

TEXAS REGISTER

IN THIS ISSUE

Volume 20, Number 41 May 30, 1995

Page 3931-4020

Proposed Sections

Texas Department of Agriculture

General Procedures

4 TAC §1.91.....3941

Enforcement Procedures

4 TAC §2.20.....3941

Boll Weevil Eradication Program

4 TAC §3.200.....3942

Quarantines

4 TAC §5.6.....3942

Boll Weevil Control

4 TAC §6.6.....3942

Pesticides

4 TAC §7.36.....3943

Agricultural Hazard Communication Regulations

4 TAC §8.13.....3943

Plant Quality

4 TAC §9.40.....3943

Herbicide Regulations

4 TAC §11.11.....3944

Apiary Equipment Brands

4 TAC §13.10.....3944

Consumer Services Division

4 TAC §15.200.....3944

Marketing and Development Division

4 TAC §17.200.....3945

Organic Standards and Certification

4 TAC §18.18.....3945

Seed Division

4 TAC §19.14.....3945

Aquaculture Regulations

4 TAC §27.150.....3946

Contents Continued Inside



The Texas Register is printed on recycled paper

Texas Register



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 Dee Wright

Circulation/Marketing Tamara Joiner Jill S. Ledbetter

TAC Editor Dana Blanton

TAC Typographer Madeline Chrissier

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 Daneane 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 1. 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 State Library and Archives
Commission**

State Records
13 TAC §§6.91-6.98..... 3946

Local Records
13 TAC §§7.71-7.78..... 3948

**Texas State Board of Medical
Examiners**

Licensure
22 TAC §163.16..... 3951

**Texas Natural Resource
Conservation Commission**

General Rules
30 TAC §101.24, §101.27..... 3951

General Land Office

Coastal Protection
31 TAC §§16.1-16.4..... 3954

**Texas Parks and Wildlife
Department**

Law Enforcement
31 TAC §55.114..... 3965

Wildlife
31 TAC §65.3..... 3966
31 TAC §65.78..... 3966
31 TAC §65.72..... 3967

**Texas Commission on Fire
Protection**

Standards for Certification
37 TAC §421.5..... 3967

Fire Suppression
37 TAC §§423.3, 423.5, 423.7..... 3968
37 TAC §§423.205, 423.207, 423.209..... 3969
37 TAC §§423.305, 423.307, 423.309..... 3971

Minimum Standards for Fire Inspectors
37 TAC §§429.5, 429.7, 429.9..... 3973

Minimum Standards for Fire and Arson Investi-
gator
37 TAC §§431.5, 431.7, 431.9..... 3974

Fire Fighter Safety
37 TAC §435.3..... 3976

Examinations for Certification
37 TAC §§439.5, 439.7, 439.9..... 3977

Withdrawn Sections

Banking Department of Texas

Prepaid Funeral Contracts
7 TAC §25.25..... 3981

**Texas State Library and Archives
Commission**

State Records
13 TAC §§6.91-6.98..... 3981

Local Records
13 TAC §§7.71-7.78..... 3981

**Texas State Board of Medical
Examiners**

Licensure
22 TAC §163.16..... 3981

**Texas Commission on Fire
Protection**

Fire Suppression
37 TAC §§423.305, 423.307, 423.309..... 3981

Adopted Sections

**Texas State Library and Archives
Commission**

State Records
13 TAC §6.2..... 3983

Railroad Commission of Texas

Liquefied Petroleum Gas Division
16 TAC §§9.4, 9.5, 9.8, 9.15..... 3983
16 TAC §9.5..... 3983

Regulations for Compressed Natural Gas
(CNG) Fuel Systems
16 TAC §13.61..... 3984
16 TAC §§13.61, 13.69, 13.72..... 3984

Public Utility Commission of Texas

Substantive Rule
16 TAC §23.6..... 3984

**Texas Higher Education
Coordinating Board**

Program Development

19 TAC §§5.312, 5.313, 5.316, 5.318 3986

**Texas Department of Mental Health
and Mental Retardation**

Medicaid Programs

25 TAC §§409.31-409.44 3987

25 TAC §§409.31-409.35 3987

**Texas Commission for the Deaf and
Hearing Impaired**

**Board of Evaluation of Interpreters and Inter-
preter Certification**

40 TAC §183.573 3989

Tables and Graphics Sections

Tables and Graphics 3991

Open Meetings Sections

Texas Department on Aging 4007

Texas Department of Agriculture 4007

Texas Council on Alzheimer's Disease and Related Disor-
ders 4007

State Bar of Texas 4007

Texas Committee on Purchases of Products and Services
of Blind and Severely Disabled Persons 4008

State Employee Charitable Campaign 4008

Texas Department of Health 4008

Texas Health Benefits Purchasing Cooperative 4009

Texas Commission on Law Enforcement Officer Standards
and Education 4010

Texas State Board of Examiners of Marriage and Family
Therapists 4010

Texas Natural Resource Conservation Commission 4010

Texas State Board of Nursing Facility Administra-
tors 4011

Texas Parks and Wildlife Department 4011

Texas Department of Public Safety 4012

Public Utility Commission of Texas 4012

Texas National Research Laboratory Commission 4012

Texas Turnpike Authority 4012

The University of Texas System 4013

Board of Vocational Nurse Examiners 4013

Texas Council on Workforce and Economic
Competitiveness 4013

Regional Meetings 4014

In Addition Sections

**Texas Commission for the Deaf and
Hearing Impaired**

Notice of Board Vacancy 4017

Request for Proposal 4017

**Texas Commission on Fire
Protection**

Correction of Error 4018

Texas Department of Insurance

Notice of Public Hearing 4018

**Texas Department of Mental Health
and Mental Retardation**

Notice of Public Hearing 4018

**Texas Natural Resource
Conservation Commission**

Notice of Public Hearing (Inspection and Emissions
Fees) 4019

**Texas Parks and Wildlife
Department**

Public Notice 4019

Texas Public Finance Authority

Invitation to Bid for Insurance Policy 4019

Public Utility Commission of Texas

Notice of Intent to File Pursuant to Public Utility Commis-
sion Substantive Rule 23.27 4020

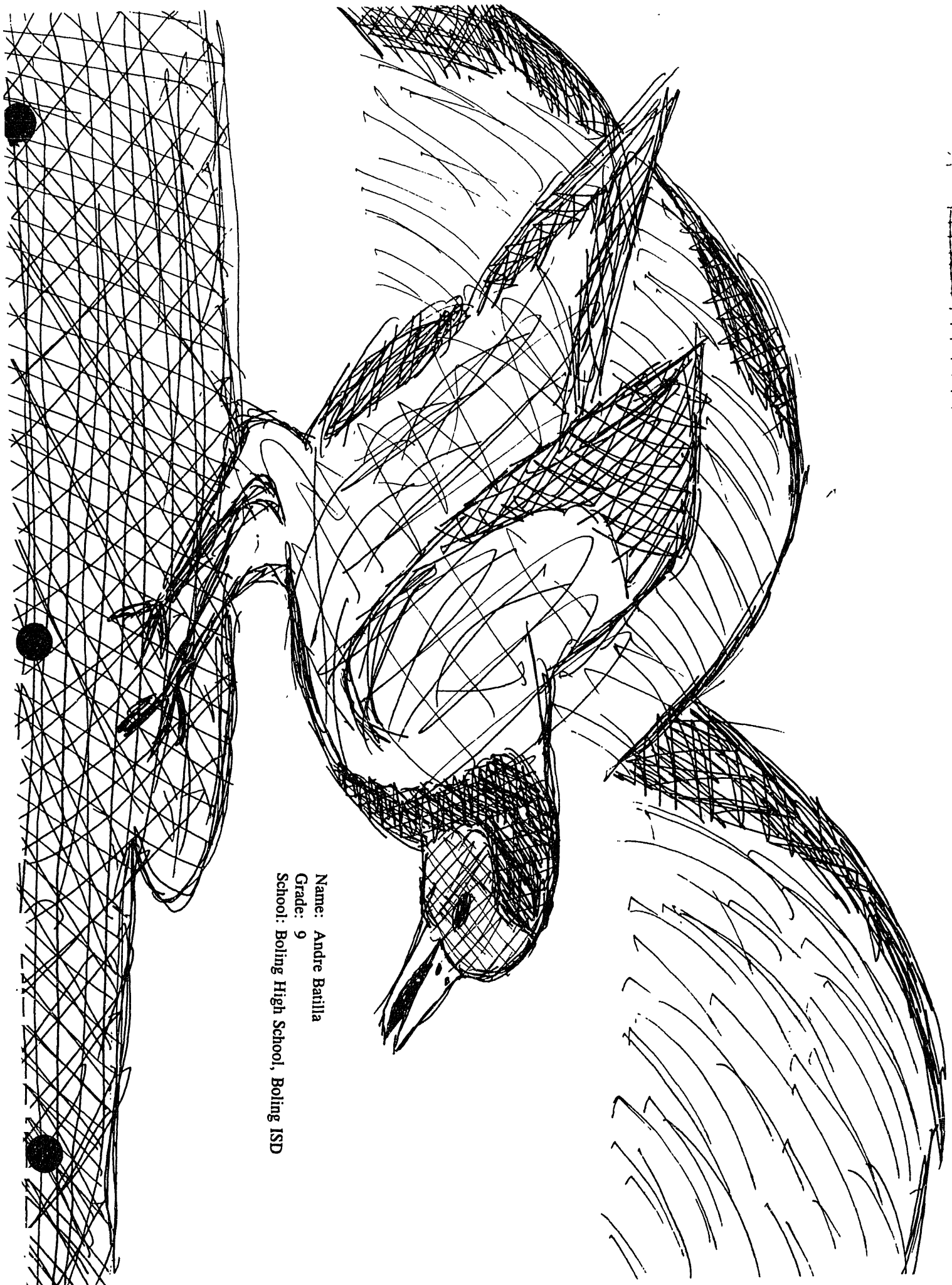
Notice of Workshop 4020



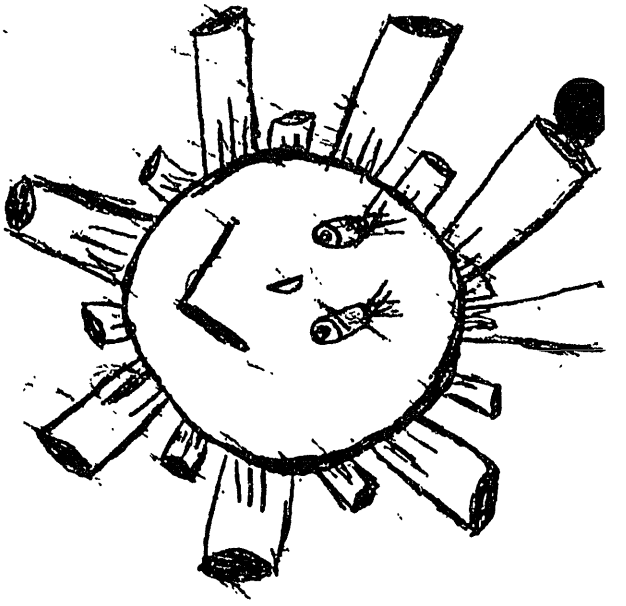
Name: Gary Plunkett
Grade: 9
School: Boling High School, Boling ISD



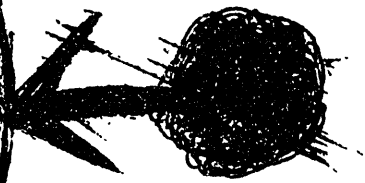
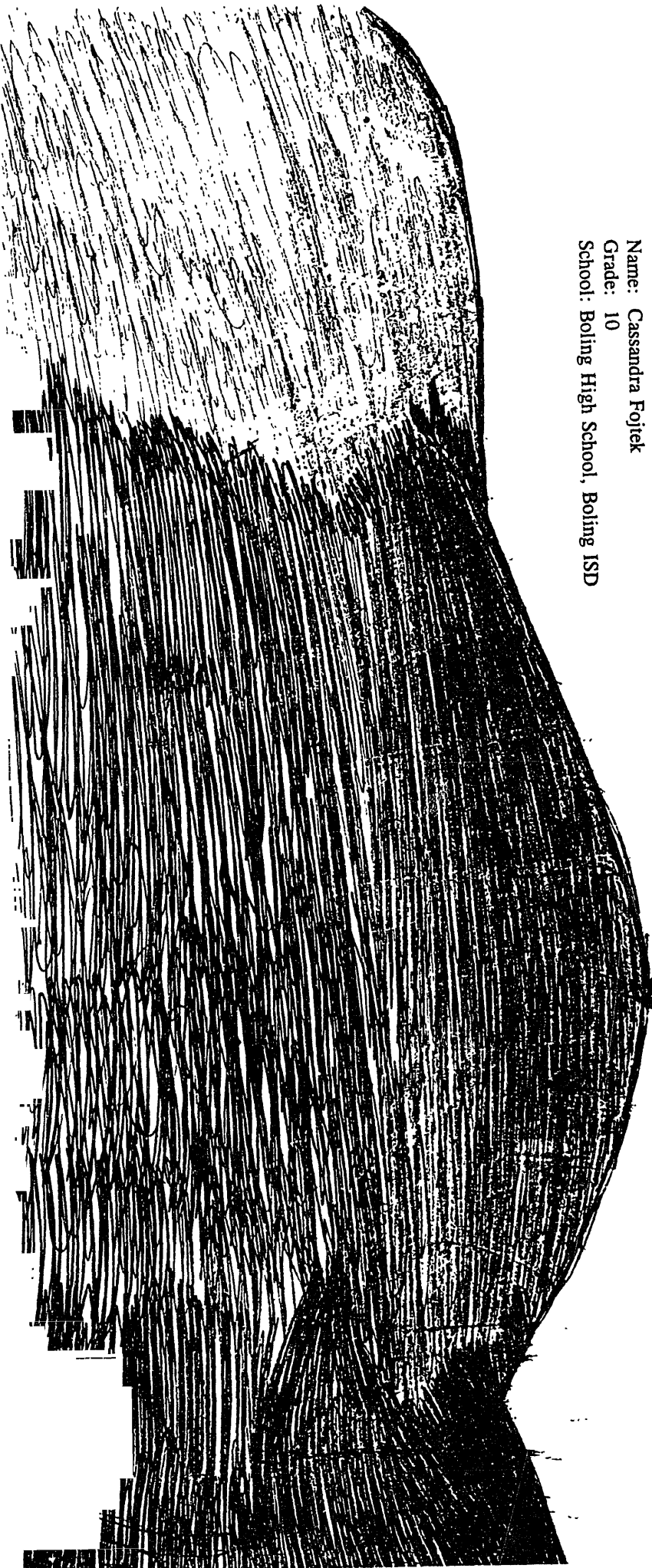
Name: Gary Plunkett
Grade: 9
School: Boling High School, Boling ISD

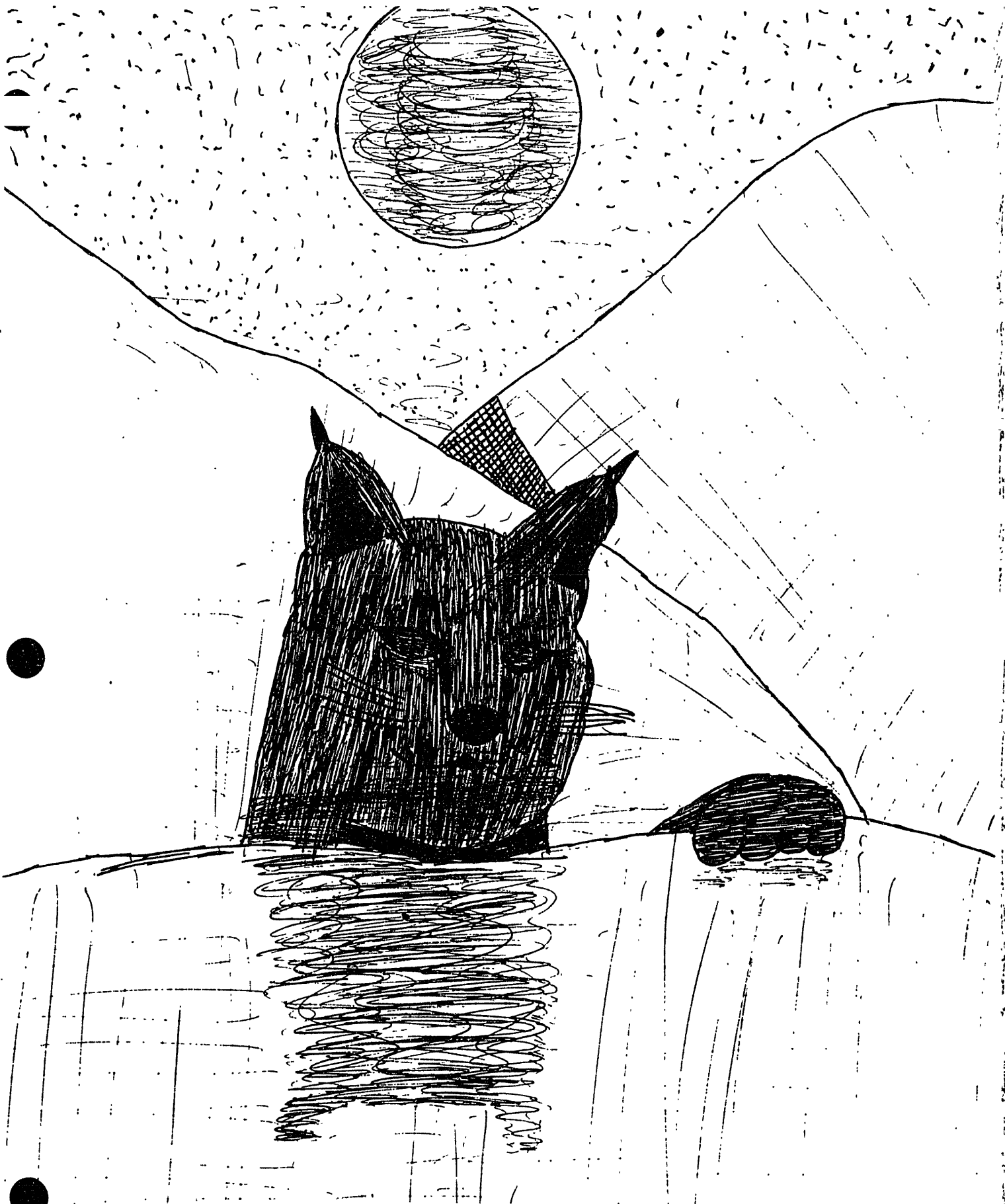


Name: Andre Barilla
Grade: 9
School: Boling High School, Boling ISD



Name: Cassandra Fojtek
Grade: 10
School: Boling High School, Boling ISD





Name: Ron Elerick
Grade: 12
School: Boling High School, Boling ISD



Name: Keith Richardson
Grade: 11
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 4. AGRICULTURE Part I. Texas Department of Agriculture

Chapter 1. General Procedures

Subchapter D. Miscellaneous Provisions

• 4 TAC §1.91

The Texas Department of Agriculture (the department) proposes new §1.91, concerning expiration provision. The new section is proposed to require the department to review all sections in Chapter 1 and determine what, if any, sections need to be repealed, replaced or amended. The new section provides an expiration date of August 31, 1996, for all sections that are not repealed, amended, or reaffirmed by the department by that date.

Dolores Alvarado Hibbs, chief administrative law judge, has determined that for the first five-year period the section is in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the section.

Ms. Hibbs also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be the clarification of existing regulations and elimination of unnecessary regulations. There will be no effect on small or large businesses. There is no anticipated economic cost to persons who are required to comply with the section as proposed.

Comments on the proposal may be submitted to Dolores Alvarado Hibbs, Chief Administrative Law Judge, Texas Department of Agriculture, P.O. Box 12847, Austin, Texas 78711. Comments must be received no later than 30 days from the date of publication of the proposal in the *Texas Register*.

The new section is proposed under the Texas Agriculture Code, §12.001 and §12.006, which provides the Texas Department of Agriculture with the authority to adopt rules necessary to the administration of the Texas Agriculture Code, and the Texas Government Code, §2001.004, which provides the department with the authority to adopt rules of practice setting forth the nature and requirements of all formal and informal administrative procedures available.

The Texas Agriculture Code is affected by this proposal.

§1.91. Expiration Provision. Unless specifically acted upon by amendment or repeal and substitution of a new section or sections in accordance with the Texas Government Code, Chapter 2001, Subchapter B, or specific reactivation by the department, all of the sections in this chapter shall expire on August 31, 1996.

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 24, 1995.

TRD-9506300 Dolores Alvarado Hibbs
Chief Administrative Law
Judge
Texas Department of
Agriculture

Earliest possible date of adoption: June 30, 1995

For further information, please call: (512) 463-7583

Chapter 2. Enforcement Procedures

Subchapter B. Miscellaneous Provisions

• 4 TAC §2.20

The Texas Department of Agriculture (the department) proposes new §2.20, concerning expiration provision. The new section is proposed to require the department to review all sections in Chapter 2 and determine what, if any, sections need to be repealed, replaced or amended. The new section provides an expiration date of August 31, 1996, for all sections that are not repealed, amended, or reaffirmed by the department by that date.

Esther L. Hajdar, assistant general counsel and chief of enforcement, has determined that for the first five-year period the section is in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the section.

Ms. Hajdar also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be the clarification of existing regulations and elimination of unnecessary regulations. There will be no effect on small or large businesses. There is no anticipated economic cost to persons who are required to comply with the section as proposed.

Comments on the proposal may be submitted to Esther L. Hajdar, Assistant General Counsel and Chief of Enforcement, Texas Department of Agriculture, P.O. Box 12847, Austin, Texas 78711. Comments must be received no later than 30 days from the date of publication of the proposal in the *Texas Register*.

The new section is proposed under the Texas Agriculture Code, §12.020 and §76.1555, which provides the Texas Department of Agriculture with the authority to seek and assess administrative penalties for violation of the Texas Agriculture Code, Chapters 13, 14, 61, 71, 75, 76, 101-102, and 132; and the Texas Government Code, §2001.004, which authorizes the department to adopt rules of practice setting forth the nature and requirements of all formal and informal administrative procedures available.

The Texas Agriculture Code, §12.020 and §76.155, and Chapters 13, 14, 61, 71, 75, 76, 101-102, and 131 is affected by this proposal.

§2.20. Expiration Provision. Unless specifically acted upon by amendment or repeal and substitution of a new section or sections in accordance with the Texas Government Code, Chapter 2001, Subchapter B, or specific reactivation by the department, all of the sections in this chapter shall expire on August 31, 1996.

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 24, 1995.

TRD-9506301 Dolores Alvarado Hibbs
Chief Administrative Law
Judge
Texas Department of
Agriculture

Earliest possible date of adoption: June 30, 1995

For further information, please call: (512) 463-7583

◆ ◆ ◆
**Chapter 3. Boll Weevil
Eradication Program**

**Subchapter F. Miscellaneous
Provisions**

• **4 TAC §3.200**

The Texas Department of Agriculture (the department) proposes new §3.200, concerning expiration provision. The new section is proposed to require the department to review all sections in Chapter 3 and determine what, if any, sections need to be repealed, replaced or amended. The new section provides an expiration date of August 31, 1996, for all sections that are not repealed, amended, or reaffirmed by the department by that date.

Katie Dickie, special assistant for producer relations, has determined that for the first five-year period the section is in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the section.

Ms. Dickie also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be the clarification of existing regulations and elimination of unnecessary regulations. There will be no effect on small or large businesses. There is no anticipated economic cost to persons who are required to comply with the section as proposed.

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

The new section is proposed under the Texas Agriculture Code, Chapter 74, Subchapter D, which provides the Texas Department of Agriculture with the authority to adopt rules regarding election procedures, rules for establishment of foundation rules, procedures and methods of treatment, rules for producer participation, rules for collection of assessments and assessment penalties and rules establishing boll weevil quarantines

The Texas Agriculture Code, Chapter 74, is affected by this proposal

§3.200. Expiration Provision. Unless specifically acted upon by amendment or repeal and substitution of a new section or sections in accordance with the Texas Government Code, Chapter 2001, Subchapter B, or specific reactivation by the department, all of the sections in this chapter shall expire on August 31, 1996.

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 24, 1995.

TRD-9506302

Dolores Alvarado Hibbs
Chief Administrative Law
Judge
Texas Department of
Agriculture

Earliest possible date of adoption: June 30, 1995

For further information, please call: (512) 463-7583

◆ ◆ ◆
Chapter 5. Quarantines

General Provisions

• **4 TAC §5.6**

The Texas Department of Agriculture (the department) proposes new §5.6, concerning expiration provision. The new section is proposed to require the department to review all sections in Chapter 5 and determine what, if any, sections need to be repealed, replaced or amended. The new section provides an expiration date of August 31, 1996, for all sections that are not repealed, amended, or reaffirmed by the department by that date.

Jim Pollard, assistant commissioner for regulatory programs, has determined that for the first five-year period the section is in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the section.

Mr. Pollard also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be the clarification of existing regulations and elimination of unnecessary regulations. There will be no effect on small or large businesses. There is no anticipated economic cost to persons who are required to comply with the section as proposed.

Comments on the proposal may be submitted to Jim Pollard, Assistant Commissioner for Regulatory Programs, Texas Department of Agriculture, P.O. Box 12847, Austin, Texas 78711. Comments must be received no later than 30 days from the date of publication of the proposal in the *Texas Register*

The new section is proposed under the Texas Agriculture Code, Chapter 71, which provides the Texas Department of Agriculture with the authority to establish quarantines and to adopt other rules necessary for the protection of agricultural and horticultural interests.

The Texas Agriculture Code, Chapter 71, is affected by this proposal.

§5.6. Expiration Provision. Unless specifically acted upon by amendment or repeal and substitution of a new section or sections in accordance with the Texas Government Code, Chapter 2001, Subchapter B, or specific reactivation by the department, all of the sections in this chapter shall expire on August 31, 1996.

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 24, 1995.

TRD-9506303

Dolores Alvarado Hibbs
Chief Administrative Law
Judge
Texas Department of
Agriculture

Earliest possible date of adoption: June 30, 1995

For further information, please call: (512) 463-7583

◆ ◆ ◆
**Chapter 6. Boll Weevil
Control**

• **4 TAC §6.6**

The Texas Department of Agriculture (the department) proposes new §6.6, concerning expiration provision. The new section is proposed to require the department to review all sections in Chapter 6 and determine what, if any, sections need to be repealed, replaced or amended. The new section provides an expiration date of August 31, 1996, for all sections that are not repealed, amended, or reaffirmed by the department by that date.

Jim Pollard, assistant commissioner for regulatory programs, has determined that for the first five-year period the section is in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the section.

Mr. Pollard also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be the clarification of existing regulations and elimination of unnecessary regulations. There will be no effect on small or large businesses. There is no anticipated economic cost to persons who are required to comply with the section as proposed.

Comments on the proposal may be submitted to Jim Pollard, Assistant Commissioner for Regulatory Programs, Texas Department of Agriculture, P.O. Box 12847, Austin, Texas 78711. Comments must be received no later than 30 days from the date of publication of the proposal in the *Texas Register*.

The new section is proposed under the Texas Agriculture Code (the code), §74.006, which provides the Texas Department of Agriculture with the authority to adopt rules necessary for the efficient enforcement and administration of the code Chapter 74, Subchapter A, relating to boll weevil control.

The code, Chapter 74, Subchapters A and D are affected by this proposal.

§6.6. Expiration Provision. Unless specifically acted upon by amendment or repeal and substitution of a new section or sections in accordance with the Texas Government Code, Chapter 2001, Subchapter B, or specific reactivation by the department, all of the sections in this chapter shall expire on August 31, 1996.

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 24, 1995.

TRD-9506304 Dolores Alvarado Hibbs
Chief Administrative Law
Judge
Texas Department of
Agriculture

Earliest possible date of adoption: June 30, 1995

For further information, please call: (512) 463-7583



Chapter 7. Pesticides

• 4 TAC §7.36

The Texas Department of Agriculture (the department) proposes new §7.36, concerning expiration provision. The new section is proposed to require the department to review all sections in Chapter 7 and determine what, if any, sections need to be repealed, replaced or amended. The new section provides an expiration date of August 31, 1996, for all sections that are not repealed, amended, or reaffirmed by the department by that date.

Steve Bearden, assistant commissioner for pesticide programs, has determined that for the first five-year period the section is in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the section.

Mr. Bearden also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be the clarification of existing regulations and elimination of unnecessary regulations. There will be no effect on small or large businesses. There is no anticipated economic cost to persons who are required to comply with the section as proposed.

Comments on the proposal may be submitted to Steve Bearden, Assistant Commissioner for Pesticide Programs, Texas Department of Agriculture, P.O. Box 12847, Austin, Texas 78711. Comments must be received no later than 30 days from the date of publication of the proposal in the *Texas Register*.

The new section is proposed under the Texas Agriculture Code, §76.004, which provides the Texas Department of Agriculture with the authority to adopt rules for carrying out the provisions of Chapter 76.

The Texas Agriculture Code, Chapter 76 is affected by this proposal.

§7.36. Expiration Provision. Unless specifically acted upon by amendment or repeal and substitution of a new section or sections in accordance with the Texas Government Code, Chapter 2001, Subchapter B, or specific reactivation by the department, all of the sections in this chapter shall expire on August 31, 1996.

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 24, 1995.

TRD-9506305 Dolores Alvarado Hibbs
Chief Administrative Law
Judge
Texas Department of
Agriculture

Earliest possible date of adoption: June 30, 1995

For further information, please call: (512) 463-7583



Chapter 8. Agricultural Hazard Communication Regulations

• 4 TAC §8.13

The Texas Department of Agriculture (the department) proposes new §8.13, concerning expiration provision. The new section is proposed to require the department to review all sections of Chapter 8 and determine what, if any sections need to be repealed, replaced or amended. The new section provides an expiration date of August 31, 1996, for all sections that are not repealed, amended, or reaffirmed by the department by that date.

Steve Bearden, assistant commissioner for pesticide programs, has determined that for the first five-year period the section is in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the section.

Mr. Bearden 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 clarification of existing regulations and elimination of unnecessary regulations. There will be no effect on small or large businesses. There is no anticipated economic cost to persons who are required to comply with the section as proposed.

Comments on the proposal may be submitted to Steve Bearden, Assistant Commissioner for Pesticide Programs, Texas Department of Agriculture, P.O. Box 12847, Austin, Texas 78711. Comments must be received no later than 30 days from the date of publication of the proposal in the *Texas Register*.

The new section is proposed under the Texas Agriculture Code, §125.014, which provides the Texas Department of Agriculture with the authority to adopt rules and procedures reasonably necessary to carry out the purposes of Chapter 125, relating to agricultural hazard communication.

The Texas Agriculture Code, Chapter 125 is affected by this proposal.

§8.13. Expiration Provision. Unless specifically acted upon by amendment or repeal and substitution of a new sections or sections in accordance with the Texas Government Code, Chapter 2001, Subchapter B, or specific reactivation by the department, all of the sections in this chapter shall expire on August 31, 1996.

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 24, 1995.

TRD-9506306 Dolores Alvarado Hibbs
Chief Administrative Law
Judge
Texas Department of
Agriculture

Earliest possible date of adoption: June 30, 1995

For further information, please call: (512) 463-7583



Chapter 9. Plant Quality

Miscellaneous Provisions

• 4 TAC §9.40

The Texas Department of Agriculture (the department) proposes new §9.40, concerning expiration provision. The new section is proposed to require the department to review all sections in Chapter 9 and determine what, if any sections need to be repealed, replaced or amended. The new section provides an expiration date of August 31, 1996, for all sections that are not repealed, amended, or reaffirmed by the department by that date.

Jim Pollard, assistant commissioner for regulatory programs, has determined that for the first five-year period the section is in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the section.

Mr. Pollard also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be the clarification of existing regulations and elimination of unnecessary regulations. There will be no effect on small or large businesses. There is no anticipated economic cost to persons who are required to comply with the section as proposed.

Comments on the proposal may be submitted to Jim Pollard, Assistant Commissioner for Regulatory Programs, Texas Department of Agriculture, P.O. Box 12847, Austin, Texas 78711. Comments must be received no later than 30 days from the date of publication of the proposal in the *Texas Register*.

The new section is proposed under the Texas Agriculture Code, §71.042, which provides the Texas Department of Agriculture with the authority to adopt rules necessary for the protection of plants from diseases and insect pests; §94.003, which provides the department with the authority to adopt rules relating to citrus maturity; and §121.007, which authorizes the department to adopt rules relating to the grading of roses.

The Texas Agriculture Code, Chapters 71, 94 and 121 is affected by this proposal

§9.40 Expiration Provision Unless specifically acted upon by amendment or repeal and substitution of a new section or

sections in accordance with the Texas Government Code, Chapter 2001, Subchapter B, or specific reactivation by the department, all of the sections in this chapter shall expire on August 31, 1996.

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 24, 1995.

TRD-9506307 Dolores Alvarado Hibbs
Chief Administrative Law
Judge
Texas Department of
Agriculture

Earliest possible date of adoption: June 30, 1995

For further information, please call: (512) 463-7583

◆ ◆ ◆
**Chapter 11. Herbicide
Regulations**

◆ ◆ ◆
• 4 TAC §11.11

The Texas Department of Agriculture (the department) proposes new §11.11, concerning expiration provision. The new section is proposed to require the department to review all sections of Chapter 11 and determine what, if any sections need to be repealed, replaced or amended. The new section provides an expiration date of August 31, 1996, for all sections that are not repealed, amended, or reaffirmed by the department by that date.

Steve Bearden, assistant commissioner for pesticide programs, has determined that for the first five-year period the section is in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the section.

Mr. Bearden also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be the clarification of existing regulations and elimination of unnecessary regulations. There will be no effect on small or large businesses. There is no anticipated economic cost to persons who are required to comply with the section as proposed.

Comments on the proposal may be submitted to Steve Bearden, Assistant Commissioner for Pesticide Programs, Texas Department of Agriculture, P.O. Box 12847, Austin, Texas 78711. Comments must be received no later than 30 days from the date of publication of the proposal in the *Texas Register*.

The new section is proposed under the Texas Agriculture Code, Chapter 75, which provides the Texas Department of Agriculture with the authority to adopt rules to designate regulated herbicides, set license fees for herbicide dealers, to establish recordkeeping requirements for herbicide dealers and applicators, to exempt applications from permit or other requirements, and to establish financial responsibility requirements for herbicide applicators.

The Texas Agriculture Code, Chapter 75, is affected by this proposal.

§11.11 Expiration Provision. Unless specifically acted upon by amendment or repeal and substitution of a new section or sections in accordance with the Texas Government Code, Chapter 2001, Subchapter B, or specific reactivation by the department, all of the sections in this chapter shall expire on August 31, 1996.

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 24, 1995

TRD-9506308 Dolores Alvarado Hibbs
Chief Administrative Law
Judge
Texas Department of
Agriculture

Earliest possible date of adoption: June 30, 1995

For further information, please call: (512) 463-7583

◆ ◆ ◆
**Chapter 13. Apiary Equipment
Brands**

◆ ◆ ◆
• 4 TAC §13.10

The Texas Department of Agriculture (the department) proposes new §13.10, concerning expiration provision. The new section is proposed to require the department to review all sections in Chapter 13 and determine what, if any, sections need to be repealed, replaced or amended. The new section provides an expiration date of August 31, 1996, for all sections that are not repealed, amended, or reaffirmed by the department by that date.

Jim Pollard, assistant commissioner for regulatory programs, has determined that for the first five-year period the section is in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the section.

Mr. Pollard also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be the clarification of existing regulations and elimination of unnecessary regulations. There will be no effect on small or large businesses. There is no anticipated economic cost to persons who are required to comply with the section as proposed.

Comments on the proposal may be submitted to Jim Pollard, Assistant Commissioner for Regulatory Programs, Texas Department of Agriculture, P.O. Box 12847, Austin, Texas 78711. Comments must be received no later than 30 days from the date of publication of the proposal in the *Texas Register*.

The new section is proposed under the Texas Agriculture Code, Chapter 131, Subchapter C, which provides the Texas Department of Agriculture with the authority to maintain a system for registration of apiary equipment brands.

The Texas Agriculture Code, Chapter 131, is affected by this proposal.

§13.10. Expiration Provision. Unless specifically acted upon by amendment or repeal and substitution of a new section or sections in accordance with the Texas Government Code, Chapter 2001, Subchapter B, or specific reactivation by the department, all of the sections in this chapter shall expire on August 31, 1996.

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 24, 1995

TRD-9506309 Dolores Alvarado Hibbs
Chief Administrative Law
Judge
Texas Department of
Agriculture

Earliest possible date of adoption: June 30, 1995

For further information, please call: (512) 463-7583

◆ ◆ ◆
**Chapter 15. Consumer Services
Division**

◆ ◆ ◆
Miscellaneous Provisions

◆ ◆ ◆
• 4 TAC §15.200

The Texas Department of Agriculture (the department) proposes new §15.200, concerning expiration provision. The new section is proposed to require the department to review all sections in Chapter 15 and determine what, if any, sections need to be repealed, replaced or amended. The new section provides an expiration date of August 31, 1996, for all sections that are not repealed, amended, or reaffirmed.

Jim Pollard, assistant commissioner for regulatory programs, has determined that for the first five-year period the section is in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the section.

Mr. Pollard also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be the clarification of existing regulations and elimination of unnecessary regulations. There will be no effect on small or large businesses. There is no anticipated economic cost to persons who are required to comply with the section as proposed.

Comments on the proposal may be submitted to Jim Pollard, Assistant Commissioner for Regulatory Programs, Texas Department of Agriculture, P.O. Box 12847, Austin, Texas 78711. Comments must be received no later than 30 days from the date of publication of the proposal in the *Texas Register*.

The new section is proposed under the Texas Agriculture Code, Chapter 13, which provides the Texas Department of Agriculture with the authority to adopt rules relating to weights and measures standards, inspection and registration of weights and measures, Texas

public weighers, liquefied petroleum gas meters, and ranch scales; §14.003; which authorizes the department to adopt rules relating to public grain warehouses; §17.005, which authorizes the department to adopt procedures for registration of alcohol fuel equipment and standards for alcohol fuels, §96.002 which authorizes the department to prescribe standards for grain sampling and qualifications for grain samples; and §132.003, which authorizes the department to adopt rules for enforcement of the Texas Egg Law

The Texas Agriculture Code, Chapters 13, 14, 17, 96, and 132 is affected by this proposal

§15.200 Expiration Provision Unless specifically acted upon by amendment or repeal and substitution of a new section or sections in accordance with the Texas Government Code, Chapter 2001, Subchapter B, or specific reactivation by the department, all of the sections in this chapter shall expire on August 31, 1996.

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 24, 1995

TRD-9506310 Dolores Alvarado Hibbs
Chief Administrative Law
Judge
Texas Department of
Agriculture

Earliest possible date of adoption June 30, 1995

For further information, please call (512) 463-7583

Chapter 17. Marketing and Development Division

Miscellaneous Provisions

• 4 TAC §17.200

The Texas Department of Agriculture (the department) proposes new §17.200, concerning expiration provision. The new section is proposed to require the department to review all sections in Chapter 17 and determine what, if any, sections need to be repealed, replaced or amended. The new section provides an expiration date of August 31, 1996, for all sections that are not repealed, amended, or reaffirmed by the department by that date.

Diane Smith, assistant commissioner for marketing and agribusiness development, has determined that for the first five-year period the section is in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the section.

Ms Smith also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be the clarification of existing regulations and elimination of unnecessary regulations. There will be no

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

Comments on the proposal may be submitted to Diane Smith, Assistant Commissioner for Marketing and Agribusiness Development, Texas Department of Agriculture, P O Box 12847, Austin, Texas 78711. Comments must be received no later than 30 days from the date of publication of the proposal in the *Texas Register*.

The new section is proposed under the Texas Agriculture Code, §12.0175, which provides the Texas Department of Agriculture with the authority to establish programs promoting Texas grown products, §41.022, which provides the department with the authority to adopt rules relating to elections held by commodity boards, §146.021, which provides the department with the authority to establish import-export processing facilities for livestock and collect fees for use of those facilities, §15.018, which provides the department with the authority to adopt rules relating to farmers market nutrition programs, and §45.004, which provides the department with the authority to adopt rules for administration of the Texas-Israel Exchange Fund.

The Texas Agriculture Code, Chapters 12, 15, 41, and 146 is affected by this proposal.

§17.200 Expiration Provision. Unless specifically acted upon by amendment or repeal and substitution of a new section or sections in accordance with the Texas Government Code, Chapter 2001, Subchapter B, or specific reactivation by the department, all of the sections in this chapter shall expire on August 31, 1996.

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 24, 1995

TRD-9506311 Dolores Alvarado Hibbs
Chief Administrative Law
Judge
Texas Department of
Agriculture

Earliest possible date of adoption. June 30, 1995

For further information, please call. (512) 463-7583

Chapter 18. Organic Standards and Certification

• 4 TAC §18.18

The Texas Department of Agriculture (the department) proposes new §18.18, concerning expiration provision. The new section is proposed to require the department to review all sections in Chapter 18 and determine what, if any, sections need to be repealed, replaced or amended. The new section provides an expiration date of August 31, 1996, for all sections that are not repealed, amended, or reaffirmed by the department by that date.

