salts/chemicals
- 315 Other reactive salts/chemicals
- 316 Other metal salts/chemicals
- 319 Other waste inorganic solids (Specify in Comments)
- 388 Empty or crushed glass containers
- 389 Nonhazardous sandblasting waste
- 390 Nonhazardous concrete/cement/construction debris
- 391 Nonhazardous dewatered wastewater treatment sludge
- 392 Nonhazardous dewatered air pollution control device sludge
- 393 Catalyst waste
- 394 Nonhazardous solids containing greater than or equal to (\geq)
50 ppm and less than ($<$) 500 ppm PCBs
- 395 Nonhazardous solids containing greater than or equal to (\geq)
500 ppm PCBs
- 396 Nonhazardous electrical equipment/devices containing greater
than or equal to (\geq) 50 ppm and less than ($<$) 500 ppm PCBs.
- 397 Nonhazardous electrical equipment/devices containing greater
than or equal to (\geq) 500 ppm PCBs

- 398 Nonhazardous soils containing greater than or equal to (\geq)
50 ppm and less than ($<$) 500 ppm PCBs
- 399 Nonhazardous soils containing greater than or equal to (\geq)
500 ppm PCBs

ORGANIC SOLIDS - Waste that is primarily organic and solid, with low-to-moderate inorganic content and water content; not pumpable

- 401 Halogenated pesticide solid
- 402 Non-halogenated pesticide solid
- 403 Solids resins or polymerized organics
- 404 Spent carbon
- 405 Reactive organic solid
- 406 Empty fiber or plastic containers
- 407 Other halogenated organic solids (Specify in Comments)
- 409 Other non-halogenated organic solids (Specify in Comments)
- 488 Wood debris
- 489 Petroleum contaminated solids
- 490 Sand blasting waste
- 491 Dewatered biological treatment sludge
- 492 Dewatered sewage or other untreated biological sludge
- 493 Catalyst waste
- 494 Solids containing greater than or equal to (\geq) 50 ppm and
less than ($<$) 500 ppm PCBs
- 495 Solids containing greater than or equal to (\geq) 500 ppm PCBs

- 496 Electrical equipment/devices containing greater than or equal to (\geq) 50 ppm and less than ($<$) 500 ppm PCBs.
- 497 Electrical equipment/devices containing greater than or equal to (\geq) 500 ppm PCBs
- 498 Soils containing greater than or equal to (\geq) 50 ppm and less than ($<$) 500 ppm PCBs
- 499 Soils containing greater than or equal to (\geq) 500 ppm PCBs

SLUDGES

INORGANIC SLUDGES - Waste that is primarily inorganic, with moderate-to-high water content and low organic content, and pumpable

- 501 Lime sludge without metals
- 502 Lime sludge with metals/metal hydroxide sludge
- 503 Wastewater treatment sludge with toxic organics
- 504 Other wastewater treatment sludge
- 505 Untreated plating sludge without cyanides
- 506 Untreated plating sludge with cyanides
- 507 Other sludge with cyanides
- 508 Sludge with reactive sulfides
- 509 Sludge with other reactives
- 510 Degreasing sludge with metal scale or filings
- 511 Air pollution control device sludge (e.g., fly ash, wet scrubber sludge)

- 512 Sediment or lagoon dragout contaminated with organics
- 513 Sediment or lagoon dragout contaminated with inorganics only
- 514 Drilling mud
- 515 Asbestos slurry or sludge
- 516 Chloride or other brine sludge
- 519 Other inorganic sludges (Specify in Comments)
- 597 Catalyst waste
- 598 Nonhazardous sludges containing greater than or equal to (\geq)
50 ppm and less than ($<$) 500 ppm PCBs
- 599 Nonhazardous sludges containing greater than or equal to (\geq)
500 ppm PCBs

ORGANIC SLUDGES - Waste that is primarily organic with low-to-moderate inorganic solids content and water content, and pumpable

- 601 Still bottoms of halogenated (e.g., chlorinated) solvents or
other organic liquids
- 602 Still bottoms of non-halogenated solvents or other organic
liquids
- 603 Oily sludge
- 604 Organic paint or ink sludge
- 605 Reactive or polymerizable organics
- 606 Resins, tars, or tarry sludge
- 607 Biological treatment sludge
- 608 Sewage or other untreated biological sludge

- 609 Other organic sludges (Specify in Comments)
- 695 Petroleum contaminated sludges other than still bottoms and oily sludges
- 696 Grease
- 697 Catalyst waste
- 698 Nonhazardous sludges containing greater than or equal to (\geq) 50 ppm and less than ($<$) 500 ppm PCBs
- 699 Nonhazardous sludges containing greater than or equal to (\geq) 500 ppm PCBs

GASES

INORGANIC GASES - Waste that is primarily inorganic with a low organic content and is a gas at atmospheric pressure

701 Inorganic gases

ORGANIC GASES - Waste that is primarily organic with low-to-moderate inorganic content and is a gas at atmospheric pressure

801 Organic gases

PLANT TRASH

902 Supplemental plant production refuse - Class 2 waste from production, manufacturing, or laboratory operations. The total amount of the supplemental plant production refuse shall not exceed 20% of the annual average of the total plant refuse (form code 999) volume or weight, whichever is less.

999 Plant Trash - Class 2 waste originating in the facility offices or plant production area that is composed of paper, cardboard, linings, wrappings, paper and/or wooden packaging materials, food wastes, cafeteria waste, glass, aluminum foil, aluminum cans, aluminum scrap, stainless steel, steel, iron scrap, plastics, styrofoam, rope, twine, uncontaminated rubber, uncontaminated wooden materials, equipment belts, wirings, uncontaminated cloth, metal bindings, empty containers with a holding capacity of five gallons or less, uncontaminated floor sweepings, and/or food packaging, that are produced as a result of plant production, manufacturing, laboratory, general office, cafeteria, or food services operations. Personal cosmetics generated by facility personnel, excluding those cosmetics generated as a result of manufacturing or plant production operations.

Figure 6: 30 TAC §335.521(d)

Appendix 4. Seven-Day Distilled Water Leachate Test

This test is intended only for dry, solid wastes, i.e., waste materials without any free liquids.

1. Place a 250 gm. (dry weight) representative sample of the waste material in a 1500 ml. Erlenmeyer flask.
2. Add one liter of deionized or distilled water into the flask and mechanically stir the material at a low speed for five minutes.
3. Stopper the flask and allow to stand for seven days.
4. At the end of seven days, filter the supernatant solution through a .45-micron filter, collecting the supernatant into a separate flask.
5. Subject the filtered leachate to the appropriate analysis.

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 Department of Agriculture

Monday-Tuesday, May 22-23, 1995, 2:30 p.m. and 9:00 a.m., respectively

Texas Department of Agriculture, 1700 North Congress Avenue, Room 924A

Austin

Texas Agricultural Finance Authority

AGENDA:

Monday, May 22

Discussion on: Loan guaranty applications for Agri-Gold, Incorporated, Hickory Hills Emu Ranch, Incorporated, and Mustang Manufacturing Company, Eligibility of McKinney Grain Company and Nutricycle, Incorporated for the Texas Agricultural Finance Authority Loan Guaranty Program, credit policy for Young Farmer Loan Guarantee Program and Farm and Ranch Finance Program.

Tuesday, May 23

Discussion and action on: Minutes of last meeting, loan guaranty applications for Agri-Gold, Incorporated and Hickory Hills Emu, Incorporated, eligibility of McKinney Grain Company, Nutricycle, Incorporated and Mustang Manufacturing Company for the Texas Agricultural Finance Authority Loan Guaranty Program, adoption of program rules and credit policy for Young Farmer Loan Guarantee Program, adoption of program rules and credit policy for Farm and Ranch Finance Program, adoption of a

fee schedule for Texas Agricultural Finance Authority, legislation filed affecting the Authority; discussion on: portfolio of Young Farmer Loan Guarantee Program, Farm and Ranch Finance Program, portfolio of Loan Guaranty Program, budget; and discussion and action on: next meeting date.

Contact: Robert Kennedy, P.O. Box 12847, Austin, Texas 78711, (512) 463-7639.

Filed: May 12, 1995, 2:59 p.m.

TRD-9505838

Wednesday, May 24, 1995, 10:30 a.m.

Barcelona Hotel, 5215 Loop 289 South Lubbock

State Seed and Plant Board

AGENDA:

Discussion and action on: Minutes of January 30, 1995 meeting, applications for license as certified seed growers, request for certification eligibility, request for certified seed grower license name changes; request to allow including plant variety protection statements on labels, request for recertification, formal naming of experimental varieties, applications for license as registered plant breeders; approval of a foreign designations, presentation from representative of Southwestern Peanut Shellers Association concerning netsedge contamination in certified peanut seed, update on appeal from Doug Conlee Seed Company, Incorporated of Waco.

Contact: Charles Leamons, P.O. Box 629, Giddings, Texas 78942, (409) 542-3691.

Filed: May 16, 1995, 9:37 a.m.

TRD-9505917

Thursday, May 25, 1995, 10:00 a.m.

Texas Department of Agriculture, 1700 North Congress Avenue, Room 928B

Austin

Office of Hearings

AGENDA:

Administrative hearing to review alleged violation of Texas Agriculture Code, §13.035(b) by Walmart #464.

Contact: Joyce Arnold, P.O. Box 12847, Austin, Texas 78711, (512) 475-1668.

Filed: May 12, 1995, 4:11 p.m.

TRD-9505847

Wednesday, May 31, 1995, 10:00 a.m.

Texas Department of Agriculture, 1700 North Congress Avenue, Room 928B

Austin

Office of Hearings

AGENDA:

Administrative hearing to review alleged violation of Texas Agriculture Code, §§103.001-103.015 (Vernon 1982) by Sillaway Produce as petitioned by Wade Pennington and Sons.

Contact: Joyce Arnold, P.O. Box 12847, Austin, Texas 78711, (512) 475-1668.

Filed: May 15, 1995, 11:31 a.m.

TRD-9505876

Thursday, June 8, 1995, 10:00 a.m.
Texas Department of Agriculture, 1700
North Congress Avenue, Room 928B
Austin

Office of Hearings

AGENDA:

Administrative hearing to review alleged violation of Texas Agriculture Code, §§103.001-103.015 (Vernon 1982) by Alamo Produce Distributors, Inc. as petitioned by Griffin and Brand Sales Agency, Incorporated.

Contact: Joyce Arnold, P.O. Box 12847, Austin, Texas 78711, (512) 475-1668.

Filed: May 15, 1995, 11:31 a.m.

TRD-9505873

Thursday, June 8, 1995, 1:30 p.m.
Texas Department of Agriculture, 1700
North Congress Avenue, Room 928B
Austin

Office of Hearings

AGENDA:

Administrative hearing to review alleged violation of Texas Agriculture Code, §§103.001-103.015 (Vernon 1982) by Lin-Co Brokerage as petitioned by Griffin and Brand Sales Agency, Incorporated.

Contact: Joyce Arnold, P.O. Box 12847, Austin, Texas 78711, (512) 475-1668.

Filed: May 15, 1995, 11:31 a.m.

TRD-9505875

Thursday, June 8, 1995, 3:00 p.m.
Texas Department of Agriculture, 1700
North Congress, Room 928B
Austin

Office of Hearings

AGENDA:

Administrative hearing to review alleged violation of Texas Agriculture Code, §§103.001-103.015 (Vernon 1982) by Lin-Co Brokerage as petitioned by Griffin and Brand Sales Agency, Incorporated.

Contact: Joyce Arnold, P.O. Box 12847, Austin, Texas 78711, (512) 475-1668.

Filed: May 15, 1995, 11:31 a.m.

TRD-9505874

◆ ◆ ◆
**Texas Alcoholic Beverage
Commission**

Monday, May 22, 1995, 9:30 a.m.
5806 Mesa Drive, Suite 180
Austin

AGENDA:

9:00 a.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. discuss Quiroga v. TABC.

9:30 a.m.—Continue open meeting.

2. Take action, including a vote, if appropriate on topics listed for discussion under executive session.

3. Approval of minutes of March 27, 1995, meeting.

4. Recognition of TABC employees with 20 and above years of service.

5. Administrator's report.

6. Consider request for rule change to 16 TAC §45.113(h)(3) to increase promotional item cost from \$1.00 to \$5.00 and 16 TAC §45.113(f)(7) to allow gifts to consumers under national promotions. (Relaxation of Certain Restrictions)

7. New 16 TAC §41.73 as published 20 TexReg 1319, February 24, 1995: discussion, comment and possible adoption. (Keg Registration)

8. New 16 TAC §36.1 as published 20 TexReg 2189, March 24, 1995: discussion, comment and possible adoption. (Possession and Sale of Firearms on Licensed Premises)

9. Public comment.

Contact: Doyne Bailey, P.O. Box 13127, Austin, Texas 78711, (512) 206-3217.

Filed: May 12, 1995, 10:31 a.m.

TRD-9505795

◆ ◆ ◆
**Texas Board of Architectural
Examiners**

Thursday, May 25, 1995, 10:00 a.m.

Holiday Inn, Northwest Plaza, 8901 Business Park Drive

Austin

Personnel/Resource Committee

AGENDA:

Call to order; roll call; recognition of guests; chairman's opening remarks; consider/act on approval of minutes; consider/act on Personnel/Resource Committee matters; executive session to deliberate the evaluation of the executive director per Texas Open Meetings Act, §551.074, Texas Government Code; public comment; and 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, are requested to contact Carolyn Lewis at (512) 458-1363 two working days prior to the meeting so that appropriate arrangement can be made.

Contact: Cathy Hendricks, 8213 Shoal Creek Boulevard, #107, Austin, Texas 78757, (512) 458-1363.

Filed: May 15, 1995, 10:11 a.m.

TRD-9505870

Thursday, May 25, 1995, 11:00 a.m.

Holiday Inn, Northwest Plaza, 8901 Business Park Drive

Austin

Education/Qualification and Examination Committee

AGENDA:

Call to order; roll call; recognition of guests; chairman's opening remarks; consider/act on approval of minutes; consider/act on Education/Qualification and Examination Committee matters; public comment; and 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, are requested to contact Carolyn Lewis at (512) 458-1363 two working days prior to the meeting so that appropriate arrangement can be made.

Contact: Cathy Hendricks, 8213 Shoal Creek Boulevard, #107, Austin, Texas 78757, (512) 458-1363.

Filed: May 15, 1995, 10:11 a.m.

TRD-9505869

Thursday, May 25, 1995, 1:00 p.m.

Holiday Inn, Northwest Plaza, 8901 Business Park Drive

Austin

Rules/Enforcement Committee

AGENDA:

Call to order; roll call; recognition of guests; chairman's opening remarks; consider/act on approval of minutes; consider/act on rules/enforcement matters; public comment; and 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, are requested to contact Carolyn Lewis at (512) 458-1363 two working days prior to the meeting so that appropriate arrangement can be made.

Contact: Cathy Hendricks, 8213 Shoal Creek Boulevard, #107, Austin, Texas 78757, (512) 458-1363.

Filed: May 15, 1995, 10:10 a.m.

TRD-9505868

Friday, May 26, 1995, 9:00 a.m.

Holiday Inn, Northwest Plaza, 8901 Business Park Drive

Austin

Board Meeting

AGENDA:

Call to order; roll call; recognition of guests; chairman's opening remarks; consider/act on approval of minutes; consider/act on agreed order; executive session to discuss/consider legal advice from the Office of the Attorney General concerning litigation by Robert Norris in accordance with the Texas Open Meetings Act, §551.071, Texas Government Code; reconvene in open session to consider/act on litigation matters, if necessary; consider/act by consent on director's report; consider/act on legislative matters; consider/act on hearings; consider/act on renewals; consider/act on examinations; fees prescribed by Board; consider/act on committee reports and recommendations; consider/act on rules and regulations; consider/act on conferences/meetings; lunch with Texas Association for Interior Designers; consider/act on enforcement; consider/act on public comment; chairman's closing remarks; and 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, are requested to contact Carolyn Lewis at (512) 458-1363 two working days prior to the meeting so that appropriate arrangement can be made.

Contact: Cathy Hendricks, 8213 Shoal Creek Boulevard, #107, Austin, Texas 78757, (512) 458-1363.

Filed: May 15, 1995, 10:09 a.m.

TRD-9505867

The State Bar of Texas

Friday, May 19, 1995, 1:30 p.m.

The Texas Law Center, 1414 Colorado
Austin

Executive Committee

AGENDA:

Call to order/roll call/approval of minutes/reports from president, president-elect, executive director, Office of General Counsel/closed session to discuss potential and/or

pending litigation/open session to consider and take appropriate action on item discussed in closed session/reports from Texas Young Lawyers Association president, immediate past president, and Supreme Court liaison/adjourn.

Contact: Pat Hiller, P.O. Box 12487, Austin, Texas 78711, 1-800-204-2222.

Filed: May 11, 1995, 2:13 p.m.

TRD-9505749

Children's Trust Fund of Texas Council

Thursday, May 25, 1995, 10:00 a.m.

Texas State Capitol Extension, Room E2.010

Austin

AGENDA:

Introduction

Chairperson's report

Executive director's report

Discussion of future plans and tasks

New business

Adjourn

Contact: Sue Marshall, 8929 Shoal Creek Boulevard, Suite 200, Austin, Texas 78757-6854, (512) 458-1281.

Filed: May 15, 1995, 3:35 p.m.

TRD-9505896

Conservatorship Board

Tuesday-Wednesday, May 16-17, 1995, 9:00 a.m.

710 Brazos, Perry Brooks Building

Austin

Emergency Meeting

AGENDA:

Call to order; approval of May 8-9, 1995 minutes; action on CORE initiative; action on funding plan for fiscal year 1996; action on award suspensions: Rio Grande Valley Council on Alcohol and Drug Abuse (21-0083-953-CCS) and Mexican American Unity Council (18-0322-953-TTC); action on termination of Texas Addiction Services, Ciara, Inc. Award (11-0036-953-TTC); action on awards approved, but not funded by Grants and Contracts Review Committee: Texas Department of Protective and Regulatory Services (00-0154-943-SPS), Texas Youth Commission (00-0077-953-UCY), Texas Commission for the Deaf and Hearing Impaired (00-0021-952-SPS), Creative Academic Achievement Pro-Success Learning Center (21-0084-951-UCF), Visions of Hope (16-0677-953-UCF), Matthew L. Fer-

rara-New Hope Program (12-0325-953-ATR), Dallas Urban League (04-0718-952-HIV); National Commission on Gang Violence (00-0056-951-SPS), Christian Farms Treehouse (23-0039-053-UCF), Austin-Travis County MHMR (12-0057-953-UCC), Advanced Treatment Center (16-0065-953-UCC); action on treatment services for fiscal year 1995 for Methodist Hospital of Plainview; action on reallocation of methadone, female, gambling, youth, unit cost pardons and paroles, and all other treatment services; action on substance abuse felony punishment facility program (SAFP) request for proposal (RFP) award for Winnsboro site; action on Lubbock treatment programs; action on Laredo methadone program; action on administrative hearing decisions: in the matter of the license of Olumide Agbesanwua (#517-95-0217), in the matter of the license of David F. Cason (#517-94-1632), in the matter of the license of Otis V. Haynes (#517-95-0005), in the matter of the license of William L. James (#517-94-2005), in the matter of the license of Robert Venner (#517-95-0308); executive session to discuss pending litigation-Fandino v. TCADA; reconvene; other business; and adjournment.