Jim Pollard, assistant commissioner for regulatory programs, has determined that for the first five-year period the section is in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the section.

Mr. Pollard 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 clarification of existing regulations and elimination of unnecessary regulations. There will be no effect on small or large businesses. There is no anticipated economic cost to persons who are required to comply with the section as proposed.

Comments on the proposal may be submitted to Jim Pollard, Assistant Commissioner for Regulatory Programs, Texas Department of Agriculture, P.O. Box 12847, Austin, Texas 78711. Comments must be received no later than 30 days from the date of publication of the proposal in the *Texas Register*.

The new section is proposed under the Texas Agriculture Code, §18.002, which provides the Texas Department of Agriculture with the authority to adopt rules necessary for administration and enforcement of the department's organic certification program.

The Texas Agriculture Code, Chapter 18 and Chapter 74, Subchapter D, is affected by this proposal.

§18.18. Expiration Provision. Unless specifically acted upon by amendment or repeal and substitution of a new section or sections in accordance with the Texas Government Code, Chapter 2001, Subchapter B, or specific reactivation by the department, all of the sections in this chapter shall expire on August 31, 1996.

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 24, 1995.

TRD-9506312 Dolores Alvarado Hibbs
Chief Administrative Law
Judge
Texas Department of
Agriculture

Earliest possible date of adoption: June 30, 1995

For further information, please call: (512) 463-7583

Chapter 19. Seed Division

Texas Seed Law

• 4 TAC §19.14

The Texas Department of Agriculture (the department) proposes new §19.14, concerning expiration provision. The new section is proposed to require the department to review all section in Chapter 19 and determine what, if any, sections need to be repealed, replaced or amended. The new section provides an expiration date of August 31, 1996, for all

sections that are not repealed, amended, or reaffirmed by the department by that date.

Jim Pollard, assistant commissioner for regulatory programs, has determined that for the first five-year period the section is in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the section.

Mr. Pollard also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be the clarification of existing regulations and elimination of unnecessary regulations. There will be no effect on small or large businesses. There is no anticipated economic cost to persons who are required to comply with the section as proposed.

Comments on the proposal may be submitted to Jim Pollard, Texas Department of Agriculture, P.O. Box 12847, Austin, Texas 78711. Comments must be received no later than 30 days from the date of publication of the proposal in the *Texas Register*.

The new section is proposed under the Texas Agriculture Code, §61.002, which provides the Texas Department of Agriculture with the authority to adopt rules necessary to administer and enforce the Texas Seed Law.

The Texas Agriculture Code, Chapter 61, is affected by this proposal.

§19.14. Expiration Provision. Unless specifically acted upon by amendment or repeal and substitution of a new section or sections in accordance with the Texas Government Code, Chapter 2001, Subchapter B, or specific reactivation by the department, all of the sections in this chapter shall expire on August 31, 1996.

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 24, 1995.

TRD-9506313 Dolores Alvarado Hibbs
Chief Administrative Law
Judge
Texas Department of
Agriculture

Earliest possible date of adoption: June 30, 1995

For further information, please call: (512) 463-7583



Chapter 27. Aquaculture Regulations

• 4 TAC §27.150

The Texas Department of Agriculture (the department) proposes new §27.150, concerning expiration provision. The new section is proposed to require the department to review all sections in Chapter 27 to determine what, if any, sections need to be repealed, replaced or amended. The new section provides an expiration date of August 31, 1996, for all

sections that are not repealed, amended, or reaffirmed by the department by that date.

Jim Pollard, assistant commissioner for regulatory programs, has determined that for the first five-year period the section is in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the section.

Mr. Pollard also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be the clarification of existing regulations and elimination of unnecessary regulations. There will be no effect on small or large businesses. There is no anticipated economic cost to persons who are required to comply with the section as proposed.

Comments on the proposal may be submitted to Jim Pollard, Assistant Commissioner for Regulatory Programs, Texas Department of Agriculture, P.O. Box 12847, Austin, Texas 78711. Comments must be received no later than 30 days from the date of publication of the proposal in the *Texas Register*.

The new section is proposed under the Texas Agriculture Code, §134.005, which provides the Texas Department of Agriculture with the authority to carry out the aquaculture program.

The Texas Agriculture Code, §134.005, is affected by this proposal.

§27.150. Expiration Provision. Unless specifically acted upon by amendment or repeal and substitution of a new section or sections in accordance with the Texas Government Code, Chapter 2001, Subchapter B, or specific reactivation by the department, all of the sections in this chapter shall expire on August 31, 1996.

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 24, 1995

TRD-9506314 Dolores Alvarado Hibbs
Chief Administrative Law
Judge
Texas Department of
Agriculture

Earliest possible date of adoption: June 30, 1995

For further information, please call: (512) 463-7583



TITLE 13. CULTURAL RESOURCES

Part I. Texas State Library and Archives Commission

Chapter 6. State Records

Standards and Procedures for Management of Electronic Records

• 13 TAC §§6.91-6.98

The Texas State Library and Archives Commission proposes amendments to §§6.91-6.98, concerning standards and procedures for the management of electronic records of state agencies. Amendments are proposed to §6.91 to remove distinctions between records of varying retention periods, as these distinctions serve no purpose in the context of the requirements of these sections. Amendments are proposed to §6.96(b)(1)(B) and §6.98(c) to set out in full, rather than by reference, requirements concerning temperature and humidity requirements for the storage of optical disks and the expungement of information from a certain type of optical disk. Amendments are proposed in all sections to remove references to local governments in order to make these sections language specific to state agencies. Simultaneous amendments are being proposed to §§7.71-7.78 of 13 TAC to remove references to state agencies to make those sections language specific to local governments. An amendment is proposed to §6.96(g)(4) to establish a standard for the scanning of microfilm.

William L. Dyess, Director, State and Local Records Management Division, has determined that for each of the first five years the sections are in effect there will be no fiscal implications for state and local government as a result of enforcing or administering the sections.

Mr. Dyess also has determined that for each year of the first five years the sections as proposed are in effect the public benefits anticipated as a result of enforcing the sections as proposed will be that the requirements are more clearly stated and accessible to state agency officials. All amendments are proposed as the result of comments received from those whom the sections effect. There will be no effect on small businesses. There is no anticipated economic cost to persons required to comply with the sections as proposed.

Comments on the proposal may be submitted to Elizabeth Love, Program Planning and Research Specialist, State and Local Records Management Division, Texas State Library, P.O. Box 12927, Austin, Texas 78711-2927, within 30 days of publication in the *Texas Register*.

The amendments are proposed under the Government Code, §441.032(b)(1) and §441.037(5), which provides the Texas State Library and Archives Commission with the authority to manage all state records with the

cooperation of the heads of the various departments and institutions in charge of the records and to issue rules, standards, and procedures for the efficient management of state records.

The Government Code, §441.032(b)(1) and §441.037(5), is affected by the proposed amendments.

§6.91. Definitions. The following words and terms, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise. [For local governments, terms not defined in these rules shall have the meanings defined in the Local Government Code, Title 6, Subtitle C, Chapter 201. For state agencies,] Terms [terms] not defined in these sections [rules] shall have the meanings defined in the Government Code, §§441.031-441.039 and §441.051-441.062.

Electronic record—Any information that is recorded in a form for computer processing and that satisfies the definition of a state record in the Government Code, §441.031(5), or the definition of local government record data in the Local Government Code, §205.001.

Electronic records system—Any information system that produces, manipulates, and stores state [or local government] records by using a computer.

[IEC—International Electrotechnical Commission.

[ISO—International Organization for Standardization.

Long-term record—A record for which the retention period on a records retention schedule is 100 years or more but less than permanent.

Medium-term record—A record for which the retention period on a records retention schedule is ten years or more but less than 100 years.

Records custodian—The appointed or elected public officer who by the state constitution, state law, ordinance, or administrative policy is in charge of an office that creates or receives local government records.

Records management officer—Each elected county officer or the person designated by the governing body of each local government pursuant to the Local Government Code, §203.025.

Short-term record—A record for which the retention period on a records retention schedule is less than ten years.

Permanent record—A record for which the retention period on a records retention schedule is permanent.]

§6.92. General.

(a) These sections [rules] establish the minimum requirements for the maintenance, use, retention, and storage of:

(1) any electronic record of a state agency whose retention period on the agency's records retention schedule, certified under §6.4 of this title (relating to Certification of Records Retention Schedules and Amendments), is ten years or more;

(2) any electronic record of a state agency whose retention period on the *Texas State Records Retention Schedule*, adopted under §6.10 of this title (relating to Texas State Records Retention Schedule), is ten years or more, if the agency does not have a certified records retention schedule; and

(3) any archival electronic record of a state agency [all medium-term, long-term, and permanent electronic records of state agencies and local governments. These rules do not apply to short-term electronic records, but the short-term electronic records of local governments are subject to the applicable provisions of the Local Government Code, Chapter 205].

(b) (No change.)

(c) An electronic storage authorization request certifying that the requirements of these sections [rules] will be followed must be submitted to and approved by the director and librarian for all existing electronic storage [of medium-term, long-term, and permanent state or local government records and state archival records], and before any new electronic storage, of [medium-term, long-term, and permanent state or local government] records subject to this section [and state archival records]. The authorization request must be submitted in a form and manner to be determined by the director and librarian and must be signed by the agency head or designated records administrator [(for state agencies), or the records management officer (for local governments)].

(d) The agency head or designated records administrator [(for state agencies), and the governing body or records management officer in cooperation with records custodians (for local governments)] must:

(1)-(7) (No change.)

[(e) With the exception of subsections (c) and (f) of this section, which are effective immediately, state agencies and local governments must be in compliance with the Standards and Procedures for Electronic Records on or before January 2, 1995.]

(e)[(f)] Any electronic recordkeeping system not meeting the provisions of these sections [rules] may be utilized for [medium-term, long-term, or permanent state or local government records and state archival] records subject to this section provided the source document, if any, or a paper copy is maintained, or the

record is microfilmed in accordance with the specifications in *American National Standard for Imaging Media (Film) - Silver-Gelatin Type-Specifications for Stability* (ANSI IT9.1-1992 [1989 or latest revision]) [for state records or in accordance with the provisions of Local Government Code, Chapter 204, and the rules adopted under it for local government records]

§6.93. Creation and Use of Data Files

(a) (No change.)

(b) State agencies [and local governments] must maintain up-to-date technical documentation for each electronic records system that produces, uses, and stores data files. Minimum documentation required is:

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

§6.94. Creation and Use of Text Documents

(a) Electronic records systems that maintain the official file copy of text documents or data used to generate the official file copy of text documents on electronic media must meet the following minimum requirements:

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

(3) provide a standard interchange format when determined to be necessary by the agency [or local government] to permit the exchange of documents on electronic media among the components of the agency [or local government] using different software/operating systems, and

(4) (No change.)

(b) (No change.)

§6.95. Security of Electronic Records

(a) State agencies [and local governments] must implement and maintain an electronic records security program for office and storage areas that:

(1)-(5) (No change.)

(b) (No change.)

(c) For all [permanent] records stored on rewritable electronic media whose retention period is permanent, the system must ensure that read/write privileges are controlled and that an audit trail of rewrites is maintained.

§6.96. Maintenance of Electronic Records Storage Media

(a) State agencies [and local governments] must ensure that the accuracy, completeness, and accessibility of information are not lost prior to its authorized destruction date because of changing

technology or media deterioration, by converting electronic storage media and taking other action as required to provide compatibility with current hardware and software. The migration strategy for upgrading equipment as technology evolves must be documented and include:

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

(b) Paragraphs (1)-(3) of this section outline the maintenance of backup electronic media stored offsite.

(1) (No change.)

(2) The storage areas for electronic media must be maintained within the following temperatures and relative humidities:

(A) (No change.)

(B) for optical disks-14 degrees Fahrenheit to 122 degrees Fahrenheit, and 10% to 90% relative humidity [storage environmental conditions as specified in *Information technology-130 mm optical disk cartridge, write once, for information interchange* (ISO/IEC 9171-1, 1990 or latest revision)].

(3) (No change.)

(c) State agencies [and local governments] must recopy data maintained on electronic media according to the following schedule.

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

(d) Floppy disks (diskettes) or any type of flexible disk system may not be used for the exclusive storage of [medium-term, long-term, or permanent records and state archival] records subject to these sections.

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

(g) The following standards must be met for electronic records stored as digital images on optical media.

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

(4) Scanner quality must be evaluated based on the standard procedures in *American National Standard for Information and Image Management-Recommended Practice for Quality Control of Image Scanners* (ANSI/AIIM MS44-1988 [or latest revision]) and *American National Standard for Information and Image Management-Recommended Practice for Monitoring Image Quality of Roll Microfilm and Microfiche Scanners* (ANSI/AIIM MS49-1993).

(5)-(11) (No change.)

(h) (No change.)

§6.97. Retention of Electronic Records.

(a) State agencies [and local governments] must establish policies and procedures to ensure that electronic records and any software, hardware, and/or documentation, including maintenance documentation, required to retrieve and read the electronic records are retained as long as the approved retention period for the electronic records.

(b) (No change.)

(c) State records having archival value and scheduled to be preserved at the State Archives must be transferred to the State Archives as the source document, or printed out on alkaline paper for computer generated information, or on microforms that meet the specifications in *American National Standard for Imaging Media (Film)-Silver-Gelatin Type-Specifications for Stability* (ANSI IT9.1-1992 [1989 or latest revision]).

§6.98. Destruction of Electronic Records.

(a) Electronic records may be destroyed only in accordance with a records retention schedule approved by the director and librarian and the state auditor [or designee] or, in lieu of an approved records retention schedule, an approved records disposition authorization request.

(b) Each state agency [and local government] must ensure that:

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

(c) The following requirements must be met for the court ordered expungement of information recorded on an optical Write-Once-Read-Many (WORM) system:

(1) Two methods are allowed for expunging information from a WORM disk:

(A) the information may be overwritten to obliterate the original image, leaving no evidence of the original information, or;

(B) all of the indices, pages, or documents on a disk, other than the expunged document(s), must be rewritten to a new disk and the old disk must be physically destroyed.

(2) In cases where a complete page or record is expunged, all reference to the page or record must be removed from the index. If the index has been copied, the index must be recopied after the reference to the page or record has been removed.

(3) Copies of the original WORM disk and copies of the informa-

tion removed by expungement must be destroyed or changed to reflect the court order. All copies of the record, index, or reference to the original unrevised information on WORM disk copies or copies in any other media must be destroyed.

[(c) The court ordered expungement of information recorded on an optical Write-Once-Read-Many (WORM) system must be implemented according to the recommendations provided in *Technical Report for Information and Image Management-The Expungement of Information Recorded on Optical Write-Once-Read-Many (WORM) Systems* (AIIM TR28-1991 or latest revision)].

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 22, 1995.

TRD-9506200

Raymond Hitt
Assistant State Librarian
Texas State Library and
Archives Commission

Earliest possible date of adoption: June 30, 1995

For further information, please call: (512) 463-5460

Chapter 7. Local Records

Standards and Procedures for Management of Electronic Records

• 13 TAC §§7.71-7.78

The Texas State Library and Archives Commission proposes amendments to §§7.71-7.78, concerning standards and procedures for the management of electronic records of local governments. Amendments are proposed to §7.71 to remove distinctions between records of varying retention periods, as these distinctions serve no purpose in the context of the requirements of these sections. Amendments are proposed to §7.76(b)(2)(B) and §7.78(c) to set out in full, rather than by reference, requirements concerning temperature and humidity requirements for the storage of optical disks and the expungement of information from a certain type of optical disk. Amendments are proposed in all sections to remove references to state agencies in order to make these sections language specific to local governments. Simultaneous amendments are being proposed to §§6.91-6.98 of 13 TAC to remove references to local governments to make those sections language specific to state agencies. An amendment is proposed to §7.76(g)(4) to establish a standard for the scanning of microfilm.

William L. Dyess, Director, State and Local Records Management Division, has determined that for each of the first five years the sections are in effect there will be no fiscal implications for state and local government as a result of enforcing or administering the sections.

Mr. Dyess also has determined that for each year of the first five years the sections as proposed are in effect the public benefits anticipated as a result of enforcing the sections as proposed will be that the requirements are more clearly stated and accessible to local government officials. All amendments are proposed as the result of comments received from those whom the sections effect. There will be no effect on small businesses. There is no anticipated economic cost to persons required to comply with the sections as proposed.

Comments on the proposal may be submitted to Elizabeth Love, Program Planning and Research Specialist, State and Local Records Management Division, Texas State Library, P.O. Box 12927, Austin, Texas 78711-2927, within 30 days of publication in the *Texas Register*.

The amendments are proposed under the Local Government Code, §205.003(a), which provides the Texas State Library and Archives Commission with the authority to adopt rules establishing standards and procedures for the electronic storage of local government records.

The Local Government Code, §205.003, is affected by the proposed amendments.

§7.71. Definitions. The following words and terms, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise. [For local governments.] Terms [terms] not defined in these sections [rules] shall have the meanings defined in the Local Government Code, Title 6, Subtitle C, Chapter 201. [For state agencies, terms not defined in these rules shall have the meanings defined in the Government Code, §§441.031-441.039 and §441.051-441.062.]

[Archival record—A record of a state agency scheduled to be reviewed by or that has been approved by an archives for permanent preservation.]

Electronic record—Any information that is recorded in a form for computer processing and that satisfies the definition of [a state record in the Government Code, §441.031(5), or the definition of] local government record data in the Local Government Code, §205.001.

Electronic records system—Any information system that produces, manipulates, and stores [state or] local government records by using a computer.

[IEC—International Electrotechnical Commission.

[ISO—International Organization for Standardization.

[Long-term record—A record for which the retention period on a records retention schedule is 100 years or more but less than permanent.

[Medium-term record—A record for which the retention period on a records retention schedule is ten years or more but less than 100 years.

[Records administrator—The person appointed by the head of each state agency to act as the agency's representative in all issues of records management policy, responsibility, and statutory compliance.

[Short-term record—A record for which the retention period on a records retention schedule is less than ten years.

[Permanent record—A record for which the retention period on a records retention schedule is permanent.]

§7.72. General.

(a) These sections [rules] establish the minimum requirements for the maintenance, use, retention, and storage of any electronic record of a local government whose retention period is ten years or more on a records retention schedule adopted under §7.125 of this title (relating to Records Retention Schedules) [all medium-term, long-term, and permanent electronic records of state agencies and local governments, and archival electronic records of state agencies]. These sections [rules] do not apply to [short-term] electronic records with retention periods of less than ten years, but they [the short-term electronic records of local governments] are subject to the applicable provisions of the Local Government Code, Chapter 205.

(b) (No change.)

(c) An electronic storage authorization request certifying that the requirements of these sections [rules] will be followed must be submitted to and approved by the director and librarian for all existing electronic storage [of medium-term, long-term, and permanent state or local government records and state archival records], and before any new electronic storage, of [medium-term, long-term, and permanent state or local government] records subject to this section [and state archival records]. The authorization request must be submitted in a form and manner to be determined by the director and librarian and must be signed by the [agency head or designated records administrator (for state agencies), or the] records management officer [(for local governments)].

(d) The [agency head or designated records administrator (for state agencies), and the] governing body of a local government and [or] its records management officer in cooperation with records custodians [(for local governments)] must:

(1) (No change.)

(2) integrate the management of electronic records with other records and information resources management programs [of the agency];

(3) incorporate electronic records management objectives, responsibility,

and authorities in pertinent [agency] directives;

(4)-(7) (No change.)

[(e) With the exception of subsections (c) and (f) of this section, which are effective immediately, state agencies and local governments must be in compliance with the Standards and Procedures for Electronic Records on or before January 2, 1995.]

(e)[(f)] Any electronic recordkeeping system not meeting the provisions of these sections [rules] may be utilized for [medium-term, long-term, or permanent state or local government records and state archival] records subject to this section provided the source document, if any, or a paper copy is maintained, or the record is microfilmed in accordance with the [specifications in *American National Standard for Imaging Media (Film) - Silver-Gelatin Type-Specifications for Stability* (ANSI IT9.1-1989 or latest revision) for state records or in accordance with the] provisions of Local Government Code, Chapter 204, and the rules adopted under it [for local government records].

§7.73. Creation and Use of Data Files.

(a) (No change.)

(b) [State agencies and] Local [local] governments must maintain up-to-date technical documentation for each electronic records system that produces, uses, and stores data files. Minimum documentation required is:

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

§7.74. Creation and Use of Text Documents.

(a) Electronic records systems that maintain the official file copy of text documents or data used to generate the official file copy of text documents on electronic media must meet the following minimum requirements:

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

(3) provide a standard interchange format when determined to be necessary by the [agency or] local government to permit the exchange of documents on electronic media among the components of the [agency or] local government using different software/operating systems; and

(4) provide for the disposition of the documents [including, when necessary, the requirements for transferring archival records to the State Archives as detailed in §6.97 of this title (relating to Retention of Electronic Records)].

(b) A document created on an electronic records system must be identified

sufficiently to enable authorized personnel to retrieve, protect, and carry out the disposition of documents in the system. Local governments [Agencies] must ensure that records maintained in such systems can be correlated with related records on paper, microform, or other media.

§7.75 Security of Electronic Records

(a) [State agencies and] Local [local] governments must implement and maintain an electronic records security program for office and storage areas that:

(1)-(5) (No change.)

(b) (No change.)

(c) For all [permanent] records stored on rewritable electronic media whose retention period is permanent, the system must ensure that read/write privileges are controlled and that an audit trail of rewrites is maintained

§7.76. Maintenance of Electronic Records Storage Media.

(a) [State agencies and] Local [local] governments must ensure that the accuracy, completeness, and accessibility of information are not lost prior to its authorized destruction date because of changing technology or media deterioration, by converting electronic storage media and taking other action as required to provide compatibility with current hardware and software. The migration strategy for upgrading equipment as technology evolves must be documented and include.

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

(b) Paragraphs (1)-(3) of this section outline the maintenance of backup electronic media stored offsite.

(1) (No change.)

(2) The storage areas for electronic media must be maintained within the following temperatures and relative humidities.

(A) (No change.)

(B) for optical disks-14 degrees Fahrenheit to 122 degrees Fahrenheit, and 10% to 90% relative humidity [storage environmental conditions as specified in *Information technology-130 mm optical disk cartridge, write once, for information interchange* (ISO/IEC 9171-1, 1990 or latest revision)].

(3) (No change.)

(c) [State agencies and] Local [local] governments must recopy data maintained on electronic media according to the following schedule.

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

(d) Floppy disks (diskettes) or any type of flexible disk system may not be used for the exclusive storage of [medium-term, long-term, or permanent records and state archival] records subject to these sections.

(e) (No change.)

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

(f) (No change.)

(1)-(10) (No change.)

(g) The following standards must be met for electronic records stored as digital images on optical media.

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

(4) Scanner quality must be evaluated based on the standard procedures in *American National Standard for Information and Image Management-Recommended Practice for Quality Control of Image Scanners* (ANSI/AIIM MS44-1988 [or latest revision]) and *American National Standard for Information and Image Management-Recommended Practice for Monitoring Image Quality of Roll Microfilm and Microfiche Scanners* (ANSI/AIIM MS49-1993).

(5)-(11) (No change.)

(h) (No change.)

§7.77. Retention of Electronic Records.

(a) [State agencies and] Local [local] governments must establish policies and procedures to ensure that electronic records and any software, hardware, and/or documentation, including maintenance documentation, required to retrieve and read the electronic records are retained as long as the approved retention period for the electronic records.

(b) (No change.)

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

[(c) State records having archival value and scheduled to be preserved at the State Archives must be transferred to the State Archives as the source document, or printed out on alkaline paper for computer generated information, or on microforms that meet the specifications in *American National Standard for Imaging Media (Film)-Silver-Gelatin Type-Specifications for Stability* (ANSI IT9.1-1989 or latest revision).]

§7.78. Destruction of Electronic Records.

(a) Electronic records may be destroyed only in accordance with the Local Government Code, §202.001 [with a records schedule approved by the director and librarian or designee or, in lieu of an ap-

proved records schedule, an approved records disposition authorization request].

(b) Each [state agency and] local government must ensure that:

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

(c) The following requirements must be met for the court ordered expungement of information recorded on an optical Write-Once-Read-Many (WORM) system:

(1) Two methods are allowed for expunging information from a WORM disk:

(A) the information may be overwritten to obliterate the original image, leaving no evidence of the original information, or;

(B) all of the indices, pages, or documents on a disk, other than the expunged document(s), must be rewritten to a new disk and the old disk must be physically destroyed.

(2) In cases where a complete page or record is expunged, all reference to the page or record must be removed from the index. If the index has been copied, the index must be recopied after the reference to the page or record has been removed.

(3) Copies of the original WORM disk and copies of the information removed by expungement must be destroyed or changed to reflect the court order. All copies of the record, index, or reference to the original unrevised information on WORM disk copies or copies in any other media must be destroyed [The court ordered expungement of information recorded on an optical Write-Once-Read-Many (WORM) system must be implemented according to the recommendations provided in *Technical Report for Information and Image Management-The Expungement of Information Recorded on Optical Write-Once-Read-Many (WORM) Systems* (AIIM TR28-1991 or latest revision)].

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 22, 1995.

TRD-9506201

Raymond Hitt
Assistant State Librarian
Texas State Library and
Archives Commission

Earliest possible date of adoption: June 30, 1995

For further information, please call: (512) 463-5460

TITLE 22. EXAMINING BOARDS

Part IX. Texas State Board of Medical Examiners

Chapter 163. Licensure

• 22 TAC §163.16

The Texas State Board of Medical Examiners proposes new §163.16, concerning a special temporary license for endorsement applicants. This proposed temporary license will be issued to primary care physicians practicing in rural counties or medically underserved areas in Texas. The executive director will have the discretion to issue this temporary license if he determines that it is in the best interest of the public and that the health and welfare of the public will not be endangered.

Tim Weitz, General Counsel, has determined that for the first five-year period the section is in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the section.

Mr. Weitz also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be to provide health care to underserved areas sooner than otherwise could have been accomplished. There will be no effect on small businesses. The cost to persons who are required to comply with the section as proposed will be the \$50 temporary license fee.

Comments on the proposal may be submitted to Pat Wood, P.O. Box 149134, Austin, Texas 78714-9134. A public hearing will be held at a later date.

The new section is proposed under the Medical Practice Act, Texas Civil Statutes, Article 4495b, §2.09(a), which provide the Texas State Board of Medical Examiners with the authority to make rules, regulations and by-laws not inconsistent with this Act as may be necessary for the governing of its own proceedings, the performance of its duties, the regulation of the practice of medicine in this state, and the enforcement of this Act.

Article 4495b, §3.03, is affected by this new section.

§163.16. Temporary Licensure of Primary Care Physicians for Practice in Rural Counties or Medically Underserved Areas in Texas.

(a) This rule is adopted to provide assistance to rural counties and medically underserved areas in Texas in meeting their needs in the area of primary medical care.

(b) If the executive director of the board determines that it is in the best interest of the public and that the health and welfare of the public will not be endangered, but will be served, the executive director of the board may, at his discretion, issue a temporary license to an endorsement applicant:

(1) who has a completed application that has been filed, processed, and found to be in order;

(2) who has successfully completed a three-year primary care graduate medical training program in Texas that was approved by the board on the date the training was completed;

(3) who has met all requirements for licensure, except:

(A) certification by a specialty board that is a member of the American Board of Medical Specialties or the Advisory Board for Osteopathic Specialists, if such certification is required for licensure; and

(B) valid certification by the Educational Commission for Foreign Medical Graduates, if such certification is required for licensure;

(4) who has a valid contract to provide medical services in a rural county or medically underserved area in Texas; and

(5) who has passed the Texas medical jurisprudence examination.

(c) Any temporary license issued under this section shall be valid for a continuous one-year period; however, such a temporary license may be renewed for up to two additional one-year periods, at the discretion of the executive director, only if necessary for the temporary licensee to meet any requirement relating to continuous unsupervised medical practice set as a prerequisite for specialty board examination for the specific medical specialty in which the temporary licensee is seeking specialty board certification and to obtain a valid certificate issued by the Educational Commission for Foreign Medical Graduates.

(d) Any temporary license issued under this section shall be restricted so as to allow the temporary licensee to practice medicine only within the context of the contract for medical services in a rural county or medically underserved area in Texas.

(e) Any temporary license issued under this section shall expire upon termination of the physician's contract to practice medicine in a rural county or medically underserved area in Texas.

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 17, 1995.

TRD-9506125

Bruce A. Levy, M.D., J.D.
Executive Director
Texas State Board of
Medical Examiners

Earliest possible date of adoption: June 30, 1995

For further information, please call: (512) 834-7728

TITLE 30. ENVIRONMENTAL QUALITY

Part I. Texas Natural Resource Conservation Commission

Chapter 101. General Rules

• 30 TAC §101.24, §101.27

The Texas Natural Resource Conservation Commission (TNRCC or Commission) proposes amendments to §101.24 and §101.27, concerning the collection of inspection and emissions fees from stationary sources.

The proposed changes to §101.24 update the reference from the Texas Air Control Board (TACB) to the TNRCC and make other editorial improvements to the section. A provision has been added to retain \$25 on all inspection fee refunds issued by the agency to cover processing costs. In addition, the existing Inspection Fee Schedule, dated August 30, 1991, is being incorporated into the rule language to satisfy new *Texas Register* requirements to include enforceable rule provisions within the rule language. This is an administrative change only and no changes to the fee rates are proposed.

The proposed changes to §101.27 update the reference from the TACB to the TNRCC, make several editorial improvements to the section, and add the provision to retain \$25 on all emission fee refunds issued by the agency to cover processing costs. Additionally, the fees for the next biennium are being set at \$27 per ton of emissions for fiscal year (FY) 96 and \$28 per ton of emissions for FY97. These are \$1.00 per ton increases for each year and are inflation adjustments as required in the Environmental Protection Agency rules under Title 40 Code of Federal Regulations, Part 70.

Stephen Minick, Strategic Planning and Appropriations Division, has determined that for the first five-year period the sections are in effect there will be fiscal implications for state and local government as a result of enforcing or administering the sections. Revenues to state government are anticipated to increase by a total of \$1.5 million in fiscal year 1996, and \$3 million for each of the fiscal years 1997-2000, or a total of \$13.5 million for the five-year period. No significant costs to the Commission are anticipated. Other units of government that operate major sources of emissions, including local units of government, state agencies, higher education facilities, and federal installations will realize increased costs of annual emission fees equivalent to the increases for other affected facilities. The increases will vary on a case-by-case basis with the type of emissions source and/or amounts of emissions subject to assessment. Generally, major emission sources operated by affected units of govern-

ment and private entities will realize a cost increase of \$1.00 per ton of emission in each of the next two years. This amount represents an average increase over the two-year period of approximately 3.8%.

Mr. Mirnick also has determined that for each year of the first five years the sections are in effect the public benefit anticipated as a result of enforcing the sections will be compliance with the provisions of the Federal Clean Air Act and the maintenance of fund balances to support future needs of state clean air programs. There will be no direct or significant effect on small businesses. There are no additional economic costs anticipated for persons who are required to comply with the sections as proposed.

A public hearing on the proposal will be held June 8, 1995, at 10.00 a.m. in Room 365S of TNRCC Building E, located at 12118 North IH-35, Park 35 Technology Center, Austin. The hearing is structured for the receipt of oral or written comments by interested persons. Individuals may present oral statements when called upon in order of registration. Open discussion within the audience will not occur during the hearing, however, a TNRCC staff member will be available to discuss the proposal 30 minutes prior to the hearing and will answer questions before and after the hearing.

Written comments not presented at the hearing may be submitted to the TNRCC central office in Austin through June 8, 1995. Material received by the TNRCC Office of Policy and Regulatory Development by 4:00 p.m. on June 8, 1995, will be considered by the Commission prior to any final action on the proposal. Please mail written comments to Lisa Martin, Office of Policy and Regulatory Development, MC 205, P.O. Box 13087, Austin, Texas 78711-3087, and reference Rules Tracking Log #95089-101-AI. Copies of the proposed rules are available at the central office of the TNRCC located at 12118 North IH-35, Park 35 Technology Center, Building E, Austin, and at all TNRCC regional offices. For further information, please contact Al Langley at (512) 239-1549.

Persons with disabilities who have special communication or other accommodation needs who are planning to attend the hearing should contact the agency at (512) 239-4900. Requests should be made as far in advance as possible.

The amendments are proposed under the Texas Health and Safety Code, the Texas Clean Air Act (TCAA), §382.017, which provides the TNRCC with the authority to adopt rules consistent with the policy and purposes of the TCAA.

The proposed amendments affect the Texas Health and Safety Code, §382.062 and §382.0621.

§101.24. Inspection Fees.

(a) Applicability. The owner or operator of each account to which this rule applies, as defined in this subsection, shall remit to the Texas Natural Resource Conservation Commission (TNRCC) [Air

Control Board (TACB) or any successor or agency successor] an inspection fee each fiscal year. A fiscal year is defined as the period from September 1 through August 31. A fiscal year, having the same number as the next calendar year, begins on the September 1 prior to that calendar year. An account subject to both an inspection fee and an emissions fee, pursuant to §101.27 of this title (relating to Emissions Fees), is required to pay only the greater of the two fees. For purposes of this section, an account shall be defined as all of the facilities located at a property, including those that are permitted, non-permitted, exempted, and grandfathered. Properties under common ownership, but containing separate operations, or managed independently, or carried on the records of this agency under separate account numbers, will be charged a separate fee for each such account, even if the properties are contiguous or are contiguous except for intervening roads, railroads, rights-of-way, waterways, and the like. The inspection fee shall apply to each account which contains one or more of the types of plants, facilities, and/or processes described in subsection (d) of this section [the TACB Inspection Fee Schedule, dated August 30, 1991, as filed with the Secretary of State's Office and herein adopted by reference]. References for the industrial categories used are provided in the *Standard Industrial Classification (SIC) Manual* (Executive Office of the President, Office of Management and Budget, 1987). If more than one SIC category can apply to an account, the fee assessed shall be the highest fee listed for the applicable classifications in the fee schedule. Provisions of the section apply to all accounts, including accounts which have not been assigned specific TNRCC Office of Air Quality [TACB] account numbers. The owner or operator of an account subject to an inspection fee requirement is responsible for contacting the appropriate TNRCC [TACB] regional office to obtain an account number. The TNRCC [TACB] will not initiate the combination or separation of accounts solely for fee assessment purposes. If an account is operated at any time during the fiscal year for which the fee is assessed, a full inspection fee is due. In the event that an account is not operated for the entire fiscal year for which the fee is assessed, an inspection fee is not due, provided the TNRCC [TACB] is notified in writing that the plant is not and will not be in operation during that fiscal year. If an account commences or resumes operation later during the fiscal year, a full inspection fee will be due prior to commencement or resumption of operations.

(b) Payment. Fees shall be remitted by check or money order made payable to the TNRCC and sent to the TNRCC address printed on the fee return form

[Texas Air Control Board or any successor or agency successor, (Attention: Inspection Fees), 12124 Park 35 Circle, Austin, Texas 78753, in the form of a check or money order made payable to the Texas Air Control Board.] A completed fee return form shall accompany fees remitted. The fee return form shall include, at least, the company name, [property address,] mailing address, site name, TNRCC Office of Air Quality [TACB] account number, the SIC category on which the fee was determined, and the name and telephone number of the person to contact in case questions arise regarding the fee payment.

(c) Schedule. Fees shall be due annually and payable according to the following schedule. Fee payments for a fiscal year must be received or postmarked no later than the indicated due date as follows:

(1) Figure 1: 30 TAC §101.24(c)

(2) There will be a \$25 administrative processing charge on any refunds issued by the TNRCC.

(d) Inspection fee schedule. The inspection fee schedule is as follows. Figure 2: 30 TAC §101.24(d)

(e)[(d)] Nonpayment of fees. Each inspection fee payment must be received by the due date specified in subsection (c) of this section. Failure to remit the full inspection fee by the due date shall result in enforcement action under the Texas Clean Air Act, §382.082 or §382.088. In addition, §382.091(a)(2) makes it a criminal offense to intentionally or knowingly fail to pay a required fee [provides for criminal penalties for those failing to pay fees]. The provisions of this section, as first adopted and as amended thereafter, are and shall remain in effect for purposes of any unpaid fee assessments, and the fees assessed pursuant to such provisions as adopted or as amended remain a continuing obligation.

§101.27. Emissions Fees.

(a) Applicability. The owner or operator of each account to which this rule applies, as defined in this subsection, shall remit to the Texas Natural Resource Conservation Commission (TNRCC or Commission) [Air Control Board (TACB) or any successor or agency successor] an emissions fee each fiscal year. A fiscal year is defined as the period from September 1 through August 31. A fiscal year, having the same number as the next calendar year, begins on the September 1 prior to that calendar year. An account subject to both an emissions fee and an inspection fee, pursuant to §101.24 of this title (relating to Inspection Fees), is required to pay only the greater of the two fees. For purposes of this section, an account shall be defined as all of

the facilities located at a property including those that are permitted, non-permitted, exempted, and grandfathered. Properties under common ownership, but containing separate operations, or managed independently, or carried on the records of this agency under separate account numbers, will be charged a separate fee for each such account, even if the properties are contiguous or are contiguous except for intervening roads, railroads, rights-of-way, waterways, and the like. Provisions of the section apply to all accounts, including accounts which have not been assigned specific **TNRCC Office of Air Quality [TACB]** account numbers. The owner or operator of an account subject to an emissions fee requirement is responsible for contacting the appropriate **TNRCC [TACB]** regional office to obtain an account number. The **TNRCC [TACB]** will not initiate the combination or separation of accounts solely for fee assessment purposes. If an account is operated at any time during the fiscal year for which the fee is assessed, a full emissions fee is due. [In the event that an account is not operated for the entire fiscal year for which the fee is assessed, an emissions fee is not due, provided] If the **TNRCC [TACB]** is notified in writing that the plant is not and will not be in operation during that fiscal year, a fee will not be due. If an account commences or resumes operation later during the fiscal year, a full emissions fee will be due prior to commencement or resumption of operations. All regulated air pollutants, as defined in subsection (c)(3) of this section, including, but not limited to, those emissions from point and fugitive sources during normal operations with the exception of (for applicability purposes only) hydrogen, oxygen, carbon dioxide, water, nitrogen, methane, and ethane, are used to determine applicability of this section. In accordance with rules proposed by the United States Environmental Protection Agency (EPA) at 40 Code of Federal Regulations (CFR) 70, concerning the use of fugitive emissions in major source determinations, fugitive emissions shall be considered toward applicability of this section only for those source categories listed at 40 CFR 51.166(b)(1) (iii). For purposes of this section, an affected account shall have met one or more of the following conditions:

(1)-(9) (No change.)

(b) Payment. Fees shall be remitted by check or money order made payable to the **TNRCC** and sent to the **TNRCC** address printed on the fee return form [Texas Air Control Board or any successor or agency successor, (Attention: Emissions Fees), 12124 Park 35 Circle, Austin, Texas 78753, in the form of a check or money order made payable to the Texas Air Control Board]. A completed fee return form shall accompany fees remitted. The fee return form shall include, at least, the com-

pany name, [property address.] mailing address, site name, **TNRCC Office of Air Quality [TACB]** account number, **Standard Industrial Classification (SIC) category**, the allowable levels and/or actual emissions of all regulated air pollutants at the account for the reporting period, and the name and telephone number of the person to contact in case questions arise regarding the fee payment.

(c) Basis for fees.

(1) The emissions fee shall be based on allowable levels and/or actual emissions at the account during the last full calendar year preceding the beginning of the fiscal year for which the fee is assessed. For purposes of this section, the term "allowable levels" are those limits as specified in an enforceable document such as a permit or Commission Order which are in effect on the date the fee is due. The fee applies to the tonnage of regulated pollutants at the account, including those emissions from point and fugitive sources during normal operations. Although certain fugitive emissions are excluded for applicability determination purposes pursuant to subsection (a) of this section, all fugitive emissions must be considered for fee calculations after applicability of the fee has been established. A maximum of 4,000 tons of each regulated pollutant will be used for fee calculations. The fee for each fiscal year is set at the following rates:
Figure 3: 30 TAC §101.27(c)(1)

(2) The emissions tonnage for the account for fee calculation purposes will be the sum of those allowable levels and/or actual emissions for individual emission points or process units at the account rounded up to the nearest whole number, as follows.

(A) Where there is an enforceable document, such as a permit or Commission [Board] Order, establishing allowable levels, actual emissions may be used only if a completed Emissions Inventory Questionnaire for the account is submitted with the fee payment. For stacks or vents, the inventory must include verifiable data based on continuous emission monitor measurements, other continuously monitored values, such as fuel usage and fuel analysis, or stack testing performed during normal operations using EPA approved methods and quality-assured by the **TNRCC Office of Air Quality [TACB]**. All measurements, monitored values, or testing must have been performed during the basis year as defined in subsection (c)(1) of this section. Actual emission rates may be based upon calculations for fugitive sources, flares, and storage tanks. Actual production, throughput, and measurement records must be submitted, along with complete documentation of calculation methods.

Thorough justification is required for all assumptions made and factors used in such calculations. If the actual emissions rate submitted for fee purposes is less than 60% of the allowable emission rate, an explanation of the discrepancy must be submitted. [The Executive Director shall consider and, where appropriate, may institute proceedings pursuant to §103.31 of this title (relating to Calling the Hearing) and establish agency procedures to lower allowable emissions contained in a permit if the Executive Director determines that the allowable levels appear to be significantly greater than the actual levels demonstrated during the facility's operational history.] Where inadequate or incomplete documentation is submitted, the Executive Director may direct that the fee be based on allowable levels. Where a complete and verifiable inventory is not submitted, allowable levels shall be used.

(B) Where there is not an enforceable document, such as a permit or a Commission [Board] Order, establishing allowable levels actual emissions shall be used. Actual production, throughput, or measurement records must be submitted along with complete documentation of calculation methods. Thorough justification is required for all assumptions made and factors used in such calculations.

(3) For purposes of this section, the term "regulated pollutant" shall include any VOC, any pollutant subject to the FCAA, §111, any pollutant listed as a hazardous air pollutant under the FCAA, §112, each pollutant for which a national primary ambient air quality standard has been promulgated (including carbon monoxide), and any other air pollutant subject to requirements under **TNRCC [TACB]** rules, regulations, permits, orders of the Commission [Board], or court orders. The term "normal operations" shall mean all operations other than those reported to the **TNRCC [TACB]** in response to the requirements of §101.6 of this title (relating to Notification Requirements for Major Upset) or §101.7 of this title (relating to Notification Requirements for Maintenance).

(d) Schedule. Fees shall be due annually and payable according to the following schedule. Fee payments for a fiscal year must be received or postmarked no later than the indicated due date as follows:

(1) Figure 4: 30 TAC §101.27(d)

(2) There will be a \$25 administrative processing charge on any refunds issued by the **TNRCC**.

(e) Nonpayment of fees. Each emissions fee payment must be received by the due date specified in subsection (d) of this section. Failure to remit the full emis-

sions fee by the due date shall result in enforcement action under the Texas Health and Safety Code, §382.082 or §332.088. In addition, §382.091(a)(2) makes it a criminal offense to intentionally or knowingly fail to pay a required fee [provides for criminal penalties for those failing to pay fees]. The provisions of this section, as first adopted and amended thereafter, are and shall remain in effect for purposes of any unpaid fee assessments, and the fees assessed pursuant to such provisions as adopted or as amended remain a continuing obligation.

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 16, 1995.

TRD-9506287

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

Proposed date of adoption: July 5, 1995

For further information, please call: (512) 239-1966

TITLE 31. NATURAL RESOURCES AND CONSERVATION

Part I. General Land Office

Chapter 16. Coastal Protection

• 31 TAC §§16.1-16.4

The General Land Office (GLO), with the approval of the School Land Board (SLB), proposes new §§16.1-16.4, concerning goals and policies relating to coastal natural resource areas (CNRAs), as required by the rules of the Coastal Coordination Council (council) as set out in Part XVI of this title (relating to Coastal Coordination Council). The proposed new rules are consistent with the Coastal Management Program (CMP) goals and policies as those goals and policies relate to CNRAs, and establish thresholds (typically based on quantitative measurements) for certain actions taken by the GLO or the SLB. Because the council reserves its right to review the most significant actions of "front line" agencies like the GLO and the SLB, the council will not review actions taken by the GLO or the SLB that fall below the thresholds, except in the circumstances described in §505.32(a)(C) of this title (relating to Requirements for Referral of an Individual Agency Action).

Pursuant to §33.204(a) of the Coastal Coordination Act (Texas Natural Resources Code, Chapter 33, Subchapter F, §§33.201-33.208), the council promulgated rules adopting CMP goals and policies. Part XVI of this title (relating to Coastal Coordination Council). Part XVI of this title (relating to Coastal Coordination

Council) consists of Chapters 501 and 503-506 (relating to Council Procedures; Coastal Management Program; Special Area Management Planning; Council Procedures for State Consistency with Coastal Program Goals and Policies; and Council Procedures for Federal Consistency with Coastal Program Goals and Policies, respectively). Chapters 501 and 504-506 were published in the September 27, 1994, issue of the *Texas Register* (19 TexReg 7606); Chapter 503 was published in the November 9, 1993, issue of the *Texas Register* (18 TexReg 8221) and amended in the December 13, 1994, issue of the *Texas Register* (18 TexReg 9887). Part XVI of this title (relating to Coastal Coordination Council) describes the council's coordinated approach to managing coastal natural resources by establishing the CMP goals and policies based on council findings about coastal natural resources and their competing uses. That part is designed to ensure that agencies and subdivisions exercise their current authority within the framework of the CMP goals and policies to encourage better government management practices affecting coastal natural resources. The CMP goals and policies established in §§501.12-501.15 of this title (relating to Goals; Administrative Policies; Policies for Specific Activities and Coastal Natural Resource Areas; and Policy for Major Actions, respectively) only apply to the agencies, municipalities, counties, activities, and actions identified in the part and are the basis for council consistency review under Chapter 505 of this title (relating to Council Procedures for State Consistency with Coastal Management Program Goals and Policies).

Because the CMP is a networked, not a centralized, program, front line agencies must determine how the CMP goals and policies apply to their own actions. For that reason, Section 501.10(a) of this title (relating to Compliance with Goals and Policies) requires the GLO and the SLB, among other agencies, to comply with the goals and policies of §§501.12-501.15 of this title (relating to Goals; Administrative Policies; Policies for Specific Activities and Coastal Natural Resource Areas; and Policy for Major Actions, respectively) when taking or authorizing an action listed in §505.11 of this title (relating to Actions and Rules Subject to the Coastal Management Program) that may adversely affect a CNRA.

Proposed new §§16.1-16.4 are intended to ensure that the relevant actions listed in §505.11 of this title (relating to Actions and Rules Subject to the Coastal Management Program) taken by the GLO and the SLB comply with the CMP goals and policies in §§501.12-501.15 of this title (relating to Goals; Administrative Policies; Policies for Specific Activities and Coastal Natural Resource Areas; and Policy for Major Actions, respectively). Following adoption of new §§16.1-16.4, the GLO and the SLB intend to seek council certification of their rules governing or authorizing actions listed in §505.11(a) of this title (relating to Actions and Rules Subject to the Coastal Management Program) pursuant to §505.20 of this title (relating to Council Review and Certification of Existing Agency Rules).

Proposed §16.1(a) defines certain terms used in the new chapter. Section 16.1(b) lists the actions to which the new Chapter 16 applies. The list in §16.1(b) is based on legislation affecting Chapter 33 of the Texas Natural Resources Code, which legislation the GLO and the SLB anticipate will become law before this rule is adopted. Section 16.1(c) clarifies the scope of the new Chapter 16. The second sentence of §16.1(c) provides that the chapter applies only to actions listed in subsection (b) of this section for which an application was filed after the effective date of either this chapter or Chapters 501 and 505 of this title (relating to Council Procedures and Council Procedures for State Consistency with Coastal Program Goals and Policies), whichever is later.

Proposed §16.2 establishes general goals and policies regarding the actions listed in §16.1(b). Proposed §16.2 also establishes the GLO and SLB goals regarding major actions, which are those authorizing an activity involving a federal action for which a federal environmental impact statement is required. Finally, §16.2(d)-(g) describe certain determinations, explanations, statements, and records that the GLO and the SLB must include or maintain in connection with documents approving or authorizing an action listed in proposed §16.1(b). Proposed §16.3 establishes specific policies for certain activities that may adversely affect CNRAs.

Proposed §16.4 establishes thresholds for referral of certain GLO or SLB actions for the council's consistency review. One of the stated CMP goals is that, when an agency takes a listed action that may adversely affect a CNRA, the action be taken in compliance with the CMP goals and policies. The CMP describes a process by which the agency can, in the first instance, determine whether its own action is consistent with the CMP. Pursuant to §505.10(a)(2) of this title (relating to Purpose and Policy), the council has made a policy decision to solicit and ensure adequate review at the agency level. Only those actions that present unique or significant consistency issues are expected to be reviewed by the council. As a result, the council anticipates reviewing fewer agency actions than if it were not requiring agencies to monitor their own actions for consistency with CMP goals and policies. Similarly, under certain circumstances, the council has decided to forego review of agency actions of smaller scope and/or less impact to allow it to expend its limited resources on actions likely to have major impacts on CNRAs. To implement that policy, expressed in §505.26 of this title (relating to Council Review and Approval of Thresholds for Referral), an agency may develop, and submit to the council for certification, thresholds relating to agency actions that otherwise could be referred to the council for review. If the council certifies an agency's thresholds, then, under most circumstances, it will presume that the agency's actions below those thresholds are consistent with the CMP goals and policies, and the council will not subject those actions to a consistency review (Agency actions falling below a threshold may be referred for consistency review under certain circumstances described in §505.32(a)(4)(C) of this title (relating to

Requirements for Referral of an Individual Agency Action.)

Proposed new §16.4 identifies thresholds for certain GLO and SLB actions that may adversely affect CNRAs, including hard mineral lease plans of operations, geophysical and geochemical permits, miscellaneous easements, surface leases, coastal easements, cabin permits, leases to navigation districts, and coastal leases.

The GLO and the SLB authorize many different activities under those instruments. Hard mineral lease plans of operations describe and authorize coordinated hard mineral exploration and production activities under a lease of state-owned lands. Geophysical and geochemical permits authorize surveys and other investigations in connection with exploration for oil, gas, or other minerals on state-owned lands. Miscellaneous easements authorize activities such as construction of pipelines, transmission lines, roads, and other linear facilities on state-owned lands. Surface leases authorize activities such as construction of commercial facilities, artificial reefs, and other non-waterfront structures on state-owned lands. Coastal easements authorize activities such as dredging of basins and channels, filling, or the construction of structures on submerged lands by an owner of adjacent littoral property in conjunction with the owner's use of that littoral property. Cabin permits authorize construction of certain private recreational structures on submerged land. Leases to navigation districts authorize activities such as channel dredging or construction of facilities on submerged land for port purposes. Coastal leases authorize activities such as construction of public recreational facilities on submerged land by local governments and creation of coastal preserves.

Although the GLO and the SLB authorize many kinds of activities under the described instruments, for purposes of establishing thresholds those activities are divided into two general categories: energy-related activities and real estate-related activities. Energy activities include activities related to the exploration or production of oil, gas, or other minerals on state-owned lands. Real estate activities include activities related to commercial, residential, recreational, or other use of the surface of state-owned lands. Because the nature and scope of typical energy and real estate activities differ substantially from each other, the GLO and the SLB propose different thresholds for the two categories. Further, because of topography, bathymetry, and vegetation differences, which both reflect and cause different vulnerabilities among CNRAs, the GLO and the SLB propose different thresholds for energy activities affecting the Texas upper coast versus the Texas lower coast. For purposes of proposed §16.4, the GLO and the SLB identify the Matagorda Bay system and the coastal areas to the northeast as the "upper coast", and the coastal areas to the southwest of the eastern end of Matagorda Island as the "lower coast." Thus, the boundary between the upper and lower coasts is the northeastern end of Matagorda Island, Calhoun County, Texas.

The GLO and the SLB distinguish between the upper and lower coasts because of the differing topography, bathymetry, and vegetation of the two areas, and the differing impact of authorized energy activities on CNRAs in the two areas. For example, seagrasses are not prevalent in the upper coast. While an average energy project in the upper coast may affect less seagrass than a comparably-sized project in the lower coast, the amount of seagrass affected will constitute a larger percentage of all seagrasses in a given area of the upper coast. Therefore, in order to take into account the relative scarcity of seagrass in the upper coast, the seagrass threshold for the upper coast is among the smaller proposed thresholds. On the other hand, seagrasses are prevalent in the Laguna Madre and elsewhere on the lower coast. While an average energy project in the lower coast may affect a large area of seagrass, the amount of seagrass affected will constitute a relatively low percentage of all seagrasses in a given area of the lower coast. (Further, a typical energy activity in either the upper or the lower coast will largely affect a relatively narrow linear swath of seagrass, as opposed to a single block of seagrass, lessening the affect of the activity on any one area.) Because of the prevalence of seagrass in the lower coast, the seagrass threshold for the lower coast is higher than the threshold for the upper coast.

The GLO and the SLB intend that an action's impact on CNRAs, rather than geographic location alone, determine whether the action is subject to council review. If a single set of thresholds were established for the entire Texas coast, a disproportionate number of energy activities on the lower coast would exceed the thresholds, regardless of the impact on CNRAs.

The proposed thresholds also derive from certain assumptions developed by the GLO on the basis of experience.

Oil and gas exploration and production activities may include dredging of channels and slips for the purpose of drilling a well, construction of a pad for placement of a drilling barge, construction of pipelines, the placement of production platforms, and the location of access to and from that land by equipment and product.

Threshold limits for seismic activities governed by a geophysical permit are based on the assumption that the following represent typical seismic activities. In submerged area geophysical operations, where airguns are the primary source of energy, shot lines and receiver lines generally run parallel to each other. Line densities of 56 lines per square mile with a width of 15 feet are average and were used to establish threshold limits. In upland and shallow submerged area geophysical operations, where dynamite or Vibroseis are the primary sources of energy, shot and receiver lines generally run perpendicular to each other. Line densities of 20 lines per square mile with a width of 15 feet are average and were used to establish threshold limits.

The threshold for non-seismic geophysical and geochemical surveys is based on the assumption that such surveys typically have a

data point grid with 165 feet or greater between points on the grid. This typical grid spacing was used to establish threshold limits.

Threshold limits for energy actions governed by a miscellaneous easement are based on the assumption that a typical operation may need: a dredged channel with a width of 80 feet, a depth of 10 feet below mean sea level, and a length of 2.5 miles; a turning basin in which to place a drilling barge 325 feet by 325 feet; a pipeline easement 30 feet wide and 10 miles long; a road with a right-of-way 20 feet wide and 10 miles long; a transmission line with a right-of-way 20 feet wide and 10 miles long. It is also assumed that subsurface easements for directional well bores do not adversely affect CNRAs because no surface use is required.

Threshold limits for energy actions governed by a surface lease are based on the assumption that a typical operation may need: a pad for placing a drilling barge 90 feet by 240 feet; a production platform in the bays and estuaries 25 feet by 25 feet and in the Gulf of Mexico 50 feet by 50 feet; a drilling rig in the Gulf of Mexico with a triangular configuration 150 feet on each side.

It is difficult to estimate precisely how many energy activities will exceed the proposed thresholds for several reasons. First, the energy activities listed in §16.4 occur intermittently. Second, there is a trend in the energy exploration industry towards deeper drilling, which requires larger, heavier equipment. Larger, heavier equipment will, of course, affect larger areas than the smaller equipment used for shallower drilling. Finally, it is difficult to anticipate whether future energy activities will occur more or less frequently in the upper or lower coast. All of these factors were considered in developing the energy thresholds. The thresholds chosen for the CNRAs identified in §16.4 were based on the best scientific data currently available to the GLO and the SLB. Analyzing both existing activities and anticipated future activities, the proposed energy thresholds are designed to give the GLO and the SLB responsibility to review most of their own actions, in accordance with the council's policy contained in §505.10(a)(2) of this title (relating to Purpose and Policy). These thresholds will result in only those GLO or SLB actions that present unique or significant consistency issues exceeding the thresholds and being eligible for consistency review by the council.

Thresholds are proposed for real estate activities without regard to the location of the real estate on the upper or lower coast. While energy activities generally occur in the open bays where there are topographic, bathymetric, and vegetative differences up and down the coast, real estate activities are authorized on the shore, where CNRAs are distributed fairly evenly all along the coast. Real estate activities authorized by the actions listed in §505.11 of this title (relating to Actions and Rules Subject to the Coastal Management Program) occur more often than energy activities. Therefore, the real estate thresholds are lower than the energy thresholds in order to account for their cumulative impacts. Of the 225 existing instruments authorizing real es-

tate activities covered by proposed §16.4. 11 exceed the thresholds. It is anticipated that a similar proportion of the real estate instruments issued each year will exceed the thresholds.

Caryn K. Cospo, Deputy Commissioner for Resource Management, General Land Office, has determined that there will be fiscal implications to state and local governments as a result of administration and enforcement of the proposed rules.

In each year of the first five years that the rules will be in effect, some state agencies and local governments may incur additional costs. The state agencies and local governments that may incur additional costs are those that undertake development projects such as the planning, construction, modification, or removal of public works, facilities, or other structures, including roads, highways, transmission lines, water and wastewater treatment facilities and systems, and solid waste facilities, which projects would require the GLO or the SLB to take an action listed in §505.11 of this title (relating to Actions and Rules Subject to the Coastal Management Program) that may adversely affect a CNRA. Agencies and local governments undertaking such actions will be subject to the goals and policies in the proposed rules, and may, for that reason, incur costs not currently accounted for by those agencies and local governments as part of compliance with coastal protection. However, because most provisions of the proposed rules incorporate, reflect, or are based on or drawn from existing statutory or regulatory requirements with which these state agencies and local governments must already comply, the potential for new costs is not great. The analysis of fiscal implications that follows reflects the fact that the goals and policies in the proposed rules clarify current statutory or regulatory standards or management requirements and codify other informal policies already followed by the GLO and the SLB.

Proposed §16.3(b)(2)(B), (d)(2)(J) and (e)(2)(A)(vii) describes GLO and SLB policies regarding certain activities, such as dredging and dredged material disposal and placement, which policies are intended to avoid impounding or draining coastal wetlands. State agencies and local governments engaging in these activities in the coastal area, which activities would require the GLO or the SLB to take an action listed in §505.11 of this title (relating to Actions and Rules Subject to the Coastal Management Program) that may adversely affect a CNRA, may incur increased costs if additional measures are required to design and construct projects to comply with these provisions.

Proposed §16.2(c) relates to the selection of alternatives for major actions requiring an environmental impact statement. It requires the GLO and the SLB to select the practicable alternative that is most cost-effective and has the least adverse effect on CNRAs. It is probable that within the next five years some projects falling within the major action category will be undertaken in the coastal area by a state agency or local government. Such an agency or local government is unlikely to incur increased costs to design and construct

projects to comply with the requirement that it be the practicable alternative that is most cost-effective and has the least adverse effect on CNRAs. Selecting the alternative that is cost effective and has the least adverse effect on CNRAs is consistent with current policy and practice at the GLO and the SLB.

The goals and policies of proposed chapter 16 will not cause any increase or decrease in local government revenues. Local government revenues potentially affected include mainly local government property taxes. The potential for loss of property tax revenue is slight because most provisions of the proposed rules incorporate, reflect, or are based on or drawn from existing statutory or regulatory requirements with which property tax payers are already required to comply. The provisions of the proposed chapter that clarify existing environmental regulatory standards or other management requirements are not expected to increase or decrease property tax revenues.

The goals and policies of proposed Chapter 16 will not cause any increase or decrease in state agency revenues. State agency revenues potentially affected include mainly fees, rents, and royalties generated from coastal public submerged lands, and rents and royalties collected by the GLO and SLB for the benefit of the Permanent School Fund from surface leasing and oil, gas, or other mineral leasing. Because the provisions of the proposed goals and policies applicable to leasing of coastal public submerged lands reflect current agency practice or incorporate, reflect, or are based on or drawn from current statutory or regulatory requirements, those provisions themselves are unlikely to result in activities on those lands being prohibited.

Ms. Cospo has determined that for each year of the first five years the rules will be in effect the public benefit expected as a result of adoption of the rules will be better management of CNRAs. Better management of CNRAs is also expected to yield greater benefits to the Permanent School Fund over the long term. These benefits will be derived from establishing and implementing more efficient and effective protection of CNRAs, pursuing a balanced approach to management of all coastal resources, encouraging compatible economic development and multiple human uses of the coastal area, minimizing the loss of human life and property due to the impairment and loss of protective features of CNRAs, enhancing public access to and enjoyment of the coastal area in a manner that is compatible with private property rights and other uses of the coastal area, and achieving greater efficiency, effectiveness, and coordination in GLO and SLB decision-making through reductions in duplication and conflicts among local, state, and federal regulatory and other programs for the management of CNRAs.

Ms. Cospo has determined that for each year of the first five years the rules will be in effect the probable economic costs to persons required to comply with the rules, including small businesses, will be similar to those identified above that may be incurred by state agencies and local governments that undertake development projects such as the plan-

ning, construction, modification, or removal of public works, facilities, or other structures, which projects would require the GLO or the SLB to take an action listed in §505.11 of this title (relating to Actions and Rules Subject to the Coastal Management Program) that may adversely affect a CNRA.

The potential for new costs to small businesses can not be quantified, but will not be great because most provisions of the proposed chapter incorporate, reflect, or are based on or drawn from existing statutory or regulatory requirements with which small businesses are already required to comply. The costs of compliance for small businesses, calculated on a per-employee basis, and which costs are not expected to be significantly different in type from those for any other person or those for the largest of businesses, are expected to be proportionally much lower than the costs of compliance for the largest businesses required to comply with the proposed chapter.

Comments on the proposed new rules may be submitted by 5:00 p.m. on June 30, 1995, to Debbie Schilling, Texas General Land Office, Legal Services Division, 1700 North Congress Avenue, Room 630, Austin, Texas, 78701-1495 (Fax: (512) 463-6311).

The new rules are proposed under Texas Natural Resources Code, §31.051 and §33.064, which provide, respectively, that the commissioner of the GLO shall make and enforce suitable rules consistent with the law and that the SLB may adopt procedural and substantive rules which it considers necessary to administer, implement, and enforce Texas Natural Resources Code, Chapter 33.

Texas Natural Resources Code, Chapters 32, 33, 51-53, 61, and 63, will be affected by the proposed rules.

§16.1. Definitions and Scope.

(a) The following words, terms, abbreviations, and phrases, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise.

(1) CCC or council—the Coastal Coordination Council.

(2) CMP—the rules of the Texas Coastal Management Program in Chapters 501 and 503-506 of this title (relating to Council Procedures; Coastal Management Program; Special Area Management Planning; Council Procedures for State Consistency with Coastal Program Goals and Policies, and Council Procedures for Federal Consistency with Coastal Program Goals and Policies, respectively).

(3) CNRA-coastal natural resource area—any one of the following areas that is located within the coastal area:

(A) waters in the open Gulf of Mexico—waters in the state as defined in Texas Water Code, §26.001(5), that are part of the open waters of the Gulf of Mexico inside the territorial limits of the state;

(B) waters under tidal influence—water in the state as defined in Texas Water Code, §26.001(5), that is subject to tidal influence according to the Texas Natural Resource Conservation Commission's Stream Segment Maps, including coastal wetlands;

(C) state submerged lands—land underlying waters under tidal influence or waters of the open Gulf of Mexico that is owned by the state;

(D) coastal wetlands;

(E) submerged aquatic vegetation—rooted aquatic vegetation growing in permanently inundated areas in estuarine and marine systems;

(F) tidal sand and mud flats—silt, clay, or sand substrates, unvegetated or vegetated by algal mats, that occur in the intertidal zone and that are regularly or intermittently exposed and flooded by wind and water induced tides;

(G) oyster reefs—natural or artificial formations in intertidal or subtidal areas that are composed of oyster shell, live oysters, and other organisms that are discrete, contiguous, and clearly distinguishable from scattered oysters;

(H) hard substrate reefs—naturally occurring hard substrate formations, such as rock outcrops or serpulid worm reefs (living or dead), in intertidal or subtidal areas that are discrete and contiguous;

(I) coastal barriers—undeveloped areas on barrier islands and peninsulas or otherwise protected areas, as mapped by the United States Department of the Interior, Fish and Wildlife Service (Coastal Barrier Resource System Units);

(J) shore areas—all areas within 100 feet landward of the high water mark on state submerged land. Designation of coastal shore areas as a CNRA is exclusively intended to address erosion impacts within coastal shore areas that result from activities under §501.14 of this title (relating to Policies for Specific Activities and Coastal Natural Resource Areas);

(K) Gulf beaches—beaches bordering on the Gulf of Mexico that extend inland from the line of mean low tide to the natural line of vegetation bordering on the seaward shore of the Gulf of Mexico, or

such larger contiguous area to which the public has acquired a right of use or easement to or over by prescription, dedication, or estoppel, or has retained a right by virtue of continuous right in the public since time immemorial;

(L) critical dune areas—protected sand dune complexes on the Gulf shoreline within 1,000 feet of mean high tide as designated by the commissioner of the GLO under the Texas Natural Resources Code, Chapter 63, Subchapter E, §63.121;

(M) special hazard areas—areas designated by the administrator of the Federal Insurance Administration under the National Flood Insurance Act, 42 United States Code Annotated, §§4001 et seq, as having special flood, mudslide (i.e., mudflow) and/or flood-related erosion hazards, and shown on a Flood Hazard Boundary Map or Flood Insurance Rate Map as Zone A, AO, A1-30, AE, A99, AH, VO, V1-30, VE, V, M, or E;

(N) critical erosion areas—areas designated by the commissioner of the GLO under the Texas Natural Resources Code, §33.601(b);

(O) coastal historic areas—sites on the National Register of Historic Places, designated pursuant to 16 United States Code Annotated, §470a, and Code of Federal Regulations, Title 36, Chapter 1, Part 63, and state archaeological landmarks, as defined in the Texas Natural Resources Code, Chapter 191, Subchapter D, that are identified by the Texas Historical Commission or the Texas Antiquities Committee as being coastal in character; and

(P) coastal parks, wildlife management areas, and preserves—any land owned by the state that is subject to the Texas Parks and Wildlife Code, Chapter 26, by virtue of its designation and use as a park, recreation area, scientific area, wildlife refuge, or historic site and that is designated by the Texas Parks and Wildlife Commission as being coastal in character.

(4) Coastal area—the area within the CMP boundary established in §503.1 of this title (relating to Coastal Management Program Boundary).

(5) Coastal wetlands—Wetlands as defined in Texas Water Code, Chapter 11, Subchapter J, that:

(A) lie seaward of the Coastal Facility Designation Line established in §19.2(a)(5)(D) of this title (relating to Oil Spill Prevention and Response)

pursuant to the Oil Spill Prevention and Response Act of 1991; or

(B) lie within rivers and streams to the extent of tidal influence, as follows:

(i) Arroyo Colorado from Laguna Madre to 110 yards downstream of Cemetery Road south of the Port of Harlingen;

(ii) Nueces River to the Calallen Dam;

(iii) Guadalupe River and associated riverine environment including the Victoria Barge Canal to the Guadalupe-Blanco River Authority Salt Water Barrier at 0.4 miles downstream of the confluence with the San Antonio River;

(iv) Lavaca River to 5.3 miles downstream of US 59;

(v) Tres Palacios Creek to one mile upstream of confluence with Wilson Creek;

(vi) Colorado River to 1.3 miles downstream of the Missouri Pacific Railroad;

(vii) San Bernard River to two miles above the Highway 35 crossing;

(viii) Chocolate Bayou to 2.6 miles below Highway 35;

(ix) Clear Creek to 110 yards upstream of FM 528;

(x) Buffalo Bayou (Houston Ship Channel) to 440 yards upstream of Shepherd Drive in Harris County;

(xi) San Jacinto River to the Lake Houston dam;

(xii) Trinity River to Chambers County line;

(xiii) Cedar Bayou to 1.4 miles upstream of Interstate Highway 10;

(xiv) Neches River to seven miles upstream of Interstate Highway 10;

(xv) Sabine River to Morgan Bluff; or

(C) within one mile from the mean high tide line of those rivers and streams, except for the Trinity and Neches rivers. On the Trinity River, the geographic scope includes wetlands between the mean high tide line on the western shoreline to FM Road 565 and FM Road 1409 and between the mean high tide line on the eastern shoreline to FM Road 563. On the Neches River, the geographic scope includes wetlands within one mile from the mean high tide line on the western shoreline and between the mean high tide line on the eastern shoreline and FM Road 105.

(6) Commissioner—the commissioner of the General Land Office.

(7) Critical areas—CNRA's possessing special ecological characteristics of productivity, habitat, wildlife protection, or other important and easily disrupted ecological values that contribute significantly to the general overall environmental health or vitality of the coastal ecosystem. Critical areas are coastal wetlands, areas of submerged aquatic vegetation, tidal sand and mud flats, oyster reefs, and hard substrate reefs.

(8) GLO—the General Land Office.

(9) Lower coast—the coastal area southwest of the eastern end of Matagorda Island, Calhoun County, Texas, so as to exclude the Matagorda Bay system.

(10) Major action—an individual agency or subdivision action authorizing an activity involving a federal action for which a federal environmental impact statement under the National Environmental Policy Act, 42 United States Code Annotated, §§4321, et seq. is required.

(11) SLB—the School Land Board.

(12) State submerged land—land underlying waters under tidal influence or waters of the open Gulf of Mexico that is owned by the state.

(13) Upper coast—the coastal area northeast of the eastern end of Matagorda Island, Calhoun County, Texas, so as to include the Matagorda Bay system.

(14) Water-dependent use or facility—an activity or facility that must be located in coastal waters or on state submerged lands or that must have direct access to coastal waters in order to serve its basic purpose and function. Facilities that are water-dependent include, but are not limited to, public beach use and access facilities, boat slips, docks, breakwaters, marinas, wharves and other vessel loading or off-loading facilities, utility easements, boat ramps, navigation channels and basins, bridges and bridge approaches, revetments, shoreline protection structures, culverts, groins, saltwater barriers, navigational aids, mooring pilings, simple access channels, fish processing plants, boat construction and repair facilities, offshore pipelines and constructed wetlands below mean high water. Activities that are water-dependent include, but are not limited to, marine recreation (fishing, swimming, boating, wildlife viewing), industrial uses dependent on marine transportation or requiring large volumes of water that cannot be obtained at inland sites, mariculture, exploration for and production of oil and gas under coastal waters or submerged lands, and certain meteorological and oceanographic activities. If a specific water-dependent work or project is an essential component of a larger development, that development is considered water-dependent.

logical and oceanographic activities. If a specific water-dependent work or project is an essential component of a larger development, that development is considered water-dependent.

(b) For purposes of this chapter, the following is an exclusive list of actions taken or authorized by the GLO or SLB that may adversely affect a CNRA, and that therefore must be consistent with the goals and policies stated in this chapter:

- (1) a mineral lease plan of operations,
- (2) a geophysical or geochemical permit;
- (3) a miscellaneous easement;
- (4) a surface lease;
- (5) a structure registration;
- (6) a coastal easement;
- (7) a coastal lease;
- (8) a cabin permit; and
- (9) a navigation district lease.

(c) An action to renew, amend, or modify an existing permit, certificate, lease, easement, approval or other form of authorization shall not be considered an action otherwise subject to the rules in this chapter if the action only extends the time period of the existing authorization without authorizing new or additional work or activities or is not otherwise directly relevant to the policies in §16.3 of this title (relating to Policies for Specific Activities and Coastal Natural Resource Areas). This chapter applies only to actions listed in subsection (b) of this section for which an application was filed after the effective date of either this chapter or Chapters 501 and 505 of this title (relating to Coastal Management Program and Council Procedures for State Consistency with Coastal Program Goals and Policies, respectively), whichever is later.

§16.2. Goals and Administrative Policies.

(a) Goals. Subject to §16.1(c) of this title (relating to Definitions and Scope), when taking or authorizing an action identified in §16.1(b) of this title (relating to Definitions and Scope) that may adversely affect a CNRA, the goals of the GLO and SLB are:

- (1) to protect, preserve, restore, and enhance the diversity, quality, quantity, functions, and values of CNRAs;
- (2) to ensure sound management of all coastal resources by allowing for compatible economic development and multiple human uses of the coastal area;
- (3) to minimize loss of human life and property due to the impairment and loss of protective features of CNRAs;

(4) to ensure and enhance planned public access to and enjoyment of the coastal area in a manner that is compatible with private property rights and other uses of the coastal area;

(5) to balance the benefits from economic development and multiple human uses of the coastal area, the benefits from protecting, preserving, restoring, and enhancing CNRAs, the benefits from minimizing loss of human life and property, and the benefits from public access to and enjoyment of the coastal area;

(6) to coordinate GLO and SLB decision-making affecting CNRAs by establishing clear, objective policies for the management of CNRAs;

(7) to make GLO and SLB decision-making affecting CNRAs efficient by identifying and addressing duplication and conflicts between GLO and SLB regulatory and other programs for the management of CNRAs;

(8) to make GLO and SLB decision-making affecting CNRAs more effective by employing the most comprehensive, accurate, and reliable information and scientific data available;

(9) to make coastal management processes visible, coherent, accessible, and accountable to the people of Texas by providing for public participation in the ongoing development and implementation of the rules in this chapter; and

(10) to educate the public about the principal coastal problems of state concern and technology available for the protection and improved management of CNRAs.

(b) Administrative Policies. Subject to §16.1(c) of this title (relating to Definitions and Scope), when taking or authorizing an action identified in §16.1(b) of this title (relating to Definitions and Scope) that may adversely affect a CNRA, the GLO and the SLB:

- (1) shall require applicants to provide information necessary for the GLO or the SLB to make an informed decision regarding the proposed action;
- (2) shall identify the monitoring established to ensure that activities authorized by such actions comply with all applicable GLO or SLB requirements;
- (3) may waive a requirement if such waiver is in the best interests of the Permanent School Fund and is consistent with the statutory policies for management of coastal public lands in the Coastal Public Lands Management Act, Texas Natural Resources Code, Chapter 33; and
- (4) shall take into account the national interest.

(c) Policy for Major Actions.

(1) The GLO and the SLB shall not take a major action, as defined in §16.1 of this chapter (relating to Definitions and Scope), authorizing an activity identified in §16.1(b) of this title (relating to Definitions and Scope) to which this chapter applies that may adversely affect a CNRA if there is a cost-effective and practicable alternative with fewer adverse effects. In determining the cost-effective and practicable alternative with the fewest adverse effects, the GLO and the SLB shall consider:

(A) the activity's adverse effects, including its cumulative and secondary adverse effects and their significance;

(B) adverse effects from any other activity that is an interdependent part of the activity under review, or that can not or will not proceed unless the GLO or the SLB authorizes or undertakes the activity under review;

(C) any irreversible and irretrievable commitment, severe adverse effects, or destruction of CNRAs that will result if the activity is authorized;

(D) the relationship between short-term activities affecting CNRAs and the long-term maintenance and enhancement of the functions of CNRAs as components of coastal ecosystems;

(E) the relationship between the relative public value of those functions and the relative public and private need for the activity, including economic needs, general environmental concerns, compatibility with existing and future land use, public safety, equitable socioeconomic distribution of environmental hazards, navigation needs, mineral and energy needs, agricultural production, consideration of property ownership, the general needs and welfare of the people of Texas and the nation, and the goals in subsection (a) of this section; and

(F) the practicability of alternatives including no action, different operation or maintenance techniques or practices (including recycling and waste reduction practices), or a different location, design, configuration, or size of the project than proposed.

(2) If the consideration by the GLO or the SLB of any of the factors in paragraph (1) of this subsection is limited (e.g., by legal restrictions or by lack of technical expertise), the GLO or the SLB, as appropriate, shall coordinate with any other agency or governmental entity with management responsibility relevant to the

activity under review to ensure that its actions do not infringe on or limit the ability of such other agency or entity to manage the activity. The GLO or the SLB shall incorporate the recommendations of such other agencies and governmental entities to the greatest extent practicable.

(d) The GLO or the SLB, as appropriate, shall include in a permit or other document approving or authorizing an action listed in §16.1(b) of this title (relating to Definitions and Scope) to which this chapter applies, either a consistency determination or a determination of no adverse effect as follows:

(1) Consistency Determination. The (GLO or SLB) has reviewed this action for consistency with the Texas Coastal Management Program goals and policies, in accordance with the regulations of the Coastal Coordination Council, and has determined that the action is consistent with the applicable Texas Coastal Management Program goals and policies applicable to the action.

(2) Determination of No Adverse Effect. The (GLO or SLB) has reviewed this action for consistency with the Texas Coastal Management Program goals and policies, in accordance with the regulations of the Coastal Coordination Council, and has found that the action will not adversely affect the coastal natural resource area identified in the applicable policies.

(e) For actions that exceed the thresholds for referral as set out in §16.4 of this title (relating to Thresholds for Referral), the GLO or the SLB, as appropriate, shall provide a written explanation supporting the determination made under subsection (d) of this section. The explanation shall describe the basis for the agency's determination, include a description of the action and its probable impacts on CNRAs, identify the CMP goals and policies applied to the action, and explain how the action is consistent with the applicable goals and policies or why the action does not adversely affect any CNRAs.

(f) When publishing notice of receipt of an application or request for agency action, the GLO or the SLB, as appropriate, shall include a statement that the application or requested action is subject to the CMP and must be consistent with the CMP goals and policies. The agency shall include the council secretary on any public notice list maintained by the agency for actions subject to the CMP. Upon issuance of a permit, approval, or authorization of an action listed in §16.1(b) of this title (relating to Definitions and Scope) to which this chapter applies, the agency shall provide to the council secretary a one-page notice that an action subject to the CMP has been taken or authorized.

(g) The GLO and the SLB shall maintain a record of all actions taken or authorized that are subject to the CMP and provide such record to the council on a quarterly basis.

§16.3. Policies for Specific Activities and Coastal Natural Resource Areas.

(a) The GLO and the SLB shall comply with the policies in this section when approving mineral lease plans of operation, granting surface leases, easements, and permits, and adopting rules under the Texas Natural Resources Code, Chapters 32, 33 and 51-53, and Texas Water Code, Chapter 61, governing oil and gas exploration and production on state submerged lands. To the extent applicable to the public beach, as public beach is defined in Texas Natural Resources Code, §61.013(c), the policies in this section are supplemental to any further restrictions or requirements relating to the beach access and use rights of the public, including Texas Natural Resources Code, Chapter 61 (relating to Use and Maintenance of Public Beaches) and Chapter 15 of this title (relating to Coastal Area Planning).

(b) Construction, Operation, and Maintenance of Oil and Gas Exploration and Production Facilities.

(1) Oil and gas exploration and production on state submerged lands shall comply with the policies in this subsection.

(2) Policies.

(A) In or near critical areas, facilities shall be located and operated and geophysical and other operations shall be located and conducted in such a manner as to avoid and otherwise minimize adverse effects, including those from the disposal of solid waste and disturbance resulting from the operation of vessels and wheeled or tracked vehicles, whether on areas under lease, easement, or permit or on or across access routes thereto. Where practicable, buffer zones for critical areas shall be established and directional drilling or other methods to avoid disturbance, such as pooling or unitization, shall be employed.

(B) Lessees, easement holders, and permittees shall construct facilities in a manner that avoids impoundment or draining of coastal wetlands, if practicable, and shall mitigate any adverse effects on coastal wetlands impounded or drained in accordance with the sequencing requirements in this subsection.

(C) Upon completion or cessation of operations, lessees, easement holders, and permittees shall remove facilities and restore any significantly degraded areas

to pre-project conditions as closely as practicable, unless facilities can be used for maintenance or enhancement of CNRAs or unless restoration activities would further degrade CNRAs.

(c) Development in Critical Areas

(1) Dredging and construction of structures in, or the discharge of dredged or fill material into, critical areas shall comply with the policies in this subsection. In implementing this subsection, cumulative and secondary adverse effects of these activities will be considered.

(A) The policies in this subsection shall be applied in a manner consistent with the goal of achieving no net loss of critical area functions and values

(B) Persons proposing development in critical areas shall demonstrate that no practicable alternative with fewer adverse effects is available.

(i) The person proposing the activity shall demonstrate that the activity is water-dependent. If the activity is not water-dependent, practicable alternatives with less adverse effects are presumed to exist, unless the person clearly demonstrates otherwise.

(ii) The analysis of alternatives shall be conducted in light of the activity's overall purpose.

(iii) "Alternatives" may include different operation or maintenance techniques or practices or a different location, design, configuration, or size.

(C) In evaluating practicable alternatives, the following sequence shall be applied:

(i) Adverse effects on critical areas shall be avoided to the greatest extent practicable.

(ii) Unavoidable adverse effects shall be minimized to the greatest extent practicable by limiting the degree or magnitude of the activity and its implementation.

(iii) Appropriate and practicable compensatory mitigation shall be required to the greatest extent practicable for all adverse effects that cannot be avoided or minimized.

(D) "Compensatory mitigation" includes restoring adversely affected critical areas or replacing adversely affected critical areas by creating new critical areas. Compensatory mitigation should be undertaken, when practicable, in areas adjacent or contiguous to the affected critical areas (on-site). If on-site compensatory mitigation is

not practicable, compensatory mitigation should be undertaken in close physical proximity to the affected critical areas if practicable and in the same watershed if possible (off-site). Compensatory mitigation should also attempt to replace affected critical areas with critical areas with characteristics identical to or closely approximating those of the affected critical areas (in-kind). The preferred order of compensatory mitigation is:

- (i) on-site, in-kind;
- (ii) off-site, in-kind;
- (iii) on-site, out-of-kind;
- (iv) off-site, out-of-kind.

and

(E) Mitigation banking is acceptable compensatory mitigation if use of the mitigation bank has been approved by the agency authorizing the development and mitigation credits are available for withdrawal. Preservation through acquisition for public ownership of unique critical areas or other ecologically important areas may be acceptable compensatory mitigation in exceptional circumstances. Examples of this include areas of high priority for preservation or restoration, areas whose functions and values are difficult to replicate, or areas not adequately protected by regulatory programs. Acquisition will normally be allowed only in conjunction with preferred forms of compensatory mitigation.