Reason for emergency: Necessary for Conservatorship Board to meet in order to meet statutory mandate.

Contact: Otis E. Williams, 710 Brazos, Austin, Texas 78701, (512) 867-8720.

Filed: May 11, 1995, 4:21 p.m.

TRD-9505767

Tuesday-Wednesday, May 16-17, 9:00 a.m.

710 Brazos, Perry Brooks Building

Austin

Emergency Revised Agenda

AGENDA:

Executive session to discuss pending litigation-Fandino v. TCADA and appointment of executive assistant.

Reason for emergency: Necessary for Conservatorship Board to meet in order to meet statutory mandate.

Contact: Otis E. Williams, 710 Brazos, Austin, Texas 78701, (512) 867-8720.

Filed: May 12, 1995, 11:35 a.m.

TRD-9505802

Texas Diabetes Council

Thursday, May 25, 1995, 10:00 a.m.

Room T-407, Texas Department of Health, 1100 West 49th Street

Austin

Managed Care Meeting

AGENDA:

The council will discuss and possibly act on: Diabetes in Texas—More Than Just Another Chronic Disease; standards of care; survey of service in Texas—do we meet the standards?; and working together in collaboration with existing programs.

Contact: Amy Pearson, 1100 West 49th Street, Austin, Texas 78756, (512) 458-7534. For ADA assistance, contact Richard Butler at (512) 458-6410 or T.D.D. at (512) 458-7708 at least two days prior to the meeting.

Filed: May 11, 1995, 2:03 p.m.

TRD-9505746

Thursday, May 25, 1995, Noon.

Room T-407, Texas Department of Health, 1100 West 49th Street

Austin

Industry Advisory Committee

AGENDA:

The committee will discuss and possibly act on: report on meeting with the Jefferson County Medical Society; report on the managed care meeting; and other business not requiring committee action.

Contact: Amy Pearson, 1100 West 49th Street, Austin, Texas 78756, (512) 458-7534. For ADA assistance, contact Richard Butler at (512) 458-6410 or T.D.D. at (512) 458-7708 at least two days prior to the meeting.

Filed: May 11, 1995, 2:03 p.m.

TRD-9505745

Texas Education Agency

Wednesday, May 24, 1995, 9:00 a.m.

Room 5-103, William B. Travis Building, 1701 North Congress Avenue

Austin

State Board of Education (SBOE), Committee on the Permanent School Fund (PSF)

AGENDA:

The committee will review the nominations for finalists for selection of custodian and securities lending agent and the active balanced global-core manager. The committee will select finalists in each category who will be requested to make oral presentations to the Committee on the Permanent School Fund on Friday, June 9, 1995. Subsequent to the oral presentation, the committee will select a finalist with respect to the custodian and securities lending agent and the active balanced global-core manager, and will recommend its selection to the State Board of Education for approval.

Contact: Criss Cloudt, 1701 North Congress Avenue, Austin, Texas 78701, (512) 463-9701.

Filed: May 16, 1995, 9:54 a.m.

TRD-9505918

State Employee Charitable Campaign

Wednesday, May 17, 1995, 11:30 a.m.

1212 North Velasco

Angleton

Emergency Meeting

Local Employee Committee—Brazoria County

AGENDA:

Meeting to review application from Caring for Children Foundation of Texas participation in State Employee Charitable Campaign.

Reason for emergency: In order to comply with timeline set for agency appeals.

Contact: Stephanie Cone, P.O. Box 1959, Angleton, Texas 77516, (409) 849-9402, Fax: (409) 848-0259.

Filed: May 15, 1995, 3:39 p.m.

TRD-9505900

Thursday, May 25, 1995, 3:30 p.m.

Seventh Floor Board Room, 815 Market

Galveston

Local Employee Committee—Galveston

AGENDA:

Welcome

Review of appeals

Discuss campaign timetable

Schedule next meeting

Announcements

Review agency/education appeals

Begin planning for campaign timetable and budget

Contact: Frank Jackson, 1902 Mechanic, Galveston, Texas 77550, (409) 762-4357, Fax: (409) 762-1041.

Filed: May 15, 1995, 1:11 a.m.

TRD-9505878

Friday, May 26, 1995, Noon.

Abilene State School, 2501 Maple Street

Abilene

Local Employee Committee—Abilene

AGENDA:

1. Call to order

2. Review appeals of local applicants that were denied eligibility.

3. Planning for 1995 campaign

4. Schedule next meeting and discuss agenda

Contact: Dixie Bassett, 240 Cypress, Abilene, Texas 79604-0082, (915) 677-1841, Fax: (915) 677-1847.

Filed: May 12, 1995, 10:59 a.m.

TRD-9505797

Tuesday, June 13, 1995, 3:30 p.m.

4340 Carter Creek, #107

Bryan

Local Employee Committee

AGENDA:

Update on SECC information

Approve Brazos SECC budget

New business

Adjourn

Contact: Bob Fleischer, 4340 Carter Creek #107, Bryan, Texas 77802, (409) 268-8929.

Filed: May 12, 1995, 11:28 a.m.

TRD-9505800

Tuesday, May 16, 1995, 4:00 p.m.

4340 Carter Creek, #107

Bryan

Emergency Meeting

Local Employee Committee, Brazos County

AGENDA:

Determine eligibility of final local applicant

Adjourn

Reason for emergency: Late application after agency appeal for state-wide eligibility was rejected.

Contact: Bob Fleischer, 4340 Carter Creek #107, Bryan, Texas 77802, (409) 268-8929.

Filed: May 12, 1995, 11:28 a.m.

TRD-9505801

Texas Employment Commission

Tuesday, May 23, 1995, 9:00 a.m.

Room 644, TEC Building, 101 East 15th Street

Austin

AGENDA:

Prior meeting notes; consideration and possible approval of bid for interior and exterior renovation at the Tyler agency-owned building; consideration and possible ap-

proval of bid for interior and exterior renovations at the Midland agency-owned building; consideration and possible approval of bid for interior and exterior renovations at the Dallas agency-owned building; consideration and possible approval of bid for modifications to elevator at the San Antonio agency-owned building; consideration and possible approval of bid for interior and exterior renovation at the Texarkana agency-owned building; consideration and possible approval of bid for modifications to elevator at the Waco agency-owned building; staff reports; internal procedures of commission appeals; consideration and action on tax liability cases and higher level appeals in unemployment compensation cases listed on Commission Dockets 20 and 21, and set date of next meeting.

Contact: C. Ed Davis, 101 East 15th Street, Austin, Texas 78778, (512) 463-2291.

Filed: May 15, 1995, 4:08 p.m.

TRD-9505903

Texas Commission on Fire Protection

Wednesday-Thursday, June 14-15, 1995, 9:00 a.m.

12675 North Research Boulevard

Austin

Fire Protection Personnel Advisory Committee

AGENDA:

Discussion and approval of previous minutes. Overview, staff briefing of agenda items. Election of officers. New matters from members and public for future meeting. Report from the Testing Committee. Discussion and possible action concerning changes to 37 TAC Chapters 421, 423, 437, 439; reports from staff on the status of revisions to the National Fire Protection Association Standards 1981, 1500, 1971-1977, and 1001. Report on April meeting of International Fire Service Accreditation Congress. Report on status of new legislation pertaining to and discussion and possible action on public comments concerning rules pending before the Commission on Fire Protection relating to Government Code, Chapter 419, Subchapter B. Discussion and possible action on future meeting dates, agenda items, and locations.

Contact: Carol Menchu, 12675 North Research Boulevard, Austin, Texas 78759, (512) 915-7100.

Filed: May 16, 1995, 9:15 a.m.

TRD-9505910

Texas Genetic Network (TEXGENE)

Friday, June 2, 1995, 9:00 a.m.

Room T-607, Texas Department of Health, 1100 West 49th Street

Austin

AGENDA:

The committee will discuss and possibly act on: public comment; approval of the minutes of February 9, 1995 meeting; Interagency Council for Genetic Services (report on Interagency Council for Genetic Services status); TEXGENE subcommittee reports (Education; Laboratory Services; Clinical Services; Data Collection; Ethics; and Ad Hoc Committee-PRIMED (Preventive Regional Initiatives for Minority and Ethnic Diseases); and Council of Regional Networks report (annual meeting news)); reports from agency representatives regarding the activities of their respective agencies or institutions (Texas Department of Health (TDH); Texas Department of Human Services; Texas Department of Mental Health and Mental Retardation; The University of Texas System; private service providers; community-based sickle cell agencies; and consumers); items for committee action (elections; and bylaw revisions); items for information (report from the Clinical Genetics Advisory Committee to TDH Bureau of Women and Children; and report from Scientific Advisory Committee on Birth Defects in Texas); program coordinator items (budget status; travel; member roster and new member packets; progress toward grant objectives member/committee assignments; and next meeting date in September, 1995).

Contact: Veronyca C. Horst, 1100 West 49th Street, Austin, Texas 78756, (512) 458-7700. For ADA assistance, call Richard Butler (512) 458-7695 or T.D.D. (512) 458-7708 at least two days prior to the meeting.

Filed: May 11, 1995, 2:03 p.m.

TRD-9505743

Interagency Council for Genetic Services (IAC)

Friday, June 2, 1995, 1:00 p.m.

Room T-607, Texas Department of Health, 1100 West 49th Street

Austin

AGENDA:

The council will discuss and possibly act on: public comments; adoption of minutes from the February 9, 1995 meeting; Texas Genetics Network (TEXGENE) report (report on TEXGENE status); agency activities (Texas Department of Health; Texas De-

partment of Mental Health and Mental Retardation; Texas Department of Human Services; University of Texas System; and representative of contractors); program coordinator items (budget status); progress toward legislative mandates/members assignments; announcements and comments not requiring council action; and next meeting (September 18, 1995).

Contact: Veronyca C. Horst, 1100 West 49th Street, Austin, Texas 78756, (512) 458-7700. For ADA assistance, call Richard Butler (512) 458-7695 or T.D.D. (512) 458-7708 at least two days prior to the meeting.

Filed: May 11, 1995, 2:03 p.m.

TRD-9505744

Office of the Governor

Thursday, May 25, 1995, 9:30 a.m.

6505 North IH-35

Austin

Board Meeting

AGENDA:

I. Call to order II. Report on Statewide Heat Program III. Committee reports IV. Director/staff reports V. Discussion of proposed education curriculum development VI. Review/adoption of posted ATPA amended Rule 4.36 VII. Discussion/approval of proposed new ATPA Rule 4.48 VIII. Discussion/approval for Vehicle Theft Prevention Council of the State of Maryland to purchase ATPA's public service announcements IX. Adjourn

Contact: Linda Young, 4000 Jackson Avenue, Austin, Texas 78731, (512) 467-3999.

Filed: May 11, 1995, 3:21 a.m.

TRD-9505758

Office of the Governor, Criminal Justice Division

Monday, June 12, 1995, 9:00 a.m.

Omni Hotel, 701 Brazos, Suite 500

Austin

Texas Crime Stoppers Advisory Council Regular Meeting

AGENDA:

I. Call to order, II. Approval of March 20, 1995 meeting minutes, III. Crime Stoppers staff report, A. Texas Department of Criminal Justice Crime Stoppers report, IV. Discussion on Seventh Annual Crime Stoppers Conference, V. December Special Topics School, VI. Next meeting date, VIII. Adjourn

Contact: David Cobos, P.O. Box 12428, Austin, Texas 78711, (512) 463-1784.

Filed: May 12, 1995, 10:21 a.m.

TRD-9505794

◆ ◆ ◆
Texas Department of Health

Friday, June 9, 1995, 10:00 a.m.

Room M-739, Texas Department of Health, 1100 West 49th Street

Austin

HIV/AIDS Interagency Coordinating Council

AGENDA:

The council will discuss and possibly act on: approval of the minutes from March 10, 1995 and March 24, 1995 meetings; overview of meeting format; report from chairmen of advisory committees (medical-social services; council discussion and recommendations; prevention; and council discussion and recommendations); establishment of subcommittee to develop consolidated State Plan for HIV/AIDS; and set next meeting date.

Contact: Linda Moore, 1100 West 49th Street, Austin, Texas 78756, (512) 458-6403. For ADA assistance, contact Richard Butler at (512) 458-6410 or T.D.D. (512) 458-7708 at least two days prior to the meeting.

Filed: May 15, 1995, 8:55 a.m.

TRD-9505852

◆ ◆ ◆
Health Professions Council

Tuesday, May 16, 1995, 10:30 a.m.

Board of Medical Examiners, 1812 Centre Creek Drive, Room 200

Austin

Emergency Meeting

AGENDA:

1. Update on the committee's planning activities.
2. Status report by the General Services Commission space planning and financial staffs.
3. Discussion of, and if possible, decisions on, the fiscal arrangement options that the ten boards have to pay the various costs with collocation, including the immediate need for financial commitments to cover costs for a space planning architect.
4. Other move-related questions and issues.

Reason for emergency: To discuss financing for move to Hobby Building.

Contact: Edward M. Boggess, 9101 Burnet Road, Suite 109, Austin, Texas 78758-5260, (512) 873-6565.

Filed: May 16, 1995, 8:25 a.m.

TRD-9505906

◆ ◆ ◆
Texas Department of Human Services

Tuesday, May 23, 1995, 9:30 a.m.

701 West 51st Street, Third Floor Conference Room, West Tower

Austin

Religious Community Advisory Committee Meeting

AGENDA:

Welcome and review; Adopt-A-Nursing-Home: church models; budgetary impact; discussion of future of RCAC; presentation of DHS and PRS regional models for religious community involvement; actions plans for summer and fall: 1. Nominating Committee 2. Discuss plans for fall meeting; open discussion; and adjourn.

Contact: Cliff Martin, P.O. Box 149030, Austin, Texas 78714-9030, (512) 450-3072.

Filed: May 15, 1995, 3:34 p.m.

TRD-9505894

◆ ◆ ◆
Commission on Jail Standards

Friday, May 26, 1995, 9:00 a.m.

William P. Clements Building, Committee Room Five, 300 West 15th Street

Austin

AGENDA:

Call to order. Roll call of members. Reading and approval of minutes of last meeting of March 24, 1995. Introduction and confirmation data for commission members. Recognition of departing members. Introduction of legal representatives. Election of vice chair. Executive session. Old business: Angelina County, Harris County, Hidalgo County, status of felony backlog/payment to counties/jail population report/state jails, completed jail projects, active remedial orders, internal audit report and health care issues. New business: Disbursal of inmate telephone revenue, Webb County, changes to standards, jail planning process and committee assignments. Applications for variances: Hidalgo County and Jefferson County. Review of variances: Bexar County and Dallas County. Directors report. Other business. Adjourn.

Contact: Jack E. Crump, P.O. Box 12985, Austin, Texas 78711, (512) 463-5505.

Filed: May 15, 1995, 1:40 p.m.

TRD-9505883

◆ ◆ ◆
Texas Natural Resource Conservation Commission

Tuesday, May 23, 1995, 9:00 a.m.

12100 Park 35, Building A, Room 257

Austin

Irrigators Council

AGENDA:

Meeting called to order; approval of minutes of the meeting of January 24, 1995; recommend certification of successful candidates from the Licensed Irrigator and Licensed Installer Examination May 22, 1995; site and date of next exams; legislative update by TTIA; committee reports; report by Doretta Conrad, TNRCC OCC. Certification on various items of interest to Council and program; report by enforcement coordinator on complaint process/problems; report by chairman on various items of interest to program and Council members.

Contact: Joyce Watson, P.O. Box 13087, Austin, Texas 78711, (512) 239-6719 or (512) 239-6658 or (512) 239-6659.

Filed: May 15, 1995, 3:56 p.m.

TRD-9505902

◆ ◆ ◆
Wednesday, May 24, 1995, 9:30 a.m.

12118 North Interstate 35, Building E, Room 201S

Austin

AGENDA:

The commission will consider approving the following matters: Motion for reconsideration; industrial hazardous waste Class 3 modification; district matters; water utility matters; municipal waste discharge enforcement; industrial hazardous waste enforcement; petroleum storage tank enforcement; air quality enforcement; rules; State Implementation Plan; hearing examiners items; emergency order; executive session; in addition, 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 begins at 8:45 a.m. until 9:30 a.m.)

Contact: Doug Kitts, 12100 Park 35 Circle, Austin, Texas 78753, (512) 239-3317.

Filed: May 12, 1995, 9:33 a.m.

TRD-9505781

Wednesday, May 24, 1995, 9:30 a.m.

Building E, Room 201S, 12118 North Interstate 35

Austin

AGENDA:

The purpose of the hearing will be to determine whether Emergency Order Number 95-0847-IWD should be issued to Associated Milk Producers, Inc. (AMPI), pursuant to §26.0191, Texas Water Code, and 30 TAC §§305.21-305.30 of the rules of the Texas Natural Resource Conservation Commission. AMPI has applied to the Texas Natural Resource Conservation Commission for an emergency order to dispose of process wastewater from the Stephenville Cheese Plant by irrigation on a 290-acre tract referred to as the Stewart Property. The disposal volume is not to exceed 225,000 gallons per day. The Stephenville Cheese Plant is located adjacent to Smith Springs Road, approximately 2,000 feet northeast of the intersection of Smith Springs Road and U.S. Highway 281, north of the City of Stephenville in Erath County, Texas. The Stewart Property is located approximately three miles west of the Hannibal, Texas General Store. The irrigation site is in the South Fork Barton Creek watershed in Segment Number 1230 of the Brazos River Basin. The applicant has stated that such a request is justified due to uncontrolled circumstances relating to the permitted irrigation tract not being ready to receive treated wastewater effluent and to avoid discharge of wastewater into waters of the State, which is prohibited by TNRCC Permit Number 03074.

Contact: Jim Bateman, P.O. Box 13087, Austin, Texas 78711, (512) 239-0600.

Filed: May 12, 1995, 10:00 a.m.

TRD-9505782

Friday, June 2, 1995, 10:00 a.m.

Building C, Room 107W, 12124 Park 35 Circle

Austin

Office of Hearings Examiners

AGENDA:

For a hearing before a hearings examiner on an application by City of Palestine to amend its Certificate of Convenience and Necessity (CCN) Number 12135 and to decertify a portion of Pleasant Springs Water Supply Corporation's CCN Number 10796 to provide water utility service in Anderson County, Texas. The proposed service area is approximately 2.1 miles southwest of downtown Palestine, Texas and is generally bounded on the north by State Highway Loop 256, on the east and south by Gillespie Road, and on the south and west by Variah Road. The total area being re-

quested includes approximately 43.36 acres and one current customer.