(F) In determining compensatory mitigation requirements, the impaired functions and values of the affected critical area shall be replaced on a one-to-one ratio. Replacement of functions and values on a one-to-one ratio may require restoration or replacement of the physical area affected on a ratio higher than one-to-one. While no net loss of critical area functions and values is the goal, it is not required in individual cases where mitigation is not practicable or would result in only inconsequential environmental benefits. It is also important to recognize that there are circumstances where the adverse effects of the activity are so significant that, even if alternatives are not available, the activity may not be permitted regardless of the compensatory mitigation proposed.

(G) Development in critical areas shall not be authorized if significant degradation of critical areas will occur. Significant degradation occurs if:

(i) the activity will jeopardize the continued existence of species listed as endangered or threatened, or will result in likelihood of the destruction or adverse modification of a habitat determined to be a critical habitat under the

Endangered Species Act, 16 United States Code Annotated, §§1531-1544;

(ii) the activity will cause or contribute, after consideration of dilution and dispersion, to violation of any applicable surface water quality standards established under §501.14(f) of this title (relating to Policies for Specific Activities and Coastal Natural Resource Areas);

(iii) the activity violates any applicable toxic effluent standard or prohibition established under §501.14(f) of this title (relating to Policies for Specific Activities and Coastal Natural Resource Areas);

(iv) the activity violates any requirement imposed to protect a marine sanctuary designated under the Marine Protection, Research, and Sanctuaries Act of 1972, 33 United States Code Annotated, Chapter 27; or

(v) taking into account the nature and degree of all identifiable adverse effects, including their persistence, permanence, areal extent, and the degree to which these effects will have been mitigated pursuant to subparagraphs (C) and (D) of this subsection, the activity will, individually or collectively, cause or contribute to significant adverse effects on:

(I) human health and welfare, including effects on water supplies, plankton, benthos, fish, shellfish, wildlife, and consumption of fish and wildlife;

(II) the life stages of aquatic life and other wildlife dependent on aquatic ecosystems, including the transfer, concentration, or spread of pollutants or their byproducts beyond the site, or their introduction into an ecosystem, through biological, physical, or chemical processes;

(III) ecosystem diversity, productivity, and stability, including loss of fish and wildlife habitat or loss of the capacity of a coastal wetland to assimilate nutrients, purify water, or reduce wave energy; or

(IV) generally accepted recreational, aesthetic or economic values of the critical area which are of exceptional character and importance.

(2) The GLO and the SLB will coordinate with one another, with other agencies required to comply with §501.14(h) of this title (relating to Development in Critical Areas), and with federal agencies when evaluating alternatives, determining appropriate and practicable mitigation, and assessing significant degradation. In connection with authoriza-

tions for development in critical areas, the GLO and the SLB shall require a demonstration that the requirements of paragraph (1)(A)-(G) of this subsection have been satisfied.

(3) For any dredging or construction of structures in, or discharge of dredged or fill material into, critical areas that is subject to the requirements of §16.2(c) of this title (relating to Goals and Administrative Policies), data and information on the practicability of alternatives need not be produced or evaluated to comply with this subsection if such data and information is produced and evaluated in compliance with §16.2(c)(1)(F) of this title (relating to Goals and Administrative Policies).

(d) Construction of Waterfront Facilities and Other Structures on State Submerged Lands.

(1) Development on state submerged lands shall comply with the policies in this subsection.

(2) Policies.

(A) Marinas shall be designed and, to the greatest extent practicable, sited so that tides and currents will aid in flushing of the site or renew its water regularly.

(B) Marinas designed for anchorage of private vessels shall provide facilities for the collection of waste, refuse, trash, and debris.

(C) Marinas with the capacity for long-term anchorage of more than ten vessels shall provide pump-out facilities for marine toilets, or other such measures or facilities that provide an equal or better level of water quality protection.

(D) Marinas, docks, piers, wharves and other structures shall be designed and, to the greatest extent practicable, sited to avoid and otherwise minimize adverse effects on critical areas from boat traffic to and from those structures.

(E) For purposes of providing access to coastal waters, construction of docks, piers, wharves, and other structures shall be preferred over dredging of channels or basins or filling of submerged lands, if such construction is practicable, environmentally preferable, and will not interfere with commercial navigation.

(F) Piers, docks, wharves, bulkheads, jetties, groins, fishing cabins, and artificial reefs (including artificial reefs for compensatory mitigation) shall be lim-

ited to the minimum size necessary to serve the project purpose and shall be constructed in a manner that:

(i) does not significantly interfere with public navigation;

(ii) does not significantly interfere with the natural coastal processes which supply sediments to shore areas or otherwise exacerbate erosion of shore areas; and

(iii) avoids, where practicable, and minimizes, where avoidance is not practicable, shading of critical areas and other adverse effects.

(G) Facilities shall be located at sites or designed and constructed to the greatest extent practicable to avoid and otherwise minimize the potential for adverse effects from:

(i) construction and maintenance of other development associated with the facility;

(ii) direct release to coastal waters and critical areas of pollutants from oil or hazardous substance spills or stormwater runoff; and

(iii) deposition of airborne pollutants in coastal waters and critical areas.

(H) Where practicable, pipelines, transmission lines, cables, roads, causeways, and bridges shall be located in existing rights-of-way or previously disturbed areas if necessary to avoid or minimize adverse effects and if it does not result in unreasonable risks to human health, safety, and welfare.

(I) To the extent practicable, construction of facilities shall occur at sites and times selected to have the least adverse effects on recreational uses of CNRAs and on spawning or nesting seasons or seasonal migrations of terrestrial and aquatic wildlife.

(J) Facilities shall be located at sites which avoid the impoundment and draining of coastal wetlands. If impoundment or draining cannot be avoided, adverse effects to the impounded or drained wetlands shall be mitigated in accordance with the sequencing requirements of subsection (b) of this section. To the greatest extent practicable, facilities shall be located at sites at which expansion will not result in development in critical areas.

(K) Where practicable, piers, docks, wharves, bulkheads, jetties, groins, fishing cabins, and artificial reefs shall be

constructed with materials that will not cause any adverse effects on coastal waters or critical areas.

(L) Developed sites shall be returned as closely as practicable to pre-project conditions upon completion or cessation of operations by the removal of facilities and restoration of any significantly degraded areas, unless:

(i) the facilities can be used for public purposes or contribute to the maintenance or enhancement of coastal water quality, critical areas, beaches, state submerged lands, or shore areas; or

(ii) restoration activities would further degrade CNRAs.

(M) Water-dependent uses and facilities shall receive preference over those uses and facilities that are not water-dependent.

(N) Nonstructural erosion response methods such as beach nourishment, sediment bypassing, nearshore sediment berms, and planting of vegetation shall be preferred instead of structural erosion response methods.

(O) Major residential and recreational waterfront facilities shall to the greatest extent practicable accommodate public access to coastal waters and preserve the public's ability to enjoy the natural aesthetic values of coastal submerged lands.

(P) Activities on state submerged land shall avoid and otherwise minimize any significant interference with the public's use of and access to such lands.

(e) Dredging and Dredged Material Disposal and Placement.

(1) Dredging and the disposal and placement of dredged material shall comply with the policies in this subsection, and shall avoid and otherwise minimize adverse effects to coastal waters, state submerged lands, critical areas, coastal shore areas, and Gulf beaches (as those terms are defined in §16.1 of this title relating Definitions and Scope) to the greatest extent practicable. In implementing this subsection, cumulative and secondary adverse effects of dredging and the disposal and placement of dredged material and the unique characteristics of affected sites shall be considered.

(A) Dredging and dredged material disposal and placement shall not cause or contribute to, after consideration of dilution and dispersion, violation of any applicable surface water quality standards established under §501.14(f) of this title

(relating to Discharge of Municipal and Industrial Wastewater to Coastal Waters).

(B) Except as otherwise provided in subparagraph (D) of this paragraph, adverse effects on critical areas from dredging and dredged material disposal or placement shall be avoided and otherwise minimized, and appropriate and practicable compensatory mitigation shall be required, in accordance with subsection (b) of this section.

(C) Except as provided in subparagraph (D) of this paragraph, dredging and the disposal and placement of dredged material shall not be authorized if

(i) there is a practicable alternative that would have fewer adverse effects on coastal waters, state submerged lands, critical areas, coastal shore areas, and Gulf beaches, so long as that alternative does not have other significant adverse effects;

(ii) all appropriate and practicable steps have not been taken to minimize adverse effects on coastal waters, state submerged lands, critical areas, coastal shore areas, and Gulf beaches; or

(iii) significant degradation of critical areas under subsection (b) (1)(G)(v) of this section would result.

(D) A dredging or dredged material disposal or placement project that would be prohibited solely by application of subparagraph (C) of this paragraph may be allowed if it is determined to be of overriding importance to the public and national interest in light of economic impacts on navigation and maintenance of commercially navigable waterways.

(2) Adverse effects from dredging and dredged material disposal and placement shall be minimized as required in paragraph (1) of this subsection. Adverse effects can be minimized by employing the techniques in this paragraph where appropriate and practicable.

(A) Adverse effects from dredging and dredged material disposal and placement can be minimized by controlling the location and dimensions of the activity. Some of the ways to accomplish this include:

(i) locating and confining discharges to minimize smothering of organisms;

(ii) locating and designing projects to avoid adverse disruption of water inundation patterns, water circulation, erosion and accretion processes, and other hydrodynamic processes;

(iii) using existing or natural channels and basins instead of dredging new channels or basins, and discharging materials in areas that have been previously disturbed or used for disposal or placement of dredged material;

(iv) limiting the dimensions of channels, basins, and disposal and placement sites to the minimum reasonably required to serve the project purpose, including allowing for reasonable overdredging of channels and basins, and taking into account the need for capacity to accommodate future expansion without causing additional adverse effects;

(v) discharging materials at sites where the substrate is composed of material similar to that being discharged;

(vi) locating and designing discharges to minimize the extent of any plume and otherwise control dispersion of material; and

(vii) avoiding the impoundment or drainage of critical areas.

(B) Dredging and disposal and placement of dredged material shall comply with applicable standards for sediment toxicity. Adverse effects from constituents contained in materials discharged can be minimized by treatment of or limitations on the material itself. Some ways to accomplish this include:

(i) disposal or placement of dredged material in a manner that maintains physiochemical conditions at discharge sites and limits or reduces the potency and availability of pollutants;

(ii) limiting the solid, liquid, and gaseous components of material discharged;

(iii) adding treatment substances to the discharged material; and

(iv) adding chemical flocculants to enhance the deposition of suspended particulates in confined disposal areas.

(C) Adverse effects from dredging and dredged material disposal or placement can be minimized through control of the materials discharged. Some ways to accomplish this include:

(i) use of containment levees and sediment basins designed, constructed, and maintained to resist breaches, erosion, slumping, or leaching;

(ii) use of lined containment areas to reduce leaching where leaching of chemical constituents from the material is expected to be a problem;

(iii) capping in-place contaminated material, or selectively discharging the most contaminated material first and then capping it with the remaining material;

(iv) properly containing discharged material and maintaining discharge sites to prevent point and nonpoint pollution; and

(v) timing the discharge to minimize adverse effects from unusually high water flows, wind, wave, and tidal actions.

(D) Adverse effects from dredging and dredged material disposal or placement can be minimized by controlling the manner in which material is dispersed. Some ways of accomplishing this include:

(i) where environmentally desirable, distributing the material in a thin layer;

(ii) orienting material to minimize undesirable obstruction of the water current or circulation patterns;

(iii) using silt screens or other appropriate methods to confine suspended particulates or turbidity to a small area where settling or removal can occur;

(iv) using currents and circulation patterns to mix, disperse, dilute, or otherwise control the discharge;

(v) minimizing turbidity by using a diffuser system or releasing material near the bottom;

(vi) selecting sites or managing discharges to confine and minimize the release of suspended particulates and turbidity and maintain light penetration for organisms; and

(vii) setting limits on the amount of material to be discharged per unit of time or volume of receiving waters.

(E) Adverse effects from dredging and dredged material disposal or placement operations can be minimized by adapting technology to the needs of each site. Some ways of accomplishing this include:

(i) using appropriate equipment, machinery, and operating techniques for access to sites and transport of material, including those designed to reduce damage to critical areas;

(ii) having personnel on site adequately trained in avoidance and minimization techniques and requirements; and

(iii) designing temporary and permanent access roads and channel spanning structures using culverts, open channels, and diversions that will pass both

low and high water flows, accommodate fluctuating water levels, and maintain circulation and faunal movement.

(F) Adverse effects on plant and animal populations from dredging and dredged material disposal or placement can be minimized by:

(i) avoiding changes in water current and circulation patterns that would interfere with the movement of animals;

(ii) selecting sites or managing discharges to prevent or avoid creating habitat conducive to the development of undesirable predators or species that have a competitive edge ecologically over indigenous plants or animals;

(iii) avoiding sites having unique habitat or other value, including habitat of endangered species;

(iv) using planning and construction practices to institute habitat development and restoration to produce a new or modified environmental state of higher ecological value by displacement of some or all of the existing environmental characteristics;

(v) using techniques that have been demonstrated to be effective in circumstances similar to those under consideration whenever possible and, when proposed development and restoration techniques have not yet advanced to the pilot demonstration stage, initiating their use on a small scale to allow corrective action if unanticipated adverse effects occur;

(vi) timing dredging and dredged material disposal or placement activities to avoid spawning or migration seasons and other biologically critical time periods; and

(vii) avoiding the destruction of remnant natural sites within areas already affected by development.

(G) Adverse effects on human use potential from dredging and dredged material disposal or placement can be minimized by:

(i) selecting sites and following procedures to prevent or minimize any potential damage to the aesthetically pleasing features of the site, particularly with respect to water quality,

(ii) selecting sites which are not valuable as natural aquatic areas;

(iii) timing dredging and dredged material disposal or placement activities to avoid the seasons or periods when human recreational activity associated with the site is most important; and

(iv) selecting sites that will not increase incompatible human activity or require frequent dredge or fill maintenance activity in remote fish and wildlife areas.

(H) Adverse effects from new channels and basins can be minimized by locating them at sites:

(i) that ensure adequate flushing and avoid stagnant pockets; or

(ii) that will create the fewest adverse effects on CNRAs from additional infrastructure such as roads, bridges, causeways, piers, docks, wharves, transmission line crossings, and ancillary channels reasonably likely to be constructed as a result of the project; or

(iii) with the least practicable risk that increased vessel traffic could result in navigation hazards, spills, or other forms of contamination which could adversely affect CNRAs;

(iv) provided that, for any dredging of new channels or basins subject to the requirements of §16.2 of this title (relating to Goals and Administrative Policies), data and information on minimization of secondary adverse effects need not be produced or evaluated to comply with this subparagraph if such data and information is produced and evaluated in compliance with §16.2(c)(1)(A) of this title (relating to Goals and Administrative Policies).

(3) Disposal or placement of dredged material in existing contained dredge disposal sites identified and actively used as described in an environmental assessment or environmental impact statement issued prior to the effective date of this chapter shall be presumed to comply with the requirements of paragraph (1) of this subsection unless modified in design, size, use, or function

(4) All suitable dredged material from commercially navigable waterways is a potentially reusable resource and must be used beneficially to the greatest extent practicable. Other dredged material should be considered a potentially reusable resource to be used beneficially.

(A) Factors that shall be considered in determining whether a beneficial use project is appropriate include:

(i) the environmental gains and losses that will result,

(ii) the proximity of the beneficial use site to the dredge site; and

(iii) the quality of the dredged material and its suitability for beneficial use.

(B) Examples of the beneficial use of dredged material include, but are not limited to:

(i) projects designed to reduce or minimize erosion or provide shoreline protection;

(ii) projects designed to create or enhance public beaches or recreational areas;

(iii) projects designed to benefit the sediment budget or littoral system;

(iv) projects designed to improve or maintain terrestrial or aquatic wildlife habitat;

(v) projects designed to create new terrestrial or aquatic wildlife habitat, including the construction of marshlands, coastal wetlands, or other critical areas,

(vi) projects designed and demonstrated to benefit benthic communities or aquatic vegetation;

(vii) projects designed to create wildlife management areas, parks, airports, or other public facilities;

(viii) projects designed to cap landfills or other waste disposal areas;

(ix) projects designed to fill private property or upgrade agricultural land, if cost-effective public beneficial uses are not available; and

(x) projects designed to remediate past adverse impacts on the coastal area.

(5) If dredged material cannot be used beneficially as provided in paragraph (4) of this subsection, to avoid and otherwise minimize adverse effects as required in paragraph (1) of this subsection, preference will be given to the greatest extent practicable to disposal in:

(A) contained upland sites;

(B) other contained sites; and

(C) open water areas of relatively low productivity or low biological value.

(6) For new sites, dredged materials shall not be disposed of or placed directly on the boundaries of state submerged lands or at such location so as to slump or migrate across the boundaries of state submerged lands in the absence of an agreement between the affected public owner and the adjoining private owner or owners that defines the location of the boundary or boundaries affected or likely to be affected by the deposition of the dredged material.

(7) Emergency dredging shall be allowed without a prior consistency determination as required in the applicable consistency rule set out in Chapter 505 of this title (relating to Council Procedures for State Consistency with Coastal Program Goals and Policies) when:

(A) there is an unacceptable hazard to life or navigation;

(B) there is an immediate threat of significant loss of property; or

(C) an immediate and unforeseen significant economic hardship is likely if corrective action is not taken within a time period less than the normal time needed under standard procedures. The GLO or the SLB, as appropriate, shall notify the council secretary at least 24 hours prior to commencement of any emergency dredging operation. The notice shall include a statement demonstrating the need for emergency action. Prior to initiation of the dredging operations representatives of the project sponsor, the GLO, or the SLB shall, if possible, make all reasonable efforts to meet with council's designated representatives to ensure consideration of and consistency with applicable policies in this section. Compliance with all applicable policies in this section shall be required at the earliest possible date. The GLO or the SLB, as appropriate, and the applicant shall submit a consistency determination to the council, as described in Chapter 505 of this title (relating to Council Procedures for State Consistency with Coastal Program Goals and Policies) within 60 days after the emergency operation is complete.

§16.4. Thresholds for Referral.

(a) Pursuant to §505.32 of this title (relating to Requirements for Referral of an Individual Agency Action), the thresholds for potential referral of GLO or SLB actions to the council for consistency review are as follows:

(b) Real Estate Activities.

(1) Except for energy-related activities (i.e., activities related to oil, gas, or other mineral exploration and production), the GLO's or SLB's issuance of the following instruments exceeds the threshold if the authorized activities would adversely affect CNRA acreage greater than that in paragraph (2) of this subsection:

(A) a coastal easement pursuant to the Texas Natural Resources Code, §33.111, for dredging of basins and channels or construction of piers, docks, marinas, bulkheads, seawalls, and other wa-

terfront structures on state-owned submerged land;

(B) a miscellaneous easement pursuant to the Texas Natural Resources Code, §51.291, for construction of pipelines, transmission lines, roads, and other linear facilities on state-owned land;

(C) a cabin permit pursuant to the Texas Natural Resources Code, §33.103, for the construction or use of fishing cabins on state-owned submerged land; or

(D) a surface lease pursuant to the Texas Natural Resources Code, §51.121, for construction of commercial facilities, artificial reefs, and other non-waterfront structures on state-owned land.

(2) The acreage thresholds for real estate activities are as follows:

(A) one-half acre of oyster reef;

(B) one acre of submerged aquatic vegetation;

(C) one acre of coastal wetland;

(D) one acre of algal flat;

(E) five acres of tidal mud flat;

(F) ten acres of tidal sand flat;

(G) ten acres of state submerged land; or

(H) ten acres of upland area fitting the definition of coastal barrier, coastal shore area, Gulf beach, critical dune area, special hazard area, critical erosion area, coastal historic area, or coastal park, wildlife management area, or preserve, as defined in §16.1 of this title (relating to Definitions and Scope).

(c) Energy-Related Activities (activities related to oil, gas, or other mineral exploration and production).

(1) The GLO's or SLB's approval of a mineral lease plan of operations for hard mineral exploration and production exceeds the threshold if the authorized activities would adversely affect CNRA acreage greater than the following:

(A) In the upper coast:

(i) one-half acre of oyster reef;

(ii) five acres of submerged aquatic vegetation;

(iii) five acres of coastal wetland;

(iv) five acres of algal flat;

(v) five acres of tidal mud flat;

(vi) ten acres of tidal sand flat;

(vii) 40 acres of waters in the open Gulf of Mexico;

(viii) 40 acres of open bay waters under tidal influence; or

(ix) 40 acres of upland area fitting the definition of coastal barrier, coastal shore area, Gulf beach, critical dune area, special hazard area, critical erosion area, coastal historic area, or coastal park, wildlife management area, or preserve, as defined in §16.1 of this title (relating to Definitions and Scope).

(B) In the lower coast:

(i) one-half acre of oyster reef;

(ii) 40 acres of submerged aquatic vegetation;

(iii) five acres of coastal wetland;

(iv) 20 acres of algal flat;

(v) 20 acres of tidal mud flat;

(vi) 40 acres of tidal sand flat;

(vii) 40 acres of waters in the open Gulf of Mexico;

(viii) 40 acres of open bay waters under tidal influence; or

(ix) 40 acres of upland area fitting the definition of coastal barrier, coastal shore area, Gulf beach, critical dune area, special hazard area, critical erosion area, coastal historic area, or coastal park, wildlife management area, or preserve, as defined in §16.1 of this title (relating to Definitions and Scope).

(2) The GLO's or SLB's issuance of a geophysical or geochemical permit for exploration for oil, gas, or other minerals on state-owned lands exceeds the threshold if the authorized activities would adversely affect CNRA acreage greater than the following:

(A) In the upper coast:

(i) one-half acre of oyster reef;

(ii) 20 acres per square mile of submerged aquatic vegetation.

(iii) 40 acres per square mile of coastal wetland;

(iv) 20 acres per square mile of algal flat;

(v) 20 acres per square mile of tidal mud flat;

(vi) 20 acres per square mile of tidal sand flat;

(vii) 40 acres per square mile of waters in the open Gulf of Mexico.

(viii) 40 acres per square mile of open bay waters under tidal influence; or

(ix) 40 acres per square mile of upland area fitting the definition of coastal barrier, coastal shore area, Gulf beach, critical dune area, special hazard area, critical erosion area, coastal historic area, or coastal park, wildlife management area, or preserve, as defined in §16.1 of this title (relating to Definitions and Scope)

(B) In the lower coast.

(i) one-half acre of oyster reef;

(ii) 40 acres per square mile of submerged aquatic vegetation;

(iii) 40 acres per square mile of coastal wetland;

(iv) 40 acres per square mile of algal flat;

(v) 40 acres per square mile of tidal mud flat;

(vi) 40 acres per square mile of tidal sand flat;

(vii) 40 acres per square mile of waters in the open Gulf of Mexico;

(viii) 40 acres per square mile of open bay waters under tidal influence; or

(ix) 40 acres per square mile of upland area fitting the definition of coastal barrier, coastal shore area, Gulf beach, critical dune area, special hazard area, critical erosion area, coastal historic area, or coastal park, wildlife management area, or preserve, as defined in §16.1 of this title (relating to Definitions and Scope).

(3) With respect to energy-related activities not covered within the scope of a hard mineral plan of operations, the GLO's or SLB's issuance of the following instruments exceeds the threshold if the authorized activities would adversely affect CNRA acreage greater than that in paragraph (4) of this subsection:

(A) a coastal easement pursuant to the Texas Natural Resources Code, §33.111, for dredging of basins and channels or construction of piers, docks, marinas, bulkheads, seawalls, and other waterfront structures on state-owned submerged land;

(B) miscellaneous easement pursuant to the Texas Natural Resources Code, §51.291, for construction of pipelines, transmission lines, roads, and other linear facilities on state-owned land; or

(C) a surface lease pursuant to the Texas Natural Resources Code, §51.121, for construction of commercial facilities, artificial reefs, and other non-waterfront structures on state-owned land.

(4) The acreage thresholds for energy-related activities not covered within the scope of a hard mineral plan of operations are as follows:

(A) In the upper coast:

(i) one-half acre of oyster reef;

(ii) five acres of submerged aquatic vegetation;

(iii) five acres of coastal wetland;

(iv) five acres of algal flat;

(v) five acres of tidal mud flat;

(vi) five acres of tidal sand flat;

(vii) 125 acres of waters in the open Gulf of Mexico;

(viii) 20 acres of open bay waters under tidal influence; or

(ix) 20 acres of upland area fitting the definition of coastal barrier, coastal shore area, Gulf beach, critical dune area, special hazard area, critical erosion area, coastal historic area, or coastal park, wildlife management area, or preserve, as defined in §16.1 of this title (relating to Definitions and Scope).

(B) In the lower coast:

(i) one-half acre of oyster reef;

(ii) 20 acres of submerged aquatic vegetation;

(iii) five acres of coastal wetland,

(iv) ten acres of algal flat;

(v) ten acres of tidal mud flat;

(vi) 20 acres of tidal sand flat;

(vii) 125 acres of waters in the open Gulf of Mexico;

(viii) 20 acres of open bay waters under tidal influence; or

(ix) 20 acres of upland area fitting the definition of coastal barrier, coastal shore area, Gulf beach, critical dune area, special hazard area, critical erosion area, coastal historic area, or coastal park, wildlife management area, or preserve, as defined in §16.1 of this title (relating to Definitions and Scope).

(d) Any GLO or SLB action described in §16.1 of this title (relating to Definitions and Scope) that may adversely affect a CNRA that has not been specifically addressed in this section, exceeds the threshold if the action would adversely affect greater than 40 acres of any such CNRA.

(e) Any GLO or SLB action described in §16.1 of this title (relating to Definitions and Scope) that may adversely affect a CNRA must be consistent with the goals and policies in §16.2 and §16.3 of this chapter (relating to Goals and Administrative Policies, and Policies for Specific Activities and Coastal Natural Resource Areas), whether above or below the applicable threshold.

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 22, 1995.

TRD-9506211

Garry Mauro
Commissioner
General Land Office

Proposed date of adoption: August 15, 1995

For further information, please call: (512) 305-9129

◆ ◆ ◆
**Part II. Texas Parks and
Wildlife Department**
Chapter 55. Law Enforcement
**Subchapter D. Operation Game
Thief Fund**

• **31 TAC §55.114**

The Texas Parks and Wildlife Department proposes an amendment to §55.114, concerning reward payments under the Operation Game Thief Fund. The proposed amendment increases from \$300 to \$1,000 the maximum award limit for payments under the fund. The amendment is necessary in order to further enhance the effectiveness of Operation Game Thief, and will function by

encouraging the public to come forward with information concerning game and fish law violations, enabling the department to better protect the wildlife resources of the state.

Dr. William Harvey, Regulatory Affairs Coordinator, has determined that for the first five-year period the section is in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the section.

Dr. Harvey also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be the enhanced protection of the wildlife resources of the state. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the section as proposed.

The department has not filed a local impact statement with the Texas Employment Commission as required by the Administrative Procedure Act, §2001. 022, as this agency has determined that the rule as proposed will not impact local economies.

Comments on the proposal may be submitted to Jack King, Law Enforcement Division, Texas Parks and Wildlife Department, 4200 Smith School Road, Austin, Texas 78744, (512) 389-4630 or 1-800-792-1112, extension 4630.

The amendment is proposed under the Parks and Wildlife Code, Chapter 12, Subchapter C, which gives the commission authority to implement and maintain the Operation Game Thief Fund.

The proposed amendment implements Parks and Wildlife Code, Chapter 12, Subchapter C.

§55.114. Rewards; Payment.

(a) The amount of reward granted to eligible applicants may not exceed \$1,000 [\$300] and [...] shall be determined on an individual basis by the coordinator, with the approval of the director of law enforcement, according to the degree of flagrancy of each violation.

(b)-(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 19, 1995.

TRD-9506296

Paul M. Shinkawa
Acting General Counsel
Texas Parks and Wildlife
Department

Earliest possible date of adoption: June 30, 1995

For further information, please call: (512) 389-4433

Chapter 65. Wildlife

Subchapter A. Statewide Hunting and Fishing Proclamation

The Texas Parks and Wildlife Department proposes amendments to §65.3 and §65.78, concerning the use of the sand pump as a legal device for the taking of aquatic organisms.

The amendment to §65.3, concerning Definitions, adds a definition of sand pump. The amendment to §65.78, concerning Crabs, specifies a bag limit for the taking of ghost shrimp by means of a sand pump and further stipulates that sand pumps may not be operated by mechanical or powered devices or used for commercial purposes.

The amendments are necessary to adequately protect the marine resources of the state.

The amendments will function by defining the device known as the sand pump and by establishing a bag limit for the number of ghost shrimp that may be lawfully taken by use of a sand pump.

Robin Riechers, staff economist, has determined that for the first five-year period the sections are in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the sections.

Mr. Riechers also has determined that for each year of the first five years the sections are in effect the public benefit anticipated as a result of enforcing the sections will be that anglers will be permitted to use sand pumps to take aquatic organisms for personal use as fish bait. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the sections as proposed.

The department has not filed a local impact statement with the Texas Employment Commission as required by the Administrative Procedure Act, §2001. 022, as this agency has determined that the rules as proposed will not impact local economies.

Comments on the proposal may be submitted to Paul Hammerschmidt, Coastal Fisheries Division, Texas Parks and Wildlife Department, 4200 Smith School Road, Austin, Texas 78744, (512) 389-4650 or 1-800-792-1112, extension 4650.

General Provisions

• 31 TAC §65.3

The amendment is proposed under the Parks and Wildlife Code, Chapter 61, Uniform Wildlife Regulatory Act (Wildlife Conservation Act of 1983), which provides the Parks and Wildlife Commission with the authority to establish wildlife resource regulations for this state.

The proposed amendment affects Parks and Wildlife Code, Chapter 61.

§65.3. Definitions. The following words and terms, when used in this subchapter,

shall have the following meanings, unless the context clearly indicates otherwise.

Sand Pump—A self-contained, hand-held, hand-operated suction device used to remove and capture Callinassid ghost shrimp (*Callichirus islagrande* formerly *Callinassa islagrande*) from their burrows.

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 22, 1995.

TRD-9506298

Paul M. Shinkawa
Acting General Counsel
Texas Parks and Wildlife
Department

Earliest possible date of adoption: June 30, 1995

For further information, please call: (512) 389-4642

Seasons and Bag Limits- Fishing Provisions

• 31 TAC §65.78

The amendment is proposed under Parks and Wildlife Code, Chapter 61, Uniform Wildlife Regulatory Act (Wildlife Conservation Act of 1983), which provides the Parks and Wildlife Commission with the authority to establish wildlife resource regulations for this state.

The proposed amendment affects Parks and Wildlife Code, Chapter 61.

§65.78. Crabs.

(a) Bag, possession and size limits.

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

(3) It is unlawful for any person

to:

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

(E) buy or sell a female crab that has its abdominal apron detached; or

(F) possess more than 20 ghost shrimp (*Callichirus islagrande*, formerly *Callinassa islagrande*) per person.

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

(d) Devices, manners, and methods.

(1) (No change.)

(2) Only the following means and methods may be used for taking crabs:

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

(D) Sand pump. It is unlawful for any person to use a sand pump:

- (i) that is not manually operated; or
- (ii) for commercial purposes.

(E)(D) Other devices. Devices legally used for taking fresh or saltwater fish or shrimp may be used to take crab if operated in places and at times authorized by a proclamation of the Parks and Wildlife Commission or the Parks and Wildlife Code.

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 22, 1995.

TRD-9506297 Paul M. Shinkawa
Acting General Counsel
Texas Parks and Wildlife
Department

Earliest possible date of adoption: June 30, 1995

For further information, please call: (512) 389-4642

◆ ◆ ◆
• 31 TAC §65.72

The Texas Parks and Wildlife Department proposes an amendment to §65.72, concerning the bag, possession, and size limits for red snapper.

The amendment to §65.72 increases the minimum size limit of red snapper taken from public waters of this state from 14 to 15 inches total length, decreases the daily bag limit from seven to five fish, and decreases the possession limit from 14 to ten fish. The amendment implements regulations developed by the Gulf of Mexico Fishery Management Council for federal waters where most of the red snapper fishing occurs. The amendment insures consistency in regulation and enforcement, and reduces confusion for red snapper anglers. In addition, the biomass yield per recruit and the spawning success of the overfished red snapper stocks would be improved.

The amendment is necessary to adequately protect the marine resources of the state.

The amendment will function by reducing the vulnerability of the red snapper to take, preventing overharvest of the species, equitably distributing the available harvest, and in general preserving and enhancing the existing populations while allowing for harvest opportunities.

Robin Riechers, staff economist, has determined that for the first five-year period the section is in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the section.

Mr. Riechers also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be the

appropriate take of fisheries resources consistent to maintain viable populations. Fiscal implications to small businesses may be reduced sales of gear, supplies, etc., to persons as a result of the rule. Expenditures in certain locales may be increased or decreased due to the restrictions upon the targeted species. There are anticipated economic costs to persons who are required to comply with the section as proposed. Persons who depend upon the expenditures of others that exercise their recreational or commercial harvest privileges may also be impacted as a result of the rule.

Comments on the proposal may be submitted to Paul Hammerschmidt, Coastal Fisheries Division, Texas Parks and Wildlife Department, 4200 Smith School Road, Austin, Texas 78744, (512) 389-4650 or 1-800-792-1112, extension 4650.

The amendment is proposed under the Parks and Wildlife Code, Chapter 61, Uniform Wildlife Regulatory Act (Wildlife Conservation Act of 1983), which provides the Parks and Wildlife Commission with the authority to establish wildlife resource regulations for this state.

The proposed amendment affects Parks and Wildlife Code, Chapter 61.

§65.72. Fish.

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

(c) Bag, possession, and length limits.

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

(4) There are no bag, possession, or length limits on game or nongame fish, except as provided in these rules.

(A) Statewide daily bag, possession, and length limits shall be as follows:

Figure 1: 31 TAC §65.72(c)(4)(A)

(B) (No change.)

(d)-(e) (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 22, 1995.

TRD-9506299 Paul M. Shinkawa
Acting General Counsel
Texas Parks and Wildlife
Department

Earliest possible date of adoption: June 30, 1995

For further information, please call: (512) 389-4642

TITLE 37. PUBLIC SAFETY AND CORRECTIONS

Part XIII. Texas Commission on Fire Protection

Chapter 421. Standards for Certification

• 37 TAC §421.5

The Texas Commission on Fire Protection proposes an amendment to §421.5, concerning definitions. The amendment to this section deletes the definition of "training points" made obsolete by proposed changes to other chapters that will discontinue the use of training points to determine eligibility for higher levels of certification.

James Fiero, Fire Protection Personnel Advisory Committee Chairman, has determined that for the first five-year period the amended section is in effect there will be fiscal implications for state and local governments as a result of enforcing or administering the section as amended. It is estimated that the average amount of employee time devoted to reviewing applications for higher levels of certification will be reduced by one half from one hour to thirty minutes. Based on an average hourly rate of \$15, the reduced processing time for an estimated 1,250 applications will result in an annual savings in the cost of employee time of approximately \$9,400 to the commission. Local governments that record training points and assist employees in filing applications for higher levels of certification will realize a reduction in the cost related to such record keeping at the approximate rate of \$15 per hour. The total savings to each governmental entity will vary with the size of the department.

Mr. Fiero 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 sections will be that higher levels of certification requirements are streamlined and focused on professional fire protection courses delivered by colleges and the National Fire Academy (resident or field courses). There will be no additional costs of compliance for small or large businesses required to comply with the section as amended. Some individuals applying for advanced levels of certification may incur additional costs for more training or years of work experience depending on their particular combination of education and experience, while other individuals may benefit from the changes. The cost will vary from \$0 to \$300 depending on the source of training.

Comments on the proposal may be submitted to: Michael E. Hines, Executive Director, Texas Commission on Fire Protection, P.O. Box 2286, Austin, Texas 78768-2286.

The amendment is proposed under Texas Government Code, §419.008, which provides the Texas Commission on Fire Protection with authority to adopt rules for the administration of its powers and duties; and Texas

Government Code, §419.022(a)(5), which provides the commission with authority to establish standards for advanced fire protection personnel positions.

Texas Government Code, §419.022 will be affected by this proposed amendment.

§421.5. Definitions.

(a) (No change.)

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

(1)-(31) (No change.)

(32) [Training Points—One semester hour earned at any accredited college or university shall equal one training point or 20 class hours of accredited training other than college semester hours shall be equal to one training point.]

(33) (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 22, 1995.

TRD-9506273 Jack Woods
General Counsel
Texas Commission on Fire
Protection

Earliest possible date of adoption: June 30, 1995

For further information, please call: (512) 918-7184



Chapter 423. Fire Suppression

Subchapter A. Minimum Standards for Structure Fire Protection Personnel Certification

• 37 TAC §§423.3, 423.5, 423.7

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

The Texas Commission on Fire Protection proposes the repeal of §§423.3, 423.5, and 423.7, concerning minimum standards for intermediate, advanced, and master structure fire protection personnel certification. The repealed sections are replaced by new sections dealing with the same subject matter. The repeals have a September 1, 1995, effective date.

James Fiero, Fire Protection Personnel Advisory Committee Chairman, has determined that for the first five year period the new sections replacing the repealed sections are in effect there will be fiscal implications for state and local governments. It is estimated

that the commission will realize a savings of \$9,400 in the cost of employee time spent reviewing higher levels of certification applications. In addition, it is estimated that commission employee time spent reviewing course approval for advanced level credit will be reduced by 500 hours resulting in an estimated savings of \$7,500 per year. Local governments that track training points for employees or that seek course approval for higher level training will see a reduction in processing time at an average cost savings of \$15 per hour, with the total savings varying with the size of the department.

Mr. Fiero also has determined that for each of the first five years the repeals are in effect the public benefit anticipated as a result of enforcing the new sections replacing the repealed sections will be that higher levels of certification requirements are streamlined and focused on professional fire protection courses delivered by colleges and the NFA (resident and field courses). In addition, the new sections replacing the repealed sections allow more flexibility in scheduling of courses, particularly for colleges in rural areas of the state that offer courses on a three- or four-year rotation. There will be no additional cost of compliance for small or large businesses required to comply with the new sections. Some individuals applying for advanced levels of certification may incur additional costs for more training or years of work experience depending on their particular combination of education and experience, while other individuals may benefit from the changes. The cost will vary from \$0 to \$300 depending on the source of training.

Comments on the proposal may be submitted to: Michael E. Hines, Executive Director, Texas Commission on Fire Protection, P.O. Box 2286, Austin, Texas 78768-2286

The repeals are proposed under Texas Government Code, §419.008, which provides the Texas Commission on Fire Protection with authority to adopt rules for the administration of its powers and duties; and Texas Government Code, §419.022, which provides the commission with authority to establish minimum training standards for fire protection personnel in advanced or specialized fire protection personnel positions.

Texas Government Code, §419.022 is affected by the proposed repeals.

§423.3. Minimum Standards for Intermediate Structural Fire Protection Personnel Certification.

§423.5. Minimum Standards for Advanced Structural Fire Protection Personnel Certification.

§423.7. Minimum Standards for Master Structural Fire Protection Personnel Certification.

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 22, 1995

TRD-9506275 Jack Woods
General Counsel
Texas Commission on Fire
Protection

Earliest possible date of adoption: June 30, 1995

For further information, please call: (512) 918-7184



The Texas Commission on Fire Protection proposes new §§423.3, 423.5, and 423.7, concerning minimum standards for intermediate, advanced, and master structure fire protection personnel certification. The new sections replace repealed sections dealing with the same subject matter. The new sections discontinue the use of training points for determining eligibility for higher levels of certification as well as the balancing of length of experience with the amount of training points, and substitute experience requirements of three, six, and nine years for intermediate, advanced, and master certification levels, respectively. In addition, the new sections permit credit for any college fire science or fire technology course or NFA course, instead of requiring specific courses for specific levels. The new sections will have a September 1, 1995, effective date.

James Fiero, Fire Protection Personnel Advisory Committee Chairman, has determined that for the first five-year period the new sections are in effect there will be fiscal implications for state and local governments. It is estimated that the commission will realize a savings of \$9,400 in the cost of employee time spent reviewing higher levels of certification applications. In addition, it is estimated that commission employee time spent reviewing course approval for advanced level credit will be reduced by 500 hours resulting in an estimated savings of \$7,500 per year. Local governments that track training points for employees or that seek course approval for higher level training will see a reduction in processing time at an average cost savings of \$15 per hour, with the total savings varying with the size of the department.

Mr. Fiero also has determined that for each of the first five years the sections are in effect the public benefit anticipated as a result of enforcing the sections will be that higher levels of certification requirements are streamlined and focused on professional fire protection courses delivered by colleges and the NFA (resident and field courses). In addition, the new sections allow more flexibility in scheduling of courses, particularly for colleges in rural areas of the state that offer courses on a three- or four-year rotation. There will be no additional cost of compliance for small or large businesses required to comply with the new sections. Some individuals applying for advanced levels of certification may incur additional costs for more training or years of work experience depending on their particular combination of education and experience, while other individuals may benefit from the changes. The cost will vary from \$0 to \$300 depending on the source of training.

Comments on the proposal may be submitted to: Michael E. Hines, Executive Director, Texas Commission on Fire Protection, P.O. Box 2286, Austin, Texas 78768-2286.

The new sections are proposed under Texas Government Code, §419.008, which provides the Texas Commission on Fire Protection with authority to adopt rules for the administration of its powers and duties; and Texas Government Code, §419.022, which provides the commission with authority to establish minimum training standards for fire protection personnel in advanced or specialized fire protection personnel positions.

Texas Government Code, §419.022 is affected by the proposed new sections.

§423.3. Minimum Standards For Intermediate Structure Fire Protection Personnel.

(a) Applicants for Intermediate Structure Fire Protection Personnel Certification must complete the following requirements:

(1) hold as a prerequisite a Basic Structure Fire Protection Personnel Certification as defined in §423.1 of this title (relating to Minimum Standards for Basic Structure Fire Protection Personnel Certification);

(2) acquire a minimum of three years of fire protection experience and complete the courses listed in one of the following options:

(A) Option #1—Successfully complete six semester hours of fire science or fire technology from an approved Fire Protection Degree Program and submit documentation as required by the Commission that the courses comply with subsections (c) and (d) of this section;

(B) Option #2—Complete a minimum of 80 hours of instruction in any National Fire Academy courses.

(C) Option #3—Successfully complete three semester hours of college courses listed in Option #1 and a minimum of 40 hours in any National Fire Academy courses.

(b) College level courses from both the upper and lower division may be used to satisfy the education requirement for Intermediate Structure Fire Protection Personnel Certification.

(c) Non-traditional credit awarded at the college level, such as credit for experience or credit by examination obtained from attending any school in the commission's document titled "Commission Certification Curriculum Manual" or for experience in the fire service, may not be counted toward higher levels of certification.

(d) The training required in this section must be in addition to any training used to qualify for any lower level of Structure Fire Protection Personnel Certification. Repeating a course or course of similar content cannot be used towards higher levels of certification.

§423.5. Minimum Standards For Advanced Structure Fire Protection Personnel Certification.

(a) Applicants for Advanced Structure Fire Protection Personnel certification must complete the following requirements:

(1) hold as a prerequisite an Intermediate Structure Fire Protection Personnel Certification as defined in §423.3 of this title (relating to Minimum Standards for Intermediate Structure Fire Protection Personnel Certification);

(2) acquire a minimum of six years of fire protection experience and complete the courses listed in one of the following options:

(A) Option #1—Successfully complete six semester hours of fire science or fire technology from an approved Fire Protection Degree Program and submit documentation as required by the Commission that the courses comply with subsection (c) and (d) of this section; or

(B) Option #2—Complete a minimum of 80 hours of instruction in any National Fire Academy courses; or

(C) Option #3—Successfully complete three semester hours of college courses listed in Option #1 and a minimum of 40 hours in any National Fire Academy courses.

(b) College level courses from both the upper and lower division may be used to satisfy the education requirement for Advanced Structure Fire Protection Personnel Certification.

(c) Non-traditional credit awarded at the college level, such as credit for experience or credit by examination obtained from attending any school in the commission's document titled "Commission Certification Curriculum Manual" or for experience in the fire service, may not be counted toward higher levels of certification.

(d) The training required in this section must be in addition to any training used to qualify for any lower level of Structure Fire Protection Personnel Certification. Repeating a course or course of similar content cannot be used towards higher levels of certification.

§423.7. Minimum Standards for Master Structure Fire Protection Personnel Certification.

(a) Applicants for Master Structure Fire Protection Personnel Certification must complete the following requirements:

(1) hold as a prerequisite an Advance Structure Fire Protection Personnel Certification as defined in §423.5 of this title (relating to Minimum Standards for Advanced Structure Fire Protection Personnel Certification); and

(2) acquire a minimum of nine years of fire protection experience and 60 college semester hours which includes at least 15 college semester hours in fire science subjects.

(b) College level courses from both the upper and lower division may be used to satisfy the education requirement for Master Structure Fire Protection Personnel Certification.

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 22, 1995.

TRD-9506274

Jack Woods
General Counsel
Texas Commission on Fire
Protection

Earliest possible date of adoption: June 30, 1995

For further information, please call: (512) 918-7184

Subchapter B. Minimum Standards for Aircraft Crash and Rescue Fire Protection Personnel

• 37 TAC §§423.205, 423.207, 423.209

(Editor's note. The text of the following sections proposed for repeal will not be published. The sections may be examined in the offices of the Texas Commission on Fire Protection or in the Texas Register office, Room 245, James Earl Rudder Building, 1019 Brazos Street, Austin.)

The Texas Commission on Fire Protection proposes the repeal of §§423.205, 423.207, and 423.209, concerning minimum standards for intermediate, advanced and master aircraft rescue and fire protection personnel certification. The repealed sections are replaced by new sections dealing with the same subject matter. The repeals have a September 1, 1995, effective date.

James Fiero, Fire Protection Personnel Advisory Committee Chairman, has determined that for the first five-year period the new sections replacing the repealed sections are in effect there will be fiscal implications for state

and local governments. It is estimated that the commission will realize a savings of \$9,400 in the cost of employee time spent reviewing higher levels of certification applications. In addition, it is estimated that commission employee time spent reviewing course approval for advanced level credit will be reduced by 500 hours resulting in an estimated savings of \$7,500 per year. Local governments that track training points for employees or that seek course approval for higher level training will see a reduction in processing time at an average cost savings of \$15 per hour, with the total savings varying with the size of the department.

Mr. Fiero also has determined that for each of the first five years the repeals are in effect the public benefit anticipated as a result of enforcing the new sections replacing the repealed sections will be that higher levels of certification requirements are streamlined and focused on professional fire protection courses delivered by colleges and the NFA (resident and field courses). In addition, the new sections replacing the repealed sections allow more flexibility in scheduling of courses, particularly for colleges in rural areas of the state that offer courses on a three- or four-year rotation. There will be no additional cost of compliance for small or large businesses required to comply with the new sections. Some individuals applying for advanced levels of certification may incur additional costs for more training or years of work experience depending on their particular combination of education and experience, while other individuals may benefit from the changes. The cost will vary from \$0 to \$300 depending on the source of training

Comments on the proposal may be submitted to: Michael E. Hines, Executive Director, Texas Commission on Fire Protection, P.O. Box 2286, Austin, Texas 78768-2286.

The repeals are proposed under Texas Government Code, §419.008, which provides the Texas Commission on Fire Protection with authority to adopt rules for the administration of its powers and duties; Texas Government Code, §419.022, which provides the commission with authority to establish minimum training standards for fire protection personnel in advanced or specialized fire protection personnel positions; and Texas Government Code, §419.038, which provides the commission with authority to adopt requirements for certification of aircraft rescue and fire protection personnel.

Texas Government Code, §419.022 and §419.038 is affected by the proposed repeals.

§423.205. Minimum Standards for Intermediate Aircraft Crash and Rescue Fire Protection Personnel Certification.

§423.207. Minimum Standards for Advanced Aircraft Crash and Rescue Fire Protection Personnel Certification.

§423.209. Minimum Standards for Master Aircraft Crash and Rescue Fire Protection Personnel Certification.

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 22, 1995.

TRD-9506277

Jack Woods
General Counsel
Texas Commission on Fire
Protection

Earliest possible date of adoption: June 30, 1995

For further information, please call: (512) 918-7184

The Texas Commission on Fire Protection proposes new §§423.205, 423.207, and 423.209, concerning minimum standards for intermediate, advanced and master aircraft rescue and fire protection personnel certification. The new sections replace repealed sections dealing with the same subject matter. The new sections discontinue the use of training points for determining eligibility for higher levels of certification as well as the balancing of length of experience with the amount of training points, and substitute experience requirements of three, six, and nine years for intermediate, advanced, and master certification levels, respectively. In addition, the new sections permit credit for any college fire science or fire technology course or NFA course, instead of requiring specific courses for specific levels. The new sections will have a September 1, 1995, effective date.

James Fiero, Fire Protection Personnel Advisory Committee Chairman, has determined that for the first five-year period the new sections are in effect there will be fiscal implications for state and local governments. It is estimated that the commission will realize a savings of \$9,400 in the cost of employee time spent reviewing higher levels of certification applications. In addition, it is estimated that commission employee time spent reviewing course approval for advanced level credit will be reduced by 500 hours resulting in an estimated savings of \$7,500 per year. Local governments that track training points for employees or that seek course approval for higher level training will see a reduction in processing time at an average cost savings of \$15 per hour, with the total savings varying with the size of the department.

Mr. Fiero also has determined that for each of the first five years the sections are in effect the public benefit anticipated as a result of enforcing the sections will be that higher levels of certification requirements are streamlined and focused on professional fire protection courses delivered by colleges and the NFA (resident and field courses). In addition, the new sections allow more flexibility in scheduling of courses, particularly for colleges in rural areas of the state that offer courses on a three- or four-year rotation. There will be no additional cost of compliance for small or large businesses required to comply with the new sections. Some individuals applying for advanced levels of certifica-

tion may incur additional costs for more training or years of work experience depending on their particular combination of education and experience, while other individuals may benefit from the changes. The cost will vary from \$0 to \$300 depending on the source of training.

Comments on the proposal may be submitted to: Michael E. Hines, Executive Director, Texas Commission on Fire Protection, P.O. Box 2286, Austin, Texas 78768-2286.

The new sections are proposed under Texas Government Code, §419.008, which provides the Texas Commission on Fire Protection with authority to adopt rules for the administration of its powers and duties; Texas Government Code, §419.022, which provides the commission with authority to establish minimum training standards for fire protection personnel in advanced or specialized fire protection personnel positions; and Texas Government Code, §419.038, which provides the commission with authority to adopt requirements for certification of aircraft rescue and fire protection personnel.

Texas Government Code, §419.022 and §419.038 is affected by the proposed new sections.

§423.205. Minimum Standards For Intermediate Aircraft Rescue and Fire Protection Personnel.

(a) Applicants for Intermediate Aircraft Rescue and Fire Protection Personnel Certification must complete the following requirements:

(1) hold as a prerequisite a Basic Aircraft Rescue and Fire Protection Personnel Certification as defined in §423.203 of this title (relating to Minimum Standards for Basic Aircraft Rescue and Fire Protection Personnel Certification);

(2) acquire a minimum of three years of fire protection experience and complete the courses listed in one of the following options:

(A) Option #1—Successfully complete six semester hours of fire science or fire technology from an approved Fire Protection Degree Program and submit documentation as required by the Commission that the courses comply with subsections (c) and (d) of this section; or

(B) Option #2—Complete a minimum of 80 hours of instruction in any National Fire Academy courses; or

(C) Option #3—Successfully complete three semester hours of college courses listed in Option #1 and a minimum of 40 hours in any National Fire Academy courses.

(b) College level courses from both the upper and lower division may be used to

satisfy the education requirement for Intermediate Aircraft Rescue and Fire Protection Personnel Certification.

(c) Non-traditional credit awarded at the college level, such as credit for experience or credit by examination obtained from attending any school in the commission's document titled "Commission Certification Curriculum Manual" or for experience in the fire service, may not be counted toward higher levels of certification.

(d) The training required in this section must be in addition to any training used to qualify for any lower level of Aircraft Rescue and Fire Protection Personnel Certification. Repeating a course or course of similar content cannot be used towards higher levels of certification.

§423.207. Minimum Standards For Advanced Aircraft Rescue and Fire Protection Personnel Certification.

(a) Applicants for Advanced Aircraft Rescue and Fire Protection Personnel certification must complete the following requirements:

(1) hold as a prerequisite an Intermediate Aircraft Rescue and Fire Protection Personnel Certification as defined in §423.205 of this title (relating to Minimum Standards for Advanced Aircraft Rescue and Fire Protection Personnel Certification);

(2) acquire a minimum of six years of fire protection experience and complete the courses listed in one of the following options:

(A) Option #1—Successfully complete six semester hours of fire science or fire technology from an approved Fire Protection Degree Program and submit documentation as required by the Commission that the courses comply with subsections (c) and (d) of this section; or

(B) Option #2—Complete a minimum of 80 hours of instruction in any National Fire Academy courses; or

(C) Option #3—Successfully complete three semester hours of college courses listed in Option #1 and a minimum of 40 hours in any National Fire Academy courses.

(b) College level courses from both the upper and lower division may be used to satisfy the education requirement for Advanced Aircraft Rescue and Fire Protection Personnel Certification.

(c) Non-traditional credit awarded at the college level, such as credit for experience or credit by examination obtained

from attending any school in the commission's document titled "Commission Certification Curriculum Manual" or for experience in the fire service, may not be counted toward higher levels of certification.

(d) The training required in this section must be in addition to any training used to qualify for any lower level of Aircraft Rescue and Fire Protection Personnel Certification. Repeating a course or course of similar content cannot be used towards higher levels of certification.

§423.209. Minimum Standards for Master Aircraft Rescue and Fire Protection Personnel Certification.

(a) Applicants for Master Aircraft Rescue and Fire Protection Personnel Certification must complete the following requirements:

(1) hold as a prerequisite an Advance Aircraft Rescue and Fire Protection Personnel Certification as defined in §423.207 of this title (relating to Minimum Standards for Advanced Aircraft Rescue and Fire Protection Personnel Certification); and

(2) acquire a minimum of nine years of fire protection experience and 60 college semester hours which includes at least 15 college semester hours in fire science subjects.

(b) College level courses from both the upper and lower division may be used to satisfy the education requirement for Master Aircraft Rescue and Fire Protection Personnel Certification.

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 22, 1995.

TRD-9506276 Jack Woods
General Counsel
Texas Commission on Fire Protection

Earliest possible date of adoption: June 30, 1995

For further information, please call: (512) 918-7184

◆ ◆ ◆
Subchapter C. Minimum Standards for marine Fire Protection Personnel

• **37 TAC §§423.305, 423.307, 423.309**

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

The Texas Commission on Fire Protection proposes the repeal of §§423.305, 423.307, and 423.309, concerning minimum standards for intermediate, advanced and master marine fire protection personnel certification. The repealed sections are replaced by new sections dealing with the same subject matter. The repeals have a January 1, 1996, effective date.

James Fiero, Fire Protection Personnel Advisory Committee Chairman, has determined that for the first five year period the new sections replacing the repealed sections are in effect there will be fiscal implications for state and local governments. It is estimated that the commission will realize a savings of \$9,400 in the cost of employee time spent reviewing higher levels of certification applications. In addition, it is estimated that commission employee time spent reviewing course approval for advanced level credit will be reduced by 500 hours resulting in an estimated savings of \$7,500 per year. Local governments that track training points for employees or that seek course approval for higher level training will see a reduction in processing time at an average cost savings of \$15.00 per hour, with the total savings varying with the size of the department.

Mr. Fiero also has determined that for each of the first five years the repeals are in effect the public benefit anticipated as a result of enforcing the new sections replacing the repealed sections will be that higher levels of certification requirements are streamlined and focused on professional fire protection courses delivered by colleges and the NFA (resident and field courses). In addition, the new sections replacing the repealed sections allow more flexibility in scheduling of courses, particularly for colleges in rural areas of the state that offer courses on a 3 or 4 year rotation. There will be no additional cost of compliance for small or large businesses required to comply with the new sections. Some individuals applying for advanced levels of certification may incur additional costs for more training or years of work experience depending on their particular combination of education and experience, while other individuals may benefit from the changes. The cost will vary from \$0 to \$300 depending on the source of training.

Comments on the proposal may be submitted to: Michael E. Hines, Executive Director, Texas Commission on Fire Protection, P.O. Box 2286, Austin, Texas 78768-2286.

The repeal is proposed under Texas Government Code, §419.008, which provides the Texas Commission on Fire Protection with authority to adopt rules for the administration of its powers and duties; Texas Government Code, §419.022, which provides the commission with authority to establish minimum training standards for fire protection personnel in advanced or specialized fire protection personnel positions; and Texas Government Code, §419.037, which provides the commission with authority to adopt requirements for certification of marine fire protection personnel.

Texas Government Code, §419.022 and §419.037 are affected by the proposed repeal.

§423.305. Minimum Standards for Intermediate Marine Fire Protection Personnel.

§423.307. Minimum Standards for Advanced Marine Fire Protection Personnel Certification.

§423.309. Minimum Standards for Master Marine Fire Protection Personnel Certification.

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 March 22, 1995.

TRD-9506285

Jack Woods
General Counsel
Texas Commission on Fire
Protection

Earliest possible date of adoption: ???

For further information, please call: (512) 918-7184



The Texas Commission on Fire Protection proposes new §§423.305, 423.307, and 423.309, concerning minimum standards for intermediate, advanced and master marine fire protection personnel certification. The new sections discontinue the use of training points for determining eligibility for higher levels of certification as well as the balancing of length of experience with the amount of training points, and substitute experience requirements of three, six, and nine years for intermediate, advanced, and master certification levels, respectively. In addition, the new sections permit credit for any college fire science or fire technology course or NFA course, instead of requiring specific courses for specific levels. The new sections will have a January 1, 1996, effective date.

James Fiero, Fire Protection Personnel Advisory Committee Chairman, has determined that for the first five-year period the new sections are in effect there will be fiscal implications for state and local governments. It is estimated that the commission will realize a savings of \$9,400 in the cost of employee time spent reviewing higher levels of certification applications. In addition, it is estimated that commission employee time spent reviewing course approval for advanced level credit will be reduced by 500 hours resulting in an estimated savings of \$7,500 per year. Local governments that track training points for employees or that seek course approval for higher level training will see a reduction in processing time at an average cost savings of \$15 per hour, with the total savings varying with the size of the department.

Mr. Fiero also has determined that for each of the first five years the sections are in effect the public benefit anticipated as a result of enforcing the sections will be that higher levels of certification requirements are stream-

lined and focused on professional fire protection courses delivered by colleges and the NFA (resident and field courses). In addition, the new sections allow more flexibility in scheduling of courses, particularly for colleges in rural areas of the state that offer courses on a three- or four-year rotation. There will be no additional cost of compliance for small or large businesses required to comply with the new sections. Some individuals applying for advanced levels of certification may incur additional costs for more training or years of work experience depending on their particular combination of education and experience, while other individuals may benefit from the changes. The cost will vary from \$0 to \$300 depending on the source of training.

Comments on the proposal may be submitted to: Michael E. Hines, Executive Director, Texas Commission on Fire Protection, P.O. Box 2286, Austin, Texas 78768-2286.

The new sections are proposed under Texas Government Code, §419.008, which provides the Texas Commission on Fire Protection with authority to adopt rules for the administration of its powers and duties; Texas Government Code, §419.022, which provides the commission with authority to establish minimum training standards for fire protection personnel in advanced or specialized fire protection personnel positions; and Texas Government Code, §419.037, which provides the commission with authority to adopt requirements for certification of marine fire protection personnel.

Texas Government Code, §419.022 and §419.037 is affected by the proposed new sections.

§423.305. Minimum Standards For Intermediate Marine Fire Protection Personnel.

(a) Applicants for Intermediate Marine Fire Protection Personnel Certification must complete the following requirements:

(1) hold as a prerequisite a Basic Marine Fire Protection Personnel Certification as defined in §423.303 of this title (relating to Minimum Standards for Basic Marine Fire Protection Personnel Certification);

(2) acquire a minimum of three years of fire protection experience and complete the courses listed in one of the following options:

(A) Option #1—Successfully complete six semester hours of fire science or fire technology from an approved Fire Protection Degree Program and submit documentation as required by the Commission that the courses comply with subsections (c) and (d) of this section; or

(B) Option #2—Complete a minimum of 80 hours of instruction in any National Fire Academy courses.

(C) Option #3—Successfully complete three semester hours of college courses listed in Option #1 and a minimum of 40 hours in any National Fire Academy courses.

(b) College level courses from both the upper and lower division may be used to satisfy the education requirement for Intermediate Marine Fire Protection Personnel Certification.

(c) Non-traditional credit awarded at the college level, such as credit for experience or credit by examination obtained from attending any school in the commission's document titled "Commission Certification Curriculum Manual" or for experience in the fire service, may not be counted toward higher levels of certification.

(d) The training required in this section must be in addition to any training used to qualify for any lower level of Marine Fire Protection Personnel Certification. Repeating a course or course of similar content cannot be used towards higher levels of certification.

§423.307. Minimum Standards For Advanced Marine Fire Protection Personnel Certification.

(a) Applicants for Advanced Marine Fire Protection Personnel certification must complete the following requirements:

(1) hold as a prerequisite an Intermediate Marine Fire Protection Personnel Certification as defined in §423.305 of this title (relating to Minimum Standards for Intermediate Marine Fire Protection Personnel Certification);

(2) acquire a minimum of six years of fire protection experience and complete the courses listed in one of the following options:

(A) Option #1—Successfully complete six semester hours of fire science or fire technology from an approved Fire Protection Degree Program and submit documentation as required by the Commission that the courses comply with subsections (c) and (d) of this section; or

(B) Option #2—Complete a minimum of 80 hours of instruction in any National Fire Academy courses; or

(C) Option #3—Successfully complete three semester hours of college courses listed in Option #1 and a minimum of 40 hours in any National Fire Academy courses.

(b) College level courses from both the upper and lower division may be used to

satisfy the education requirement for Advanced Marine Fire Protection Personnel Certification.

(c) Non-traditional credit awarded at the college level, such as credit for experience or credit by examination obtained from attending any school in the commission's document titled "Commission Certification Curriculum Manual" or for experience in the fire service, may not be counted toward higher levels of certification.

(d) The training required in this section must be in addition to any training used to qualify for any lower level of Marine Fire Protection Personnel Certification. Repeating a course or course of similar content cannot be used towards higher levels of certification.

§423.309. Minimum Standards for Master Marine Fire Protection Personnel Certification.

(a) Applicants for Master Marine Fire Protection Personnel Certification must complete the following requirements:

(1) hold as a prerequisite an Advance Marine Fire Protection Personnel Certification as defined in §423.307 of this title (relating to Minimum Standards for Advanced Marine Fire Protection Personnel Certification); and

(2) acquire a minimum of nine years of fire protection experience and 60 college semester hours which includes at least 15 college semester hours in fire science subjects.

(b) College level courses from both the upper and lower division may be used to satisfy the education requirement for Master Marine Fire Protection Personnel Certification

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 22, 1995.

TRD-9506278 Jack Woods
General Counsel
Texas Commission on Fire
Protection

Earliest possible date of adoption: June 30, 1995

For further information, please call: (512) 918-7184

◆ ◆ ◆
Chapter 429. Minimum Standards For Fire Inspectors

• 37 TAC §§429.5, 429.7, 429.9

(Editor's note. The text of the following sections proposed for repeal will not be published. The sections may be examined in the offices of the Texas Commission on Fire Protection or in the

Texas Register office, Room 245, James Earl Rudder Building, 1019 Brazos Street, Austin.)

The Texas Commission on Fire Protection proposes the repeal of §§429.5, 429.7, and 429.9, concerning standards for intermediate, advanced, and master fire inspector certification. The repealed sections are replaced by new sections dealing with the same subject matter. The repeals have a September 1, 1995, effective date.

James Fiero, Fire Protection Personnel Advisory Committee Chairman, has determined that for the first five-year period the new sections replacing the repealed sections are in effect there will be fiscal implications for state and local governments. It is estimated that the commission will realize a savings of \$9,400 in the cost of employee time spent reviewing higher levels of certification applications. In addition, it is estimated that commission employee time spent reviewing course approval for advanced level credit will be reduced by 500 hours resulting in an estimated savings of \$7,500 per year. Local governments that track training points for employees or that seek course approval for higher level training will see a reduction in processing time at an average cost savings of \$15 per hour, with the total savings varying with the size of the department.

Mr. Fiero also has determined that for each of the first five years the repeals are in effect the public benefit anticipated as a result of enforcing the new sections replacing the repealed sections will be that higher levels of certification requirements are streamlined and focused on professional fire protection courses delivered by colleges and the NFA (resident and field courses). In addition, the new sections replacing the repealed sections allow more flexibility in scheduling of courses, particularly for colleges in rural areas of the state that offer courses on a three- or four-year rotation. There will be no additional cost of compliance for small or large businesses required to comply with the new sections. Some individuals applying for advanced levels of certification may incur additional costs for more training or years of work experience depending on their particular combination of education and experience, while other individuals may benefit from the changes. The cost will vary from \$0 to \$300 depending on the source of training.

Comments on the proposal may be submitted to: Michael E. Hines, Executive Director, Texas Commission on Fire Protection, P.O. Box 2286, Austin, Texas 78768-2286.

The repeals are proposed under Texas Government Code, §419.008, which provides the Texas Commission on Fire Protection with authority to adopt rules for the administration of its powers and duties; and Texas Government Code, §419.022, which provides the commission with authority to establish minimum training standards for fire protection personnel in advanced or specialized fire protection personnel positions.

Texas Government Code, §419.022 is affected by the proposed repeals.

§429.5. Minimum Standards for Intermediate Fire Inspector Certification.

§429.7. Minimum Standards for Advanced Fire Inspector Certification.

§429.9. Minimum Standards for Master Inspector Certification.

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 22, 1995.

TRD-9506280 Jack Woods
General Counsel
Texas Commission on Fire
Protection

Earliest possible date of adoption: June 30, 1995

For further information, please call: (512) 918-7184

◆ ◆ ◆
The Texas Commission on Fire Protection proposes new §§429.5, 429.7, and 429.9, concerning standards for intermediate, advanced, and master fire inspector certification. The new sections replace repealed sections dealing with the same subject matter. The new sections discontinue the use of training points for determining eligibility for higher levels of certification as well as the balancing of length of experience with the amount of training points, and substitute experience requirements of three, six, and nine years for intermediate, advanced, and master certification levels, respectively. In addition, the new sections permit credit for any college fire science or fire technology course or NFA course, instead of requiring specific courses for specific levels. The new sections will have a September 1, 1995, effective date.

James Fiero, Fire Protection Personnel Advisory Committee Chairman, has determined that for the first five-year period the new sections are in effect there will be fiscal implications for state and local governments. It is estimated that the commission will realize a savings of \$9,400 in the cost of employee time spent reviewing higher levels of certification applications. In addition, it is estimated that commission employee time spent reviewing course approval for advanced level credit will be reduced by 500 hours resulting in an estimated savings of \$7,500 per year. Local governments that track training points for employees or that seek course approval for higher level training will see a reduction in processing time at an average cost savings of \$15 per hour, with the total savings varying with the size of the department.

Mr. Fiero also has determined that for each of the first five years the sections are in effect the public benefit anticipated as a result of enforcing the sections will be that higher levels of certification requirements are streamlined and focused on professional fire protection courses delivered by colleges and the NFA (resident and field courses). In addition, the new sections allow more flexibility in scheduling of courses, particularly for colleges in rural areas of the state that offer courses on a three- or four-year rotation.

There will be no additional cost of compliance for small or large businesses required to comply with the new sections. Some individuals applying for advanced levels of certification may incur additional costs for more training or years of work experience depending on their particular combination of education and experience, while other individuals may benefit from the changes. The cost will vary from \$0 to \$300 depending on the source of training.

Comments on the proposal may be submitted to: Michael E. Hines, Executive Director, Texas Commission on Fire Protection, P.O. Box 2286, Austin, Texas 78768-2286.

The new sections are proposed under Texas Government Code, §419.008, which provides the Texas Commission on Fire Protection with authority to adopt rules for the administration of its powers and duties; and Texas Government Code, §419.022, which provides the commission with authority to establish minimum training standards for fire protection personnel in advanced or specialized fire protection personnel positions.

Texas Government Code, §419.022 is affected by the proposed new sections.

§429.5. Minimum Standards For Intermediate Fire Inspector Certification.

(a) Applicants for Intermediate Fire Inspector Certification must complete the following requirements:

(1) hold as a prerequisite a Basic Fire Inspector Certification as defined in §429.3 of this title (relating to Minimum Standards for Basic Fire Inspector Certification);

(2) acquire a minimum of three years of fire protection experience and complete the courses listed in one of the following options:

(A) Option #1—Successfully complete six semester hours of fire science or fire technology from an approved Fire Protection Degree Program and submit documentation as required by the Commission that the courses comply with subsections (c) and (d) of this section; or

(B) Option #2—Complete a minimum of 80 hours of instruction in any National Fire Academy courses; or

(C) Option #3—Successfully complete three semester hours of college courses listed in Option #1 and a minimum of 40 hours in any National Fire Academy courses.

(b) College level courses from both the upper and lower division may be used to satisfy the education requirement for Intermediate Fire Inspector Certification.

(c) Non-traditional credit awarded at the college level, such as credit for experience or credit by examination obtained from attending any school in the commission's document titled "Commission Certification Curriculum Manual" or for experience in the fire service, may not be counted toward higher levels of certification.

(d) The training required in this section must be in addition to any training used to qualify for any lower level of Fire Inspector Certification. Repeating a course or course of similar content cannot be used towards higher levels of certification.

§429.7. Minimum Standards For Advanced Fire Inspector Certification.

(a) Applicants for Advanced Fire Inspector certification must complete the following requirements:

(1) hold as a prerequisite an Intermediate Fire Inspector Certification as defined in §429.5 of this title (relating to Minimum Standards for Intermediate Fire Inspector Certification);

(2) acquire a minimum of six years of fire protection experience and complete the courses listed in one of the following options:

(A) Option #1—Successfully complete six semester hours of fire science or fire technology from an approved Fire Protection Degree Program and submit documentation as required by the Commission that the courses comply with subsections (c) and (d) of this section; or

(B) Option #2—Complete a minimum of 80 hours of instruction in any National Fire Academy courses; or

(C) Option #3—Successfully complete three semester hours of college courses listed in Option #1 and a minimum of 40 hours in any National Fire Academy courses.

(b) College level courses from both the upper and lower division may be used to satisfy the education requirement for Advanced Fire Inspector Certification.

(c) Non-traditional credit awarded at the college level, such as credit for experience or credit by examination obtained from attending any school in the commission's document titled "Commission Certification Curriculum Manual" or for experience in the fire service, may not be counted toward higher levels of certification.

(d) The training required in this section must be in addition to any training

used to qualify for any lower level of Fire Inspector Certification. Repeating a course or course of similar content cannot be used towards higher levels of certification.

§429.9. Minimum Standards for Master Fire Inspector Certification

(a) Applicants for Master Fire Inspector Certification must complete the following requirements:

(1) hold as a prerequisite an Advance Fire Inspector Certification as defined in §429.7 of this title (relating to Minimum Standards for Advanced Fire Inspector Certification); and

(2) acquire a minimum of nine years of fire protection experience and 60 college semester hours which includes at least 15 college semester hours in fire science subjects.

(b) College level courses from both the upper and lower division may be used to satisfy the education requirement for Master Fire Inspector Certification.

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 22, 1995.

TRD-9506279

Jack Woods
General Counsel
Texas Commission on Fire
Protection

Earliest possible date of adoption: June 30, 1995

For further information, please call: (512) 918-7184

Chapter 431. Minimum Standards for Fire and Arson Investigator

• 37 TAC §§431.5, 431.7, 431.9

(Editor's note. The text of the following sections proposed for repeal will not be published. The sections may be examined in the offices of the Texas Commission on Fire Protection or in the Texas Register office, Room 245, James Earl Rudder Building, 1019 Brazos Street, Austin.)

The Texas Commission on Fire Protection proposes the repeal of §§431.5, 431.7, and 431.9, concerning standards for intermediate, advanced, and master fire and arson investigator certification. The repealed sections are replaced by new sections dealing with the same subject matter. The repeals have a September 1, 1995, effective date.

James Fiero, Fire Protection Personnel Advisory Committee Chairman, has determined that for the first five-year period the new sections replacing the repealed sections are in effect there will be fiscal implications for state and local governments. It is estimated that the commission will realize a savings of

\$9,400 in the cost of employee time spent reviewing higher levels of certification applications. In addition, it is estimated that commission employee time spent reviewing course approval for advanced level credit will be reduced by 500 hours resulting in an estimated savings of \$7,500 per year. Local governments that track training points for employees or that seek course approval for higher level training will see a reduction in processing time at an average cost savings of \$15 per hour, with the total savings varying with the size of the department.

Mr. Fiero also has determined that for each of the first five years the repeals are in effect the public benefit anticipated as a result of enforcing the new sections replacing the repealed sections will be that higher levels of certification requirements are streamlined and focused on professional fire protection courses delivered by colleges and the NFA (resident and field courses). In addition, the new sections replacing the repealed sections allow more flexibility in scheduling of courses, particularly for colleges in rural areas of the state that offer courses on a three- or four-year rotation. There will be no additional cost of compliance for small or large businesses required to comply with the new sections. Some individuals applying for advanced levels of certification may incur additional costs for more training or years of work experience depending on their particular combination of education and experience, while other individuals may benefit from the changes. The cost will vary from \$0 to \$300 depending on the source of training.

Comments on the proposal may be submitted to: Michael E. Hines, Executive Director, Texas Commission on Fire Protection, P.O. Box 2286, Austin, Texas 78768-2286.

The repeals are proposed under Texas Government Code, §419.008, which provides the Texas Commission on Fire Protection with authority to adopt rules for the administration of its powers and duties; and Texas Government Code, §419.022, which provides the commission with authority to establish minimum training standards for fire protection personnel in advanced or specialized fire protection personnel positions.

Texas Government Code, §419.022 is affected by the proposed repeals.

§431.5. Minimum Standards for Intermediate Fire and Arson Investigator Certification.

§431.7. Minimum Standards for Advanced Fire and Arson Investigator Certification.

§431.9. Minimum Standards for Master Fire and Arson Investigator Certification.

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 22, 1995.

TRD-9506282

Jack Woods
General Counsel
Texas Commission on Fire
Protection

Earliest possible date of adoption: June 30, 1995

For further information, please call: (512) 918-7184

The Texas Commission on Fire Protection proposes new §§431.5, 431.7, and 431.9, concerning standards for intermediate, advanced, and master fire and arson investigator certification. The new sections replace repealed sections dealing with the same subject matter. The new sections discontinue the use of training points for determining eligibility for higher levels of certification as well as the balancing of length of experience with the amount of training points, and substitute experience requirements of three, six, and nine years for intermediate, advanced, and master certification levels, respectively. In addition, the new sections permit credit for any college fire science or fire technology course or NFA course, instead of requiring specific courses for specific levels. The new sections will have a September 1, 1995, effective date.

James Fiero, Fire Protection Personnel Advisory Committee Chairman, has determined that for the first five-year period the new sections are in effect there will be fiscal implications for state and local governments. It is estimated that the commission will realize a savings of \$9,400 in the cost of employee time spent reviewing higher levels of certification applications. In addition, it is estimated that commission employee time spent reviewing course approval for advanced level credit will be reduced by 500 hours resulting in an estimated savings of \$7,500 per year. Local governments that track training points for employees or that seek course approval for higher level training will see a reduction in processing time at an average cost savings of \$15 per hour, with the total savings varying with the size of the department.

Mr. Fiero also has determined that for each of the first five years the sections are in effect the public benefit anticipated as a result of enforcing the sections will be that higher levels of certification requirements are streamlined and focused on professional fire protection courses delivered by colleges and the NFA (resident and field courses). In addition, the new sections allow more flexibility in scheduling of courses, particularly for colleges in rural areas of the state that offer courses on a three or four year rotation. There will be no additional cost of compliance for small or large businesses required to comply with the new sections. Some individuals applying for advanced levels of certification may incur additional costs for more training or years of work experience depending on their particular combination of education and experience, while other individuals may benefit from the changes. The cost will vary from \$0 to \$300 depending on the source of training.

Comments on the proposal may be submitted to: Michael E. Hines, Executive Director, Texas Commission on Fire Protection, P.O. Box 2286, Austin, Texas 78768-2286.

The new sections are proposed under Texas Government Code, §419.008, which provides the Texas Commission on Fire Protection with authority to adopt rules for the administration of its powers and duties; and Texas Government Code, §419.022, which provides the commission with authority to establish minimum training standards for fire protection personnel in advanced or specialized fire protection personnel positions.

Texas Government Code, §419.022 is affected by the proposed new sections.

§431.5. Minimum Standards For Intermediate Fire and Arson Investigator Certification.

(a) Applicants for Intermediate Fire and Arson Investigator Certification must complete the following requirements:

(1) hold as a prerequisite a Basic Fire and Arson Investigator Certification as defined in §431.3 of this title (relating to Minimum Standards for Basic Fire and Arson Investigator Certification);

(2) acquire a minimum of three years of fire protection experience and complete the courses listed in one of the following options:

(A) Option #1—Successfully complete six semester hours of fire science or fire technology from an approved Fire Protection Degree Program and submit documentation as required by the Commission that the courses comply with subsections (c) and (d) of this section; or

(B) Option #2—Complete a minimum of 80 hours of instruction in any National Fire Academy courses; or

(C) Option #3—Successfully complete three semester hours of college courses listed in Option #1 and a minimum of 40 hours in any National Fire Academy courses.

(b) College level courses from both the upper and lower division may be used to satisfy the education requirement for Intermediate Fire and Arson Investigator Certification.

(c) Non-traditional credit awarded at the college level, such as credit for experience or credit by examination obtained from attending any school in the commission's document titled "Commission Certification Curriculum Manual" or for experience in the fire service, may not be counted toward higher levels of certification.

(d) The training required in this section must be in addition to any training used to qualify for any lower level of Fire and Arson Investigator Certification. Repeating a course or course of similar content cannot be used towards higher levels of certification.

§431.7. Minimum Standards For Advanced Fire and Arson Investigator Certification.

(a) Applicants for Advanced Fire and Arson Investigator certification must complete the following requirements:

(1) hold as a prerequisite an Intermediate Fire and Arson Investigator Certification as defined in §431.5 of this title (relating to Minimum Standards for Intermediate Fire and Arson Investigator Certification);

(2) acquire a minimum of six years of fire protection experience and complete the courses listed in one of the following options:

(A) Option #1—Successfully complete six semester hours of fire science or fire technology from an approved Fire Protection Degree Program and submit documentation as required by the Commission that the courses comply with subsections (c) and (d) of this section; or

(B) Option #2—Complete a minimum of 80 hours of instruction in any National Fire Academy courses; or

(C) Option #3—Successfully complete three semester hours of college courses listed in Option #1 and a minimum of 40 hours in any National Fire Academy courses.

(D) Option #4—Advanced Arson for Profit (Bureau of Alcohol, Tobacco, and Firearms resident or field course, 80 hours)

(b) College level courses from both the upper and lower division may be used to satisfy the education requirement for Advanced Fire and Arson Investigator Certification.

(c) Non-traditional credit awarded at the college level, such as credit for experience or credit by examination obtained from attending any school in the commission's document titled "Commission Certification Curriculum Manual" or for experience in the fire service, may not be counted toward higher levels of certification.

(d) The training required in this section must be in addition to any training used to qualify for any lower level of Fire

and Arson Investigator Certification. Repeating a course or course of similar content cannot be used towards higher levels of certification.

§431.9. Minimum Standards for Master Fire and Arson Investigator Certification.

(a) Applicants for Master Fire and Arson Investigator Certification must complete the following requirements:

(1) hold as a prerequisite an Advanced Fire and Arson Investigator Certification as defined in §431.7 of this title (relating to Minimum Standards for Advanced Fire and Arson Investigator Certification); and

(2) acquire a minimum of nine years of fire protection experience and 60 college semester hours which includes at least 15 college semester hours in fire science subjects.

(b) College level courses from both the upper and lower division may be used to satisfy the education requirement for Master Fire and Arson Investigator Certification.

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 22, 1995.

TRD-9506281

Jack Woods
General Counsel
Texas Commission on Fire
Protection

Earliest possible date of adoption: June 30, 1995

For further information, please call: (512) 918-7184

◆ ◆ ◆
Chapter 435. Fire Fighter Safety

• 37 TAC §435.3

The Texas Commission on Fire Protection proposes an amendment to §435.3, concerning self-contained breathing apparatus. The amendment requires a vendor that is providing compressed breathing air to a fire department to provide certification of compressed breathing air testing, whether it is a vendor supplied SCBA cylinder or a larger cylinder used in a cascade system.

James Fiero, Fire Protection Personnel Advisory Committee Chairman, has determined that for the first five-year period the amended section is in effect there will be no fiscal implications for state government as a result of enforcing or administering the amended section. Local governments whose fire departments purchase breathing air from vendors in large bottles to employ in a cascade system may experience a small increase in cost of air testing if the vendor chooses to pass the cost on to the customers (and those

tests are not currently being performed). The annual cost of such testing would be \$300 which would be prorated to all of the departments supplied by the vendor.

Mr. Fiero 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 sections will be that the safety of fire fighters who rely on SCBA will be enhanced and the liability of departments that employ fire fighters will be minimized. The cost of compliance with the section as amended for small businesses will be \$300 each year. The total annual cost for small and large businesses will be the same; therefore, the cost per \$100 of sales will be inversely proportional to the total amount of sales. Individual fire fighters will not experience additional costs of compliance since the employing entity is required to provide SCBA that comply with commission regulations. Individual business owners who supply breathing air to local governments will experience the same compliance costs described for small and large businesses.

Comments on the proposal may be submitted to: Michael E. Hines, Executive Director, Texas Commission on Fire Protection, P.O. Box 2286, Austin, Texas 78768-2286.

The amendment is proposed under Texas Government Code, §419.008, which provides the Texas Commission on Fire Protection with authority to adopt rules for the administration of its powers and duties; and Texas Government Code, §419.041, which provides the commission with authority to adopt standards for self-contained breathing apparatus.