TNRCC Docket Number 95-0697-UCR

Contact: Alexandre Bourgeois, Mail Code 102, P.O. Box 13087, Austin, Texas 78711-3087, (512) 239-4100.

Filed: May 12, 1995, 9:21 a.m.

TRD-9505778

Tuesday, June 13, 1995, 10:00 a.m.

Steeplechase Community Center, 11250 Steepleway Boulevard

Houston

Office of Hearings Examiners

AGENDA:

For a hearing before a hearings examiner on an application by City of Houston for Proposed Permit Number 10495-126 to authorize a discharge of treated domestic wastewater effluent at a volume not to exceed an average flow of 2,000,000 gallons per day. The plant site is approximately 1,320 feet north of the intersection of State Highway 249 and Mills Road, and approximately 2.0 miles southeast of the intersection of State Highway 249 and FM Road 1960 in Harris County, Texas. TNRCC Docket Number 95-0790-MWD

Contact: Elizabeth Todd, Mail Code 102, P.O. Box 13087, Austin, Texas 78711-3087, (512) 239-4100.

Filed: May 12, 1995, 8:43 a.m.

TRD-9505773

Tuesday, June 27, 1995, 9:00 a.m.

Comanche Housing Authority Community Center, 406 East Cedar

Comanche

Office of Hearings Examiners

AGENDA:

For a hearing before a hearings examiner on an application by Garry C. Davis for a Proposed Permit Number 03763 to authorize disposal of waste and wastewater from a dairy operation. The dairy will consist of a maximum of 500 milking head. Washdown water, flushwater and stormwater will be retained in one storage pond. Wastewater from the pond is disposed of by irrigation of 40 acres of agricultural land. Manure/solids will be disposed as fertilizer on 114 acres of agricultural land. No discharge of pollutants into the waters of the State is authorized by this permit. The dairy is on the north side of County Road 384 approximately one mile south of Highway 36 and five miles south east of the intersection of Highway 36 and U.S. Highway 377; approximately six miles east of the City of Comanche in Comanche County, Texas. TNRCC Docket Number 95-0812-AGR

Contact: Cynthia Hayes, Mail Code 102, P.O. Box 13087, Austin, Texas 78711-3087, (512) 239-4100.

Filed: May 12, 1995, 8:40 a.m.

TRD-9505772

Tuesday, June 27, 1995, 10:00 a.m.

TNRCC, 12118 Park 35 Circle, North IH-35 at Yager Lane, Building E, Room 310

Austin

AGENDA:

On an application by Ingram Readymix, Inc., proposed Standard Exemption Registration Number 15645D, to construct and operate a concrete batch plant under a standard exemption. The proposed location is at the southeast corner of the intersection of the Highway 281 and FM Road 1863, 100 feet east of Highway 281 in Comal County, Texas.

Contact: Helga Chatelle, Mail Code 163, P.O. Box 130, Austin, Texas 78711, (512) 239-1585.

Filed: May 15, 1995, 1:10 p.m.

TRD-9505877

◆ ◆ ◆
Texas Board of Nursing Facility Administrators

Thursday, May 25, 1995, 9:00 a.m.

Bowie Room, St. Anthony Hotel, 300 East Travis Street

San Antonio

Complaint Committee

AGENDA:

The committee will discuss and possibly act on: public comment; complaints (02-94-01-00360, 03-94-11-00856; 03-94-01-01290; 09-94-12-00157; 09-94-12-00167; 95-00060; 95-NFA-00136; 95-NFA-00133; 94-NFA-00043; and 95-NFA-00101; and report of closed/referred cases.

Contact: Bobby Schmidt, 1100 West 49th Street, Austin, Texas 78756, (512) 834-6628. For ADA assistance, contact Richard Butler at (512) 458-6410 or T.D.D. at (512) 458-7708 at least two days prior to the meeting.

Filed: May 15, 1995, 3:35 p.m.

TRD-9505898

Thursday, May 25, 1995, 1:00 p.m.

Bowie Room, St. Anthony Hotel, 300 East Travis Street

San Antonio

Education Committee

AGENDA:

The committee will receive public comment, and discuss and possibly act on: educational issues (public comments on proposed rules for consideration; and 30-day request), educational requests (THCA; DPA Associates; University of Houston-Victoria; Texas A&M University-Corpus Christi; Business Network, Inc.; Alzheimer's Association; Samuel Korn Rehabilitation Consultants, Inc.; Health Education, LLC; J&S Education; Healthcare Centers of Texas, Inc.; and K-Tech and Associates); equivalency requests (Richard Boyd; Jennifer Roush; Charles Murray, Wanda Dennis; Harold Guillory; Belinda Huerta; Scott Pool; Delbert Roe; Mark Barglof; Michael Flugstad, James Eaves; and Jeff Miller); and recommendations on proposed rules.

Contact: Bobby Schmidt, 1100 West 49th Street, Austin, Texas 78756, (512) 834-6628. For ADA assistance, contact Richard Butler at (512) 458-6410 or T.D.D. at (512) 458-7708 at least two days prior to the meeting.

Filed: May 15, 1995, 3:35 p.m.

TRD-9505897

Friday, May 26, 1995, 9:00 a.m.

Bowie Room, St. Anthony Hotel, 300 East Travis Street

San Antonio

AGENDA:

The board will discuss approval of the minutes from the December 9, 1994 meeting; and discuss and possibly act on: public comments; committee reports (complaint; education); discussion on public comment concerning Title 22, Texas Administrative Code, Chapter 241 (proposed rules); board chairman report; executive secretary's report, and setting of board and committee meetings

Contact: Bobby Schmidt, 1100 West 49th Street, Austin, Texas 78756, (512) 834-6628. For ADA assistance, contact Richard Butler at (512) 458-6410 or T.D.D. at (512) 458-7708 at least two days prior to the meeting.

Filed: May 15, 1995, 3:35 p.m.

TRD-9505899

Texas Board of Pardons and Paroles

Wednesday, May 24, 1995, 9:00 a.m.

8610 Shoal Creek Boulevard

Austin

Full Board

AGENDA:

I. Call to order by chairman/II. Approval of minutes of the previous meeting of the

board held February 28, 1995/III. Introduction of board members and staff/IV. Discussion of board organization/assignments/V. Discussion of board committees-past, present, future-committee reports/VI. Discussion of status of proposed agency rules/VII. Discussion of new board member training program/VIII. Discussion about pilot program regarding use of T.V. monitors for interviewing on units/IX. Legislative update/X. Adjournment.

Contact: Juanita Llamas, 8610 Shoal Creek Boulevard, Austin, Texas 78759, (512) 405-5408.

Filed: May 12, 1995, 4:28 p.m.

TRD-9505850

State Pension Review Board

Tuesday, May 23, 1995, 10:30 a.m.

300 West 15th Street, Clements Building, Fourth Floor, Room 406

Austin

AGENDA:

1. Meeting called to order
2. Roll call
3. Reading and adoption of minutes of previous meeting
4. Update on Legislative Advisory Committee
5. Adoption of Derivatives Study Committee Report
6. Discussion and possible action on old business
7. Announcements and invitation for audience participation
8. Adjournment-announce date of next meeting

Contact: Lynda Baker, P.O. Box 13498, Austin, Texas 78711, (512) 463-1736.

Filed: May 12, 1995, 2:34 p.m.

TRD-9505832

Texas State Board of Pharmacy

Tuesday-Wednesday, May 23-24, 1995, 9:00 a.m.

1812 Centre Creek, Room 203

Austin

Annual Policy and Board Business Meeting

AGENDA:

The Board will commence in open session to: (1) receive announcements concerning personnel; (2) consider for approval the January 31, 1995, Board business meeting minutes; (3); consider for final adoption amend-

ments to §291.5 concerning closing of a pharmacy, §291.34 and §291.36 concerning emergency dispensing in Class A Pharmacies; §291.36 concerning transfer of prescriptions in Class A Pharmacies Compounding Sterile Pharmaceuticals; (4) consider for proposal amendments to §§291.31, 291.34, 291.36, 309.2, and 309.3, concerning the electronic transmission of prescriptions from physicians' offices to pharmacies, §281.24(a) concerning grounds for discipline of a pharmacist's license, (5) hear reports regarding the Task Force on Internship; the Task Force on Pharmacy Technicians; the Examination Retake Committee, the status of the Health Professional Council and recent conferences and events, (6) discuss for possible action request from TPA and TSHP for appointment of task force to study dispensing errors by pharmacists, the approval of out-of-state internship programs for student internships in Texas; guidelines for the acquisition of practical experience hours for Oklahoma pharmacy students, animals in pharmacies; substitution of dosage forms, adjudicative procedures giving license an option to waive attendance at an informal conference; (7) receive update on fiscal year 1995 expenditures to date, the use of lockbox for license renewals, fiscal year 1996-1997 biennium budget, TSBP office move, pharmacy-related legislation, meeting with representatives of Hospice and Department of Public Safety; upcoming conferences and events; (8) review for approval fiscal year 1996 calendar of events and fiscal year 1994 annual report; (9) hear report on status of active/pending complaints; (10) consider and take action on proposed agreed board orders; (11) consider proposal for decision in TSBP vs. Adetokunboh Adebamboh Adegbenro and proposal for decision in TSBP vs. Raul E. Guerra; (12) executive session to consider personnel matters and agreed board orders involving impaired pharmacists, the proposal for decision in TSBP vs. Adetokunboh Adebamboh Adegbenro and the proposal for decision in TSBP vs. Raul E. Guerra; (13) discuss and approve fiscal year 1996-1997 executive director's contract; (14) recognize Board member/staff appointments and awards.

Contact: Gay Dodson, R.Ph., 8505 Cross Park Drive, Suite 110, Austin, Texas 78754-4594, (512) 832-0661

Filed: May 15, 1995, 2:59 p.m.

TRD-9505889

Public Utility Commission of Texas

Friday, May 12, 1995, 11:30 a.m.

7800 Shoal Creek Boulevard

Austin

Emergency Meeting

Administrative

AGENDA:

There will be an emergency administrative meeting (executive session) for discussion and possible action on: In Re: El Paso Electric Company, Case Number 92-10148-FM (Chapter 11), United States Bankruptcy Court for the Western District of Texas.

Reason for emergency: El Paso Electric Company filed a motion for temporary restraining order on May 11, 1995. A hearing on the motion has been set for 2:00 p.m., Monday, May 15, 1995.

Contact: John M. Renfrow, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

Filed: May 12, 1995, 8:45 a.m.

TRD-9505775

Tuesday, May 16, 1995, 9:00 a.m.

7800 Shoal Creek Boulevard

Austin

Emergency Revised Agenda

AGENDA:

In addition to the previously submitted agenda, the commissioners will also consider the appeal of Order Number 95 in Docket Number 12065-complaint of Kenneth D. Williams against Houston Lighting and Power Company.

Reason for emergency: Prompt commission action is necessary to preserve jurisdiction over the subject matter of the appeal.

Contact: John M. Renfrow, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

Filed: May 15, 1995, 1:11 p.m.

TRD-9505881

Friday, June 2, 1995, 2:00 p.m. (Rescheduled from May 18, 1995.)

7800 Shoal Creek Boulevard

Austin

Hearings Division

AGENDA:

A prehearing conference has been rescheduled in Docket Number 14121-complaint of David and Carolyn Jaska against GTE Southwest, Inc.

Contact: John M. Renfrow, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

Filed: May 15, 1995, 2:17 p.m.

TRD-9505884



The Railroad Commission of Texas

Tuesday, May 23, 1995, 9:30 a.m.

1701 North Congress Avenue, First Floor Conference Room 1-111

Austin

AGENDA:

The Commission will consider and act on the Surface Mining and Reclamation Division Director's report on division administration, budget, procedures, and personnel matters.

Contact: Melvin B. Hodgkiss, P.O. Box 12967, Austin, Texas 78711, (512) 463-6901.

Filed: May 12, 1995, 10:13 a.m.

TRD-9505788

Tuesday, May 23, 1995, 9:30 a.m.

1701 North Congress Avenue, First Floor Conference Room 1-111

Austin

AGENDA:

The Commission will consider and act on agency administration, budget, policy and procedures, and personnel matters for all divisions. The commission may meet in executive session to consider the appointment, employment, evaluation, re-assignment, duties, discipline and/or dismissal of personnel.

Contact: Mark Bogan, P.O. Box 12967, Austin, Texas 78711-2967, (512) 463-6981.

Filed: May 12, 1995, 10:14 a.m.

TRD-9505789

Tuesday, May 23, 1995, 9:30 a.m.

1701 North Congress Avenue, First Floor Conference Room 1-111

Austin

AGENDA:

The Commission will consider and act on the Office of Information Services director's report on division administration, budget, procedures, and personnel matters.

Contact: Brian W. Schaible, P.O. Box 12967, Austin, Texas 78701, (512) 463-6710.

Filed: May 12, 1995, 10:14 a.m.

TRD-9505790

Tuesday, May 23, 1995, 9:30 a.m.

1701 North Congress Avenue, First Floor Conference Room 1-111

Austin

AGENDA:

The Commission will consider and act on the agency budget, fiscal and administrative

matters and the Administrative Services Division director's report on division administration, budget, procedures and personnel matters, including discussion of Abilene and Dallas district office lease proposals and take action on the division's recommendation.

Contact: Roger Dillon, P.O. Box 12967, Austin, Texas 78711-2967, (512) 463-7257.

Filed: May 12, 1995, 10:14 a.m.

TRD-9505791

Tuesday, May 23, 1995, 9:30 a.m.

1701 North Congress Avenue, First Floor Conference Room 1-111

Austin

AGENDA:

The Commission will consider and act on the Automatic Data Processing Division director's report on division administration, budget, procedures, equipment acquisitions and personnel matters. The Commission will consider and act on the information Resource Manager's report on information resource planning documents.

The Commission will consider and act on the Automatic Data Processing Division director's report on the administration, budget, procedures, equipment acquisitions, contracts and work schedules associated with the Department of Energy-RRC Area of Review (AOR) Data Management Enhancements Grant Status Review.

Contact: Bob Kmetz, P.O. Box 12967, Austin, Texas 78701, (512) 463-7251.

Filed: May 12, 1995, 10:15 a.m.

TRD-9505792

Tuesday, May 23, 1995, 9:30 a.m.

1701 North Congress Avenue, First Floor Conference Room 1-111

Austin

AGENDA:

According to the complete agenda, the Railroad Commission of Texas will consider various applications and other matters within the jurisdiction of the agency including oral arguments at the time specified on the agenda. The Railroad Commission of Texas may consider the procedural status of any contested case if 60 days or more have elapsed from the date the hearing was closed or from the date the transcript was received.

The Commission may meet in Executive Session on any items listed above as authorized by the Open Meetings Act.

Contact: Carole J. Vogel, P.O. Box 12967, Austin, Texas 78711, (512) 463-7033.

Filed: May 12, 1995, 10:16 a.m.

TRD-9505793

Tuesday, May 23, 1995, 2:00 p.m.

1701 North Congress Avenue, 12th Floor
Conference Room 12-126

Austin

AGENDA:

The Commission will hold its monthly statewide hearing on oil and gas to determine the lawful market demand for oil and gas and to consider and/or take action on matters listed on the agenda posted with the Secretary of State's Office.

Contact: Paula Middleton, P.O. Box 12967, Austin, Texas 78711, (512) 463-6729.

Filed: May 12, 1995, 10:13 a.m.

TRD-9505787

◆ ◆ ◆
Center for Rural Health Initiatives

Tuesday, May 23, 1995, 1:30 p.m.

211 East Seventh Street, First Floor Conference Room

Austin

Executive Committee

AGENDA:

Center for Rural Health Initiatives Executive Committee will meet to discuss and possibly act on. Minutes from November 15, 1994, meeting, executive director's report, adoption of Outstanding Rural Scholar Program rules, legislative update, Advisory Committee reports; selection of next meeting date, executive session to discuss administrative and personnel matters; and adjourn.

Contact: Laura Jordan, P.O. Drawer 1708, Austin, Texas 78767, (512) 479-8891.

Filed: May 15, 1995, 1:35 p.m.

TRD-9505882

◆ ◆ ◆
Teacher Retirement System of Texas

Friday, May 19, 1995, 8:00 a.m.

1000 Red River, Fifth Floor Board Room
Austin

Board of Trustees Investment Committee

AGENDA

Approval of minutes of March 30, 1995, meeting; review of asset class characteristics; discussion of TRS asset class benchmarks; discussion of indexing; discussion and consideration of TRS approved list process; consultation with fiduciary counsel about TRS approved list process; discussion of capital markets performance; discussion

of asset allocation concepts; and discussion and consideration of inputs and assumptions for asset allocation.

Contact: Mary Godzik, 1000 Red River, Austin, Texas 78701-2698, (512) 397-6400.

Filed: May 11, 1995, 3:59 p.m.

TRD-9505766

◆ ◆ ◆
The Texas A&M University System, Board of Regents

Tuesday, May 16, 1995, 10:00 a.m.

Board of Regents Meeting Room, Texas A&M University, Clark Street

College Station

Board of Regents (Telephonic Meeting)

AGENDA:

The purpose of this special telephonic meeting is to review and take action on bids for the Bush Presidential Library Center at Texas A&M University.

Contact: Thelma Isenhardt, Office of the Board of Regents, The Texas A&M University System, College Station, Texas 77843, (409) 845-9600.

Filed: May 11, 1995, 5:01 p.m.

TRD-9505770

Thursday, May 25, 1995, 10:00 a.m. (Rescheduled from May 16, 1995.)

Board of Regents Meeting Room, Texas A&M University, Clark Street

College Station

Board of Regents

AGENDA:

The purpose of this special meeting is to review and take action on bids for the Bush Presidential Library Center at Texas A&M University.

Contact: Thelma Isenhardt, The Texas A&M University System, College Station, Texas 77843, (409) 845-9600.

Filed: May 16, 1995, 8:38 a.m.

TRD-9505909

◆ ◆ ◆
Texas State Technical College System

Saturday, May 20, 1995, 8:15 a.m.

TSTC Harlingen Campus, Conference Center Board Room

Harlingen

Revised Agenda

Board of Regents Executive Session

AGENDA:

Add item:

Blankenship v. TSTC

Contact: Sandra J. Krumnow, 3801 Campus Drive, Waco, Texas 76705, (817) 867-4890.

Filed: May 11, 1995, 10:07 a.m.

TRD-9505739

◆ ◆ ◆
Board for Lease of University Lands

Tuesday, May 23, 1995, 10:00 a.m.

Center for Energy and Economic Diversification, 1400 North FM 1788

Midland

AGENDA:

1. Selection of vice-chairman and secretary of the Board for Lease of University Lands.

2. Approval of November 10, 1994, minutes of the Board for Lease meeting

3. Approval of tracts offered and opening of bids received on or before 10:00 a.m., Tuesday, May 23, 1995.

4. Declaration of forfeiture of the following leases:

Oil and Gas Lease #94606, NW/4 Section 11, Block 8, Reagan County, Texas

Oil and Gas Lease #94607, NE/4 Section 12, Block 8, Reagan County, Texas

Oil and Gas Lease #94608, SE/4 Section 12, Block 8, Reagan County, Texas

5. Consideration of the Board's policy regarding collection of royalties on casinghead gas.

6. Discussion of Senate Bill 905 regarding royalty rate reductions for marginal wells.

7. Discussion and approval of lease procedures and terms for the 88th Oil and Gas Lease Sale and Frontier Oil and Gas Lease Sale 88-A.

8. Approval of lease awards to highest bidders for the 87th Oil and Gas Lease Sale.

9. Approval of lease awards to highest bidders for Frontier Oil and Gas Lease Sale 87-A.

(Persons with disabilities who plan to attend the meeting and who may need auxiliary aids or services may contact Kathy Cope at (512) 499-4462 at least two work days prior to the meeting date so that appropriate arrangements can be made.)

Contact: Mary Burke, 201 West Seventh Street, Austin, Texas 78701, (512) 499-4462.

Filed: May 12, 1995, 3:44 p.m.

TRD-9505844

University of Texas Health Science Center at San Antonio

Wednesday, May 24, 1995, 3:00 p.m.
7703 Floyd Curl Drive, Room 422A

San Antonio

Institutional Animal Care and Use Committee

AGENDA:

1. Approval of minutes
2. Protocols for review
3. Subcommittee reports
4. Other business

Contact: Molly Greene, 7703 Floyd Curl Drive, San Antonio, Texas 78284-7822, (210) 567-3717.

Filed: May 15, 1995, 9:54 a.m.

TRD-9505864

University of Texas M. D. Anderson Cancer Center

Tuesday, May 16, 1995, 9:00 a.m.

1515 Holcombe Boulevard, Room AW7.707

Houston

Institutional Animal Care and Use Committee

AGENDA:

Review of protocols for animal care and use and modifications thereof

Contact: Anthony Mastromarino, Ph.D., 1515 Holcombe Boulevard, Box 101, Houston, Texas 77030, (713) 792-3220.

Filed: May 12, 1995, 11:44 a.m.

TRD-9505804

Regional Meetings

Meetings Filed May 11, 1995

The Alamo Area Council of Governments Management Committee met at 118 Broadway, Suite 400, San Antonio, May 16, 1995, 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-9505764.

The Angelina and Neches River Authority ANRA Board of Directors met in the Conference Room, 210 Lufkin Avenue, Lufkin, May 16, 1995, at 9:30 a.m. Information may be obtained from Gary L. Neighbors, P.O. Box 387, Lufkin, 75901, (409) 632-7795. TRD-9505751.

The Gonzales County Appraisal District Board of Directors met at 928 St. Paul, Gonzales, May 18, 1995, at 6:00 p.m. Information may be obtained from Connie Barfield or Glenda Strackbein, 928 St. Paul, Gonzales, Texas 78629, (210) 672-2879. Fax: (210) 672-8345. TRD-9505765.

The North Texas Regional Library System Board of Directors will meet at the Arlington Public Library, 101 East Abram, Arlington, May 25, 1995, at 1:30 p.m. Information may be obtained from Cheryl Smith, 1111 Foch Street, Suite 100, Fort Worth, Texas 76107, (817) 335-6076 TRD-9505742.

The San Jacinto River Authority Board of Directors met at 2301 North Millbend Drive, The Woodlands, May 17, 1995, at 12:30 p.m. Information may be obtained from James R. Adams, P.O. Box 329, Conroe, Texas 77305, (409) 588-1111 TRD-9505750.

The Wood County Appraisal District Board of Directors met at 217 North Main, Quitman, May 18, 1995, at 1:30 p.m. Information may be obtained from W Carson Wages or Lou Brooke, P.O. Box 518, Quitman, Texas 75783-0518, (903) 763-4891. TRD-9505748.

Meetings Filed May 12, 1995

The Archer County Appraisal District Appraisal Review Board met at 101 South Center, Archer City, May 17, 1995, at 9:00 a.m. Information may be obtained from Edward H. Trigg, III, P.O. Box 1141, Archer City, Texas 76351, (817) 574-2172. TRD-9505818.

The Archer County Appraisal District Board of Directors met at 101 South Center, Archer City, at 5:00 p.m. Information may be obtained from Edward H. Trigg, III, P.O. Box 1141, Archer City, Texas 76351, (817) 574-2172. TRD-9505819.

The Atascosa County Appraisal District Board of Directors met at Fourth and Avenue J, Poteet, May 18, 1995, at 1:30 p.m. Information may be obtained from Vernon A. Warren, P.O. Box 139, Poteet, Texas 78065, (210) 742-3591. TRD-9505841.

The Austin-Travis County MHMR Center Planning and Operations Committee will meet at 1430 Collier Street, Board Room, Austin, May 19, 1995, at Noon. Information may be obtained from Sharon Taylor, 1430 Collier Street, Austin, Texas 78704, (512) 447-4141. TRD-9505851

The Carson County Appraisal District Appraisal Review Board met at 102 Main Street, Panhandle, May 17, 1995, at 9:00 a.m. Information may be obtained from Donita Herber, Box 970, Panhandle, Texas 79068, (806) 537-3569. TRD-9505780.

The Colorado River Municipal Water District (Revised Agenda) Board of Directors met at 400 East 24th Street, Big Spring, May 18, 1995, at 10:00 a.m. Information may be obtained from O. H. Ivie, Box 869, Big Spring, Texas 79721, (915) 267-6341. TRD-9505777.

The Comal Appraisal District Board of Directors met at 178 East Mill Street, #101, New Braunfels, May 15, 1995, at 5:30 p.m. Information may be obtained from Lynn E. Rodgers, P.O. Box 311222, New Braunfels, Texas 78131-1222, (210) 625-8597. TRD-9505816.

The Comal Appraisal District Appraisal Review Board will meet at 178 East Mill Street, #102, New Braunfels, May 31, 1995, at 9:00 a.m. Information may be obtained from Lynn E. Rodgers, P.O. Box 311222, New Braunfels, Texas 78131-1222, (210) 625-8597. TRD-9505817.

The Comal Appraisal District Appraisal Review Board will meet at 178 East Mill Street, #102, New Braunfels, June 1, 1995, at 8:45 a.m. Information may be obtained from Lynn E. Rodgers, P.O. Box 311222, New Braunfels, Texas 78131-1222, (210) 625-8597. TRD-9505810.

The Comal Appraisal District Appraisal Review Board will meet at 178 East Mill Street, #102, New Braunfels, June 12-15, 1995, at 9:00 a.m. Information may be obtained from Lynn E. Rodgers, P.O. Box 311222, New Braunfels, Texas 78131-1222, (210) 625-8597. TRD-9505811.

The Comal Appraisal District Appraisal Review Board will meet at 178 East Mill Street, #102, New Braunfels, June 20-22, 1995, at 9:00 a.m. Information may be obtained from Lynn E. Rodgers, P.O. Box 311222, New Braunfels, Texas 78131-1222, (210) 625-8597. TRD-9505812.

The Comal Appraisal District Appraisal Review Board will meet at 178 East Mill Street, #102, New Braunfels, June 27-29, 1995, at 9:00 a.m. Information may be obtained from Lynn E. Rodgers, P.O. Box 311222, New Braunfels, Texas 78131-1222, (210) 625-8597. TRD-9505813.

The Comal Appraisal District Appraisal Review Board will meet at 178 East Mill Street, #102, New Braunfels, July 11-13, 1995, at 9:00 a.m. Information may be obtained from Lynn E. Rodgers, P.O. Box 311222, New Braunfels, Texas 78131-1222, (210) 625-8597. TRD-9505814.

The Comal Appraisal District Appraisal Review Board will meet at 178 East Mill Street, #102, New Braunfels, July 18-20, 1995, at 9:00 a.m. Information may be obtained from Lynn E. Rodgers, P.O. Box 311222, New Braunfels, Texas 78131-1222, (210) 625-8597. TRD-9505815.

The Concho Valley Council of Governments Private Industry Council met at 5014 Knickerbocker Road, San Angelo, May 17,

1995, at 3:00 p.m. Information may be obtained from Monette Molinar, 5002 Knickerbocker Road, San Angelo, Texas 76904, (915) 944-9666. TRD-9505796.

The Dallas Area Rapid Transit Procurement Workshop met at 1401 Pacific Avenue, Dallas, May 16, 1995, at 1:00 p.m. Information may be obtained from Vanessa A. Knight, P.O. Box 660163, Dallas, Texas 75266-0163, (214) 749-3371. TRD-9505834.

The Dallas Central Appraisal District Appraisal Review Board will meet at 2949 North Stemmons Freeway, Second Floor Community Room, Dallas, May 19, 1995, at 11:30 a.m. Information may be obtained from Rick Kuehler, 2949 North Stemmons Freeway, Dallas, Texas 75247, (214) 631-0520. TRD-9505771.

The Deep East Texas MHMR (The Burke Center) Board of Trustees Mental Retardation Joint Conference Committee will meet at 4101 South Medford Drive, Lufkin, May 23, 1995, at 11:00 a.m. Information may be obtained from Sandra J Vann, 4101 South Medford Drive, Lufkin, Texas 75901, (409) 639-1141. TRD-9505805.

The Deep East Texas MHMR (The Burke Center) Board of Trustees will meet at 4101 South Medford Drive, Lufkin, May 23, 1995, at 1:00 p.m. Information may be obtained from Sandra J. Vann, 4101 South Medford Drive, Lufkin, Texas 75901, (409) 639-1141. TRD-9505806.

The Denton Central Appraisal District Board of Directors will meet at 3911 Morse Street, Denton, May 25, 1995, at 3:00 p.m. Information may be obtained from Kathy Pierson, P.O. Box 2816, Denton, Texas 76202-2816, (817) 566-0904. TRD-9505786.

The East Texas Council of Governments Private Industry Council met at 3800 Stone Road, Kilgore, May 18, 1995, at 9:30 a.m. Information may be obtained from Glynn Knight, 3800 Stone Road, Kilgore, Texas 75662, (903) 984-8641. TRD-9505830.

The Golden Crescent Private Industry Council Oversight Committee met at 2401 Houston Highway, Victoria, May 15, 1995, at 6:30 p.m. Information may be obtained from Sandy Heiermann, 2401 Houston Highway, Victoria, Texas 77901, (512) 576-5872. TRD-9505840.

The Golden Crescent Private Industry Council Executive Committee met at 2401 Houston Highway, Victoria, May 17, 1995, at 6:30 p.m. Information may be obtained from Sandy Heiermann, 2401 Houston Highway, Victoria, Texas 77901, (512) 576-5872. TRD-9505839.

The Grayson Appraisal District Board of Directors will meet at 205 West Travis, Sherman, May 24, 1995, at Noon. Informa-

tion may be obtained from Angie Keeton, 205 North Travis, Sherman, Texas 75090, (903) 893-9673. TRD-9505849.

The Harris County Appraisal District Board of Directors met at 2800 North Loop West, Eighth Floor, Houston, May 17, 1995, at 9:30 a.m. Information may be obtained from Margie Hilliard, P.O. Box 920975, Houston, Texas 77292, (713) 957-5291. TRD-9505833.

The Houston-Galveston Area Council Transportation Policy Council will meet at 3555 Timmons Lane, Second Floor, Room A, Houston, May 26, 1995, at 9:30 a.m. Information may be obtained from Alan C. Clark, P.O. Box 22777, Houston, Texas 78227, (713) 627-3200. TRD-9505845.

The Johnson County Rural Water Supply Corporation Personnel Committee met at the Corporate Office, 2849 Highway 1718, Cleburne, May 16, 1995, at 5:30 p.m. Information may be obtained from Peggy Johnson, P.O. Box 509, Cleburne, Texas 76033, (817) 645-6646. TRD-9505807.

The Johnson County Rural Water Supply Corporation Public Relations Committee met at the Corporate Office, 2849 Highway 1718, Cleburne, May 16, 1995, at 5:45 p.m. Information may be obtained from Peggy Johnson, P.O. Box 509, Cleburne, Texas 76033, (817) 645-6646. TRD-9505808.

The Johnson County Rural Water Supply Corporation Regular Board met at the Corporate Office, 2849 Highway 1718, Cleburne, May 16, 1995, at 6:00 p.m. Information may be obtained from Peggy Johnson, P.O. Box 509, Cleburne, Texas 76033, (817) 645-6646. TRD-9505809.

The Kendall Appraisal District Board of Directors met at 121 South Main Street, Boerne, May 18, 1995, at 5:30 p.m. Information may be obtained from Mick Mikulenska or Helen Tamayo, P.O. Box 788, Boerne, Texas 78006, (210) 249-8012, Fax (210) 249-3975. TRD-9505776.

The Lower Colorado River Authority Board of Directors and Finance and Administration Committee met at the Southwest Texas State University, 601 University Drive, Hill House, San Marcos, May 16, 1995, and reconvening, if necessary, May 17, 1995, at 9:00 a.m. and 8:30 a.m., respectively. Information may be obtained from Glen E. Taylor, P.O. Box 220, Austin, Texas 78767, (512) 473-3287. TRD-9505820.

The Lower Colorado River Authority Audit Committee met at the Southwest Texas State University, 601 University Drive, Hill House, San Marcos, May 17, 1995, and reconvening, if necessary, May 18, 1995, at 8:30 a.m. Information may be obtained from Glen E. Taylor, P.O. Box 220, Austin, Texas 78767, (512) 473-3287. TRD-9505828.

The Lower Colorado River Authority Board of Directors met at the Southwest Texas State University, 601 University Drive, Hill House, San Marcos, May 17, 1995, and reconvening, if necessary, May 18, 1995, at 8:30 a.m. Information may be obtained from Glen E. Taylor, P.O. Box 220, Austin, Texas 78767, (512) 473-3287. TRD-9505822.

The Lower Colorado River Authority Community Resources and Development Committee met at the Southwest Texas State University, 601 University Drive, Hill House, San Marcos, May 17, 1995, and reconvening, if necessary, May 18, 1995, at 8:30 a.m. Information may be obtained from Glen E. Taylor, P.O. Box 220, Austin, Texas 78767, (512) 473-3287. TRD-9505829.

The Lower Colorado River Authority Conservation and Environmental Protection Committee met at the Southwest Texas State University, 601 University Drive, Hill House, San Marcos, May 17, 1995, and reconvening, if necessary, May 18, 1995, at 8:30 a.m. Information may be obtained from Glen E. Taylor, P.O. Box 220, Austin, Texas 78767, (512) 473-3287. TRD-9505826.

The Lower Colorado River Authority Energy Operations Committee met at the Southwest Texas State University, 601 University Drive, Hill House, San Marcos, May 17, 1995, and reconvening, if necessary, May 18, 1995, at 8:30 a.m. Information may be obtained from Glen E. Taylor, P.O. Box 220, Austin, Texas 78767, (512) 473-3287. TRD-9505824.

The Lower Colorado River Authority Finance and Administration Committee met at the Southwest Texas State University, 601 University Drive, Hill House, San Marcos, May 17, 1995, and reconvening, if necessary, May 18, 1995, at 8:30 a.m. Information may be obtained from Glen E. Taylor, P.O. Box 220, Austin, Texas 78767, (512) 473-3287. TRD-9505827.

The Lower Colorado River Authority Natural Resources Committee met at the Southwest Texas State University, 601 University Drive, Hill House, San Marcos, May 17, 1995, and reconvening, if necessary, May 18, 1995, at 8:30 a.m. Information may be obtained from Glen E. Taylor, P.O. Box 220, Austin, Texas 78767, (512) 473-3287. TRD-9505825.

The Lower Colorado River Authority Planning and Public Policy Committee met at the Southwest Texas State University, 601 University Drive, Hill House, San Marcos, May 17, 1995, and reconvening, if necessary, May 18, 1995, at 8:30 a.m. Information may be obtained from Glen E. Taylor, P.O. Box 220, Austin, Texas 78767, (512) 473-3287. TRD-9505823.

The Lower Colorado River Authority Board of Directors met at the Palmers Restaurant, 218 Moore Street, Amethyst Room, San Marcos, May 17, 1995, at 6:30 p.m. Information may be obtained from Glen E. Taylor, P.O. Box 220, Austin, Texas 78767, (512) 473-3287. TRD-9505821.

The Lower Neches Valley Authority Board of Directors met at 7850 Eastex Freeway, Beaumont, May 16, 1995, at 10:30 a.m. Information may be obtained from A. T. Hebert, Jr., P.O. Drawer 3464, Beaumont, Texas 77704, (409) 892-4011. TRD-9505774.

The Mills County Appraisal District Board of Directors met at the Mills County Courthouse, Jury Room, Fisher Street, Goldthwaite, May 16, 1995, at 6:30 p.m. Information may be obtained from Cynthia Partin, P.O. Box 565, Goldthwaite, Texas 76844, (915) 648-2253. TRD-9505837.

The Riceland Regional Mental Health Authority Board of Trustees Joint Hospital Committee met at 3007 North Richmond Road, Wharton, May 18, 1995, at 11:00 a.m. Information may be obtained from Marjorie Dornak, P.O. Box 869, Wharton, Texas 77488, (409) 532-3098. TRD-9505799.

The Riceland Regional Mental Health Authority Board of Trustees met at 3007 North Richmond Road, Wharton, May 18, 1995, at Noon. Information may be obtained from Marjorie Dornak, P.O. Box 869, Wharton, Texas 77488, (409) 532-3098. TRD-9505798.

The Swisher County Appraisal District Board of Directors met at 130 North Armstrong, Tulia, May 18, 1995, at 7:00 p.m. Information may be obtained from Rose Lee Powell, P.O. 8, Tulia, Texas 79088, (806) 995-4118. TRD-9505803.

The Central Appraisal District of Taylor County Appraisal Review Board will meet at 1534 South Treadaway, Abilene, May 25, 1995, at 1:30 p.m. Information may be obtained from Richard Petree, P.O. Box 1800, Abilene, Texas 79604, (915) 676-9381. TRD-9505779.



Meetings Filed May 15, 1995

The Bastrop Central Appraisal District Board of Directors met at 1200 Cedar Street, Bastrop, May 18, 1995, at 7:30 p.m. Information may be obtained from Dana Ripley, 1200 Cedar Street, Bastrop, Texas 78602, (512) 321-3225. TRD-9505904.

The Central Texas MHMR Center Board of Trustees will meet at 1200 Coggin, Brownwood, May 22, 1995, at 5:00 p.m. Information may be obtained from Saul Pullman, P.O. Box 250, Brownwood, Texas 76804, (915) 646-9574, Ext. 102. TRD-9505895.

The Concho Valley Quality Work Force Planning will meet at 5022 Knickerbocker Road, San Angelo, May 24, 1995, at 4:00 p.m. Information may be obtained from Catherine A. Cordova, P.O. Box 61276, San Angelo, Texas 76906, (915) 944-9666. TRD-9505879.