Texas Government Code, §419.041 is affected by the proposed amendment.

§435.3. Self-Contained Breathing Apparatus. The employing entity shall:

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

(4) ensure that compressed breathing air from any source, including but not limited to transferred air from vendor cylinders to other cylinders, fire department air compressors, cascade systems and private sources, that is used to fill the cylinders of a self-contained breathing apparatus complies with the minimum standards of the National Fire Protection Association for air quality testing of compressed breathing air and identified in NFPA 1500, Standard on Fire Department Occupational Safety and Health Program;

(A) (No change.)

(B) Also, when [When] the fire department purchases compressed breathing air from a vendor, [in a vendor supplied self-contained breathing apparatus cylinder,] the fire department shall require that the vendor provide certification of compressed breathing air testing that meets the requirements of this chapter.

(5)-(8) (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 22, 1995.

TRD-9506283

Jack Woods
General Counsel
Texas Commission on Fire
Protection

Earliest possible date of adoption: June 30, 1995

For further information, please call: (512) 918-7184

Chapter 439. Examinations for Certification

• 37 TAC §§439.5, 439.7, 439.9

The Texas Commission on Fire Protection proposes amendments to §§439.5, 439.7, and 439.9, concerning examinations for fire protection personnel certification definitions, procedures, and eligibility. The changes to §439.5 add a new definition of "certificate of completion" furnished by the provider of training and modify the definition of "endorsement of eligibility" to be issued only by commission staff. The changes to §439.5 pertain to course approvals and certificates of completion. The changes to §439.9 require a certificate of completion in order to qualify for an examination, and reiterate that commission staff determine eligibility for an examination.

James Fiero, Fire Protection Personnel Advisory Committee Chairman, has determined that for the first five-year period the amended sections are in effect there will be no fiscal implications for state or local governments.

Mr. Fiero also has determined that for each of the first five years the sections are in effect the public benefit anticipated as a result of enforcing the sections will be that the changes clarify the respective roles of approved training facilities and commission staff regarding determination of eligibility for examinations and promote uniformity in applying examination standards. There are no additional costs of compliance for small or large businesses or for persons required to comply with the sections as amended.

Comments on the proposal may be submitted to: Michael E Hines, Executive Director, Texas Commission on Fire Protection, P.O. Box 2286, Austin, Texas 78768-2286.

The amendments are proposed under Texas Government Code, §419.008, which provides the Texas Commission on Fire Protection with authority to adopt rules for the administration of its powers and duties, and §419.032(b), concerning basic certification examinations

Texas Government Code, §419.032(b) is affected by the proposed amendments

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

Certificate of Completion—A signed statement certifying that an individual has successfully completed a commission approved basic certification curriculum for a particular discipline. The Certificate of Completion will be on a form provided by the commission and is to be completed and signed by the provider of training and issued to the individual upon successful completion of the training. The certificate of completion shall, as a minimum, identify the provider of training, the course I.D. number, the course approval number, hours of instruction, date issued, name of instructor, and the name of the person completing the course.

Endorsement of eligibility—A signed statement testifying to the fact that an individual has met all [the training] requirements specified by the commission and is qualified to take a commission examination. An endorsement of eligibility will [usually be provided by the training coordinator of an approved basic certification school or course, however, it may] be issued, [provided] when appropriate, by a member of the commission staff.[in certain circumstances.]

§439.7. Procedures.

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

(d) To apply for a commission examination, the designated training officer or coordinator of the entity providing the training must have completed and submitted the Course/School Prior Approval Submission Form to the commission 20 calendar days prior to the proposed starting date of the course. Upon commission approval of the course, the provider of training will receive the following:

(1) [a] Notice of Course Approval—This document will serve as notification that the course has been approved by the commission and will contain the Approval Number assigned by the commission, the course I.D. number and the number of hours approved for the course.

(2) Application for Testing form—[and Endorsement of Eligibility form.] The provider of training shall complete the Application for Testing form and return it to the commission office within 14 calendar days of receipt of the application. The commission, upon receipt of the Application for Testing form, will schedule a time and place for the examination. A reasonable attempt shall be made to schedule the examination as soon as possible after the completion of the applicable course and at a place agreeable to the provider of training.

(3) Certificate of Completion form—This form is to be completed by the

provider of training and issued to each student when the student has successfully completed the applicable curriculum.

(e)[(1)] Commission examinations, or retakes, for less than eight examinees shall be conducted in Austin, Texas, or other place designated by the commission. The commission shall coordinate with the provider of training as to the time of the examination.

(f)[(2)] Commission examinations, or retakes, for less than eight examinees shall be conducted in accordance with this section, provided that entity providing the training agrees to pay an examination fee equal to amount that would be charged for eight examinees.

(g)[(3)] If a performance test is part of the commission examination, examinees that are required to take the commission examination in Austin, Texas, or other place designated by the commission, shall be required to furnish a complete set of protective clothing that complies with §435.1(2) of this title (Relating to Protective Clothing). Examinees are encouraged, but not required, to provide a self-contained breathing apparatus that complies with §435.3(2) of this title (Relating to Self-Contained Breathing Apparatus) that the examinee is familiar with and an extra full cylinder.

(h)[(e)] If the designated training officer or coordinator of the entity providing the training determines that the time and/or place of the examination as set by the commission is not acceptable for good cause, he may request the commission to reschedule or relocate the examination providing the request is received at least 20 days prior to the original scheduled time of the examination or the new proposed time, whichever would result in the earliest notification. The commission shall give all such request due consideration and may reschedule or relocate the examination as necessary.

(i)[(f)] Each examination shall be administered by a member of the commission staff known as a "Staff Proctor".

(j)[(g)] The Staff Proctor may proctor the examination alone or with the assistance of one or more additional proctors. The additional proctors shall be known as field proctors and shall be appointed by the commission.

(k)[(h)] The staff proctor shall:

(1) ensure that the examination remains secure and is conducted under conditions warranting honest results;

(2) collect all examination materials from any examinee who is dismissed; and

(3) record the fact of examination on the endorsement of eligibility and shall collect any fraudulent or questionable endorsement.

(l) [(i)] The staff or field proctor shall:

(1) monitor the examination while in progress;

(2) control entrance to and exit from the test site;

(3) permit no one in the room while the written test is in progress except proctors, examinees, and commission staff;

(4) assign or re-assign seating; and

(5) bar admission to or dismiss any examinee who fails to comply with any of the provisions of subsections (a) and (b) of this section.

(m) [(j)] Examination booklets, answer sheets, scratch paper and grade roster(s) will be delivered to the staff proctor by means specified by the commission. The staff proctor shall immediately document any errors detected in the examination materials provided.

(n) [(k)] The staff proctor shall remit to the commission all examination booklets, answer sheets and scratch paper in the return container provided by the commission immediately following the completion of the written examination.

(o) [(l)] All official grading and notification shall come from the commission. The commission staff shall inform the training officer or coordinator of preliminary test results within 72 hours after completion of the examination. The commission staff shall notify the training officer or coordinator of the official test results in writing within ten days after completion of the examination.

(p) [(m)] The commission will provide one individual written grade report to each examinee, within 20 days after the completion of the examination. This report may be mailed to an address specified by the examinee. If the written grade report should prove to be undeliverable, it shall be the responsibility of the examinee to contact the commission office to make arrangements for an additional grade report.

[(n)] An examinee that successfully completes the applicable curriculum and the required commission basic certification examination shall be issued a certificate of completion from the provider of training. The certificate of completion shall, as a minimum, identify the provider of training, the course I.D. number, the course approval number, hours of instruction, date issued (date commission basic certification examination was successfully passed), name of instructor, and the name of the person completing the course.]

(q) [(o)] If performance skills are required as part of a certification examination, the entity applying for the certification examination shall be responsible for providing the required number of Approved Field Proctors. The number of Field Proctors shall be determined by the commission.

(r) [(p)] Each written examination has two types of questions: pilot and active. Pilot questions are new questions placed on the examination for statistical purposes only. These questions do not count against an examinee if answered incorrectly. Active questions do count toward the examination score. Examinees will not be able to distinguish the pilot questions from the active questions. Therefore, examinees should answer all questions to the best of their ability.

(s) [(q)] The Basic Fire Fighter Certification examination includes 150 active questions with an option of adding up to 20 pilot questions. The time allowed for the completion of the written examination will not exceed three hours.

§439.9. Eligibility.

(a) (No change.)

(b) In order to qualify for a commission examination, the examinee must:

(1) (No change.)

(2) provide the staff proctor with a copy of a Certificate of Completion for the course required [possess and display upon request, at the test site, a valid and timely endorsement of eligibility] for the specific examination sought;

(3)-(5) (No change.)

(c) (No change.)

(d) An endorsement of eligibility will [may] be issued by a member of the commission staff when it has been determined that an individual has completed all requirements specified by the commission for a particular examination. The endorsement of eligibility will become a part of the examination records maintained by the commission.[:]

[(1)] a member of the Commission staff;

[(2)] a training coordinator of an approved academy; or

[(3)] an individual designated by the commission.[:]

(e) An endorsement of eligibility shall:

(1) (No change.)

[(2)] be signed, and completed by a person eligible under subsection (d) of this section, with a specific notation of the training completed and examination sought;]

(2) [(3)] state that the examinee has met all commission requirements pertaining to eligibility for [the minimum training standards appropriate to] the type of examination sought;

(3) [(4)] include a date of issue;

(4) [(5)] include a date of expiration which shall in no case exceed one year from the date of issue.

(f) (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 22, 1995.

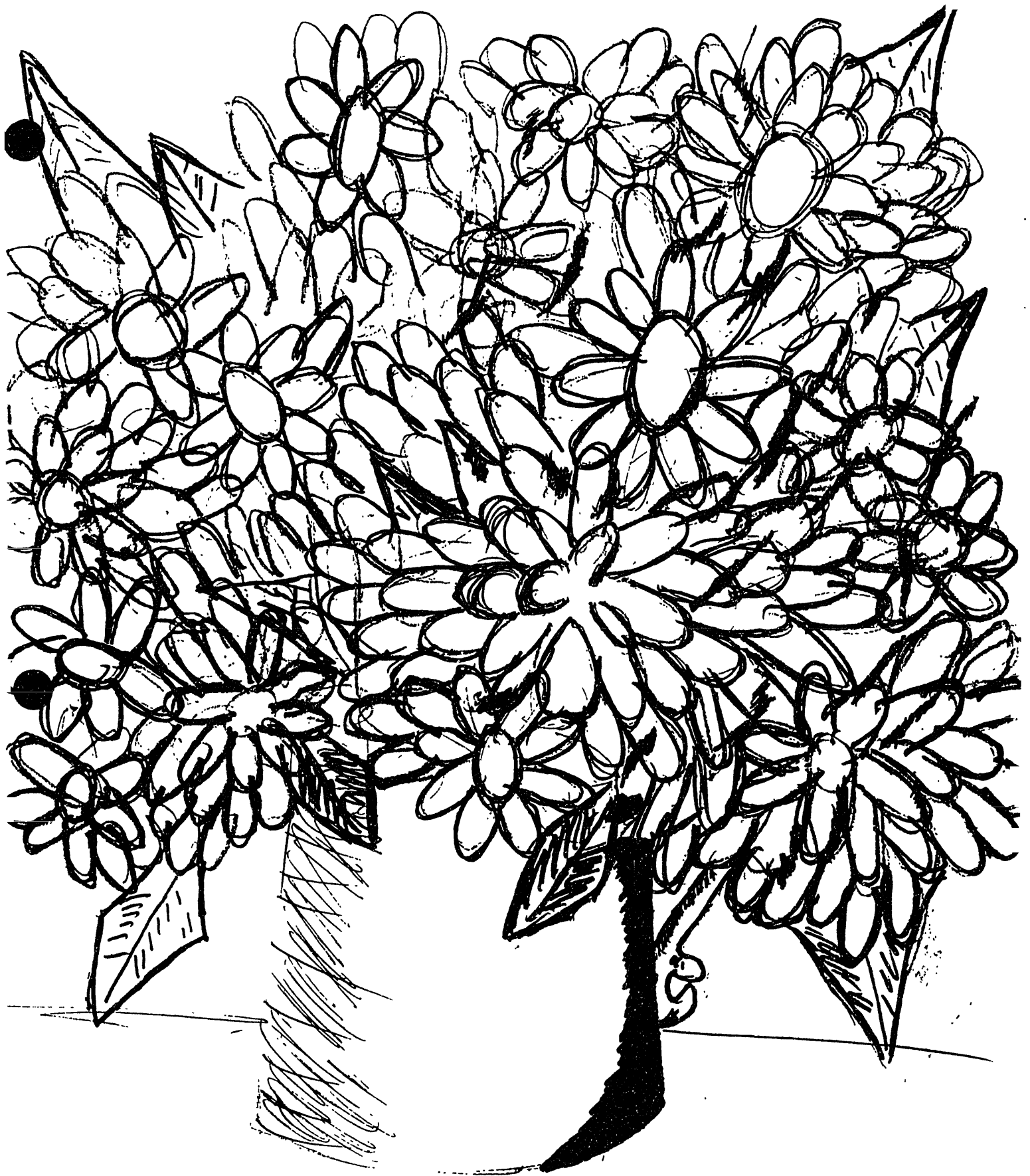
TRD-9506284

Jack Woods
General Counsel
Texas Commission on Fire
Protection

Earliest possible date of adoption: June 30, 1995

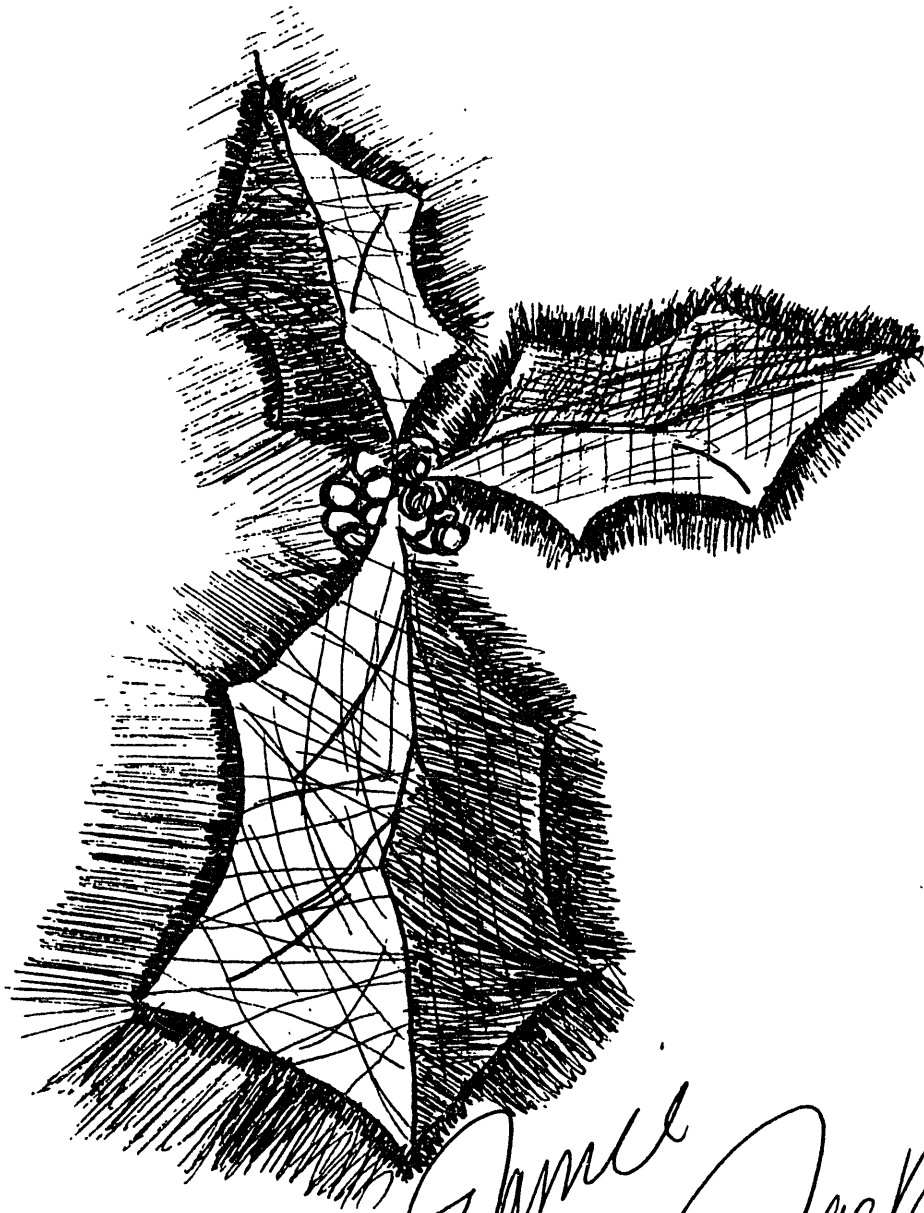
For further information, please call: (512) 918-7184





Name: Randy Morales
Grade: 9
School: Boling High School, Boling ISD

Randy Morales



Jamie Jackson

Name: Jamie Jackson
Grade: 11
School: Boling High School, Boling 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

Subchapter B. Regulation of Licenses

• 7 TAC §25.25

(Editor's Note: This new §25.25 was inadvertently published in the May 19, 1995, issue of the *Texas Register* (20 TexReg 3703), therefore it is being withdrawn in this issue.)

The Banking Department of Texas has withdrawn from consideration for permanent adoption a proposed new §25.25 which appeared in the May 19, 1995 issue of the *Texas Register* (20 TexReg 3703). The effective date of this withdrawal is May 24, 1995.

TITLE 13. CULTURAL RESOURCES

Part I. Texas State Library and Archives Commission

Chapter 6. State Records

Standards and Procedures for Management of Electronic Records

• 13 TAC §§6.91-6.98

The Texas State Library and Archives Commission has withdrawn from consideration for permanent adoption proposed amendments to §§6.91-6.98, which appeared in the February 13, 1995, issue of the *Texas Register* (20 TexReg 188). The effective date of this withdrawal is May 22, 1995.

Issued in Austin, Texas, on May 22, 1995.

TRD-9506198

Raymond Hitt
Assistant State Librarian
Texas State Library and
Archives Commission

Effective date: May 22, 1995

For further information, please call: (512)
463-5460

Chapter 7. Local Records

Standards and Procedures for Management of Electronic Records

• 13 TAC §§7.71-7.78

The Texas State Library and Archives Commission has withdrawn from consideration for permanent adoption proposed amendments to §§7.71-7.78, which appeared in the February 13, 1995, issue of the *Texas Register* (20 TexReg 190). The effective date of this withdrawal is May 22, 1995.

Issued in Austin, Texas, on May 22, 1995.

TRD-9506199

Raymond Hitt
Assistant State Librarian
Texas State Library and
Archives Commission

Effective date: May 22, 1995

For further information, please call: (512)
463-5460

TITLE 22. EXAMINING BOARDS

Part IX. Texas State Board of Medical Examiners

Chapter 163. Licensure

• 22 TAC §163.16

The Texas State Board of Medical Examiners has withdrawn from consideration for perma-

nent adoption a proposed new §163.16, which appeared in the March 24, 1995, issue of the *Texas Register* (20 TexReg 2182). The effective date of this withdrawal is May 19, 1995.

Issued in Austin, Texas, on May 19, 1995.

TRD-9506124

Bruce A. Levy, M.D., J.D.
Executive Director
Texas State Board of
Medical Examiners

Effective date: May 19, 1995

For further information, please call: (512)
834-7728

TITLE 37. PUBLIC SAFETY AND CORREC- TIONS

Part XIII. Texas Commission on Fire Protection

Chapter 423. Fire Suppression

Subchapter C. Minimum Stan- dards for Marine Fire Pro- tection Personnel

• 37 TAC §§423.305, 423.307, 423.309

The Texas Commission on Fire Protection has withdrawn the adopted new §§423.305, 423.307, and 423.309, which appeared in the February 28, 1995, issue of the *Texas Register* (20 TexReg 1431). The effective date of this withdrawal is May 24, 1995.

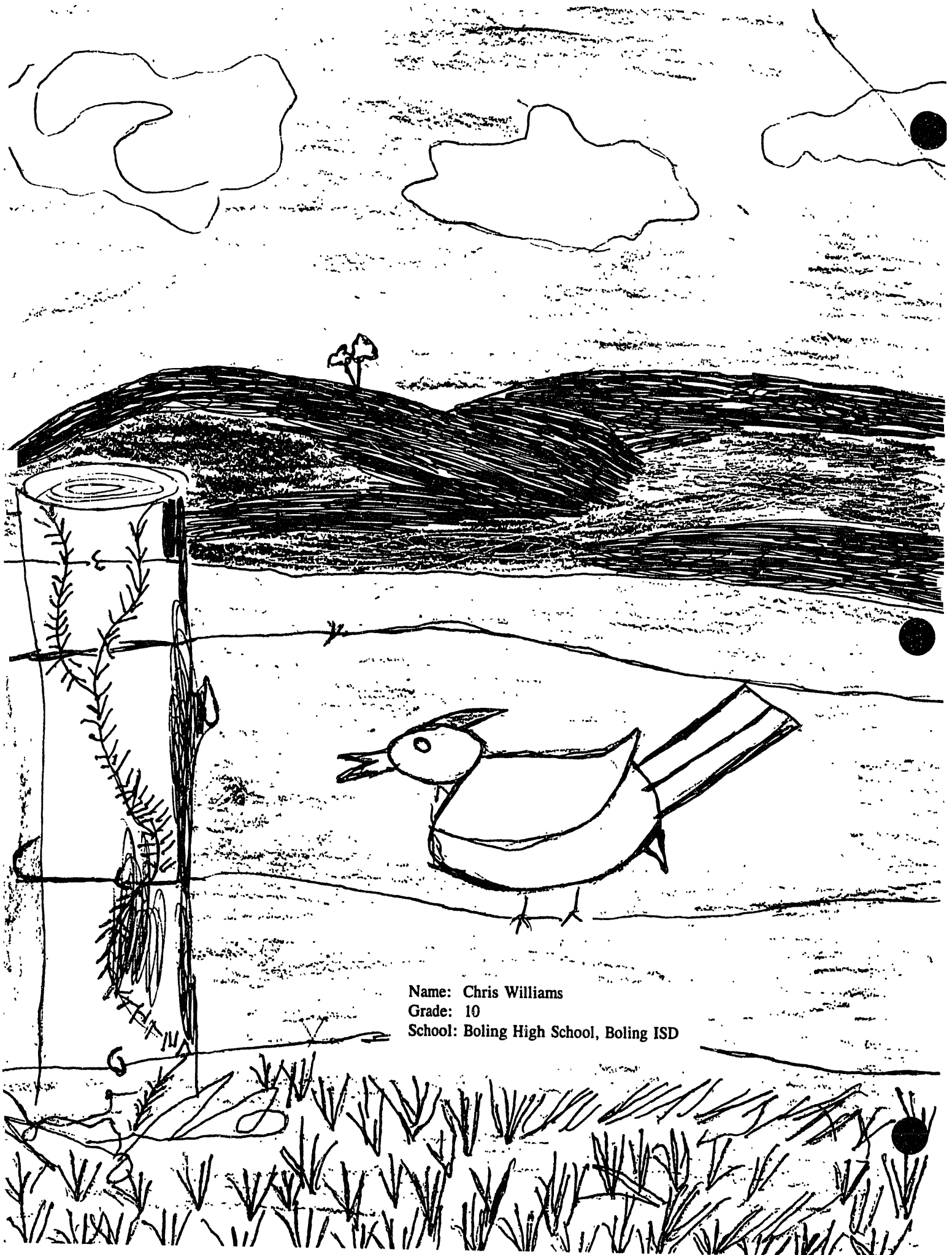
Issued in Austin, Texas, on May 24, 1995.

TRD-9506332

Jack Woods
General Counsel
Texas Commission on Fire
Protection

Effective date: May 24, 1995

For further information, please call: (512)
918-7184



Name: Chris Williams
Grade: 10
School: Boling High School, Boling ISD

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 13. CULTURAL RESOURCES

Part I. Texas State Library and Archives Commission

Chapter 6. State Records

Records Retention Schedules

• 13 TAC §6.2

The Texas State Library and Archives Commission adopts an amendment to §6.2, without changes to the proposed text as published in the March 10, 1995, issue of the *Texas Register* (20 TexReg 1735).

Adoption of the amendments enables state agencies to fulfill their obligations to develop and submit records retention schedules to the director of the state and local records management division of the Texas State Library under the Government Code.

The amendment will permit a state agency to petition the director for permission to submit schedules for initial certification on a component by component basis in lieu of the current requirement that a single agency wide schedule must be submitted. Making this retention scheduling option available to state agencies is expected to stimulate the more rapid development of records management programs for those agencies with an organizational structure that can more easily support the development of a schedule in incremental stages.

The commission received no comments regarding adoption of the amendment.

The amendment is adopted under the Government Code, §441.037(5) and §441.054, which provides the Texas State Library and Archives Commission with the authority to issue rules, standards, and procedures for the efficient and economical management of state records and for the preservation of those that are essential.

The Government Code, §441.037 and §441.057 are affected by the amendment.

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

Issued in Austin, Texas, on May 22, 1995.

TRD-9506208

Raymond Hitt
Assistant State Librarian
Texas State Library and
Archives Commission

Effective date: June 12, 1995

Proposal publication date: March 10, 1995

For further information, please call: (512)
463-5460

TITLE 16. ECONOMIC REGULATION

Part I. Railroad Commission of Texas

Chapter 9. Liquefied Petroleum Gas Division

The Railroad Commission of Texas adopts the repeal of §9.5 (relating to licensing requirements); new §9.5 (relating to licensing requirements), and §9.8 (relating to designation of operations supervisor (branch manager); and amendments to §9.4 (relating to categories of licensees), and §9.15 (relating to registration of LP-gas transports), without changes to the proposed text as published in the April 7, 1995, issue of the *Texas Register* (20 TexReg 2584).

The new and amended rules provide for license and transport registration renewal dates staggered throughout the year, instead of the August 31 expiration date that all licensees currently have. Licensees will be notified in advance of their new license renewal date and will pay prorated renewal fees as required by Texas Natural Resources Code, §113.094. Licensees will experience a one-time higher cost for their license or transport registration renewals, but this higher cost will be offset by the longer period of time for which their licenses and/or registrations will be valid. Commission staff will also benefit by having the tremendous workload of August and September spread throughout the year.

No comments were received from any groups or associations. Three individuals from the LP-gas industry submitted comments in favor of the new rules and amendments. One comment also asked if licensees with small business would be able to submit their one-time higher staggered license renewal fee in two payments to avoid financial hardship. While a payment system is not addressed in this rulemaking, the commission agrees that

some small businesses may experience a financial hardship, but that the method used to stagger the license renewal dates takes this into consideration by assigning licensees with the highest renewal fees to a shorter staggered license period, therefore making their one-time higher fee as small as possible. The second individual also commented on the possibility of the commission requiring mandatory two-year training, and the third individual suggested that employee registrations also be staggered so that each company would have the same date for all its renewals. Both of these comments are beyond the scope of this rulemaking, but will be considered for possible future rulemakings.

Subchapter A. General Applicability and Requirements

• 16 TAC §§9.4, 9.5, 9.8, 9.15

The amendments and new sections are adopted under the Texas Natural Resources Code, §113.094, which permits the commission to adopt rules under which LP-gas licenses expire on various dates during the year, but requires that license fees be prorated on a monthly basis during the transition from the current system to the new one.

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 23, 1995.

TRD-9506268

Mary Ross McDonald
Assistant Director, Legal
Division-Gas Utilities/LP
Gas
Railroad Commission of
Texas

Effective date: June 13, 1995

Proposal publication date: April 7, 1995

For further information, please call: (512)
463-6949.

• 16 TAC §9.5

The repeal is adopted under the Texas Natural Resources Code, §113.094, which permits the commission to adopt rules under which LP-gas licenses expire on various dates during the year, but requires that license fees be prorated on a monthly basis during the transition from the current system to the new one.

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 23, 1995.

TRD-9506269 Mary Ross McDonald
Assistant Director, Legal
Division-Gas Utilities/LP
Gas
Railroad Commission of
Texas

Effective date: June 13, 1995

Proposal publication date: April 7, 1995

For further information, please call: (512) 463-6949.

Chapter 13. Regulations for Compressed Natural Gas (CNG) Fuel Systems

The Railroad Commission of Texas adopts the repeal of §13.61 (relating to licensing); new §13.61 (relating to categories of licenses and related fees, and licensing requirements), and §13.72 (relating to designation of operations supervisor (branch manager)); and amendment to §13.69 (relating to registration of CNG transport units), without changes to the proposed text as published in the April 7, 1995, issue of the *Texas Register* (20 TexReg 2588).

The new and amended rules provide for license and transport registration renewal dates staggered throughout the year, instead of the August 31 expiration date that all licensees currently have. Licensees will be notified in advance of their new license renewal date and will pay prorated renewal fees as required by Texas Natural Resources Code, §116.038. Licensees will experience a one-time higher cost for their license or transport registration renewals, but this higher cost will be offset by the longer period of time for which their licenses and/or registrations will be valid. Commission staff will also benefit by having the tremendous workload of August and September spread throughout the year.

No comments were received from any individuals, groups or associations.

Subchapter C. Classification, Registration, and Examination

• 16 TAC §13.61

The repeal is adopted under the Texas Natural Resources Code, §116.038, which permits the commission, by rule, to adopt a system under which CNG licenses expire on various dates during the year, but requires that license fees be prorated on a monthly basis during the transition from the current system to the new one.

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 23, 1995.

TRD-9506270

Mary Ross McDonald
Assistant Director, Legal
Division-Gas Utilities/LP
Gas
Railroad Commission of
Texas

Effective date: June 13, 1995

Proposal publication date: April 7, 1995

For further information, please call: (512) 463-6949.

• 16 TAC §§13.61, 13.69, 13.72

The amendment and new sections are adopted under the Texas Natural Resources Code, §116.038, which permits the commission, by rule, to adopt a system under which CNG licenses expire on various dates during the year, but requires that license fees be prorated on a monthly basis during the transition from the current system to the new one.

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 23, 1995.

TRD-9506267 Mary Ross McDonald
Assistant Director, Legal
Division-Gas Utilities/LP
Gas
Railroad Commission of
Texas

Effective date: June 13, 1995

Proposal publication date: April 7, 1995

For further information, please call: (512) 463-6949.

Part II. Public Utility Commission of Texas

Chapter 23. Substantive Rules

General Rules

• 16 TAC §23.6

The Public Utility Commission of Texas adopts new §23.6, concerning Spanish language requirements, with changes to the proposed text as published in the December 2, 1994, issue of the *Texas Register* (19 TexReg 9438).

The commission adopts the new section to address the need for clear communications between exclusively or primarily Spanish speaking persons and electric and telephone utilities. Each electric and telephone utility that serves a county where the number of persons speaking Spanish exclusively or primarily is 2000 or more according to the 1990 U.S. Census of Population (Bureau of Census, U.S. Dept. of Commerce, Census of Population and Housing, 1990) will be required to comply with the rule.

The public benefit anticipated as a result of enforcing the rule is an improved understanding of essential utility services by exclusively or primarily Spanish speaking consumers. It should also apprise exclusively or primarily

Spanish speaking customers of promotions and discount programs available to them. This information will assist in bringing informed consumers to the marketplace.

Based upon the comments received in response to the proposed rule, the commission finds that it is appropriate that a written plan be in place to ensure that exclusively or primarily Spanish speaking customers are able to adequately communicate their needs and that the affected utilities are able to adequately communicate their services. The commission also notes that a need for bilingual programs by utilities has been demonstrated given the large number of utilities that already have some program in place which addresses communications with exclusively or primarily Spanish speaking customers.

The affected utility must implement and maintain a written plan that demonstrates how the affected utility will do or is doing the following: inform Spanish speaking customers of the utility's plan and contents of the plan; handle complaints from Spanish speaking persons; handle billing inquiries from Spanish speaking persons; inform Spanish speaking persons of new services, discount programs, and promotions; allow access by Spanish speaking persons to prompt repair service; comply with the requirements of §23.45 of this title (relating to Billing) in connection with Spanish speaking persons; ballot Spanish speaking persons for services requiring a vote by ballot; and allow access by Spanish speaking persons to services specified in §23.47 of this title (relating to Meters) and, inform all of its service and repair representatives of the requirements of the plan.

The following parties filed initial comments in support of the proposed rule published in the December 2, 1994, issue of the *Texas Register* (19 TexReg 9438): Texas Low Income Housing Coalition; Office of Public Utility Counsel (OPUC); Consumers Union (CU); Mexican American Legal Defense and Educational Fund (MALDEF); Texas Rural Legal Aid, Inc. (TRLA); and, Texas-New Mexico Power Company (TNP); a letter from the following Senators in support of the rule was received on May 15, 1995: Senator Carlos F. Truan, Senator Judith Zaffirini, Senator Royce West, Senator Frank Madla, Senator Gregory Luna, Senator Peggy Rosson, Senator Mario Gallegos, and Senator Rodney Ellis; a letter from the Mexican American Legislative Caucus (MALC) in support of the originally proposed rule was received on November 14, 1994; a letter from the Mexican American Democrats of Texas (MAD) in support of the rule was received on May 16, 1995. The following commenters opposed the proposed rule: Senator John Leedom; Southwestern Bell Telephone Company (SWB); Texas Statewide Telephone Cooperative, Inc. (TSTCI); Texas Telephone Association (TTA); GTE Southwest, Inc. and Contel of TX, Inc. (GTE./Contel); United Telephone Company of TX, Inc. and Central Tel. Co. of TX (United/Contel); English First; Brazos Electric Cooperative (Brazos); Lyntegar Electric Cooperative, Inc. (Lyntegar); Nueces Electric Cooperative, Inc. (Nueces); Houston Lighting & Power (HL&P); Southwestern Public Service Company (Southwestern); Central and South West Services, Inc. (CSW Compa-

nies)(Central Power & Light (CPL); Southwestern Electric Power Company (SWEPCO); West Texas Utilities Company (WTU); Texas Electric Cooperatives (TEC); Wise Electric Cooperative (Wise); Bandera Electric Cooperative (Bandera); Cap Rock Electric Cooperative, Inc. (Cap Rock); DeWitt Electric Cooperative, Inc. (DeWitt); Guadalupe Valley Electric Cooperative, Inc. (GVEC); McLennan County Electric Cooperative, Inc. (McLennan); Bluebonnet Electric Cooperative, Inc. (Bluebonnet Electric); Pedernales Electric Cooperative (Pedernales); South Plains Electric Cooperative, Inc. (South Plains); Entergy/Gulf States Utilities Company (Gulf States); Texas Utilities Electric Company (TU Electric); South Texas Electric Cooperative (STEC); Rio Grande Electric Cooperative, Inc. (RGEC); El Paso Electric Company (EPE); Lower Colorado River Authority (LCRA); and, Concho Valley Electric Cooperative, Inc. (CVEC). Representative Susan Combs filed two letters opposing the rule, one on behalf of herself and one on behalf of a constituent.

A total of 262 individuals filed written comments against the rule. Individual commenters addressed the cost of providing services to Spanish speaking customers such as extra utility mailings, translating of documents, hiring bilingual operators and service people, and establishing and maintaining extra telephone numbers and 800 services. Additionally, individual commenters asked how many more languages the PUC would ultimately demand. Finally, individuals noted that Spanish speaking services do not help anyone to learn English.

The text of the rule has been amended based upon utilities' comments. Many utilities currently maintain some plan to address the communication needs of exclusively or primarily Spanish speaking customers. Therefore, there should not be a large cost associated with filing an existing plan with the commission. The section as adopted also provides flexibility for a utility to meet its obligations in the most economically efficient manner. Therefore, costs should be minimized. The Spanish language is the second most frequently used language in Texas by a significant margin over the third most frequently used language, therefore, the concern that requirements will be imposed in other languages is unwarranted. Finally, the commission's goal is simply to assure that the quality of service experienced by a utility customer does not vary because of language differences.

Two individuals submitted written comments in favor of the rule. Both stated that bilingual services were beneficial. One provided geographic, demographic, and income data.

The documents provided are from the U.S. Census Bureau and support the commission's conclusion that a significant exclusively Spanish speaking population exists in the State.

SWB, GTE, United/Centel, TNP, Nueces, HL&P, SWEPCO, CSW Companies, Bandera, Cap Rock, GVEC, McLennan, Bluebonnet Electric, Pedernales, South Plains, Gulf States, STEC, and TU believe that a standard rule is not necessary because they currently employ some program to meet the

needs of exclusively or primarily Spanish speaking customers.

The commission agrees in part with these comments and has rewritten the text of the rule to allow the companies to continue with or implement a written plan that reflects the needs of their customers while requiring minimum elements in each plan submitted by utilities. There are guidelines as to the types of issues that should be addressed when implementing the written plan; however, the commission gives wide latitude to utilities as to how the problem of communication is best addressed.

The MALC, Texas Low Income Housing Coalition, OPUC, Consumers Union, MALDEF, TRLA and TNP support a "system-wide" requirement.

The commission agrees that an affected utility should be required to file a system-wide plan. However, the commission believes that a utility should have the flexibility to address the needs of different areas within its service territory in a different manner, as circumstances require.

TSTCI commented that a provision should be included in the rule that exempts companies with 50,000 or fewer access lines and to include language allowing companies to obtain a just cause waiver.

The commission does not believe that a complete exemption from the rule's requirements is appropriate for those utilities serving in counties with significant numbers of exclusively or primarily Spanish speaking persons. In the event a utility cannot comply with any or all of the elements of the rule, a provision in the rule allows a utility to submit an affidavit as to the circumstances which prohibit it from complying.

Senator John Leedom, Representative Susan Combs, TEC, Wise, GVEC, South Plains Electric, and Entergy maintained that the rule as originally proposed was costly and unnecessary.

The commission agrees with this contention as it applied to the original rule which was published by the commission. In response to those comments, the commission has modified its rule to grant greater discretion to utility management to implement customer service programs which are similar to those which are found in the competitive marketplace. The commission is charged to act as a substitute for competition in the marketplace when competition is absent. The commission notes that the utility industry today is still not generally a competitive environment in which a customer may select a different service provider if their language needs are not met. Therefore, the adoption of this rule is appropriate to assure that the needs of those customers, who comprise a significant segment of society, are met. Furthermore, the commission notes that in competitive markets such as long distance service, competitors have voluntarily chosen to provide multilingual marketing and billing materials. That competitive example reinforces the commission's conclusion that good customer service means providing service to all customers.

Finally, the organization English First has opined that implementation of a rule allowing

Spanish speaking citizens equal access to information and communication with utilities is discriminatory. Additionally, it alleges that the rule causes divisiveness among English speaking citizens and Spanish speaking citizens and that the solution for those that speak only Spanish is to learn the English language.

The commission believes it is not the appropriate forum to address the social issues raised by English First, and therefore expresses no opinion on these issues. However, it is the commission's responsibility to ensure that public utilities are adequately meeting the needs of their customers, which includes the quality of service that is being offered by a utility to its customers. The commission finds that the size of the exclusively or primarily Spanish speaking population in Texas compels it to incorporate as part of its service quality responsibilities, the establishment and oversight of practices observed by utilities in providing service to exclusively or primarily Spanish speaking customers. Finally, as mentioned above, the commission's goal is simply to assure that quality of service does not vary because of language differences.

All comments submitted, including those not specifically referenced herein, were fully considered by the commission. Oral comments were taken at the commission's May 16th, 1995 Final Order Meeting.

This section is adopted under the Public Utility Regulatory Act of 1995 Senate Bill 319, §1.01, 74th Legislature, Regular Session 1995 (PURA) which provides the Public Utility Commission of Texas with the authority to make and enforce rules reasonably required in the exercise of its powers and jurisdiction, and §3.051 which authorizes the commission to adopt rules, policies, and procedures to protect the public interest. Cross Index to statute, article or code: PURA of 1995, Senate Bill 319 §1.01 and §3.051, 74th Legislature, Regular Session 1995.

§23.6. Spanish Language Requirements.

(a) Application. This section applies to each utility that serves an applicable county as defined in subsection (b)(3) of this section and is either a local exchange carrier (LEC), as the term is defined by §23.61 of this title (relating to Telephone Utilities), or a retail electric utility subject to the original jurisdiction of the commission over rates.

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

(1) Spanish speaking person—A person who speaks any dialect of the Spanish language exclusively or as their primary language.

(2) Spanish language translation—Any dialect of Spanish that a utility reasonably believes reflects the dialect of the community it serves.

(3) Applicable county—A county where the number of Spanish speaking persons (as defined in subsection (b)(1) of this subsection) is 2000 or more according to the 1990 U.S. Census of Population (Bureau of Census, U.S. Dept. of Commerce, Census of Population and Housing, 1990).

(c) Written Plan.

(1) Requirement. Each utility that is subject to the requirements of this section shall submit a written plan to the commission that describes how a Spanish speaking person is provided, or will be provided, reasonable access, on a system-wide basis, to the utility's programs and services. The plan must be submitted within 45 days of the effective date of this section, unless the utility is a cooperative as defined in §23.3 of this title (relating to Definitions) or a small local exchange carrier (SLEC) as defined in §23.94(b) of this title (relating to Small Local Exchange Carrier), in which case the plan must be submitted within 90 days.