The Coryell City Water Supply District Board of Directors met at FM 929, Coryell City, May 18, 1995, at 7:30 p.m. Information may be obtained from Helen Swift, Route 2, Box 93, Gatesville, Texas 76528, (817) 865-6089. TRD-9505858.

The Garza Central Appraisal District Appraisal Review Board will meet at 124 East Main, Post, May 23, 1995, at 2:00 p.m. Information may be obtained from Bille Y. Windham, P.O. Drawer F, Post, Texas 79356, (806) 495-3518. TRD-9505888.

The Northeast Texas Municipal Water District Board of Directors will meet at Highway 250 South, Hughes Springs, May 22, 1995, at 10:00 a.m. Information may be obtained from J. W. Dean, P.O. Box 955, Hughes Springs, Texas 75656, (903) 639-7538. TRD-9505887.

The Parmer County Appraisal District Board of Directors will meet at 305 Third Street, Bovina, June 8, 1995, at 7:00 p.m. Information may be obtained from Ronald E. Procter, P.O. Box 56, Bovina, Texas 79009, (806) 238-1405. TRD-9505871.

The San Antonio-Bexar County Metropolitan Planning Organization Transportation Steering Committee will meet at the

International Conference Center of the Convention Center Complex, San Antonio, May 22, 1995, at 1:30 p. m. Information may be obtained from Charlotte A. Roszelle, 434 South Main, Suite 205, San Antonio, Texas 78204, (210) 227-8651. TRD-9505853.

The San Patricio Appraisal District Board of Directors will meet at 1146 East Market, Sinton, May 23, 1995, at 1:30 p.m. Information may be obtained from Kathryn Vermillion, P.O. Box 938, Sinton, Texas 78387, (512) 364-5402. TRD-9505880.

The Texas Rural Communities, Inc. Board of Directors will meet at 101 Lakeway Drive, Lakeway Inn Resort, Austin, June 3, 1995, at 1:00 p.m. Information may be obtained from Leslie Janca, 1016 LaPosada Drive, Suite 200, Austin, Texas 78752, (512) 458-1016. TRD-9505901.



Meetings Filed May 16, 1995

The Dewitt County Appraisal District (Rescheduled from May 16, 1995.) Board of Directors will meet at 103 Bailey, Cuero, May 23, 1995, at 7:30 p.m. Information may be obtained from Kay Rath, P.O. Box 4, Cuero, Texas 77954, (512) 275-5753. TRD-9505916.

The Permian Basin Regional Planning Commission (Revised Agenda.) Policy Advisory Committee will meet at 2910 La Force Boulevard, Midland, May 25, 1995, at 9:30 a.m. Information may be obtained from Jerry Tschauner, P.O. Box 60660, Midland, Texas 79711, (915) 563-1061. TRD-9505919.

The TML Group Benefits Risk Pool Executive Committee will meet at the Texas Municipal Center, 1821 Rutherford Lane, Suite 300, Austin, May 19, 1995, at 8:30 a.m. Information may be obtained from Suzanne Steindorf, 1821 Rutherford Lane, Suite 300, Austin, Texas 78754, (512) 719-6521. TRD-9505907.



Name: Amy Lopez

Grade: 12

School: Lancaster High School, Lancaster ISD



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.

Texas Department of Commerce Request for Proposals

The Texas Department of Commerce (Commerce) announces a Request for Proposals (RFP) to invite proposals for a Survey Science Project that will provide training and technical assistance in the development of a comprehensive customer satisfaction survey and in the methods to collect and analyze such survey information.

This announcement makes available Forty-three Thousand Dollars (\$43,000) in U.S. Department of Labor Technical Assistance and Training funds for the proposed Survey Science Project. The tentative contract period for this project is from August 1, 1995-March 31, 1996.

Detailed information regarding the project is set forth in the Request for Proposals Information, entitled JTPA TITLE III/EDWAA, SURVEY SCIENCE PROJECT, providing proposal specifications, format requirements, and a project timetable, which is available at the Texas Department of Commerce, Work Force Development Division, 211 East Seventh Street, Suite 1000, P.O. Box 12728, Capitol Station, Austin, Texas 78711.

A Bidders' Conference for this procurement will be held at the Texas Department of Commerce, Southwest Tower, 211 East Seventh Street, Room 1028, Austin, Texas, at 9:00 a.m. CDT, on Friday May 26, 1995. The deadline for receipt of proposals in response to this request will be 4:00 p.m. CDT, Friday, June 23, 1995. Proposals received after this deadline will not be considered.

Commerce reserves the right to accept or reject any or all proposals submitted. Commerce is under no legal requirement to execute a resulting contract on the basis of this advertisement and intends the material provided only as a means of identifying the various contractor alternatives.

Commerce intends to use responses as a basis for further negotiation of specific project details with potential contractors. Commerce will base its choice on demonstrated competence and qualifications, and other evaluation criteria detailed in the RFP Information.

This RFP does not commit Commerce to pay any costs incurred prior to execution of a contract. Issuance of this material in no way obligates Commerce to pay any costs incurred in the preparation of a response. Commerce specifically reserves the right to vary all provisions set forth any time prior to execution of a contract where Commerce deems it to be in the best interest of the State of Texas.

For further information regarding this notice, or to obtain copies of the RFP Information, please contact Fabian S. Gomez, Planner, at (512) 936-0373 or Sarah Bailey, Planning Supervisor, at (512) 936-0369. A TDD line is available at (512) 936-0555.

Issued in Austin, Texas, May 5, 1995.

TRD-9505711 Michael Regan
Chief Administrative Officer
Texas Department of Commerce

Filed: May 10, 1995

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 Title 79, Texas Civil Statutes, Article 1.04, as amended (Texas Civil Statutes, Article 5069-1.04).

<u>Types of Rate Ceilings</u>	<u>Effective Period (Dates are Inclusive)</u>	<u>Consumer (1)/Agricultural/ Commercial (2) thru \$250,000</u>	<u>Commercial(2) over \$250,000</u>
Indicated (Weekly) Rate - Art. 1.04(a)(1)	05/15/95-05/21/95	18.00%	18.00%

(1)Credit for personal, family or household use. (2)Credit for business, commercial, investment or other similar purpose.

[graphic]

Issued in Austin, Texas, on May 8, 1995.

TRD-9505710

Leslie L. Pettijohn
Commissioner
Office of Consumer Credit Commissioner

Filed: May 10, 1995

◆ ◆ ◆
Texas Employment Commission
Request for Proposal

Authorization of Funding. The funds are authorized by Senate Bill 913 passed by the 71st Texas Legislature. Funds allotted for the School Child Care Services Fund by Senate Bill 913 the Act; now the Texas Education Code, §21.928 (d) must be used in accordance with the requirements of this Act.

Scope of Work. These grant funds may be used for the planning, development, establishment, operation, expansion, and/or improvement of school-age child care services and reasonable start-up costs. A school-age student is defined as a child enrolled in prekindergarten through grade seven. See also Senate Bill 913 passed during the 71st Texas Legislature.

Eligible Applicants. Eligible applicants include school districts currently accredited by the Texas Education Agency (TEA). See also Senate Bill 913 passed by the 71st Texas Legislature. A school district awarded a grant under the School Child Care Services Fund may not also be awarded a grant under the Dependent Care Development Grant (DCDG), during the same fiscal year. Eligible organizations may receive only one SCCSF contract per fiscal year; applicants receiving awards will not be eligible to apply for other DCDG funds.

Available Funding. Proposals for SCCSF programs may request up to \$35,000.

Length of Contract. The contract period is 12 months beginning September 1, 1995 or as soon thereafter as contracts can be executed. Applicants already receiving funding from the SCCSF Program will be required to conclude their current contracts before beginning a new contract using these funds. All 1995-1996 SCCSF contracts follow the state fiscal year and must end no later than August 31, 1996.

Selection, Notification, and Negotiation Process. The Texas Employment Commission anticipates completing the selection process by no later than July 28, 1995. Negotiations will be conducted by TEC as deemed necessary. TEC reserves the right to vary all provisions of this RFP prior to the execution of a contract and to execute amendments to contracts when TEC deems such variances and/or amendments are in the best interest of the State of Texas.

Due Date and Agency Contact. The deadline for receipt and consideration of a SCCSF proposal is 4:00 p.m., June 27, 1995. For further information and to order Application Packets, contact the Grants Staff, Texas Work and Family Clearinghouse, 3520 Executive Center Drive, Suite 209, Austin, Texas 78731-1637. (512) 502-3770. FAX (512) 502-3777.

A list of funded grantees will be published in the *Texas Register* following contract finalization.

Issued in Austin, Texas, on May 12, 1995.

TRD-9505846

C. Ed Davis
Deputy Administrator for Legal Affairs
Texas Employment Commission

Filed: May 12, 1995

◆ ◆ ◆
Texas State Board of Registration for
Professional Engineers
Continuing Professional Competency
Guidelines

On April 19, 1995, the Board received recommendations from the Continuing Professional Competency (CPC) Monitory Team for modifications to the CPC guidelines. These draft CPC guidelines provide a framework for the new voluntary CPC program for Texas registered professional engineers. The Board is scheduled to adopt these guidelines at the June 14, 1995 Regular Quarterly Board Meeting.

Comments should be submitted to John R. Speed, P.E., or Thomas M. Newton, P. E., at the Professional Engineers Board, P.O. Drawer 18329, Austin, Texas 78760. Additional questions may be directed to them at the board address or at (512) 440-7723.

CPC GUIDELINES

(a) Continuing Professional Competency. The information set forth below is for the purpose of providing guidelines for continuing professional competency. The purpose of the continuing professional competency requirements is to demonstrate a continuing level of competency among professional engineers. Every registrant who meets these continuing professional competency guidelines shall be noted in the roster as an active participant in the Texas State Board of Registration for Professional Engineers' voluntary Continuing Professional Competency (CPC) program.

(b) Definitions. Terms used in this section are defined as follows:

(1) Professional Development Hour (PDH)-A contact hour (nominal) of instruction or presentation. The common denominator for other units of credit.

(2) Continuing Education Unit (CEU)-Unit of credit customarily used for continuing education courses. One CEU equals 10 PDH's. CEU's should be converted to PDH's for reporting this program.

(3) College/Unit Semester/Quarter Hour-Credit for ABET-approved course or other related college course approved in accordance with Section (e) of these guidelines.

(4) Course/Activity-Any course or activity with a clear purpose and objective which will maintain, improve, or expand the skills and knowledge of the licensee.

(c) Requirements for participation. Every registrant who participates in this program must obtain 15 PDH units during the annual renewal period. If a registrant exceeds the annual requirement in any renewal period, a maximum of 15 PDH units may be carried forward into the subsequent renewal period. PDH units may be earned for the following, provided the activity is relevant to the licensee's professional responsibilities in engineering practice, management, and ethics:

(1) Documented self-study.*

(2) Successful completion of correspondence, televised, videotaped, audiotaped and other short courses/tutorials.

(3) Attending seminars, courses, workshops, or professional or technical presentations made in-house or at meetings, conventions or conferences.

(4) Successful completion of continuing education courses.

(5) Successful completion of college courses.

(6) Teaching, instructing, or presenting in (2), (4) and (5), above.

(7) Authoring published papers, articles, or books.

(8) Active participation in professional or technical societies.

(9) Patents. *All professional engineers are expected to participate in self-study related to their areas of responsibility or practice to maintain their professional competency and ethical standards.

(d) Units. The conversion of other units of credit to PDH units as follows:

(1) 3 hours of documented self-study-1 PDH

(2) 1 hour of professional development-1 PDH in course work, seminars, or professional or technical presentations made at meetings, conventions or conferences.

(3) 1 Continuing Education Unit-10 PDH

(4) 1 College or unit semester hour-15 PDH

(5) 1 College or unit quarter hour-10 PDH

(6) For teaching or presenting in (d)(2) through (d)(5), apply multiple of 2*

(7) (A) Each published paper or article-10 PDH (sole author)

(B) Each published paper or article-5 PDH (co-author)

(C) Each published book (sole author)-30 PDH

(D) Each published book (co-author)-15 PDH

(E) Each published book-10 PDH (editor/contributor)

(8) 3 hours of active participation in-1 PDH professional or technical society. (Each organization)

(9) 1 hour of examination preparation or-1 PDH grading to be administered by the National Council of Examiners for Engineering and Surveying.

(10) Each patent.-30 PDH

**Credit is valid for teaching or presenting a course or seminar for the first time only. Teaching credit does not apply to full-time engineering faculty.

(e) Determination of Credit. The board of registration has final authority with respect to approval of courses, credit, PDH value for courses, and other methods of earning credit.

(1) Credit for activity (d)(1) shall be limited to no more than 5 PDH per renewal period.

(2) Credit for seminars and workshops will be based on one PDH unit for each nominal hour of attendance. Attendance at programs presented at professional and/or technical meetings will earn PDH units for the actual time of each program.

(3) Credit for college or community college courses will be based upon course credit established by the college.

(4) Credit determination for activities (d)(7) and (d)(10) is the responsibility of the registrant (subject to review as required by the board).

(5) Credit for activity (d)(8) requires that a licensee serve as an officer and/or actively participate in a committee of the organization involved in such functions as standards preparation, professional practice, peer reviews, or ethics. PDH credits are not earned until the end of each year of service.

(6) Credit for activities (d)(8) and (d)(9) shall be limited to no more than 10 PDH per renewal period.

(f) Records. The responsibility of maintaining records to be used to support credits claimed is the registrant's. Acceptable records may include, but are not limited to:

1) A log showing identifying information such as the type of activity claimed, sponsoring organization, location, duration, instructor's or speaker's name, specifics of self-study, and PDH credits earned;

2) Attendance verification records in the form of completion certificates or other documents supporting evidence of attendance; or

3) Records as maintained by the National Professional Development Registry for Engineers (NPDRE) or similar repositories. These records should be maintained by the registrant for a period of three years and copies may be requested by the board for verification purposes.

(g) Non-Residents. Registrants who are residents of jurisdictions other than Texas should meet any mandatory CPC requirements of their resident jurisdiction. The guidelines for Texas will be deemed as satisfied when non-resident registrants provide evidence of having met any mandatory requirements of their resident jurisdiction.

(h) Reporting. Reporting of CPC activities will be made during the license renewal process. Verification of a registrant's CPC records will not be required for the license renewal process, but the board of registration may ask to review such verification.

Issued in Austin, Texas, on May 10, 1995.

TRD-9505703

Charles E. Nemir, P.E.
Executive Director
Texas State Board of Registration for
Professional Engineers

Filed: May 10, 1995

Texas Department of Health

Development of a Curriculum in Cultural Diversity

Introduction: The Texas Department of Health (TDH) requests proposals from state university systems or institutions of higher education to apply for funds to develop and disseminate a competency-based curriculum on cultural or ethnic differences, focusing on African American, Asian American, Hispanic/Latin American, and Native American populations. Additionally, modules addressing diversity of gender, physical ability, and other social differences are required.

This research/study will include the following:

(1) A review of literature on the populations listed previously, resulting in a comprehensive bibliography that will be included in the curriculum provided:

(2) A survey of Schools of Social Work to gather information on the cultural diversity/competency courses currently being held and copies of course materials being used to determine appropriate materials to be incorporated into the curriculum;

(3) Development of a model self-awareness training program component;

(4) Development of modules on the social work knowledge, skills, values, and attitudes associated with the minority groups listed previously, essential knowledge needed to work with each of the minority groups, how to work with each group, appropriate experiential exercise, individual and small group activities, recommended course assignments, bibliography of resource materials, and an overview of the curriculum; and

(5) Dissemination of the curriculum to Centers for Minority Health Initiatives and Cultural Competency (CMHICC), Texas Department of Health, members of the consortium of the National Maternal and Child Health Resource Center on Cultural Competency, and other social service organizations.

Upon issuance of this RFP the Executive Director of the CMHICC will schedule a conference to identify additional issues needing to be addressed and the purposes of this request for proposal. Documentation of this joint planning should be included in the proposal to Texas Department of Health.

Application Review and Selection Process: Applications will be reviewed by TDH central office staff. Proposals will be evaluated on the following criteria.

(1) The extent to which the proposal will meet the identified needs;

(2) The development of comprehensive curriculum addressing culturally/racially diverse populations;

(3) The cost of developing curriculums;

(4) The quality of the proposal's written statement of goals, especially with regard to measurable and obtainable objectives;

(5) The availability of other funding sources including but not limited to general agency funds, program income, and foundation and community support;

(6) The assurance of academic support as exhibited by cooperative service agreements or letters of support documenting coordination of curriculums among educational agencies; and

(7) For funded projects, past contract performance.

An approved applicant will enter into a contract with the Texas Department of Health prior to disbursement of funds. The contract will contain or incorporate by reference: CMHICC program requirements, this RFP, Applicants Response to RFP, General Provisions; access to documents or other resources required to meet the objective of this research/study; program monitoring and fiscal requirements related to accounting for funds and for recovering funds as required by Texas law. Texas Department of Health policies, CMHICC policies, and Uniform Grant and Contract Management Act (UGCMA). Reimbursement is based on Actual expenses incurred in accordance with the executed contract.

Funding Period: Contract will be for a one-year period from July 1, 1995 through June 30, 1996. The anticipated contract award range is \$30,000-\$60,000. This is the only opportunity to apply for CMHICC funds in 1995.

Eligibility: State university systems or institutions of higher education.

To Obtain the RFP: Applications will be mailed to existing CMHICC contractors. Others may obtain copies of the RFP from the Centers for Minority Health Initiatives and Cultural Competency, Texas Department of Health, 1100 West 49th Street, Suite M-543, Austin, Texas 78756-3199 or by calling John E. Evans, Executive Director, at (512) 458-7555. Proposals must be received at the Centers for Minority Health Initiatives and Cultural Competency office by 5:00 p.m., June 16, 1995.

Issued in Austin, Texas, on May 12, 1995

TRD-9505835

Susan K Steeg
General Counsel, Office of General
Counsel
Texas Department of Health

Filed: May 12, 1995

A Study of Infants of Low Birth Weight and Very Low Birth Weight

Introduction. The Texas Department of Health (TDH) requests proposals from state university systems or institutions of higher education to apply for funds to develop methodology for linking maternal, birth, hospital, and death records in tracking infant health from birth to one-year of age or death (whichever occurs first), and, maternal health conditions predisposing the birth outcomes for low and very low birth weight infants.

This study aims to initiate the developmental work needed to establish a hospital population-based data system. Birth certificate data will be used and will be validated by medical record reviews of multi-racial/ethnic women delivering low birth weight (LBW) and very low birth weight (VLBW) infants from communities served. This study will be conducted in order to better assess the specific risk of infant mortality and morbidity. The following questions will be addressed:

(1) What is the quality and completeness of birth certificate data versus medical record data regarding socio-demographic, prenatal care history, and infant outcomes by birth weight and gestational age of women who deliver LBW and VLBW infants as compared to a cohort of women for the same time period who did not deliver such infants?;

(2) Identify, characterize and quantify the proportion of women delivering LBW and VLBW infants by: age, race, parity, maternal and paternal education, income, marital status, provision of prenatal care prior to delivery and community of residence.

(3) Quantify, by community of residence, the proportion of women giving birth to LBW and VLBW as compared to a cohort of women from the population under study who did not give birth to LBW/VLBW infants;

(4) Characterize and quantify how women who deliver LBW and VLBW differ and are similar to their cohort.

Upon issuance of the RFP, the Executive Director of the CMHICC will schedule a conference to identify population/area to be served, and any other issues needing to be addressed as they relate to infant mortality determinations and the purposes of this request for proposal. Documentation of this joint planning should be included in the proposal to Texas Department of Health.

Application Review and Selection Process: Applications will be reviewed by TDH central office staff. Proposals will be evaluated on the following criteria:

- (1) the extent to which the proposal will meet the identified needs;
- (2) the provisions of comprehensive services delivered in a culturally/racially diverse environment in unserved or underserved areas of the state;
- (3) the cost of initiating or conducting research/study (cost effectiveness, allocation of direct services, elimination of duplication of services);
- (4) the quality of the proposal's written statement of goals, especially with regard to measurable and obtainable objectives;
- (5) the availability of other funding sources including but not limited to general agency funds, program income, and foundation and community support;
- (6) the assurance of community support as exhibited by cooperative service agreements and letters of support documenting coordination of services among local agencies and resources, community volunteers, and parent advocacy groups; and
- (7) for funded projects, past contract performance.

An approved applicant will enter into a contract with the Texas Department of Health prior to disbursement of funds. The contract will contain or incorporate by reference:

- (1) CMHICC program requirements, this RFP, Applicants Response to RFP, General Provisions;
- (2) access to documents or other resources required to meet the objective of this research/study;
- (3) program monitoring and fiscal requirements related to accounting for funds and for recovering funds as required by Texas law, Texas Department of Health policies, CMHICC policies, and Uniform Grant and Contract Management Act (UGCMA). Reimbursement is based on Actual expenses incurred in accordance with the executed contract.

Funding period: Contract will be for a one-year period from July 1, 1995 through June 30, 1996. The anticipated contract award range is \$30,000-\$60,000. This is the only opportunity to apply for CMHICC funds in 1995.

Eligibility: State university systems or institutions of higher education

To Obtain the RFP: Applications will be mailed to existing CMHICC contractors. Others may obtain copies of the RFP from the Centers for Minority Health Initiatives and Cultural Competency, Texas Department of Health, 1100 West 49th Street, Suite M-543, Austin, Texas 78757-3199 or by calling John E. Evans, Executive Director, at (512) 458-7555. Proposals must be received at the Centers for Minority Health Initiatives and Cultural Competency office by 5:00 p.m., June 16, 1995.

Issued in Austin, Texas, on May 12, 1995.

TRD-9505836

Susan K. Steeg
General Counsel, Office of General
Counsel
Texas Department of Health

Filed: May 12, 1995

◆ ◆ ◆
**Texas Department of Insurance
Notice**

The Commissioner of Insurance or his designee, will consider approval of a rate filing request outside the promulgated flexibility band filed by American Bankers Insurance Company of Florida pursuant to Texas Insurance Code, Article 5.101, §3(f). They are proposing rates that range from -85% for BI & PD and medical payments (PIP); to -79% for physical damage; to -40% for uninsured/underinsured (UM/UIM), and are introducing new levels of coverage through split limit options of 250/500/50 for liability and 250/500 for UM/UIM for Antique Auto for private passenger automobile.

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 an objection is filed with the Chief Economist, Birny Birnbaum, at the Texas Department of Insurance, 333 Guadalupe, P.O. Box 149104, Austin, Texas 78701 within 30 days after publication of this notice.

Issued in Austin, Texas, on May 15, 1995.

TRD-9505855

Alicia M. Fechtel
Chief Clerk and General Counsel
Texas Department of Insurance

Filed: May 15, 1995

◆ ◆ ◆
Notice of Public Hearing

The Commissioner of Insurance of the Texas Department of Insurance will consider the adoption of new §7.18 in a public hearing under Docket Number 2147, scheduled for 9:00 a.m. on June 1, 1995, in Room 100 of the Texas Department of Insurance Building, 333 Guadalupe Street in Austin, Texas.

The Texas Department of Insurance proposes new §7.18, concerning the *National Association of Insurance Commissioners Accounting Practices and Procedures* manuals. The new section clarifies which versions of the *NAIC Accounting Practices and Procedures* manuals have been officially adopted by reference by the Texas Department of Insurance. The new section is proposed to comply with a newly enacted provision of the Insurance Code, Article 1.27, which recites that the Department may not require an insurer to comply with any rule, regulation, directive, or standard adopted by the National Association of Insurance Commissioners unless it is expressly authorized by and approved by the Commissioner. The new section will allow interested persons notice and opportunity for a hearing if the Department proposes to adopt a particular version of any *NAIC Accounting Practices and Procedures* manual. New §7.18 is proposed as part of Title 28, Part 1, Chapter 7, Subchapter A, relating to the general provisions for examinations and reporting requirements for insurance entities.

The statutory authority for the proposed new section is cited in the January 13, 1995, issue of the *Texas Register* (20 TexReg 210).

Issued in Austin, Texas, on May 15, 1995.

TRD-9505856 Alicia M. Fechtel
General Counsel and Chief Clerk
Texas Department of Insurance

Filed: May 15, 1995

◆ ◆ ◆
Third Party Administrator Applications

The following third party administrator (TPA) applications have been filed with the Texas Department of Insurance and are under consideration.

Application for admission to Texas of Poe and Associates of Illinois, Inc., (doing business under the assumed name of Insurance Administration Center), a foreign third party administrator. The home office is Tampa, Florida.

Application for admission to Texas of National Mutual Life Insurance Company (doing business under the assumed name of NML Insurance Administrators), a foreign third party administrator. The home office is in Carmel, Indiana.

Application for incorporation in Texas of Medical Control Administrators San Antonio, Inc., (doing business under the assumed name of Group Administrators-San Antonio), a domestic third party administrator. The home office is in San Antonio, Texas.

Application for incorporation in Texas of UT Southwestern Health Systems, a domestic third party administrator. The home office is in Dallas, Texas.

Any objections must be filed within 20 days after this notice was filed with the Secretary of State, addressed to the attention of Charles M. Waits, MC 107-5A, 333 Guadalupe, Austin, Texas 78714-9104.

Issued in Austin, Texas, on May 15, 1995.

TRD-9505854 Alicia M. Fechtel
General Counsel and Chief Clerk
Texas Department of Insurance

Filed: May 15, 1995

◆ ◆ ◆
Notice of Hearing

The Commissioner of Insurance of the Texas Department of Insurance will consider the adoption of new §7.85 in a public hearing under Docket Number 2148, scheduled for 9:00 a.m. on June 1, 1995, in Room 100 of the Texas Department of Insurance Building, 333 Guadalupe Street in Austin, Texas.

The Texas Department of Insurance proposes new §7.85, concerning the contents of audited financial reports and work papers. The Insurance Code, Article 1.15, §8(a), requires the Department, when examining insurance carriers, to utilize the audited financial statements and related work papers of the accountant or accounting firm which performed the annual audit of a company pursuant to Article 1.15A. The proposed section is necessary because of a newly enacted provision of the Insurance Code, Article 1.15A, §10(f), which requires the Commissioner to adopt rules governing the information to be included in the audited financial report, which is used by the Department

to conduct the examination of insurers under Article 1.15. New §7.85 is proposed as part of Title 28, Part 1, Chapter 7, Subchapter A, relating to the general provisions for examinations and reporting requirements for insurance entities.

The statutory authority for the proposed new section is cited in the December 23, 1994, issue of the *Texas Register* (19 TexReg 10201).

Issued in Austin, Texas, on May 15, 1995

TRD-9505933 Alicia M. Fechtel
General Counsel and Chief Clerk
Texas Department of Insurance

Filed: May 15, 1995

◆ ◆ ◆
**Texas Department of Mental Health
and Mental Retardation
Announcement of State Plan
Amendments**

The Texas Department of Mental Health and Mental Retardation (TDMHMR) announces its intention to submit TN95-16, Amendment 481; TN95-17, Amendment 482; and TN95-18, Amendment 483 to the Texas State Plan for Medical Assistance under Title XIX of the Social Security Act. Amendment 481 describes a revision to the reimbursement methodology for targeted case management for individuals who are mentally retarded or have a related condition. The revisions specify that the mean cost of providers' contacts will be selected and become the recommended reimbursement per contact. All Amendment 482 describes similar revisions for the reimbursement methodology for case management for persons who have chronic mental illness. Amendment 483 describes the same revision to the state plan for rehabilitative services for persons with chronic mental illness.

The proposed amendments concerning the reimbursement methodology to rehabilitative services for persons with mental illness change the reimbursement determination from a median-based to a mean-based calculation, and eliminate the requirement to calculate a federal reduction factor to be applied to individual provider reimbursements based on the receipt of federal funds. The increase in annual aggregate expenditures is estimated to be: for case management to persons with mental retardation, \$268,277.83 for fiscal year 1995, and \$934,639 for fiscal year 1996; for case management to persons with mental illness, \$255,664.16 for fiscal year 1995, and \$890,695 for fiscal year 1996; and for rehabilitative services, \$3,229,565 for fiscal year 1995, and \$11,251,308 for fiscal year 1996.

This action will insure that providers of case management for persons with mental retardation, persons with chronic mental illness and rehabilitative services for persons with chronic mental illness are reimbursed for all allowable expenses. The development of this rate class will allow Texas to receive federal matching funds that would be otherwise unavailable. The proposed reimbursement methodology revisions allow for a more accurate determination of reimbursement for services due to the wide variance reflected in reported costs in the three programs.

Copies of the draft revisions are available through local field offices of the Texas Department of Human Services (TDHS). Copies also may be obtained by writing to Texas

Department of Mental Health and Mental Retardation, Office of Policy Development, P.O. Box 12688, Austin Texas 78711-2668 or by calling (512) 206-4516.

Questions about the content of the revisions may be directed to Ernest McKenney, director, Medicaid Administration, at (512) 323-3855. Written comments on the revisions may be sent to Linda Logan, Director, Policy Development, Texas Department of Mental Health and Mental Retardation, P.O. Box 12668, Austin, Texas 78711-2668.

Issued in Austin, Texas, May 15, 1995.

TRD-9505860 Ann Utley
 Chair
 Texas Department of Mental Health and
 Mental Retardation

Filed: May 15, 1995

◆ ◆ ◆

Texas Natural Resource Conservation Commission

Enforcement Orders

An agreed enforcement order was entered regarding A&A CUSTOMS BROKERAGE SERVICES, INC., Docket Number 95-0346-IHW-E (SWR Number 82815) on May 5, 1995, assessing \$2,960 in administrative penalties with \$888 deferred.

Information concerning any aspect of this order may be obtained by contacting John Murphy, Enforcement Coordinator, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711-3087, (512) 239-2347.

An agreed enforcement order was entered regarding CITY OF ITALY, Docket Number 95-0411-MWD-E (Permit Number 10516-01) on May 4, 1995, assessing \$3,259 in administrative penalties with the entire amount deferred.

Information concerning any aspect of this order may be obtained by contacting Greg Olinger, Enforcement Coordinator, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711-3087, (512) 239-4555.

An agreed enforcement order was entered regarding JET 66 CORPORATION, Docket Number 95-0681-PST-E/Enforcement I.D. E10920 (TNRCC Facility I.D. 8516) on May 4, 1995, assessing \$5,100 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Raymond Winter, Staff Attorney, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711-3087, (512) 239-5693.

Issued in Austin, Texas, on May 12, 1995.

TRD-9505784 Gloria A. Vasquez
 Chief Clerk
 Texas Natural Resource Conservation
 Commission

Filed: May 12, 1995

◆ ◆ ◆

Notice of Applications for Waste Disposal Permits

Notices of applications for waste disposal permits issued during the period of May 5-12, 1995.

These applications are subject to a Commission resolution adopted August 18, 1993, which directs the Commission's Executive Director to act on behalf of the Commission and issue final approval of certain permit matters. The Executive Director will issue these permits unless one or more persons file written protests and/or a request for a hearing within 30 days after newspaper publication of this notice.

If you wish to request a public hearing, you must submit your request in writing. You must state your name, mailing address, and daytime phone number; the permit number or other recognizable reference to this application; the statement "I/we request a public hearing;" a brief description of how you, or the persons you represent, would be adversely affected by the granting of the application; a description of the location of your property relative to the applicant's operations; and your proposed adjustment to the application/permit which would satisfy your concerns and cause you to withdraw your request for hearing. If one or more protests and/or requests for hearing are filed, the Executive Director will not issue the permit and will forward the application to the Office of Hearings Examiners where a hearing may be held. In the event a hearing is held, the Office of Hearings Examiners will submit a recommendation to the Commission for final decision. If no protests or requests for hearing are filed, the Executive Director will sign the permit 30 days after newspaper publication of this notice or thereafter. 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.

Information concerning any aspect of these applications may be obtained by contacting the Texas Natural Resource Conservation Commission, Chief Clerks Office-MC105, P.O. Box 13087, Austin, Texas 78711, (512) 239-3300

Listed are the name of the applicant and the city in which the facility is located, type of facility, location of the facility, permit number and type of application-new permit, amendment, or renewal.

ALABAMA-COUSHATTA INDIAN RESERVATION; the wastewater treatment facilities are adjacent to and west of Park Road 56 approximately one mile south of the intersection of Park Road 56 and U.S. Highway 190, 16 miles east of the City of Livingston in Polk County, Texas; renewal; 11562-01.

CITY OF CALVERT, the City of Calvert Wastewater Treatment Facilities; the facilities are approximately 0.7 mile southwest of the intersection of State Highway 6 and FM Road 1644, northwest of FM Road 1644 and east of Tidwell Creek in Robertson County, Texas; renewal; 10095-01

CHAMPION INTERNATIONAL CORPORATION; the Sheldon Mill, a fully integrated pulp and paper mill; the plant site is at 11611 Fifth Street, north of Old Highway 90, between Sheldon Road and the San Jacinto River in the City of Sheldon, Harris County, Texas; renewal; 01160.

EDDIE FAIN; a semi-conductor chip manufacturing plant; the plant site is on FM 548 approximately 1,050 feet north

of the intersection of State Highway 276 and FM 548, approximately five miles south of the City of Royse City, Rockwall County, Texas; new; 03798

HARRIS COUNTY WATER CONTROL AND IMPROVEMENT DISTRICT NUMBER 70; the wastewater treatment facilities are approximately three miles north of the City of Crosby at a point approximately one mile west of the intersection of Foley Road and Hannah Nash Road in Harris County, Texas; renewal; 10530-01.

HOUSTON AREA DEVELOPMENT CORPORATION; the wastewater treatment facilities; are approximately 6,000 feet southeast of the intersection of Katy-Fort Bend and Roesner Roads, approximately two miles southeast of Katy in Fort Bend County, Texas; new; 13775-01.

JOCO HOLDING CORPORATION; the wastewater treatment facility and irrigation site are on the east side of I-35 West approximately 2,000 feet south-east of the Bethesda Road overpass and approximately 5.1 miles southeast of the City of Burleson, Johnson County, Texas; 02730.

KEESHAN AND BOST CHEMICAL COMPANY, INC.; an organic esters and alcohols manufacturing facility; the facility is on the south side of State Highway 6 about two miles east of the City of Manvel, Brazoria County, Texas; renewal, 02067.

CITY OF LAKEWOOD VILLAGE; the Lakewood Village Wastewater Treatment Facilities are approximately 7,000 feet northeast of the north end of the old Lake Dallas Dam in Denton County, Texas, amendment; 10903-01.

CITY OF LEAGUE CITY; the Bayridge Wastewater Treatment Facilities; the facilities are on Gum Bayou, 0.75 mile south of FM Road 1266 and 1.75 miles west of State Highway 146 in Galveston County, Texas; renewal; 10568-07

CITY OF MEXIA; the wastewater treatment facilities are approximately 1.25 miles southeast of the intersection of State Highway 14 and FM Road 39 and approximately a half mile south of the intersection of Travis Street and Bonham Street in the City of Mexia in Limestone County, Texas, renewal; 10222-01.

DON PHELPS; the dairy is located on the southeast corner of the intersection of Ballard Road and Grape Creek Road, approximately 2.5 miles north of U.S. Highway 87 in Tom Green County, Texas, new; 03796.

CITY OF PORT ARTHUR, the Port Acres Wastewater Treatment Facilities; the facilities are immediately northeast of the intersection of FM Road 365 and Rhodair Gully, approximately 6,000 feet west-southwest of the intersection of FM Road 365 and Port Arthur Road in Jefferson County, Texas; renewal; 10364-02.

PORTERFIELD FAMILY PARTNERS, II, LTD., A TEXAS LIMITED PARTNERSHIP, Porterfield Ventures, Inc., General Partner; the Leonard Road Wastewater Treatment Facilities, the facilities are approximately 2.5 miles southwest of the intersection of FM Road 2818 and FM Road 1688 (Leonard Road), 2,000 feet southwest of the intersection of Leonard Road and Jones Road, five miles southwest of City of Bryan in Brazos County, Texas; renewal; 11778-01.

CITY OF ROUND ROCK AND CITY OF AUSTIN; the wastewater treatment facilities are on the south side of U.S. Highway 79 at the confluence of Brushy Creek and Chandler Creek, approximately four miles east of the City

of Round Rock in Williamson County, Texas; renewal; 13057-01.

CITY OF SMYER; the wastewater treatment facilities which are located southeast of the City of Smyer, approximately 0.5 mile east of FM Road 168 just south of State Highway 114 in Hockley County, Texas; renewal; 12158-01.

TEXAS GENERAL LAND OFFICE; the Coastal Oil Spill Simulation System, a scientific research facility; the plant site is southeast of the intersection of Yorktown Boulevard and Waldron Road, and south of the southern city limits of the City of Corpus Christi, Nueces County, Texas; amendment; 03646.

TEXAS PARKS AND WILDLIFE DEPARTMENT; the wastewater treatment facilities are approximately 4,300 feet north of the intersection of Peach Street and Park Road 38 in the Stephen F. Austin State Park in Austin County, Texas; renewal; 10896-01.

TEXAS UTILITIES ELECTRIC COMPANY; the Comanche Peak Steam Electric Station; which is on the west side of Squaw Creek Reservoir along FM Road 56 approximately 4.5 miles northwest of the City of Glen Rose, Somervell County, Texas; renewal; 01854.

TEXAS UTILITIES ELECTRIC COMPANY; the Valley Steam Electric Station; the plant site is adjacent to Valley Lake (Brushy Creek Reservoir) on FM Road 1752 approximately two miles north of the City of Savoy, Fannin County, Texas; amendment; 00948.

WHITE OAK BAYOU JOINT POWERS BOARD; the White Oak Bayou Regional Wastewater Treatment Facilities; the facilities are on the north side of White Oak Bayou at 15201 Phillipine Street within Jersey Village, approximately 500 feet southeast of the intersection of Equador and Phillipine Street in Jersey Village in Harris County, Texas; renewal; 11538-01.