(2) Minimum elements. The written plan required by paragraph (1) of this subsection shall include a clear and concise statement as to how the utility is doing or will do the following, for each part of its entire system:

(A) inform Spanish speaking persons who are its new or existing customers of the utility's plan and the contents of that plan;

(B) handle complaints from Spanish speaking persons promptly;

(C) handle billing inquiries from Spanish speaking persons promptly;

(D) inform Spanish speaking persons of new services, discount programs, and promotions;

(E) allow access by Spanish speaking persons to prompt repair service;

(F) comply with the requirements of §23.45 of this title (relating to Billing) in connection with Spanish speaking persons;

(G) ballot Spanish speaking persons for services requiring a vote by ballot;

(H) allow access by Spanish speaking persons to services specified in §23.47 of this title (relating to Meters).

(I) inform all of its service and repair representatives of the requirements of the plan.

(d) Filing plan with commission. Each affected utility shall submit its written plan to the commission by filing the plan with the central records office of the commission. The cover page of the submittal shall indicate project number 14195 if the affected utility is a telephone utility that does not fall within the definition of a small local exchange carrier (SLEC) or cooperative as defined under §23.94 of this title (relating to Small Local Exchange), project number 14192 if the affected utility is an electric utility that is not a cooperative, project number 14194 if the affected utility is a SLEC or telephone cooperative, and project number 14193 if the affected utility is an electric cooperative. If the affected utility cannot comply with any or all of the elements listed under paragraph (c)(2)(A)-(I), the utility must submit an affidavit as to the circumstances which prohibit it from complying. Interested parties may file comments as to whether the plan complies with this section, no later than 30 days after the utility has filed its plan with the commission. The Office of Public Utility Counsel may submit comments concerning the utility plan no later than 45 days after the utility has filed its plan with the commission. General Counsel may submit comments concerning the utility plan no later than 60 days after the utility has filed its plan with the commission. An affected utility must respond to all comments on its plan no later than 90 days after it has filed its plan with the commission. Any interested party, General Counsel, or the Office of Public Utility Counsel may, no later than 30 days after the utility's response, initiate a docketed complaint asking the commission to impose on the utility a plan that complies with this section. If no complaint is initiated within the prescribed time, the plan shall become effective.

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 22, 1995.

TRD-9506220
John M. Rentrow
Secretary of the
Commission
Public Utility Commission
of Texas

Effective date: June 12, 1995

Proposal publication date: December 2, 1994

For further information, please call: (512) 458-0100



TITLE 19. EDUCATION

Part I. Texas Higher Education Coordinating Board

Chapter 5. Program Development

Subchapter P. Testing and Remediation

• 19 TAC §§5.312, 5.313, 5.316, 5.318

The Texas Higher Education Coordinating Board adopts amendments to §§5.312, 5.313, 5.316, and 5.318, concerning Testing and Remediation, with changes to the proposed text as published in the March 10, 1995, issue of the *Texas Register* (20 TexReg 1736).

The amendments will put into rule form policies adopted by the Board over the past several months. Section 5.312 would define the expected scale scores for the ACT, SAT, and TAAS, exemptions to the TASP Test and clarify language regarding credit hours. Section 5.313(1) would give the expected scale scores on the Stanford Achievement Test for the hearing impaired that would serve deaf students in lieu of the TASP test. Section 5.316 would give the TASP test scale score requirements for passing the reading, mathematics, and writing portions of the test. Section 5.318 would clarify language regarding credit hours.

One comment was received from Bee County College who agreed with raising the TASP standards, but thought we should stick with a passing standard of 220 since to change it to 230 would require reprogramming of their computers. The comments were for the concept of raising the standards but were against changing the scale scores that go with it. The agency disagreed because the board wanted a demonstrable raising of the standards, not one that might be hidden behind an unchanging scale score.

The amendments are adopted under the Texas Education Code, §51.306, which provides the Texas Higher Education Coordinating Board with the authority to adopt rules concerning Testing and Remediation.

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

Passing Standard—Statewide testing standard all public postsecondary students, unless exempt, must meet or exceed on the Texas Academic Skills Program certified test form to leave state mandated remediation or to progress to upper division course work or to graduate from a Texas public postsecondary institution.

§5.313. Eligibility.

(a) Any student with at least three college-level semester credit hours accumulated prior to the fall of 1989 shall not be required to take the examination. Such credit hours must be certified as college-level by the granting institution and need not be applicable toward a degree or certificate. In addition, students who perform at or above a level set by the Coordinating Board on the American College Test (ACT), Scholastic Assessment Test (SAT) or Texas Assessment of Academic Skills (TAAS) shall be exempt from the Texas Academic Skills Program (TASP). This exemption will be in effect for five years from the date the ACT or SAT was taken and for three years from the date the TAAS Test was taken. While tests may be retaken, ACT, SAT or TAAS scores meeting or exceeding the standard set by the Board must be achieved on a single test administration. Effective fall semester 1993 and until amended by the Board, standards for exemption from the Texas Academic Skills Program (TASP) are:

(1) ACT: composite score of 29, with a minimum of 27 on both the English and the mathematics tests; or,

(2) SAT: combined verbal and mathematics score of 1200, with a minimum of 550 on both the verbal and the mathematical tests (prior to April, 1995); or, combined verbal and mathematics score of 1270, with a minimum of 620 on the verbal test and 560 on the mathematical test (April, 1995 and thereafter); or,

(3) TAAS: A minimum score of 1,800 on the writing test, and a Texas Learning Index (TLI) of 87 on the mathematics test and 90 on the reading test.

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

(i) Institutions may not require blind or deaf students to take the TASP Test as a condition for enrollment in an upper division course or require them to participate in remediation as a result of the test until September 1, 1995. From that point on, blind students will take the TASP Test with appropriate accommodations and deaf students will take the Stanford Achievement Test nationally normed on the hearing impaired population by Gallaudet University. Effective fall semester 1995 and until amended by the Board, minimum standards on the Stanford Achievement Test to be used in lieu of the TASP Test are:

- (1) Reading Comprehension-652;
- (2) Mathematics Total-682;
- (3) Language Total-662; and
- (4) Study Skills-663.

§5.316. Standards. The Board shall set statewide standards for the certification form of the examination, but an institution may require higher performance standards than those set by the Board. In this case, a student wishing to transfer to an institution with higher standards may not be denied admission on the basis of TASP Test scores, but may, nonetheless, be required to meet other higher standards as determined by the institution. Effective immediately and until amended by the Board, passing scale score standards for the TASP Test are set at: effective 3/4/89-Reading-220; Mathematics-220; and Writing-220; and effective 9/16/95-Reading-230; Mathematics-230; and Writing-220.

§5.318. Institutional Reporting.

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

(c) Each institution is responsible for full compliance with T.E.C. §51.306 and the rules adopted by the Coordinating Board. Failure to comply with the TASP statute and rules by admitting students to take semester credit hours or the equivalent who have not taken or passed the TASP Test (when applicable), or any other act or omission that results in the accumulation of semester credit hours or the equivalent in violation of the TASP statute and rules shall be a basis for disallowing those credits by audit, resulting in an adjustment of the dollar amounts of institutional funds. The funding adjustment will be based on credit hours used in the contact hours base period that have been disallowed as a result of audit.

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 March 23, 1995

TRD-9506227 James McWhorter
Assistant Commissioner for
Administration
Texas Higher Education
Coordinating Board

Effective date: June 13, 1995

Proposal publication date: March 10, 1995

For further information, please call: (512) 483-6160



TITLE 25. EXAMINING BOARDS

Part II. Texas Department of Mental Health and Mental Retardation

Chapter 409. Medicaid Programs

Subchapter B. Contract Appeals

• 25 TAC §§409.31-409.44

The Texas Department of Mental Health and Mental Retardation (TXMHMR) adopts the repeal of §§409.31-409.44 of Chapter 409, Subchapter B, concerning contract appeals, without changes to the proposed text as published in the March 17, 1995, issue of the *Texas Register* (20 TexReg 1872). The repeals are adopted contemporaneously with the adoption of new sections of Chapter 409, Subchapter B, concerning Adverse Actions, in this issue of the *Texas Register*

No comments were received regarding adoption of the repeals

The repeals are adopted under the Texas Health and Safety Code, Title 7, §532.015, which provides the Texas Board of Mental Health and Mental Retardation with rulemaking powers; and under the provisions of Texas Civil Statutes, Article 4413(502), §16, which provides the Health and Human Services Commission with the authority to administer federal medical assistance funds

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 23, 1995.

TRD-9506254 Ann K Utley
Chairman
Texas Mental Health and
Mental Retardation
Board

Effective date: June 13, 1995

Proposal publication date: March 17, 1995

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



Subchapter B. Adverse Actions

• 25 TAC §§409.31-409.35

The Texas Department of Mental Health and Mental Retardation (TXMHMR) adopts new §§409.31-409.35 of Chapter 409, Subchapter B, concerning Adverse Actions. Sections 409.32, 409.33, and 409.35 are adopted with changes to the proposed text as published in the March 17, 1995, issue of the *Texas Register* (20 TexReg 1872). Section 409.31 and §409.34 are adopted without changes and will not be republished. The repeal of existing §§409.31-409.44, concerning contract appeals, is published contemporaneously in this issue of the *Texas Register*.

For consistency with other department Medicaid rules, the terms "contract" and "contractor" are changed to "provider agreement" and "provider." Language is added to §409.33(b) describing additional information that must be included in the notice of adverse action; in §409.35, stating that, after sending notice of adverse action for termination of the provider agreement, the department may not terminate the provider agreement while an administrative hearing is pending; and to §409.35, clarifying the conditions for withholding payments to a provider.

Public comment was received from the Texas Council of Community Mental Health and Mental Retardation Centers in Austin. The commenter expressed concern that the definition of "adverse action" was so broadly defined that it would only have meaning when a reader is able to find the information about adverse actions in the rules for each of the programs in Chapter 409 of this title. The commenter provided examples of the inconsistent language within the subchapters in Chapter 409 referring to hearings, fair hearings, contracted providers, provider, provider agency, person, and adverse action. The department responds that the definition of "adverse action" was intended to be broad so that there would not be a possibility of limiting a provider's right to an administrative hearing. The department agrees with the commenter that the language in the other subchapters of Chapter 409 is inconsistent and could lead to confusion. Language established in this subchapter (i.e., "provider agreement" and "provider" rather than "contract," "contractor," and "person") will be the terms used in the other subchapters upon their revision. Additionally, the department notes that "fair hearings," referred in Subchapters D, E, F, G, and I, are conducted by the Texas Department of Human Services and are not associated with adverse actions or administrative hearings.

The commenter requested retaining certain language proposed for repeal. The language addressed the responsibility of department staff to make reasonable attempts to keep providers informed of compliance issues and resolve, whenever possible, compliance issues before adverse action is necessary. The department responds that Chapter 409, Subchapter B contains the procedures addressing adverse actions *after* it has been determined to be necessary. Inclusion of the language requested by the commenter is inappropriate for this subchapter because it addresses action to be taken *before* adverse action is deemed necessary.

The commenter also suggested language be included in §409.33(b) describing additional information that must be included in the notice of adverse action. The department responds by adding the suggested language.

The commenter requested that language be added which specifically states when the department may initiate a hold on service payments in the termination of a provider agreement pending a hearing's conclusion. The department notes that §409.33(b) states that if the adverse action is termination of the provider agreement, then the notice must specify the dates that the department intends to begin withholding payments and to termi-

nate the provider agreement. The department has added language stating that, after sending notice of adverse action for termination of the provider agreement, the department may not terminate the provider agreement while an administrative hearing is pending.

The new sections are adopted under the Texas Health and Safety Code, Title 7, §532.015, which provides the Texas Board of Mental Health and Mental Retardation with rulemaking powers; and under the provisions of Texas Civil Statutes, Article 4413(502), §16, which provides the Health and Human Services Commission with the authority to administer federal medical assistance funds.

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

Administrative law judge—The attorney designated or appointed by the commissioner to conduct and preside over the administrative hearing.

Adverse action—Any action taken or proposed by the department against a provider in which the provider may request an administrative hearing under Chapter 406 of this title, concerning ICF/MR Programs, or Chapter 409 of this title, concerning Medicaid Programs.

Commissioner—The commissioner of the Texas Department of Mental Health and Mental Retardation.

Days—Calendar days, unless otherwise specified.

Department—The Texas Department of Mental Health and Mental Retardation (TXMHMR) or its designee.

Person—An individual, partnership, corporation, association, governmental subdivision or agency, or a public or private organization of any character.

Provider—Any person with whom the department has a provider agreement.

Provider agreement—Any written agreement that obligates the department to pay money to a person for goods or services under the Title XIX Medical Assistance Program.

§409.33. Notice of Adverse Action.

(a) The commissioner or designee is authorized to make decisions concerning adverse action.

(b) The commissioner or designee must send a provider a notice advising the provider of any adverse action. The notice is sent by certified mail, return receipt requested, unless the department determines that a more immediate form of notice is required. The notice includes a description of the basis for the adverse action, including citation of the specific rule section(s) or portion of the provider agreement with which the provider is in non-compliance and informs the provider of the provider's right to an administrative hearing to contest

the adverse action. If the adverse action proposed by the department is termination of the provider agreement, then the notice must also specify the dates that the department intends to begin withholding payment and to terminate the provider agreement in accordance with §409.35 of this title, (relating to Withholding Provider Agreement Payments).

(c) The department does not have to give a notice of adverse action with each billing transaction for areas of the department that have a large volume of bills or which routinely post debit and credit entries. The department must give a provider a notice of appeal rights any time the provider informs the department in writing of the provider's dissatisfaction with a claim transaction which is an adverse action.

§409.35. Withholding Provider Agreement Payments. If the department proposes to terminate a provider agreement and the provider requests an administrative hearing in accordance with §409.35 of this title (relating to Request for an Administrative Hearing), then the department may not terminate the provider agreement before the completion of the administrative hearing. If the department intends to terminate a provider agreement, then payments to the provider may be withheld by the department pending an administrative hearing appealing the proposed termination of the provider agreement. If the final decision of the administrative hearing is favorable to the department or the provider does not make a timely request for an administrative hearing, then payments withheld will not be made by the department to the provider. If the final decision is favorable to the provider, then payments withheld will be made by the department to the provider and provider agreement payments will be resumed by 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 23, 1995.

TRD-9506253

Ann K. Utley
Chairman
Texas Mental Health and
Mental Retardation
Board

Effective date: June 13, 1995

Proposal publication date: March 17, 1995

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

TITLE 40. SOCIAL SERVICES AND ASSISTANCE

Part VI. Texas Commission for the Deaf and Hearing Impaired

Chapter 183. Board for Evaluation of Interpreters and Interpreter Certification

Subchapter E. Fees

• 40 TAC §183.573

The Texas Commission for the Deaf and Hearing Impaired adopts an amendment to §183.573, without changes to the proposed text as published in the April 18, 1995, issue of the *Texas Register* (20 TexReg 2817). The amendment includes separate fees for intermediary candidate application and evaluation and will encourage increased participation of candidates who are deaf in the certification program through increased incentive.

No comments were received regarding adoption of the amendment.

The amendment is adopted under the Human Resources Code, §81.006(b)(3), which provides the Texas Commission for the Deaf and Hearing Impaired the authority to adopt rules for administration and programs.

The adopted amendment affects Texas Administrative Code, Title 40, Chapter 183, Subchapter E, §183.573.

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 22, 1995.

TRD-9506255

David W. Myers
Executive Director
Texas Commission for the
Deaf and Hearing
Impaired

Effective date: June 13, 1995

Proposal publication date: April 18, 1995

For further information, please call: (512) 451-8494





Name: Travis Staudt
Grade: 10
School: Boiling High School, Boiling 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 §101.24 (c)

<u>(1)</u>	<u>Company Name</u> <u>Beginning With</u>	<u>Date Fee</u> <u>Is Due</u>
	A through F	November 1
	G through P	November 15
	Q through Z	December 1
	Other	December 1

Figure 2: 30 TAC §101.24(d)

<u>SIC CODE - DESCRIPTION</u>	<u>FEE</u>
<u>1311, 1321 - Natural Gas Processing</u>	
<u>Gas processing and treatment operations with a rated inlet capacity or highest average daily inlet volume for one of the last three years of at least 5 million standard cubic feet per day (scf/day), but less than 25 million scf/day</u>	
<u>1311 - Natural Gas Sweetening</u>	<u>\$ 1,250.00</u>
<u>1321 - Natural Gas Liquids Processing</u>	<u>\$ 2,875.00</u>
<u>Gas processing and treatment operations with a rated inlet capacity or highest average daily inlet volume for one of the last three years of at least 25 million scf/day</u>	
<u>1311 - Natural Gas Sweetening</u>	<u>\$ 2,500.00</u>
<u>1321 - Natural Gas Liquids Processing</u>	<u>\$ 5,750.00</u>
<u>Compression with total horsepower (HP) of at least 10,000 HP from fossil fuel-fired engines</u>	<u>\$ 2,875.00</u>
<u>1459 - Fuller's Earth Processing</u>	
<u>Material processing capacity of at least 25 tons per hour</u>	<u>\$ 5,625.00</u>
<u>1479 - Sulfur Mining</u>	
<u>Material processing capacity of at least 1 ton per day, but less than 10 tons per day</u>	<u>\$ 6,000.00</u>
<u>Material processing capacity of at least 10 tons per day</u>	<u>\$12,000.00</u>
<u>2061 - Cane Sugar Manufacturing</u>	
<u>Processing capacity of at least 1,000 pounds per hour</u>	<u>\$ 6,875.00</u>
<u>2074 - Cottonseed Oil Mills</u>	
<u>Processing capacity equal to or greater than 100 tons per day, but less than 425 tons per day</u>	<u>\$ 1,250.00</u>
<u>Processing capacity equal to or greater than 425 tons per day, but less than 850 tons per day</u>	<u>\$ 1,875.00</u>
<u>Processing capacity equal to or greater than 850 tons per day</u>	<u>\$ 4,000.00</u>

2082 - Malt Beverages

Capacity of at least 1 million barrels per year \$ 3,375.00

2435, 2436, 2493 - Veneer, Plywood, Particleboard and Fiberboard

Capacity equal to or greater than 50 million square feet per year (ft²/year), but less than 125 million ft²/year 3/8" basis \$ 2,185.00

Capacity equal to or greater than 125 million ft²/year, but less than 350 million ft²/year 3/8" basis \$ 4,375.00

Capacity equal to or greater than 350 million ft²/year 3/8" basis \$ 8,750.00

2611, 2621 - Pulp and Paper Mills

Capacity of at least 100 pounds per hour, but less than 1,000 pounds per hour \$ 7,875.00

Capacity of at least 1,000 pounds per hour \$15,750.00

2812 - Alkalies and Chlorine

Capacity of at least 1 million pounds per year, but less than 10 million pounds per year \$ 2,625.00

Capacity of at least 10 million pounds per year, but less than 100 million pounds per year \$ 5,250.00

Capacity of at least 100 million pounds per year \$10,500.00

2813 - Industrial Gases

Capacity of at least 1 million pounds per year, but less than 10 million pounds per year, and heat input capacity on-site of at least 250 million British thermal units (Btu) per hour \$ 1,875.00

Capacity of at least 10 million pounds per year, but less than 100 million pounds per year, and heat input capacity on-site of at least 250 million Btu per hour \$ 3,750.00

Capacity of at least 100 million pounds per year, and heat input capacity on-site of at least 250 million Btu per hour \$ 7,500.00

2819 - Inorganic Chemicals

Capacity of at least 1 million pounds per year, but less than 10 million pounds per year \$ 3,750.00

Capacity of at least 10 million pounds per year, but less than 100 million pounds per year \$ 7,500.00

Capacity of at least 100 million pounds per year \$15,000.00

2821 - Plastics, Minerals and Resins

Capacity of at least 1 million pounds per year, but less than 10 million pounds per year \$ 3,500.00

Capacity of at least 10 million pounds per year, but less than 100 million pounds per year \$ 7,000.00

Capacity of at least 100 million pounds per year \$14,000.00

2822 - Synthetic Rubber

Capacity of at least 1 million pounds per year, but less than 10 million pounds per year \$ 3,375.00

Capacity of at least 10 million pounds per year, but less than 100 million pounds per year \$ 6,750.00

Capacity of at least 100 million pounds per year \$13,500.00

2834 - Pharmaceutical Preparations

Capacity of at least 1 million pounds per year, but less than 10 million pounds per year \$ 1,685.00

Capacity of at least 10 million pounds per year, but less than 100 million pounds per year \$ 3,375.00

Capacity of at least 100 million pounds per year \$ 6,750.00

2841 - Soap and Other Detergents

Capacity of at least 1 million pounds per year, but less than 10 million pounds per year \$ 750.00

Capacity of at least 10 million pounds per year, but less than 100 million pounds per year \$ 1,500.00

Capacity of at least 100 million pounds per year \$ 3,000.00

2861 - Gum and Wood Chemicals

<u>Capacity of at least 1 million pounds per year, but less than 10 million pounds per year</u>	<u>\$ 2,310.00</u>
<u>Capacity of at least 10 million pounds per year, but less than 100 million pounds per year</u>	<u>\$ 4,625.00</u>
<u>Capacity of at least 100 million pounds per year</u>	<u>\$ 9,250.00</u>

2865 - Cyclic Crudes and Intermediates

<u>Capacity of at least 1 million pounds per year, but less than 10 million pounds per year</u>	<u>\$ 3,625.00</u>
<u>Capacity of at least 10 million pounds per year, but less than 100 million pounds per year</u>	<u>\$ 7,250.00</u>
<u>Capacity of at least 100 million pounds per year</u>	<u>\$14,500.00</u>

2869 - Organic Chemicals

<u>Capacity of at least 1 million pounds per year, but less than 10 million pounds per year</u>	<u>\$ 3,750.00</u>
<u>Capacity of at least 10 million pounds per year, but less than 100 million pounds per year</u>	<u>\$ 7,500.00</u>
<u>Capacity of at least 100 million pounds per year</u>	<u>\$15,000.00</u>

2873 - Nitrogenous Fertilizers

<u>Capacity of at least 1 million pounds per year, but less than 10 million pounds per year</u>	<u>\$ 1,560.00</u>
<u>Capacity of at least 10 million pounds per year, but less than 100 million pounds per year</u>	<u>\$ 3,125.00</u>
<u>Capacity of at least 100 million pounds per year</u>	<u>\$ 6,250.00</u>

2874 - Phosphatic Fertilizers

<u>Capacity of at least 1 million pounds per year, but less than 10 million pounds per year</u>	<u>\$ 2,560.00</u>
<u>Capacity of at least 10 million pounds per year, but less than 100 million pounds per year</u>	<u>\$ 5,125.00</u>

<u>Capacity of at least 100 million pounds per year</u>	<u>\$10,250.00</u>
2879 - Agricultural Chemicals	
<u>Capacity of at least 1 million pounds per year, but less than 10 million pounds per year</u>	<u>\$ 2,310.00</u>
<u>Capacity of at least 10 million pounds per year, but less than 100 million pounds per year</u>	<u>\$ 4,625.00</u>
<u>Capacity of at least 100 million pounds per year</u>	<u>\$ 9,250.00</u>
2895 - Carbon Black	
<u>Capacity of at least 6 million pounds per year, but less than 50 million pounds per year</u>	<u>\$ 7,750.00</u>
<u>Capacity of at least 50 million pounds per year</u>	<u>\$15,500.00</u>
2899 - Chemical Preparations	
<u>Capacity of at least 1 million pounds per year, but less than 10 million pounds per year</u>	<u>\$ 1,000.00</u>
<u>Capacity of at least 10 million pounds per year, but less than 100 million pounds per year</u>	<u>\$ 2,000.00</u>
<u>Capacity of at least 100 million pounds per year</u>	<u>\$ 4,000.00</u>
2911 - Petroleum Refining	
<u>Capacity of at least 10,000 barrels per day (bbl/day), but less than 100,000 bbl/day</u>	<u>\$ 9,375.00</u>
<u>Capacity of at least 100,000 bbl/day</u>	<u>\$18,750.00</u>
2951 - Asphalt Paving Mixtures	<u>\$ 875.00</u>
2952 - Asphalt Felts and Coatings	
<u>Capacity of at least 1 million pounds per year, but less than 50 million pounds per year</u>	<u>\$ 4,250.00</u>
<u>Capacity of at least 50 million pounds per year</u>	<u>\$ 8,500.00</u>
2992 - Waste Oil Re-Refining	
<u>Capacity of at least 200,000 gallons per year</u>	<u>\$ 3,750.00</u>

2999 - Petroleum and Coal Products

Capacity of at least 1 million pounds per year, but less than 50 million pounds per year \$ 5,125.00

Capacity of at least 50 million pounds per year \$10,250.00

3011 - Tires and Inner Tubes

Capacity of at least 5 million pounds per year, but less than 10 million pounds per year \$ 7,125.00

Capacity of at least 10 million pounds per year \$14,250.00

3211 - Flat Glass

Capacity of at least 10 million pounds per year, but less than 200 million pounds per year \$ 5,875.00

Capacity of at least 200 million pounds per year \$11,750.00

3221 - Glass Containers

Capacity of at least 10 million pounds per year, but less than 200 million pounds per year \$ 3,375.00

Capacity of at least 200 million pounds per year \$ 6,750.00

3229 - Pressed and Blown Glass

Capacity of at least 10 million pounds per year, but less than 200 million pounds per year \$ 6,750.00

Capacity of at least 200 million pounds per year \$13,500.00

3241 - Cement, Hydraulic

Capacity of at least 10 million pounds per year, but less than 500 million pounds per year \$ 7,250.00

Capacity of at least 500 million pounds per year \$14,500.00

3251 - Brick and Structural Clay Tile

Capacity of at least 10 million pounds per year, but less than 200 million pounds per year \$ 2,375.00

Capacity of at least 200 million pounds per year \$ 4,750.00

3259 - Structural Clay Products

<u>Capacity of at least 10 million pounds per year, but less than 200 million pounds per year</u>	<u>\$ 6,250.00</u>
<u>Capacity of at least 200 million pounds per year</u>	<u>\$12,500.00</u>

3261 - Vitreous Plumbing Fixtures

<u>Capacity of at least 10 million pounds per year, but less than 200 million pounds per year</u>	<u>\$ 3,375.00</u>
<u>Capacity of at least 200 million pounds per year</u>	<u>\$ 6,750.00</u>

3273 - Ready-Mixed Concrete

<u>Capacity to produce for delivery at least 10 cubic yards (yd³) per hour (20,000 yd³ per year)</u>	<u>\$ 625.00</u>
--	------------------

3274 - Lime

<u>Capacity of at least 1 million pounds per year, but less than 50 million pounds per year</u>	<u>\$ 7,375.00</u>
<u>Capacity of at least 50 million pounds per year</u>	<u>\$14,750.00</u>

3275 - Gypsum Products

<u>Capacity of at least 10 million pounds per year, but less than 200 million pounds per year</u>	<u>\$ 3,875.00</u>
<u>Capacity of at least 200 million pounds per year</u>	<u>\$ 7,750.00</u>

3292 - Asbestos Products

<u>Capacity of at least 10 million pounds per year, but less than 200 million pounds per year</u>	<u>\$ 1,250.00</u>
<u>Capacity of at least 200 million pounds per year</u>	<u>\$ 2,500.00</u>

3295 - Minerals, Ground or Treated

<u>Capacity of at least 1 million pounds per year, but less than 50 million pounds per year</u>	<u>\$ 3,375.00</u>
<u>Capacity of at least 50 million pounds per year</u>	<u>\$ 6,750.00</u>

3296 - Mineral Wool

<u>Capacity of at least 10,000 pounds per year, but less than 1 million pounds per year</u>	<u>\$ 7,375.00</u>
<u>Capacity of at least 1 million pounds per year</u>	<u>\$14,750.00</u>

3312 - Blast Furnaces and Steel Mills

<u>Capacity of at least 50 million pounds per year, but less than 1 billion pounds per year</u>	<u>\$ 7,000.00</u>
<u>Capacity of at least 1 billion pounds per year</u>	<u>\$14,000.00</u>

3321 - Gray Iron Foundries

<u>Capacity of at least 10 million pounds per year, but less than 100 million pounds per year</u>	<u>\$ 3,125.00</u>
<u>Capacity of at least 100 million pounds per year</u>	<u>\$ 6,250.00</u>

3331 - Primary Copper Smelting and Refining

<u>Smelting capacity of at least 10 million pounds per year, but less than 100 million pounds per year</u>	<u>\$ 9,375.00</u>
<u>Smelting capacity of at least 100 million pounds per year</u>	<u>\$18,750.00</u>
<u>Refining capacity of at least 10 million pounds per year, but less than 100 million pounds per year</u>	<u>\$ 5,250.00</u>
<u>Refining capacity of at least 100 million pounds per year</u>	<u>\$10,500.00</u>

3334 - Primary Aluminum

<u>Capacity of at least 10 million pounds per year, but less than 100 million pounds per year</u>	<u>\$ 6,875.00</u>
<u>Capacity of at least 100 million pounds per year</u>	<u>\$13,750.00</u>

3339 - Primary Nonferrous Metals

<u>Capacity of at least 10 million pounds per year, but less than 100 million pounds per year</u>	<u>\$ 3,625.00</u>
<u>Capacity of at least 100 million pounds per year</u>	<u>\$ 7,250.00</u>

3341 - Secondary Nonferrous Metals

Capacity of at least 1 million pounds per year, but less than 20 million pounds per year \$ 6,625.00

Capacity of at least 20 million pounds per year \$13,250.00

3354 - Aluminum Extruded Products

Capacity of at least 500,000 pounds per year, but less than 10 million pounds per year \$ 2,250.00

Capacity of at least 10 million pounds per year \$ 4,500.00

3355 - Aluminum Rolling and Drawing

Capacity of at least 500,000 pounds per year, but less than 10 million pounds per year \$ 4,750.00

Capacity of at least 10 million pounds per year \$ 9,500.00

3411 - Metal Cans

Capacity of at least 10 million cans per year, but less than 50 million cans per year \$ 5,875.00

Capacity of at least 50 million cans per year \$11,750.00

3585 - Refrigeration and Heating Equipment

Accounts with more than 500 employees \$ 6,875.00

3624 - Carbon and Graphite Products

Accounts with more than 1,000 employees \$ 5,125.00

3661 - Telephone and Telegraph Apparatus

Accounts with more than 1,000 employees \$ 4,250.00

3663, 3669 - Communications Equipment

Accounts with more than 1,000 employees \$ 5,625.00

3674 - Semiconductors and Related Devices

Accounts with more than 1,000 employees \$ 5,125.00

3711 - Motor Vehicles

Capacity of at least 1,000 vehicles per year, but less than 10,000 vehicles per year \$ 5,250.00

Capacity of at least 10,000 vehicles per year \$10,500.00

3721 - Aircraft Manufacturing Plants

Accounts with at least 200 but less than 1,000 employees \$ 1,875.00

Accounts with at least 1,000 but less than 5,000 employees \$ 5,625.00

Accounts with at least 5,000 employees \$11,250.00

3743 - Railroad Equipment

Accounts with more than 25 employees \$ 5,875.00

4226 - Storage and Terminal Facilities for Petroleum and Chemical Products

Capacity of at least 50,000 gallons tankage and 20,000 gallons per day throughput \$ 7,250.00

4491 - Marine Cargo Handling

Capacity of at least 25 tons per day of product \$ 4,500.00

4789 - Transportation Services

Railcar repair, cleaning or painting accounts with at least 25 employees \$ 2,875.00

Truck cleaning and painting accounts with at least 25 employees \$ 4,375.00

Independent pipeline terminals with throughput of at least 20,000 gallons per day, but less than 200,000 gallons per day for all petroleum liquids except crude oil \$ 3,625.00

Independent pipeline terminals with throughput of at least 200,000 gallons per day for all petroleum liquids except crude oil \$ 7,250.00

4911 - Electric Services

Capacity of at least 25 megawatts, but less than 100 megawatts (includes cogeneration units) \$ 5,000.00

Capacity of at least 100 megawatts \$10,000.00

4922, 4923, 4924, 4925 - Natural Gas Transmission/Distribution

Capacity of at least 10,000 horsepower from fossil fuel-fired engines \$ 2,875.00

4952 - Sludge Drying and Incineration

Capacity of at least 5 tons per hour
drying or 500 pounds per hour
incineration (wet basis) \$ 3,750.00

4961 - Steam Supply

Capacity of at least 250 million Btu
per hour \$ 7,500.00

5093 - Scrap Metal Reclamation

Capacity of at least 1 ton per day
metal reclamation by incineration
or melting \$ 3,750.00

Metal reclamation by shredding \$ 625.00

**5169 - Distribution of Chemicals and Allied
Products**

Throughput of at least 20,000 gallons
per day \$ 3,375.00

**5171 - Petroleum and Petroleum Product Bulk
Stations and Terminals**

Throughput of at least 20,000 gallons per day,
but less than 200,000 gallons per day for all
petroleum liquids except crude oil. Crude
oil facilities with tankage of at least 5,000
but less than 10,000 barrel capacity and no
floating roof for control of emissions, or
tankage of at least 100,000 but less than
200,000 barrel capacity with floating roof
controls \$ 3,625.00

Throughput of at least 200,000 gallons per day
for all petroleum liquids except crude oil.
Crude oil facilities with tankage of at least
10,000 barrel capacity with no floating roof
for control of emissions, or tankage of at
least 200,000 barrel capacity with floating
roof controls \$ 7,250.00

9711 - Defense Plants and Military Bases

Defense plants with at least 100 employees,
or military bases with more than 1,000
employees \$ 9,875.00

Figure 3: 30 TAC §101.27(c) (1)

<u>Fiscal Year</u>	<u>Rate Per Ton</u>	<u>Minimum Fee</u>
1992	\$ 3	
1993	\$ 5	\$25
1994	\$25	\$25
1995	\$26	\$26
<u>1996</u>	<u>\$27</u>	<u>\$27</u>
<u>1997</u>	<u>\$28</u>	<u>\$28</u>

If the fee is applicable, the [The] company responsible for the account shall pay the calculated emissions fee or the minimum fee, whichever is greater.

Figure 4: 30 TAC §101.27(d)

<u>(1)</u>	<u>Company Name</u> <u>Beginning With</u>	<u>Date Fee</u> <u>Is Due</u>
	A through F	November 1
	<u>Company Name</u> <u>Beginning with</u>	<u>Date Fee</u> <u>Is Due</u>
	G through P	November 15
	Q through Z	December 1
	Other	December 1

Figure 1: 31 TAC <*>65.72(c) (4) (A)

Species	Daily Bag	Possession	Minimum Length (Inches)	Maximum Length (Inches)
Amberjack, greater.	3	6	32	No limit
Black Basses	5 (in aggregate)	10 (in aggregate)	14	No limit
Largemouth and smallmouth bass, their hybrids, and subspecies.			14	No limit
Spotted and Guadalupe bass.			12	No limit
Bass, striped, its hybrids, and subspecies.	5 (in aggregate)	15 (in aggregate)	18	No limit
Bass, white	25	50	10	No limit
Catfish: channel and blue catfish, their hybrids, and subspecies.	25 (in aggregate)	50 (in aggregate)	12	No limit
Catfish, flathead.	5	10	18	No limit
Catfish, gafftopsail.	No limit	No limit	14	No limit
Cobia.	2	4	37	No limit
Crappie: white and black crappie, their hybrids, and subspecies.	25 (in aggregate)	50 (in aggregate)	10	No limit
Drum, black.	5	10	14	30
Drum, red.	3*	6	20	28*
<p>*Special Regulation: During a license year, one red drum over the stated maximum size limit may be retained when affixed with a properly executed Red Drum Tag, a properly executed Exempt Red Drum Tag or with a properly executed Duplicate Exempt Red Drum Tag and one red drum over the stated maximum size limit may be retained when affixed with a properly executed Bonus Red Drum Tag. Any fish retained under authority of a Red Drum Tag, an Exempt Red Drum Tag, a Duplicate Exempt Red Drum Tag, or a Bonus Red Drum Tag may be retained in addition to the daily bag and possession limit as stated in this section.</p>				
Flounder: all species, their hybrids, and subspecies.	20	40	12	No limit
Jewfish.	0	0		
Mackerel, king.	2	4	23	No limit

Species	Daily Bag	Possession	Minimum Length (Inches)	Maximum Length (Inches)
Mackerel, Spanish.	7	14	14	No limit
Marlin, blue.	No limit	No limit	114	No limit
Marlin, white.	No limit	No limit	81	No limit
Mullet: all species, their hybrids, and subspecies.	No limit	No limit	No limit	*
*Special regulation: During the period October through January, no mullet more than 12 inches in length may be taken from public waters or possessed on board a vessel.				
Pompano, Florida.	No limit	No limit	9	No limit
Sailfish.	No limit	No limit	76	No limit
Saugeye	3	6	18	No limit
Seatrout, spotted.	10	20	15	No limit
Shark: all species, their hybrids, and subspecies.	5 (in aggregate)	10 (in aggregate)	No limit	No limit
Sheepshead.	5	10	12	No limit
Snapper, lane.	No limit	No limit	8	No limit
Snapper, red.	<u>5</u> [7]	<u>10</u> [14]	<u>15</u> [14]	No limit
Snapper, vermilion.	No limit	No limit	8	No limit
Snook.	1	2	24	28
Tarpon.	0	0		Catch and release only*.
*Special Regulation: One tarpon 80 inches in total length or larger may be retained during a license year when affixed with a properly executed Tarpon Tag.				
Trout: rainbow and brown trout, their hybrids, and subspecies.	5 (in aggregate)	10 (in aggregate)	No limit (in aggregate)	No limit (in aggregate)
Walleye.	5	10	16	No limit

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 on Aging

Thursday, June 1, 1995, 9:30 a.m.

1949 South IH-35, Third Floor, Large Conference Room

Austin

Citizens Advisory Council

AGENDA:

Consider and possibly act on: Call to order, minutes of March 9, 1995 meeting; receive public testimony; report from CAC members on advocacy efforts at all levels; report on May 2-5, 1995 White House Conference on Aging, discussion on status of CAC; legislative update; update on Texas Board of Aging activities; update on Texas Silver Haired Legislature activities; update on Texas Senior Advocacy Coalition activities, update on Board Legislative/Advocacy/Networking Committee; Minority Aging Conference, announcements; and adjourn

Contact: Mary Sapp, P.O. Box 12786, Austin, Texas 78701, (512) 444-2727.

Filed: May 24, 1995, 9:05 a.m.

TRD-9506288

Texas Department of Agriculture

Friday, June 2, 1995, 9:30 a.m.

Texas Department of Agriculture, 1700 North Congress Avenue, Room 928B

Austin

Texas-Israel Exchange Fund Board

AGENDA:

Discussion of Texas-Israel Exchange Program funding, grant program, and possible future programs and activities.

Contact: V A Stephens, P.O. Box 12847, Austin, Texas 78711, (512) 463-7519

Filed: May 25, 1995, 9:36 a.m.

TRD-9506343

Texas Council on Alzheimer's Disease and Related Disorders

Thursday, June 22, 1995, 10:00 a.m.

Room 240, Texas Department of Mental Health and Mental Retardation, 909 West 45th Street

Austin

AGENDA:

The council will discuss and possibly act on: approval of minutes from the last meeting, Alzheimer's Family Care Program; research updates; Alzheimer's Registry; and other business (legislative update; Special Care Unit disclosure statement; Alzheimer's regional conference, and autopsy network).

Contact: Veronda Durden, 1100 West 49th Street, Austin, Texas 78756, (512) 458-7534. 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 23, 1995, 11:38 a.m.

TRD-9506236

State Bar of Texas

Thursday, June 1, 1995, 8:30 a.m.

Henry B. Gonzalez Convention Center, Fiesta Rooms A, B, C, 200 East Market San Antonio

Board of Directors

AGENDA:

Incoming/outgoing boards:

Call to order/roll call/invocation/consent agenda and announcements/reports from: president, president-elect, executive director, Supreme Court liaison, Commission for Lawyer Discipline, Office of the General Counsel, board committees, immediate past president, Texas Young Lawyer's Association president, Court of Criminal Appeals president, State Board committees-sections-divisions, federal judicial liaison, judicial section liaison, out-of-state lawyer liaison, Board of Disciplinary Appeals/remarks from the general public.

Recess

Incoming board:

Invocation/installation of officers, remarks and presentations/swearing in of president-

elect/swearing in of new directors/report from incoming chair of the board/report from incoming president/reports from State Bar committees-sections-divisions/report from Texas Young Lawyers Association president/remarks from the general public/adjourn.

Contact: Pat Hiller, P.O. Box 12487, Austin, Texas 78711, 1-800-204-2222.

Filed: May 24, 1995, 4:25 p.m.

TRD-9506333

Thursday-Friday, June 1-2, 1995, 9:30 a.m. and 8:30 a.m., respectively.

Henry B. Gonzalez Convention Center, South Room 204

San Antonio

Commission for Lawyer Discipline

AGENDA:

Public session: Call to order/introductions/review and discuss minutes of prior meetings/presentation by Judge Clawson/request for approval of representation of respondent attorney/report on matters unresolved in prior meetings/review and discuss: statistical reports, commission's compliance with the State Bar Act, Texas Rules of Disciplinary Procedure and orders of the Supreme Court, budget and operations of the commission and the office of General Counsel, operations and procedures of grievance committees, special counsel program, mediation of disciplinary matters/presentation by trial staff on individual dockets/closed session to discuss disciplinary cases pending before evidentiary panels or district court, assignment of special counsel, and personnel matters/public session to discuss and take appropriate action with respect to those items discussed in closed session/discuss future meetings of the commission/discuss other matters as appropriately come before the commission/receive public comment/adjourn.