HEAT ENERGY ADVANCED TECHNOLOGY, INC.; will authorize the continued operation of 14 existing tanks, 19 proposed tanks, 5 existing container storage areas, two proposed container storage areas, two existing distillation units, three proposed distillation units, and one existing thin film evaporator unit for the storage and processing of industrial and hazardous waste; authorize the storage of 179,600 gallons in 33 tanks, and 2,300 drums (55 gallons each) in seven container storage areas, the processing of hazardous wastes in five distillation units and one thin film evaporator unit; wastes are generated on-site at the Heat Energy Advanced Technology, Inc. fuels blending plant and are received from off-site sources on a commercial basis; waste managed at this facility include hazardous, Class I non-hazardous and Class II non-hazardous industrial solid wastes; the facility is located at 4460 Singleton Boulevard near Loop 12 and Interstate 30, on approximately 2.409 acres in Dallas, Dallas County, Texas; renewal; HW-50029; 45-day notice.

Issued in Austin, Texas, on May 12, 1995.

TRD-9505783

Gloria A. Vasquez
Chief Clerk
Texas Natural Resource Conservation
Commission

Filed: May 12, 1995



Notice of Opportunity to Comment on Permitting Actions—For the Week Ending May 12, 1995

The following applications are subject to a Commission resolution adopted August 18, 1993, which directs the Commission's Executive Director to act on behalf of the Commission and issue final approval of certain permit matters. The Executive Director will issue the permits unless one or more persons file written protests and/or requests for hearing within ten days of the date notice concerning the application(s) is published in the *Texas Register*.

If you wish to request a public hearing, you must submit your request in writing. You must state your name, mailing address, and daytime phone number; the permit number or other recognizable reference to this application; the statement "I/we request a public hearing"; a brief description of how you, or the persons you represent, would be adversely affected by the granting of the application; a description of the location of your property relative to the applicant's operations; and your proposed adjustment to the application/permit which would satisfy your concerns and cause you to withdraw your request for hearing. If one or more protests and/or requests for hearing are filed, the Executive Director will not issue the permit and will forward the application to the Office of Hearings Examiners where a hearing may be held. If no protests or requests for hearing are filed, the Executive Director will sign the permit ten days after publication of this notice or thereafter. 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 on this application should be submitted in writing to the Chief Clerk's Office (Mail Code 105), Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711, (512) 239-3300.

Listed are the name of the applicant and the city in which the facility is located, type of facility, location of the facility, permit number and type of application—new permit, amendment, or renewal.

Approval of Noble Enloe doing business as Tanglewood Forest Water System to Transfer Water CCN Number 11667 from L. Handly Davis doing business as Tanglewood Forest Water System; in San Jacinto County, Texas (Application Number 30634-S, Dean Pollard).

Approval of D&M Water Supply Corporation to Amend Water CCN Number 10958 in Nacogdoches County, Texas (Application Number 30715-C, Albert Holck).

APPLICATION NUMBER 15-4792A BY POINT COMFORT WATER COMPANY TO AMEND CERTIFICATE OF ADJUDICATION NUMBER 15-4792. Applicant seeks authorization to amend Certificate of Adjudication Number 15-4792, which authorizes the diversion and use of not to exceed 3,992 acre-feet of water per annum for industrial purposes from a 2,000 acre-foot reservoir in Calhoun County on Cox's Creek, Colorado-Lavaca Coastal Basin, at a maximum diversion rate of 6,000 gallons per minute, by increasing the maximum diversion rate to 10,000 gallons per minute.

Application By Hausman Road Water Supply Corporation for a Texas Water Code, §11.145 Application. Applicant seeks an extension of time to commence and complete construction of an incised reservoir authorized under Permit Number 5469 (Kellye Rila).

Issued in Austin, Texas, on May 12, 1995.

TRD-9505785 Gloria A. Vasquez
Chief Clerk
Texas Natural Resource Conservation
Commission

Filed: May 12, 1995

Notice of Opportunity to Comment on Settlement Agreements of Administrative Enforcement Actions

The Texas Natural Resource Conservation Commission (TNRCC) Staff is providing an opportunity for written public comment on the listed Agreed Order (AO) pursuant to the Texas Clean Air Act (the Act), §382.096, Health and Safety Code, Chapter 382. The Act, §382.096 requires that the TNRCC may not approve this AO unless the public has been provided an opportunity to submit written comments. Section 382.096 requires that notice of the proposed order and of the opportunity to comment must be published in the *Texas Register* no later than the 30th day before the date on which the public comment period closes, which in this case is **June 17, 1995**. Section 382.096 also requires that the TNRCC promptly consider any written comments received and that the TNRCC may withhold approval of an AO if a comment indicates the proposed AO is inappropriate, improper, inadequate or inconsistent with the requirements of the Texas Clean Air Act. Additional notice is not required if changes to an AO are made in response to written comments.

A copy of the proposed AO is available for public inspection at both the TNRCC's Central Office, located at 12100 Park 35 Circle, Building A, Third Floor, Austin, Texas 78753, (512) 239-3400 and at the applicable Regional Office listed below. Written comments about this AO should be sent to the Staff Attorney designated for each AO at the TNRCC's Central Office at P.O. Box 13087 Austin, Texas 78711-3087 and must be received by 5:00 p.m. on June 17, 1995. Written comments may also be sent by facsimile machine to the Staff Attorney at (512) 239-3434. The TNRCC Staff Attorney is available to discuss the AO and/or the comment procedure at the listed phone number; however, §382.096 provides that comments on the AO should be submitted to the TNRCC in writing.

(1)COMPANY: Pilgrim's Pride Corporation, Rande Corporation, Winston Land and Cattle Company, and John R. Winston, Jr.; DOCKET NUMBER: 94-0378-IWD-E; ACCOUNT NOS.: AC-0074-P, TF-0011-F, and AC-0043-A; SWR NOS.: 31660, 40887, and 39904; LOCATIONS: Lufkin, Angelina County, Texas, 1705 Frank Street in Lufkin, Angelina County, Texas, and Mt. Pleasant, Titus County, Texas; TYPE OF FACILITY: Ranch property; poultry processing plant; poultry rendering plant; and poultry processing plant; RULE VIOLATED: The Executive Director has alleged that: (a) PPC's industrial solid wastes were taken by Rande, at PPC's direction, to property in Angelina County, owned by WLCC and Winston; (b) PPC's industrial solid wastes were shipped to an unpermitted facility for disposal or storage in violation of

30 TAC §335.2(a); (c) PPC's industrial solid wastes were deposited into pits allegedly located on the Property from at least January 1992 through October 1992, in violation of 30 TAC §335.2(b); (d) PPC's industrial solid wastes were discharged into or adjacent to waters in the State in violation of §26.121 of the Texas Water Code; (e) The presence of PPC's industrial solid wastes on the land and in the alleged pits located on the Property created a nuisance condition in violation of 30 TAC §335.4; (f) Air contaminants associated with PPC's industrial solid wastes were discharged from the Property off property in such concentrations and of such duration as were or tended to be injurious to or to adversely affect human health or welfare, animal life, vegetation, or property, or as to have interfered with the normal use and enjoyment of animal life, vegetation, or property, in violation of TNRCC Rule 30 TAC §101.4 on September 1, 23, and 24 and October 1 and 12, 1992; (g) These same conditions also violated TACB Agreed Board Order Nos. 87-09(t), 89-10(p), 90-04(j), and 91-06(j), previously entered into by PPC and the TNRCC; (h) PPC, Randee, WLCC, and Winston caused, suffered, allowed, or permitted the discharge of air contaminants in such concentrations and of such duration as were or tended to be injurious to or to adversely affect human health or welfare, animal life, vegetation, or property, or as to have interfered with the normal use and enjoyment of animal life, vegetation, or property, in violation of Texas Health and Safety Code, §382.085(a) and (b); (i) Unauthorized discharges occurred from the PPC Lufkin poultry processing plant into Cedar Creek in Segment Number 0604 of the Neches River Basin in violation of the Texas Water Code, §26.121(c), and TNRCC regulations; (j) Odors were emanating from PPC's Mt. Pleasant plant in violation of TNRCC Rule §101.4 on June 14, 1993, February 24, 1994, July 6, 1994, and October 7, 1994; (k) On August 5, 1994, PPC failed to comply with conditions of its permit in that five of the six wastewater equalization aerators represented in Permit Number 2031 were not operating and solids from the wastewater pre-treatment screens had spilled, accumulated, and were not removed, thus increasing the potential for odor emissions. The Executive Director alleges that these conditions constitute violations of TNRCC Rule §116.115; (l) On August 5, 1994, five of the six wastewater equalization aerators represented in PPC's Permit Number 2031 were not operating, in violation of TNRCC Rule §116.116(a); and (m) The conditions set forth above constitute violations of §382.085(b) for violating Agreed Board Order Number 91-06(j). PENALTY: \$500,000, with \$100,000 of that amount to be deferred pending assessment and clean-up of the Winston Ranch site located in Angelina County. STAFF ATTORNEY: Paul C. Sarahan, (512) 239-3422; REGIONAL OFFICES: Region 5-Tyler, 1304 South Vine Avenue, Tyler, Texas 75701, (903) 595-2639; and Region 10-Beaumont, 3870 Eastex Fwy, Suite 110, Beaumont, Texas 77703-1830, (409) 898-3838.

Issued in Austin, Texas, on May 15, 1995.

TRD-9505863 Lydia Gonzales
Acting Director, Legal Services Division
Texas Natural Resource Conservation
Commission

Filed: May 15, 1995

Provisionally-Issued Temporary Permits to Appropriate State Water

The following permits listed were issued during the period of May 12, 1995

Application Number TA-7449 by DEAN WORD COMPANY, for diversion of three acre-feet of water in a one-year period for industrial use. Water may be diverted from near the stream crossing of IH-10, approximately 20 miles northwest of Kerrville, Kerr County, Texas, Guadalupe River Basin.

Application Number TA-7450 by DEAN WORD COMPANY, for diversion of three acre-feet of water in a one-year period for industrial use. Water may be diverted from near the stream crossing of IH-10, approximately 22 miles northwest of Kerrville, Kerr County, Texas, Guadalupe River Basin.

Application Number TA-7451 by S.F.W. CONSTRUCTION, INC., for diversion of one acre feet of water in a one-year period for industrial use. Water may be diverted from the near the stream crossing of County Road 322, approximately 12 miles east-southeast of Gatesville, Coryell County, Texas, Brazos River Basin.

Provisionally-Issued Temporary permits to appropriate state water are issued for a period of not more than one year and authorize the use of not more than 10 acre-feet of water. 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 cancelled without notice and hearing. No further diversions may be made pending a full hearing as provided in 30 TAC §295.174. Complaints should be addressed to Water Rights Permitting Section, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711, (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, (512) 239-3300.

Issued in Austin, Texas, May 15, 1995.

TRD-9505866 Gloria A. Vasquez
Chief Clerk
Texas Natural Resource Conservation
Commission

Filed: May 15, 1995

Public Notice

The Executive Director of the Texas Natural Resource Conservation Commission has issued a public notice of the selection of a proposed remedy for the BestPlate State Superfund Site which constitutes an imminent and substantial endangerment due to a release or threatened release of hazardous substances into the environment. The notice was published in the *Dallas Morning News* on Wednesday, May 17, 1995.

In accordance with 30 Texas Administrative Code (TAC) §335.349(a) and the Texas Health and Safety Code, Chapter 361.187, a public meeting regarding the proposed remedy for the BestPlate Site, the facility itself, and additional potentially responsible parties must be held at least 45 days after publishing a notice in the *Texas Register* and a local newspaper.

The public meeting is scheduled at the City Council Chambers, Hutchins City Hall, 321 North Main Street, Hutchins, Texas on July 6, 1995, at 7:00 p.m.

The BestPlate Site was originally placed on the State Superfund list on January 22, 1988, as announced in that issue of the *Texas Register* (13 TexReg 427). BestPlate is located in Hutchins in the south-central part of Dallas County. The site is located between Wintergreen and Dowdy Ferry roads at 1090 I-45 South. The BestPlate Site was a chromium and nickel plating operation that caused chromium, nickel, lead and arsenic (metals) contamination in the metal plating residue and concrete curbing in the plating operations area of the site.

A remedial investigation to determine the nature and extent of the contamination was completed on January 12, 1995. The results indicated that metals contamination exists at the site at levels which pose an imminent and substantial endangerment to human health and the environment. A baseline risk assessment concluded that further action was needed to eliminate the imminent and substantial endangerment to human health and the environment from metals contamination at the site. Following approval of the baseline risk assessment, a feasibility study (FS) report was submitted and reviewed. The FS report screened and evaluated technologies that could be used to remediate the BestPlate Site. The FS report developed three proposed cleanup alternatives, with on-site treatment and off-site disposal being the preferred alternative. The proposed site remedy will use a combination of chemical treatment of residue, concrete curb removal, and off-site disposal waste management technologies.

The public meeting will not be a contested case hearing under the Administrative Procedure Act (Texas Government Code, Chapter 2001).

Persons desiring to make comments on the facility, the identification of additional potentially responsible parties or the proposed remedial action may do so prior to or at the public meeting. All comments submitted prior to the public meeting should be sent to Mr. George FitzGerald, Project Manager, Superfund Investigation Section, MC 143, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711-3087.

The public records for this site are available for public review during regular business hours at the Atwell Public Library, 300 North Denton, P.O. Box 888, Hutchins Texas, 75141, (214) 225-4711, or at the Texas Natural Resource Conservation Commission, 12118 North Interstate Highway 35, Building D, Austin, Texas 78753, (512)

239-2927. Copying of file information is subject to payment of a fee. For further information, please call (800) 633-9363.

Issued in Austin, Texas, on May 15, 1995.

TRD-9505859 Lydia Gonzalez Gromatzky
Acting Director, Legal Division
Texas Natural Resource Conservation
Commission

Filed: May 15, 1995

Public Utility Commission of Texas Notice of Intent to File Pursuant to Public Utility Commission 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 Public Utility Commission Substantive Rule 23.27 for approval of customer-specific PLEXAR-Custom Service for NationsBanc Services, Inc., Austin, Texas.

Docket Title and Number. Application of Southwestern Bell Telephone Company for PLEXAR-Custom Service for NationsBanc Services, Inc. pursuant to Public Utility Commission Substantive Rule 23.27. Docket Number 14196.

The Application. Southwestern Bell Telephone Company is requesting approval of an optional feature addition to the existing PLEXAR-Custom service for NationsBanc Services, Inc. The geographic service market for this specific service is the Austin, Texas area.

Persons who wish to comment upon the action sought should contact the Public Utility Commission of Texas, at 7800 Shoal Creek Boulevard, Austin, Texas 78757, or call the Public Utility Commission Consumer Affairs Division at (512) 458-0256 or (512) 458-0221 for teletypewriter for the deaf.

Issued in Austin, Texas, May 15, 1995.

TRD-9505861 John M. Rentrow
Secretary of the Commission
Public Utility Commission of Texas

Filed: May 15, 1995

Public Notice

On April 26, 1995, Southwestern Bell Telephone Company filed notice to file a LRIC study pursuant to Substantive Rule 23.91 for the following Basic Network Functions (BNF's) and Service. Basic Network Functions (BNFs):

- (1) Call Trace per Activation-Residence/Business,
- (2) Call Blocker per Line per Month-Residence/Business,
- (3) Call Return per Line per Month-Residence/Business, and
- (4) Toll Restriction per Line per Month-Residence/Business; Service:
 - (1) Three Way Calling,
 - (2) Speed Call 8,
 - (3) Call Return.

- (4) Toll Restriction.
- (5) Call Blocker, and
- (6) Call Trace in Project Numbers 12475 and 12481, Application of Southwestern Bell Telephone Company and GTE Southwest, Inc. for Approval of LRIC Studies Workplans Pursuant to Public Utility Commission Substantive Rule 23.91. Southwestern Bell Telephone Company expects to file these studies on May 8, 1995.

Persons who wish to intervene or otherwise participate in these proceedings should make appropriate filings or comments to the Commission by June 22, 1995. A request to intervene, participate, or for further information should be mailed to the Public Utility Commission of Texas, 7800 Shoal Creek Boulevard, Suite 400N, Austin, Texas 78757. Further information may also be obtained by calling the Public Utility Commission Public Information Office at (512) 458-0256. The telecommunications device for the deaf (TDD) is (512) 458-0221.

Issued in Austin, Texas, May 15, 1995.

TRD-9505862 John M. Renfrow
Secretary of the Commission
Public Utility Commission of Texas

Filed: May 15, 1995

◆ ◆ ◆

Texas Rehabilitation Commission

Request for Proposal

GENERAL DESCRIPTION:

The Texas Rehabilitation Commission (TRC) is requesting proposals for demonstration projects to establish supported employment system change sites. Selected sites must be committed to expanding their capacity for supported employment through creation of innovative service delivery systems and conversion of existing exclusionary vocational services for persons with the most severe disabilities. Five system change sites will be funded for the period of July 1, 1995, through June 30, 1996. Five additional sites will be funded for the period October 1, 1995, through September 30, 1996. Awards of up to \$25,000 will be available for each supported employment systems change site.

ELIGIBILITY REQUIREMENTS:

Proposals will be accepted from nonprofit organizations in Texas that demonstrate the ability to meet supported employment service needs by targeting and expanding services to underserved and unserved populations, including minority populations with disabilities, and individuals with the most severe disabilities; foster interagency collaboration and coordination of resources at the local level and generate and maintain community support; develop, implement, and sustain a plan of operation that shows commitment and willingness to change supported employment systems through innovation and expansion of the current service delivery system; provide effective management, organization, and fiscal responsibility; prepare and adhere to a budget adequate to support the project activities and costs that are reasonable in relation to project activities.

APPLICANT SERVICES: These demonstration project funds may not be used for direct client services. Award funds should be used to support proposed demonstration efforts.

PROPOSAL PROCESS:

Organizations interested in applying for these awards, must contact the TRC Central Office for copies of the Proposal materials to Deborah Murray or Ester Arispe, (512) 483-4173 or (512) 483-4343, Texas Rehabilitation Commission, 4900 North Lamar Boulevard, Austin, Texas 78751-2399.

Further information containing requirements and format of the proposal will be forwarded to the applicant.

DEADLINE:

A proposal must be addressed to: Texas Rehabilitation Commission, Attention: Deborah Murray, 4900 North Lamar Boulevard, Austin, Texas, 78751-2399.

Said proposals will be received until 4:30 p.m. on June 30, 1995.

Issued in Austin, Texas, on May 9, 1995.

TRD-9505890
Charles W.
Schuesser
General Counsel
Texas
Rehabilitation
Commission

Filed: May 15, 1995

◆ ◆ ◆

Texas Department of Transportation

Request for Proposals

Notice of Invitation: The Texas Department of Transportation (TxDOT) intends to engage an engineer, pursuant to Texas Government Code, Chapter 2254, Subchapter A, to provide the following services. The engineer selected must perform a minimum of 30% of the actual contract work to qualify for contract award.

Contract #17-545P5006 to develop a right of way map and PS&E for the rehabilitation of US 287 in Burleson County.

Deadline: A letter of interest notifying TxDOT of the provider's intent to submit a proposal shall be either hand-delivered or mailed to TxDOT, Bryan District Office, 1300 North Texas Avenue, Bryan, Texas 77803-2760. Letters of interest will be received until 5:00 p.m., May 31, 1995. The letter of interest must include the engineer's name, address, telephone number, name of engineer's contact person and number of TxDOT contract. Upon receipt of the letter of interest a Request for Proposal packet will be issued.

Pre-proposal Meeting: A mandatory pre-proposal meeting will be held on June 7, 1995, at 3:00 p.m., at the TxDOT, Bryan District Office. (TxDOT will not accept a proposal from an engineer who has failed for any reason to attend the mandatory pre-proposal meeting.)

Contract #17-545P5005 to conduct environmental assessment/public involvement process, schematic design, right-of-way map, and PS&E development for the widening of SH 36 in Milam County.

Deadline: A letter of interest notifying TxDOT of the provider's intent to submit a proposal shall be either hand-delivered or mailed to TxDOT, Bryan District Office, 1300 North Texas Avenue, Bryan, Texas 77803-2760. Letters of interest will be received until 5:00 p.m., May

31, 1995. The letter of interest must include the engineer's name, address, telephone number, name of engineer's contact person and number of TxDOT contract. Upon receipt of the letter of interest a Request for Proposal packet will be issued.

Pre-proposal Meeting: A mandatory pre-proposal meeting will be held on June 7, 1995, at 10:00 a.m., at the TxDOT, Bryan District Office. (TxDOT will not accept a proposal from an engineer who has failed for any reason to attend the mandatory pre-proposal meeting.)

Contract #17-545P5007 to conduct environmental assessment/public involvement process, schematic design, right-of-way map, and PS&E development for the widening of SH 21 in Burleson County.

Deadline: A letter of interest notifying TxDOT of the provider's intent to submit a proposal shall be either hand-delivered or mailed to TxDOT, Bryan District Office, 1300 North Texas Avenue, Bryan, Texas 77803-2760. Letters of interest will be received until 5:00 p.m., May 31, 1995. The letter of interest must include the engineer's name, address, telephone number, name of engineer's contact person and number of TxDOT contract. Upon receipt of the letter of interest a Request for Proposal packet will be issued.

Pre-proposal Meeting: A mandatory pre-proposal meeting will be held on June 7, 1995, at 1:00 p.m., at the TxDOT, Bryan District Office. (TxDOT will not accept a proposal from an engineer who has failed for any reason to attend the mandatory pre-proposal meeting.)

Proposal Submittal Deadline: Deadline for receipt of proposals on Contracts 17-545P5006, 17-545P5005, and 17-545P5007 is June 28, 1995, at 5:00 p.m., at the TxDOT, Bryan District Office.

Persons with disabilities who plan to attend these meetings 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 the Agency Contact listed at least two work days prior to the meeting so that appropriate arrangements can be made.

Agency Contact: Requests for additional information regarding this notice of invitation should be addressed to Phillip E. Russell, P.E., Phone (409) 778-9713, FAX (409) 778-9702.

Architectural/Engineering Services Contract #23-645P8001 for the historically correct renovation and restoration of the interior and exterior of the Old Santa Fe Railroad Depot in Brownwood Texas.

Deadline: A letter of interest notifying TxDOT of the provider's intent to submit a proposal shall be mailed to TxDOT, Brownwood District Office, P.O. Box 1549, Brownwood, Tx 76804. Letters of interest will be received until 5:00 p.m., May 30, 1995. The letter of interest must include the engineer/architect name, address, telephone number, name of engineer/architect contact person and number of TxDOT contract. Upon receipt of the letter of interest a Request for Proposal packet will be issued.

Proposal Submittal Deadline: Deadline for receipt of proposals on Contract #23-645P8001 is June 20, 1995, at 5:00 p.m., at the TxDOT, Brownwood District Office.

Agency Contact: Requests for additional information regarding this notice of invitation should be addressed to William T. Crumley, P.E., Phone (915) 643-0415, FAX (915) 643-0306.

Issued in Austin, Texas, on May 10, 1995

TRD-9505738 Robert E. Shaddock
General Counsel
Texas Department of Transportation

Filed: May 11, 1995

◆ ◆ ◆

Texas State Treasury

Tax and Revenue Anticipation Notes Bond Counsel Services Proposal Request

The Texas State Treasury is seeking to employ Bond Counsel for the issuance of certain Tax and Revenue Anticipation Notes in an estimated amount of between \$1.0 billion and \$1.5 billion (The "Notes"). The Notes will be issued pursuant to the Texas Government Code, Chapter 404, Subchapter H (the Act), and Texas Civil Statutes, Article 717q, to coordinate the State's cash flow within the 1996 fiscal year.

PROPOSAL SCHEDULE. Issuance of Request for Proposal: May 11, 1995 Final Response Date: May 25, 1995-1:00 p.m.

Selection of Bond Counsel: May 29, 1995

First Working Group Meeting: June 1, 1995-9:00 a.m.

PROPOSAL SUBMISSION DEADLINE. All proposals must be received no later than 1:00 p.m. on Thursday, May 25, 1995. Proposal responses, modifications or addenda to an original response received by the Treasury after that specified time and date for responses will not be considered. Each proposer is responsible for insuring that the response reaches the Treasury before the proposed due date. Copies of the Request for Proposal may be obtained by calling or writing James R. Howell, Texas State Treasury, 200 East Tenth Street, Suite 309, Austin, Texas 78701, (512) 463-5971

Issued in Austin, Texas, on May 10, 1995

TRD-9505712 James R. Howell
General Counsel
Texas State Treasury

Filed: May 10, 1995

◆ ◆ ◆

Texas State Treasury

Tax and Revenue Anticipation Notes Co- Bond Counsel Services Proposal Request

The Texas State Treasury (the Treasury) is seeking to employ Co-Bond Counsel for the issuance of certain Tax and Revenue Anticipation Notes and Commercial Paper Notes in an estimated amount of between \$1.0 billion and \$1.5 billion (The Notes). The Notes will be issued pursuant to the Texas Government Code, Chapter 404, Subchapter H (the Act), and Texas Civil Statutes, Article 717q, to coordinate the State's cash flow within the 1996 fiscal year.

PROPOSAL SCHEDULE. Issuance of Request for Proposal: May 11, 1995

Final Response Date: May 25, 1995-1:00 p.m.

Selection of Bond Counsel: May 29, 1995

First Working Group Meeting: June 1, 1995-9:00 a.m.

PROPOSAL SUBMISSION DEADLINE. All proposals must be received no later than 1.00 p.m. on Thursday, May 25, 1995. Proposal responses, modifications or addenda to an original response received by the Treasury after that specified time and date for responses will not be considered. Each proposer is responsible for insuring that the response reaches the Treasury before the proposed due date. Copies of the Request for Proposal may be obtained by calling or writing James R. Howell, Texas State Treasury, 200 East 10th Street, Suite 309, Austin, Texas 78701, (512) 463-5971.

Issued in Austin, Texas, on May 10, 1995.

TRD-9505713 James R. Howell
General Counsel
Texas State Treasury

Filed, May 10, 1995

◆ ◆ ◆

Texas Water Development Board

Applications Received

Pursuant to the Texas Water Code, §6.195, the Texas Water Development Board provides notice of the following applications received by the Board:

Riviera Water Control and Improvement District, Route 1, Box 5, Road 2310, Riviera, Texas 78379, received March 14, 1995, application for financial assistance in the amount of \$280,000 from the State Water Pollution Control Revolving Fund.

Montgomery County Municipal Utility District Number 15, 71 Gleneagle Drive, Conroe, Texas 77385, received February 17, 1995, application for financial assistance in the amount of \$615,000 from the State Water Pollution Control Revolving Fund.

Olmito Water Supply Corporation, P.O. Box 36, Olmito, Texas 78575, received March 7, 1995, application for grant assistance in the amount of \$7,078,922 from the Economically Distressed Areas Account of the Texas Water Development Fund.

City of Weslaco, 500 South Kansas, Weslaco, Texas 78596, received April 10, 1995, application for additional financial assistance in an amount not to exceed \$24,600 from the Research and Planning Fund.

City of El Paso, Public Service Board, P.O. Box 511, El Paso, Texas 79961-0001, received May 1, 1995, application for financial assistance in the amount of \$1,250,000 from the Research and Planning Fund.

City of Texas City, 1801 9th Avenue North, Texas City, Texas 77590, received April 10, 1995, application for financial assistance in the amount of \$15,130,000 from the State Water Pollution Control Revolving Fund.

Upper Trinity Regional Water District, 396 West Main, Suite 102, Lewisville, Texas 75067, received April 14, 1995, application for financial assistance in the amount of \$24,745,000 from the State Water Pollution Control Revolving Fund, Water Quality Enhancement Account of the Texas Water Development Fund, and the State Participation

Middle Concho Soil and Water Conservation District, P.O. Box 90, Highway 67 West, Big Lake, Texas 76932, received April 18, 1994, application for grant assistance in the amount of \$8,125 from the Agricultural Conservation Grants to Districts Program.

Hockley County Soil and Water Conservation District, 703 Avenue I, Box 174, Levelland, Texas 79336, received February 15, 1995, application for grant assistance in the amount of \$2,025 from the Agricultural Conservation Grants to Districts Program.

Maverick County Soil and Water Conservation District, 1935 South Loop 431, Suite 3, Eagle Pass, Texas 78852, received November 11, 1994, application for grant assistance in the amount of \$1,500 from the Agricultural Conservation Grants to Districts Program.

Duck Creek Soil and Water Conservation District, 312 Willard Avenue, Spur, Texas 79370, received January 18, 1995, application for grant assistance in the amount of \$1,000 from the Agricultural Conservation Grants to Districts Program.

Floyd County Soil and Water Conservation District, P.O. Box 157, Floydada, Texas 79235, received March 14, 1995, application for grant assistance in the amount of \$2,000 from the Agricultural Conservation Grants to Districts Program.

Lubbock County Soil and Water Conservation District, 4607 West Loop 289, Lubbock, Texas 79414, received January 25, 1995, application for grant assistance in the amount of \$1,950 from the Agricultural Conservation Grants to Districts Program.

Hill Country Underground Water Conservation District, 508 South Washington, Fredericksburg, Texas 78624, received March 24, 1995, application for grant assistance in the amount of \$2,750 from the Agricultural Conservation Grants to Districts Program.

North Plains Ground Water Conservation District Number 2, P.O. Box 795, Dumas, Texas 79029-0795, received September 14, 1994, application for grant assistance in the amount of \$9,500 from the Agricultural Conservation Grants to Districts Program.

North Plains Ground Water Conservation District Number 2, P.O. Box 795, Dumas, Texas 79029-0795, received December 5, 1994, application for grant assistance in the amount of \$4,450 from the Agricultural Conservation Grants to Districts Program.

Barton Springs/Edwards Aquifer Conservation District, 1124-A Regal Row, Austin, Texas 78748, received August 6, 1993, application for grant assistance in the amount of \$16,500 from the Agricultural Conservation Grants to Districts Program.

Southmost Soil and Water Conservation District, Texas State Soil and Water Conservation Board, P.O. Box 658, Temple, Texas 76503-0658, received February 12, 1993, application for grant assistance in the amount of \$13,500 from the Agricultural Conservation Grants to Districts Program.

Additional information concerning this matter may be obtained from Craig D. Pedersen, Executive Administrator, P.O. Box 13231, Austin, Texas 78711.

Issued in Austin, Texas, on May 10, 1995.

TRD-9505763 Craig D. Pedersen
Executive Administrator
Texas Water Development Board

Filed, May 11, 1995

◆ ◆ ◆

Public Hearing Notice

An attorney with the Texas Water Development Board will conduct a public hearing beginning at 10:00 am., July 3, 1995, Stephen F. Austin Building, Room 118, 1700 North Congress Avenue, Austin, Texas 78711 on a proposed amendment to the Project Priority List for the State Water Pollution Control Revolving Fund (SRF). The Project Priority List is an alphabetical listing of wastewater treatment projects which will be considered for funding during FY 1995-2000 through the State Revolving Fund program. The amendment will add several projects to the Project Priority List so that they may receive SRF assistance in accordance with the Clean Water Act of 1987, §603(g).

Interested persons are encouraged to attend the hearing and to present relevant and material comments concerning the proposed amendment to the Project Priority List. In addition, persons may participate in the hearing by mailing written comments before the previously listed date to Frank R. Forsyth, Jr., Chief, Project Support Section, Engineering Division, Texas Water Development Board, P.O. Box 13231, Austin, Texas 78711. Copies of the proposed amendment to the Project priority List will be available on or about June 5, 1995, from the previously stated address.

The hearing is being conducted pursuant to 31 TAC Chapter 363 (Rules of the Texas Water Development Board) and 40 Code of Federal Regulation, §25.5.

Issued in Austin, Texas, on May 11, 1995.

TRD-9505741 Craig D Pedersen
Executive Director

Filed. May 11, 1995

Requests for Proposals for Water Research

The Texas Water Development Board (board) requests, pursuant to 31 Texas Administrative Code (TAC) §355.3, the submission of water research proposals leading to the possible award of contracts for Fiscal Year 1995. Guidelines for water research proposals which include an application form, and more detailed topic information will be supplied by the board.

Description of Planning Objectives. Proposals are requested for the following nine topics: social and economic impacts of water transfers—development of decision support information and methods to assess social and economic impacts and determine third-party impacts of water transfers; model agreement for water sales—research and development of model agreements for interim water sales that include adequate termination conditions; surface water/ground water interaction modeling—conduct hydrologic characterizations and analysis of interactive riverine and aquifer systems and integrate field investigations and numerical aquifer modeling with surface hydrological analysis; evaluation of economical and reliable methods of brine management—in-depth evaluation of economical, reliable, environmentally acceptable methods of brine management which may include beneficial use of by-products; assessment of the effects of brush management on quantity of available water that can be obtained from rangelands—in-

corporate data from relatively small brush management field investigations into tested, operational watershed hydrologic models to evaluate the effects on recoverable and usable surface and/or ground water supplies; preparation of a manual of up-to-date estimates of mean crop consumptive use of water (cu) and free-water evaporation (fwe) for Texas—develop an updated manual of cu and fwe values that contains all necessary information and some sample calculations to estimate fwe and cu; innovative, reliable, safe, and economical methods for water supply through rainwater harvesting—develop a manual providing practical information on the design, installation, operation and maintenance of rainwater harvesting systems; evaluation of "dry-year option" water transfers from agricultural to urban use—develop methods for determining the level of compensation to be provided to irrigators participating in dry-year options and for assessing and mitigating secondary economic impacts on agricultural communities as a result of implementing a dry-year option program; the role of short-term drought responses in long-range water supply planning—development of methods for assessing and comparing the costs and benefits associated with varying degrees of water supply reliability during drought and identification of issues potentially impacting implementation of risk management strategies and potential solutions to those issues.

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. In the event that acceptable proposals are not submitted, the board retains the right to not award contracts funds.

Deadline, Review Criteria, and Contact Person for Additional Information. Ten double-sided copies of a complete water research application including the required attachments must be filed with the board prior to 5:00 p.m., June 20, 1995. Proposals should be limited to ten pages in length excluding qualifications of project staff. Proposals must be directed to Abu Sayeed, 1700 North Congress Avenue, P.O. Box 13231, 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 and detailed topic descriptions. Research shall not duplicate work planned or underway by state agencies. All potential applicants must contact the board to obtain these guidelines and topic descriptions. Requests for information, the board's rules covering the research and planning fund, detailed evaluation criteria, and the guidelines may be directed to Abu Sayeed at the preceding address or by calling (512) 463-7987.

Issued in Austin, Texas, May 15, 1995.

TRD-9505865 Suzanne Schwartz
General Counsel
Texas Water Development Board

Filed: May 15, 1995

32 Friday, April 28	Monday, April 24	Tuesday, April 25
33 Tuesday, May 2	Wednesday, April 26	Thursday, April 27
34 Friday, May 5	Monday, May 1	Tuesday, May 2
35 Tuesday, May 9	Wednesday, May 3	Thursday, May 4
36 Friday, May 12	Monday, May 8	Tuesday, May 9
37 Tuesday, May 16	Wednesday, May 10	Thursday, May 11
38 Friday, May 19	Monday, May 15	Tuesday, May 16
39 Tuesday, May 23	Wednesday, May 17	Thursday, May 18
40 Friday, May 26	Monday, May 22	Tuesday, May 23
41 Tuesday, May 30	Wednesday, May 24	Thursday, May 25
42 Friday, June 2	*Friday, May 26	Tuesday, May 30
43 Tuesday, June 6	Wednesday, May 31	Thursday, June 1
44 Friday, June 9	Monday, June 5	Tuesday, June 6
45 Tuesday, June 13	Wednesday, June 7	Thursday, June 8
46 Friday, June 16	Monday, June 12	Tuesday, June 13
47 Tuesday, June 20	Wednesday, June 14	Thursday, June 15
48 Friday, June 23	Monday, June 19	Tuesday, June 20
49 Tuesday, June 27	Wednesday, June 21	Thursday, June 22
50 Friday, June 30	Monday, June 26	Tuesday, June 27
51 Tuesday, July 4	Wednesday, June 28	Thursday, June 29
Friday, July 7	NO ISSUE PUBLISHED	
52 Tuesday, July 11	Wednesday, July 5	Thursday, July 6
Friday, July 14	Second Quarterly Index	
53 Tuesday, July 18	Wednesday, July 12	Thursday, July 13
54 Friday, July 21	Monday, July 17	Tuesday, July 18
55 Tuesday, July 25	Wednesday, July 19	Thursday, July 20
56 Friday, July 28	Monday, July 24	Tuesday, July 25
57 Tuesday, August 1	Wednesday, July 26	Thursday, July 27
58 Friday, August 4	Monday, July 31	Tuesday, August 1
59 Tuesday, August 8	Wednesday, August 2	Thursday, August 3
60 Friday, August 11	Monday, August 7	Tuesday, August 8
61 Tuesday, August 15	Wednesday, August 9	Thursday, August 10
62 Friday, August 18	Monday, August 14	Tuesday, August 15
63 Tuesday, August 22	Wednesday, August 16	Thursday, August 17
64 Friday, August 25	Monday, August 21	Tuesday, August 22
65 Tuesday, August 29	Wednesday, August 23	Thursday, August 24
66 Friday, September 1	Monday, August 28	Tuesday, August 29
67 Tuesday, September 5	Wednesday, August 30	Thursday, August 31
68 Friday, September 8	*Friday, September 1	Tuesday, September 5
69 Tuesday, September 12	Wednesday, September 6	Thursday, September 7
70 Friday, September 15	Monday, September 11	Tuesday, September 12