Contact: Anne McKenna, P.O. Box 12487, Austin, Texas 78711, 1-800-204-2222.

Filed: May 24, 1995, 4:26 p.m.

TRD-9506334

Texas Committee on Purchases of Products and Services of Blind and Severely Disabled Persons

Friday, June 2, 1995, 9:00 a.m.

Texas Rehabilitation Commission, Public Hearing Room, Room 1410, 4900 North Lamar Boulevard

Austin

Committee

AGENDA:

Call to order and introduction of committee members and guests

Acceptance of minutes from March 10, 1995 meeting

Public comment

Discussion and action on new services, renewal services; pricing procedure on spices;

temporary services; new products and product changes and revisions

Discussion of Texas Industries for the Blind and Handicapped (TIBH) quarterly report to Texas Committee

Discussion of proposed legislative changes to State Use Program

Discussion and action on settling date, time and place of Texas Committee work session

Adjournment

Contact: Hollis Pinyan, P.O. Box 12866, Austin, Texas 78711, (903) 561-8146.

Filed: May 24, 1995, 3:01 p.m.

TRD-9506322

State Employee Charitable Campaign

Monday, June 12, 1995, 4:30 p.m.

128 East Second Street

Odessa

Local Employee Committee-Odessa

AGENDA:

Review budget and discuss campaign strategies

Contact: Jill Nelson, 128 East Second Street, Odessa, Texas 79761, (915) 332-0941, Fax: (915) 332-5254.

Filed: May 25, 1995, 9:42 a.m.

TRD-9506345

Tuesday, June 13, 1995, 1:00 p.m.

4340 Carter Creek, #107

Bryan

Local Employee Committee-Bryan

AGENDA:

Update on SECC information

Approve Brazos SECC budget

New business

Adjourn

Contact: Bob Fleischer, P.O. Box 3802, Bryan, Texas 77805-3802, (409) 268-8929.

Filed: May 23, 1995, 5:00 p.m.

TRD-9506272

Texas Department of Health

Monday, June 5, 1995, 9:00 a.m.

Room T-607, Texas Department of Health, 1100 West 49th Street

Austin

Midwifery Board

AGENDA:

The board will conduct an orientation for new members; and discuss and possibly act on: approval of the minutes of the last meeting; committee reports (grievance; and education); old business (financial report; and meeting outside the Austin area), new business (purchase of prophylaxis to prevent ophthalmia neonatorum; frequency to publish a report on midwifery practice which includes infant fetal morbidity and mortality; appointment of a committee to bear midwives' concerns; and report by midwife regarding education requirements); and an open forum.

Contact: Cecilia Nobles, 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 23, 1995, 11:38 a.m.

TRD-9506235

Saturday, June 10, 1995, 9:30 a.m.

Room N-100, the Exchange Building, 8407 Wall Street

Austin

Texas Radiation Advisory Board, Executive/Legislative Committee

AGENDA:

The committee will discuss and possibly act on: legislative changes regarding radiation control issues; final adoption of 25 Texas Administrative Code, §289.130 regarding the Texas Radiation Advisory Board; final adoption of *Texas Regulations for Control of Radiation-Part 40* regarding notification of incidents and clarification of requirements for general licenses; proposal of *Texas Regulations for Control of Radiation-Part 21*; committee assignments; draft report on comparison of state radiation control programs; and other items not requiring committee action

Contact: Margaret Henderson, 1100 West 49th Street, Austin, Texas 78756, (512) 834-6688. For ADA assistance, call Richard Butler (512) 458-6410 or T.D.D. (512) 458-7708 at least two days prior to the meeting.

Filed: May 23, 1995, 2:43 p.m.

TRD-9506263

Saturday, June 10, 1995, 10:30 a.m.

Room N-100, the Exchange Building, 8407 Wall Street

Austin

Texas Radiation Advisory Board, Medical Committee

AGENDA:

The committee will discuss and possibly act on: final adoption of *Texas Regulations for Control of Radiation-Part 37*; final adoption of *Texas Regulations for Control of Radiation, Appendix 41-E* on physician training and notification of incidents; final adoption of *Texas Regulations for Control of Radiation-Part 33* on petition for release of patients with temporary implants; final adoption of *Texas Regulations for Control of Radiation-Part 11* on inspector training; proposed repeal of 25 Texas Administrative Code, §289.6 on radiofrequency; comments from the Texas Board of Licensure for Professional Medical Physicists on *Texas Regulations for Control of Radiation-Part 32*; and other items not requiring committee action.

Contact: Margaret Henderson, 1100 West 49th Street, Austin, Texas 78756, (512) 834-6688. For ADA assistance, call Richard Butler (512) 458-6410 or T.D.D. (512) 458-7708 at least two days prior to the meeting.

Filed: May 23, 1995, 2:42 p.m.

TRD-9506262

Saturday, June 10, 1995, 11:45 a.m.

Room N-100, the Exchange Building, 8407 Wall Street

Austin

Texas Radiation Advisory Board, Fee Committee

AGENDA:

The committee will discuss and possibly act on: budget status (Texas Department of Health; and Texas Natural Resource Conservation Commission); and other discussion items not requiring committee action.

Contact: Margaret Henderson, 1100 West 49th Street, Austin, Texas 78756, (512) 834-6688. For ADA assistance, call Richard Butler (512) 458-6410 or T.D.D. (512) 458-7708 at least two days prior to the meeting.

Filed: May 23, 1995, 2:42 p.m.

TRD-9506261

Saturday, June 10, 1995, 1:00 p.m.

Room N-100, the Exchange Building, 8407 Wall Street

Austin

Texas Radiation Advisory Board, Radioactive Waste Committee

AGENDA:

The committee will discuss and possibly act on: final adoption of *Texas Regulations for Control of Radiation-Part 44* on waste processing and storage with relation to decommissioning and financial assurance; updates on waste disposal issues and legislation; and items not requiring committee action.

Contact: Margaret Henderson, 1100 West 49th Street, Austin, Texas 78756, (512) 834-6688. For ADA assistance, call Richard Butler (512) 458-6410 or T.D.D. (512) 458-7708 at least two days prior to the meeting.

Filed: May 23, 1995, 2:42 p.m.

TRD-9506260

Saturday, June 10, 1995, 1:30 p.m.

Room N-100, the Exchange Building, 8407 Wall Street

Austin

Texas Radiation Advisory Board

AGENDA:

The board will discuss approval of the minutes from the previous meeting; and discuss and possibly act on: update on radioactive waste (data on waste generators; and Texas Low-Level Radioactive Waste Disposal Authority); executive committee report (legislative changes regarding radiation control issues; final adoption of 25 Texas Administrative Code (TAC) §289.130 regarding Texas Radiation Advisory Board (TRAB); final adoption of *Texas Regulations for Control of Radiation-Part 40* regarding notification of incidents and clarification of license requirements for general licenses; proposed *Texas Regulations for Control of Radiation-Part 21*; committee assignments; and draft report on comparison of state radiation control programs); medical committee report (final adoption of *Texas Regulations for Control of Radiation-Part 37* regarding mammography; final adoption of *Texas Regulations for Control of Radiation, Appendix Part 41-E* regarding physician training and notification of incidents; final adoption of *Texas Regulations for Control of Radiation-Part 33* regarding petition for release of patients with temporary implants; final adoption of *Texas Regulations for Control of Radiation-Part 11*; proposed repeal of 25 TAC §289.6 regarding radiofrequency; and comments from the Texas Board of Licensure for Professional Medical Physicists regarding *Texas Regulations for Control of Radiation-Part 32*); fee committee (status of budgets in radiation control agencies); and radioactive waste committee (final adoption of *Texas Regulations for Control of Radiation-Part 44* on waste processing and storage with relation to decommissioning and financial assurance; and update on waste disposal issues and legislation); report from the chair; pro-

gram reports (Texas Natural Resource Conservation Commission, Texas Railroad Commission; and Texas Department of Health, Bureau of Radiation Control); discussion items not requiring board action; and next meeting date.

Contact: Margaret Henderson, 1100 West 49th Street, Austin, Texas 78756, (512) 834-6688. For ADA assistance, call Richard Butler (512) 458-6410 or T.D.D. (512) 458-7708 at least two days prior to the meeting.

Filed: May 23, 1995, 2:42 p.m.

TRD-9506259

Texas Health Benefits Purchasing Cooperative

Thursday, June 1, 1995, 2:30 p.m.

2222 Welborn Street, Scottish Rite Hospital for Children

Dallas

AGENDA:

Call to order

Review and adopt minutes of previous meeting

Report of the executive director

Report of the program administrator

Contact: Andrew McBath, 1005 Congress Avenue, Suite 550, Austin, Texas 78701, (512) 472-3956.

Filed: May 24, 1995, 3:41 p.m.

TRD-9506331

Thursday, June 1, 1995, 2:30 p.m.

2222 Welborn Street, Scottish Rite Hospital for Children

Dallas

AGENDA:

Call to order

Review and adopt minutes of previous meeting

Report of the executive director

Report of the program director

Contact: Andrew McBath, 1005 Congress Avenue, Suite 550, Austin, Texas 78701, (512) 472-3956.

Filed: May 25, 1995, 8:11 a.m.

TRD-9506338

Texas Commission on Law Enforcement Officer Standards and Education

Monday, June 5, 1995, 1:30 p.m.

Room E1.026, Capitol Extension

Austin

AGENDA:

Work Session Meeting

Call to order, invocation, Pledge of Allegiance, and welcoming remarks; recognition of employees for service awards; special recognition certificates for outstanding service to the commission; executive director's report; receive report on academy evaluations, audits, and field visits; receive report on ad hoc meeting regarding firearms training specialization; discussion of implementation procedure and charging fee to issuance of jailer proficiency certificates—intermediate and advanced; test results by academy; discuss the 560-hour basic peace officer test; receive report and comments regarding process to deal with academies that consistently demonstrate unacceptable pass/fail rate on the basic peace officer exam; discussion of draft of new rules and/or amendments to existing rules—§211.85, Proficiency Certificates, §211.31, Memorandum of Understanding or Continuity of Care, §211.19, Public Information; and adjourn.

Contact: Vera Kocian, 1033 LaPosada, Suite 175, Austin, Texas 78752, (512) 450-0188.

Filed: May 23, 1995, 2:50 p.m.

TRD-9506265

Tuesday, June 6, 1995, 9:30 a.m.

E1.026, Capitol Extension

Austin

AGENDA:

Quarterly Meeting

Call to order, invocation, Pledge of Allegiance, and welcoming remarks; approval of minutes of the March 13-14, 1995, commission meetings; discussion of and action on implementation procedure and charging fee for issuance of jailer proficiency certificates—intermediate and advanced; discussion of and action on draft of new rules and/or amendments to existing rules—§211.85, Proficiency Certificates, §211.31, Memorandum of Understanding or Continuity of Care, §211.19, Public Information; approval of recommendation(s) for membership to the Basic Peace Officer Standing Revisions Committee; set meeting date and location of September 1995 commission meeting; take license action on agreed final orders for revocation and suspension of licenses; receive report on per-

manent voluntary surrenders of licenses; receive comments on any subject without discussion; and adjourn.

Contact: Vera Kocian, 1033 LaPosada, Suite 175, Austin, Texas 78752, (512) 450-0188.

Filed: May 23, 1995, 2:50 p.m.

TRD-9506264

Texas State Board of Examiners of Marriage and Family Therapists

Monday, June 12, 1995, 9:00 a.m.

Room S-402, The Exchange Building, 8407 Wall Street

Austin

Rule Change Committee

AGENDA.

The committee will discuss and possibly act on suggested rule changes to Title 22, Texas Administrative Code, Chapter 801.

Contact: Bobby Schmidt, 1100 West 49th Street, Austin, Texas 78756, (512) 834-6657. 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 23, 1995, 11:38 a.m.

TRD-9506234

Texas Natural Resource Conservation Commission

Wednesday, June 21, 1995, 10:00 a.m.

Holiday Inn Crown Plaza, Meeting Room, 2222 West Loop South

Houston

AGENDA:

On an application by GTM Services, Inc., Proposed Permit Number MSW2241, to authorize a Type V municipal solid waste management facility (grease trap waste treatment, disposal and processing). The proposed site covers approximately 1.933 acres of land and is to receive approximately 400,000 gallons of municipal solid waste per month. The waste management facility is to be located at 6407 Hurst Street in Houston, Harris County, Texas.

Contact: Charles Stavley or Ann Scudday, P.O. Box 130, Austin, Texas 78711, (512) 239-6687.

Filed: May 24, 1995, 10:02 a.m.

TRD-9506315

Wednesday, July 5, 1995, 9:30 a.m.

Room 201S, Building E, 12118 North Interstate 35, TNRCC Park 35 Office Complex

Austin

AGENDA.

Williamson County Municipal Utility District Number 7 and Williamson County Municipal Utility District Number 8 (the Districts); TNRCC Docket Numbers 95-0457-DIS and 95-0458-DIS, application for dissolution of districts, submitted by Del Webb Corporation, major developer and landowner in the districts. The application is filed and the hearing will be held under the authority of §50.251 of the Texas Water Code, 30 Texas Administrative Code §§293.131-293.136 and under the procedural rules of the commission. The districts have been financially dormant for five consecutive years prior to the requests for dissolution, have performed no functions during this time period, and currently have no outstanding bonded indebtedness. Applicant's petition states the dissolutions are desirable as the planned development of the land included in the districts is for a residential subdivision receiving both wastewater and water service from the City of Georgetown, Texas. Dissolution of the districts is desirable as the districts do not have any function to perform or duties to fulfill. If dissolution of these districts is approved, the districts' assets, if any, shall escheat to the State of Texas and shall be administered by the State Treasurer and disposed of in the manner provided by Texas Civil Statutes, Article 3270a, 1925, as amended.

Contact: Gloria A. Vasquez, Mail Code 152, P.O. Box 13087, Austin, Texas 78711-3087, (512) 239-6161.

Filed: May 24, 1995, 12:58 p.m.

TRD-9506317

Wednesday, July 5, 1995, 9:30 a.m.

Room 201S, Building E, 12118 North Interstate 35, TNRCC Park 35 Office Complex

Austin

AGENDA:

Williamson County Municipal Utility District Number 7 and Williamson County Municipal Utility District Number 8 (the Districts); TNRCC Docket Numbers 95-0457-DIS and 95-0458-DIS, application for dissolution of districts, submitted by Del Webb Corporation, major developer and landowner in the districts. The application is filed and the hearing will be held under the authority of §50.251 of the Texas Water Code, 30 Texas Administrative Code §§293.131-293.136 and under the procedural rules of the commission. The districts have been financially dormant for five consecutive years prior to the requests for dissolution, have performed no function during

this time period, and currently have no outstanding bonded indebtedness. Applicant's petition states the dissolutions are desirable as the planned development of the land included in the districts is for a residential subdivision receiving both wastewater and water service from the City of Georgetown, Texas. Dissolution of the districts is desirable as the districts do not have any function to perform or duties to fulfill. If dissolution of these districts is approved, the districts' assets, if any, shall escheat to the State of Texas and shall be administered by the State Treasurer and disposed of in the manner provided by Texas Civil Statutes, Article 3270a, 1925, as amended.

Contact: Gloria A. Vasquez, Mail Code 152, P.O. B0x 13087, Austin, Texas 78711-3087, (512) 239-6161.

Filed: May 25, 1995, 8:11 a.m.

TRD-9506337

Texas State Board of Nursing Facility Administrators

Thursday, May 25, 1995, 9:00 a.m.

Bowie Room, St. Anthony Hotel, 300 East Travis

San Antonio

Emergency Revised Agenda

Complaint Committee

AGENDA:

The committee will discuss and possibly act on the following complaints: 06-94-01207; 06-94-01225; 06-94-01283; 94-00037; 94-00042; 95-00056; 95-00059; 95-00065; 95-00074; 95-00075; 95-00076; 95-00083; and 95-00089.

Reason for Emergency: Death of Complaint Committee member precluding quorum for a portion of the March 18, 1995 committee meeting.

Contact: Bobby Schmidt, 1100 West 49th Street, Austin, Texas 78756, (512) 834-6657. 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 24, 1995, 3:40 p.m.

TRD-9506327

Texas Parks and Wildlife Department

Wednesday, May 31, 1995, 1:00 p.m.

Parks and Wildlife Headquarter, 4200 Smith School Road

Austin

Finance Committee

AGENDA:

Approval of committee minutes of the previous meetings; ACTION-license fee changes; ACTION-park fees; BRIEFING-license point-of-sale update and demonstration; BRIEFING-update on legislative appropriations for fiscal years 1996-1997; ACTION-sale of obsolete non-game stamps; BRIEFING-rules posted for July commission action; other business

Contact: Andrew Sansom, 4200 Smith School Road, Austin, Texas 78744, (512) 389-4642.

Filed: May 23, 1995, 1:45 p.m.

TRD-9506247

Wednesday, May 31, 1995, 1:00 p.m.

Parks and Wildlife Headquarter, 4200 Smith School Road

Austin

Parks and Wildlife Commission

AGENDA:

Approval of committee minutes of the previous meetings; BRIEFING-Texas Department of Criminal Justice cooperative project, BRIEFING-Keith Lake Water Exchange Pass; ACTION-Big Bend Ranch management plan revision; ACTION-pipeline sale and easement-Sea Rim State Park and Murphree Wildlife management area-Jefferson County; ACTION-regulations for mineral recovery operations on department lands; other business

Contact: Andrew Sansom, 4200 Smith School Road, Austin, Texas 78744, (512) 389-4642.

Filed: May 23, 1995, 1:46 p.m.

TRD-9506248

Wednesday, May 31, 1995, 1:00 p.m.

Parks and Wildlife Headquarter, 4200 Smith School Road

Austin

Regulations Committee

AGENDA:

Approval of committee minutes of the previous meetings; ACTION-amendment to shrimp management proclamation; ACTION-Red Snapper regulations; BRIEFING-scheduled public hunts on state parks for 1995-1996; BRIEFING-status report on harvest information program; BRIEFING-rule consistency with coastal management plan; BRIEFING-rules posted for July commission action; other business

Contact: Andrew Sansom, 4200 Smith School Road, Austin, Texas 78744, (512) 389-4642.

Filed: May 23, 1995, 1:47 p.m.

TRD-9506249

Wednesday, May 31, 1995, 7:00 p.m.

The Headliners Club, 221 West Sixth Street
Austin

Parks and Wildlife Commission

AGENDA

Members of the Texas Parks and Wildlife Commission plan to have dinner at 7:00 p.m., May 31, 1995. Although this function is primarily a social event and no formal action is planned, the commission may discuss items on the public hearing scheduled for 9:00 a.m., Thursday, June 1, 1995.

Contact: Andrew Sansom, 4200 Smith School Road, Austin, Texas 78744, (512) 389-4642.

Filed: May 23, 1995, 1:47 p.m.

TRD-9506250

Thursday, June 1, 1995, 9:00 a.m.

Parks and Wildlife Headquarter, 4200 Smith School Road

Austin

Parks and Wildlife Commission

AGENDA:

Approval of commission minutes of the March 23, 1995 meeting; presentation of retirement certificates and service awards; presentation of United Cerebral Palsy Employer of the Year award; resolution-Galveston Bay Day, election of vice-chairman; BRIEFING-Expo; ACTION-license fee changes; ACTION-shrimp management proclamation; ACTION-regulations for mineral recovery operations on department lands; ACTION-Big Bend Ranch management plan revision; ACTION-sale of obsolete nongame and endangered species stamps; ACTION-pipeline sale and easement-Sea Rim State Park and Murphree Wildlife management area-Jefferson County; ACTION-land acquisition-Brewster County; ACTION-land exchange-Chambers County; ACTION-land acquisition-Refugio County

Contact: Andrew Sansom, 4200 Smith School Road, Austin, Texas 78744, (512) 389-4642.

Filed: May 23, 1995, 1:48 p.m.

TRD-9506251

Thursday, June 1, 1995, 9:00 a.m.

Parks and Wildlife Headquarter, 4200 Smith School Road

Austin

Parks and Wildlife Commission

AGENDA:

Approval of the minutes from the March 23, 1995 executive session, ACTION-land acquisition-Brewster County, ACTION-land exchange-Chambers County, ACTION-land acquisition-Refugio County

Contact: Andrew Sansom, 4200 Smith School Road, Austin, Texas 78744, (512) 389-4642

Filed: May 23, 1995, 1:49 p.m.

TRD-9506252

◆ ◆ ◆
Texas Department of Public Safety

Friday, June 2, 1995, 1:30 p.m.

DPS Headquarters, 5805 North Lamar Boulevard

Austin

Public Safety Commission

AGENDA

Approval of minutes

Budget matters

Internal audit report

Personnel matters

Pending and contemplated litigation

Real estate matters

Public comment

Miscellaneous and other unfinished business

Vehicle emission inspection program rules

Discharge appeal hearing of DPS employee Arturo Moreno

Contact: James Wilson, 5805 North Lamar Boulevard, Austin, Texas 78752, (512) 465-2000, Ext 37

Filed: May 23, 1995, 11:37 a.m.

TRD-9506233

◆ ◆ ◆
Public Utility Commission of Texas

Wednesday, May 31, 1995, 9:00 a.m.

7800 Shoal Creek Boulevard

Austin

AGENDA.

There will be an open meeting at which the commissioners will consider Project Number 12123, the commission will consider for publication a new rule concerning foreign utility company ownership by exempt holding companies; Project Number 13919, the commission will hear public comment and consider for adoption an amendment to §23.31 concerning Coastal Management

Program, Project Number 13467, the commission will hear public comment and consider for adoption an amendment to §23.33 concerning telephone solicitation; Project Number 13604, the commission will hear public comment and consider for adoption an amendment to §23.23(d) concerning rate design for switched transport services; Docket Number 11336, general counsel's inquiry into the reasonableness of the rates, terms, and conditions of Southwestern Bell Telephone Company's central office-based PBX-type services for which flexible pricing is permitted; Docket Number 13655, application of Teleport Communications Dallas and Teleport Communications Houston, Inc. for a Certificate of Convenience and Necessity; Docket Number 12738, complaint of James Claybar and Claybar Concrete Products, Inc. against Jasper-Newton Electric Cooperative, Inc.; and Docket Number 13126, inquiry of the general counsel into the operation and management of the South Texas Nuclear Project.

Contact: John M. Renfrow, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

Filed: May 23, 1995, 11:37 a.m.

TRD-9506232

Thursday, June 1, 1995, 9:00 a.m.

7800 Shoal Creek Boulevard

Austin

Administrative

AGENDA.

There will be an administrative meeting for discussion, consideration, and possible action on proposed commission rules on transmission access and pricing and stranded investment, Project Number 14045, and commission comments on rule proposed by the FERC relating to transmission access and pricing and stranded investment, FERC Docket Numbers RM95-8-000 and RM94-7-001; NARUC video teleconferencing seminar on the FERC Mega-NoPR; selection of financial auditor for Relay Texas; report on legislative activity; budget and fiscal matters; adjournment for executive session to consider litigation and personnel matters; reconvene for discussion and decisions on matters considered in executive session; set time and place for next meeting; and final adjournment.

Contact: John M. Renfrow, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100

Filed: May 24, 1995, 3:01 p.m.

TRD-9506323

Monday, June 5, 1995, 2:00 p.m.

7800 Shoal Creek Boulevard

Austin

AGENDA.

A prehearing conference will be held on the above date and time for Docket Number 14239-complaint of George W. Hahn against Texas Utilities Electric Company.

Contact: John M. Renfrow, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

Filed: May 23, 1995, 2:28 p.m.

TRD-9506258

◆ ◆ ◆
Texas National Research Laboratory Commission

Tuesday, May 30, 1995, 1:30 p.m.

Terminal A, Second Floor, The Cloud Room, Houston Hobby Airport

Houston

Emergency Revised Agenda

Commission

AGENDA:

Call to order and administrative actions

Chairman's report-J. Fred Bailey

Executive director's report-Edward C. Bingle

Other reports

Executive session

Action items

Public comment

Adjourn

Reason for emergency: Take action on recent request affecting the settlement between the federal government and the State of Texas.

Contact: Dixie Eoff, 2275 North Highway 77, Suite 100, Waxahachie, Texas 75165, (214) 935-7810.

Filed: May 24, 1995, 3:32 p.m.

TRD-9506326

◆ ◆ ◆
Texas Turnpike Authority

Thursday, June 1, 1995, 9:30 a.m.

3015 Raleigh Street

Dallas

Revised Agenda

190T Finance Committee

AGENDA:

Roll call of committee members.

Recognition of other directors and guests present

1. Report from the TTA financial advisor and staff on review of RFP's received from investment banking firms on 190T

2. Consider acceptance of recommendation of staff and financial advisor of a short list of investment banking firms for interview on 190T

3. Interview personnel of candidate firms for 190T investment bankers

4 Executive session—pursuant to Article 6252-17—Vernon's Revised Civil Statutes §2(e) Discussion with attorneys, staff, and advisors of the legal terms of a contract with 190T investment bankers

5 Consider a recommendation to the Board of Directors for the retention of 190T investment bankers

Adjournment

Contact: Jimmie G. Newton, 3015 Raleigh Street, Dallas, Texas 75219, (214) 522-6200

Filed: May 24, 1995, 3:00 p.m.

TRD-9506321

The University of Texas System

Thursday, May 25, 1995, 2:30 p.m.

Room 404, O Henry Hall, 601 Colorado Street

Austin

Emergency Meeting

Board of Regents

AGENDA

The Board of Regents of the University of Texas System will meet in emergency session via telephone conference call to consider the acceptance of a 1.0% gift in the Kenneth W. Cory Limited Partnership on behalf of the University of Texas M. D. Anderson Cancer Center in Houston

Reason for emergency The offer of this generous gift is an unforeseen situation which requires an immediate acceptance by the Board to meet the terms of the prospective gift which expire on May 26, 1995

Contact: Arthur H. Dilly, 201 West Seventh Street, Austin, Texas 78701-2981, (512) 499-4402

Filed: May 24, 1995, 1:15 p.m.

TRD-9506318

Board of Vocational Nurse Examiners

Monday-Tuesday, June 12-13, 1995, 8:00 a.m.

Austin North Hilton and Towers, 6000 Middle Fiskville Road

Austin

Board Meeting

AGENDA

Monday, June 12, 1995—8:00 a.m.—Call to order, introduction of board members; introduction of new staff; approval of minutes; education report (program matters, program actions, meetings/conferences/seminars attended, draft of position statement, briefing on concerns regarding LVNs functioning under medical/nursing protocols); unfinished business (budget presentation, TPAPN, Health Professions Council, legislative update), executive director's report; new business (review rule of nursing experience and inactive status, rule changes/new rules (to be reviewed by Rules Committee for presentation))

Tuesday, June 13, 1995—8:00 a.m.—Call to order; administrative hearings; presentation of rules by Rules Committee, any unfinished business and adjournment.

On call—Executive session to discuss personnel changes/matters.

Contact: Marjorie A. Bronk, 9101 Burnet Road, Suite 105, Austin, Texas 78758, (512) 835-2071

Filed: May 25, 1995, 9:24 a.m.

TRD-9506342

Texas Council on Workforce and Economic Competitiveness

Thursday, June 1, 1995, 1:00 p.m.

Doubletree Hotel, 6505 North IH-35, Capitol Room, Fourth Floor

Austin

Intervention Committee

AGENDA

1:00 p.m.—Call to order, announcements, public comment; 1:15 p.m.—Action item: Title IIA and IIC local plan modification approval; 1:45 p.m.—Action item: Modification to the JTPA program year 1994-1995 Governor's Coordination and Special Services Plan; 2:15 p.m.—Action item: Statement on the adult education and literacy resources to meet identified need; 2:45 p.m.—Briefing item: Report on the State Board of Education adult education and literacy policy; 3:00 p.m.—Break; 3:30 p.m.—Action item: Food Stamp Employment and Training Program State Plan; 4:00 p.m.—Briefing item: Title II JTPA third quarter performance/fiscal reports; 4:15 p.m.—Briefing item: JTPA Title IVC Veterans' Employment and Training Program,

second year funding, 4:30 p.m.—Briefing item: Update on JTPA Literacy Partnership grants; 4:45 p.m.—Briefing item: JTPA Older Individual Program performance; 5:00 p.m.—Adjourn

Notice: Persons with disabilities who plan to attend this meeting and who may need auxiliary aids or services, or persons who need assistance in having English translated into Spanish, should contact Val Blaschke, (512) 912-7150 (or Relay Texas 800-735-2988), at least two days before this meeting so that appropriate arrangements can be made.

Contact: Val Blaschke, P.O. Box 2241, Austin, Texas 78768, (512) 912-7150

Filed: May 23, 1995, 1:22 p.m.

TRD-9506244

Thursday, June 1, 1995, 1:00 p.m.

Doubletree Hotel, 6505 North IH-35, De Zavala Room

Austin

Worker Transition/Local Systems Committee

AGENDA:

1:00 p.m.—Call to order, announcements, public comment; 1:15 p.m.—Action item: JTPA Title III local plan modification approval; 1:30 p.m.—Action item: JTPA Title III State Plan for Dislocated Workers; 1:45 p.m.—Action item: Designation of the Gulf Coast Workforce Development Area; 2:15 p.m.—Action item: Recommendations on Part One of the plan for a common application and eligibility determination system; 2:45 p.m.—Action item: Employment Service State Plan; 3:15 p.m.—Break; 3:45 p.m.—Action item: Quality Work Force Planning responsibilities and funds in regions with Multiple Workforce Development Boards; 4:15 p.m.—Policy briefing item: Impact statement on a rule change for direct service provision; 4:30 p.m.—Action item: Cameron County waiver request on direct service provision; 5:00 p.m.—Briefing item: JTPA Title III third quarter fiscal and performance reports; 5:15 p.m.—Briefing item: Contractor awards on program year 1994 Title III statewide, regional and industrywide projects; 5:30 p.m.—Adjourn.

Notice: Persons with disabilities who plan to attend this meeting and who may need auxiliary aids or services, or persons who need assistance in having English translated into Spanish, should contact Val Blaschke, (512) 912-7150 (or Relay Texas 800-735-2988), at least two days before this meeting so that appropriate arrangements can be made.

Contact: Val Blaschke, P.O. Box 2241, Austin, Texas 78768, (512) 912-7150.

Filed: May 23, 1995, 1:22 p.m.

TRD-9506242

Thursday, June 1, 1995, 1:30 p.m.

Doubletree Hotel, 6505 North IH-35, Robertson Room

Austin

Career Foundation Committee

AGENDA:

1:30 p.m.-Call to order; announcements; public comment; note: the first three items will be joint sessions with the Evaluation and Performance Committee in the Dewitt Room; 1:45 p.m.-Action item: Recommendations on evaluation criteria for vocational education programs; 2:15 p.m.-Action item: JTPA/vocational education coordination/evaluation report; 2:45 p.m.-Action item: Resolution regarding the state's preparedness and capacity for maximizing use of block grants; 3:15 p.m.-Break; 3:45 p.m.-Briefing item: Council requirements under the Carl D. Perkins Act and plan for addressing the mandates; 4:15 p.m.-Briefing item: Update on the school-to-work implementation grant; 4:45 p.m.-Briefing item: Update on the Carl Perkins reauthorization; 5:00 p.m.-Adjourn.

Notice. Persons with disabilities who plan to attend this meeting and who may need auxiliary aids or services, or persons who need assistance in having English translated into Spanish, should contact Val Blaschke, (512) 912-7150 (or Relay Texas 800-735-2988), at least two days before this meeting so that appropriate arrangements can be made

Contact: Val Blaschke, P.O. Box 2241, Austin, Texas 78768, (512) 912-7150.

Filed: May 23, 1995, 1:22 p.m.

TRD-9506243

Thursday, June 1, 1995, 1:30 p.m.

Doubletree Hotel, 6505 North IH-35, Dewitt Room

Austin

Evaluation and Performance Committee

AGENDA:

1:30 p.m.-Call to order, announcements, public comment; note: the first three items will be joint sessions with the Career Foundation Committee in the Dewitt Room; 1:45 p.m.-Action item: Recommendations on evaluation criteria for vocational education programs; 2:15 p.m.-Action item: JTPA/vocational education coordination/evaluation report; 2:45 p.m.-Action item: Resolution regarding the state's preparedness and capacity for maximizing use of block grants; 3:15 p.m.-Break; 3:45 p.m.-Action item: Systems development activities and research issues for the Performance Management System; 4:15 p.m.-Action item: Framework for adult education assessment; 4:45 p.m.-Briefing item: Update on quality

assurance measures for one-stop career centers; 5:00 p.m.-Briefing item: Performance reports for JTPA and employment service; 5:30 p.m.-Adjourn.

Notice; Persons with disabilities who plan to attend this meeting and who may need auxiliary aids or services, or persons who need assistance in having English translated into Spanish, should contact Val Blaschke, (512) 912-7150 (or Relay Texas 800-735-2988), at least two days before this meeting so that appropriate arrangements can be made.

Contact: Val Blaschke, P.O. Box 2241, Austin, Texas 78768, (512) 912-7150.

Filed: May 23, 1995, 1:22 p.m.

TRD-9506245

Friday, June 2, 1995, 8:30 a.m.

Doubletree Hotel, 6505 North IH-35, Phoenix North Room

Austin

Full Council

AGENDA:

8:30 a.m.-Call to order, announcements, approval of minutes; 8:45 a.m. -Public comment, 9:00 a.m.-Committee reports and consent agenda action items: Recommendations on evaluation criteria for vocational education programs; JTPA/vocational education coordination/evaluation report; resolution regarding the state's preparedness and capacity for maximizing use of block grants; systems development activities and research issues for the Performance Measurement System; framework for adult education assessment; Title IIA and IIC local plan approval; modification to the JTPA program year 1994-1995 Governor's Coordination and Special Services Plan; Food Stamp Employment and Training Program State Plan; JTPA Title III local plan modification approval; JTPA Title III State Plan for Dislocated Workers; designation of the Gulf Coast Workforce Development Area; recommendations on Part One of the plan for common application and eligibility determination system; Employment Service State Plan; Quality Work Force Planning responsibilities and funds in regions with multiple Workforce Development boards; Cameron County waiver request on direct service provision; 9:45 a.m.-Action item: Statement on the adult education and literacy resources to meet identified need; 10:15 a.m.-Break; 10:45 a.m.-Briefing item: Update on state and federal legislation; 11:45 a.m. -Briefing item: Update on school-to-work implementation grant; 12:00 p.m. -Briefing item: Update on the formation of local Workforce Development boards; 12:15 p.m. -Adjourn.

Notice: Persons with disabilities who plan to attend this meeting and who may need

auxiliary aids or services, or persons who need assistance in having English translated into Spanish, should contact Val Blaschke, (512) 912-7150 (or Relay Texas 800-735-2988), at least two days before this meeting so that appropriate arrangements can be made.

Contact: Val Blaschke, P.O. Box 2241, Austin, Texas 78768, (512) 912-7150.

Filed: May 23, 1995, 1:21 p.m.

TRD-9506241

◆ ◆ ◆
Regional Meetings

Meetings Filed May 23, 1995

The Central Texas Area Consortium (Regular Meeting) will meet at 2 North Fifth Street, Temple, June 1, 1995, at 7:00 p.m. Information may be obtained from Michael B. Herring, 3311 Southwest H. K. Dodgen Loop #150, Temple, Texas 76502, (817) 791-9102. TRD-9506246.

The Erath County Appraisal District Board of Directors will meet at 1390 Harbin Drive, Stephenville, June 13, 1995, at 7:00 a.m. Information may be obtained from Vicky Greenough, 1390 Harbin Drive, Stephenville, Texas 76401, (817) 965-5434. TRD-9506240.

The Middle Rio Grande Development Council Texas Review and Comment System will meet at the MRGDC Operations Department, 209 North Getty Street, Uvalde, May 31, 1995, at 4:00 p.m. Information may be obtained from Erma Alejandro, 209 North Getty Street, Uvalde, Texas 78801, (210) 278-4151, Fax: (210) 278-2929. TRD-9506271.

The San Patricio County Appraisal District Appraisal Review Board will meet at 1146 East market, Sinton, June 6-8, 13-15, 20-22, and 27-29, 1995, at 9:00 a.m. Information may be obtained from Kathryn Vermillion, P.O. Box 938, Sinton, Texas 78387, (512) 364-5402. TRD-9506266.

The South Texas Private Industry Council, Incorporated will meet at 901 Kennedy Street, Zapata, June 1, 1995, at 4:00 p.m. Information may be obtained from Myrna V. Herbst, P.O. Box 1757, Laredo, Texas 78044-1757, (210) 722-0546. TRD-9506239.

The West Central Texas Council of Governments Big Country Quality Work Force Planning Cooperative will meet at 1025 East North Tenth, Abilene, June 13, 1995, at 9:45 a.m. Information may be obtained from Roxann Hamilton, 1025 East North Tenth, Abilene, Texas 79601, (915) 672-8544. TRD-9506237

Meetings Filed May 24, 1995

The Atascosa County Appraisal District Appraisal Review Board will meet at Fourth and Avenue J, Poteet, May 30, 1995, at 8:00 a.m. Information may be obtained from Vernon A. Warren, P.O. Box 139, Poteet, Texas 78065. (210) 742-3591. TRD-9506316.

The Concho Valley Quality Work Force Planning (Rescheduled from May 24, 1995,) will meet at 5022 Knickerbocker Road, San Angelo, May 31, 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-9506294.

The Grayson Appraisal District Appraisal Review Board will meet at 205 North Travis, Sherman, June 7, 1995, at 8:30 a.m.

Information may be obtained from Angie Keeton, 205 North Travis, Sherman, Texas 75090. (903) 893-9673. TRD-9506319.

The Grayson Appraisal District Appraisal Review Board will meet at 205 North Travis, Sherman, June 8, 1995, at 8:00 a.m. Information may be obtained from Angie Keeton, 205 North Travis, Sherman, Texas 75090. (903) 893-9673. TRD-9506320

The Liberty County Central Appraisal District Appraisal Review Board will meet at 315 Main Street, Liberty, June 6, 8, 13, 15, 16, 20, 22, 27, and 29, 1995, and July 6, 11, 13, 18, and 20, 1995, at 9:00 a.m. Information may be obtained from Sherry Greak, P.O. Box 10016, Liberty, Texas 77575. (409) 336-5722. TRD-9506293.

The Tyler County Appraisal District Board of Directors will meet at 806 West Bluff, Woodville, June 6, 1995, 4:00 p.m.

Information may be obtained from Eddie Chalmers, P.O. Drawer 9, Woodville, Texas 75979. (409) 283-3736. TRD-9506325.

◆ ◆ ◆
Meetings Filed May 25, 1995

The Pecan Valley MHMR Region Board of Trustees will meet at 104 Pirate Drive, Granbury, May 31, 1995, at 8:30 a.m. Information may be obtained from Dr. Theresa Mulloy, P.O. Box 973, Stephenville, Texas 76401. (817) 965-7806. TRD-9506344.

The Wood County Appraisal District Appraisal Review Board will meet at 217 North Main, Quitman, June 5-9, 1995, at 9:00 a.m. Information may be obtained from W. Carson Wages or Lou Brooke, P.O. Box 518, Quitman, Texas 75783-0518. (903) 763-4891. TRD-9506341.

◆ ◆ ◆



Name: Travis Staudt
Grade: 10
School: Boling High School, Boling 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 Commission for the Deaf and Hearing Impaired

Notice of Board Vacancy

Board for the Evaluation of Interpreters (BEI)

The Board for Evaluation of Interpreters (BEI) of the Texas Commission for the Deaf and Hearing Impaired is announcing an opening for one Board position. This position requires a person who is deaf or hard of hearing. To qualify the applicant must have a Level III, IV, or V interpreter certification issued by the Commission; be a resident of the State of Texas; be an interpreter who has engaged in the profession of interpreting for people who are deaf, or must be actively engaged in the profession of providing interpreting services to people who are deaf at the time of appointment.

Interested individuals should submit a resume and letter of intent to David W. Myers, Texas Commission for the Deaf and Hearing Impaired, P.O. Box 12904, Austin, Texas 78711.

Applicants should be involved or willing to be involved with the Texas Commission for the Deaf and Hearing Impaired certification system, and be willing to attend regularly scheduled meetings of the Board for Evaluation of Interpreters. The Board consists of five members who oversee the certification program. Board meetings are held approximately every two months.

Letters of intent and resume must be received by TCDHI no later than June 20, 1995.

Current Members

Deidra Brown, Chair
JoAnn Taylor, Vice Chair
Frederick Newberry, Secretary
Lauri Metcalf
Vacant

Residence Term Expires

Austin	3/31/96
Houston	3/31/97
Austin	3/31/97
San Antonio	3/31/98
	3/31/98

Issued in Austin, Texas, on May 22, 1995.

TRD-9506256

David W. Myers
Executive Director
Texas Commission for the Deaf and
Hearing Impaired

Filed: May 23, 1995

Request for Proposal

Interpreter Intern Program Projects

The Texas Commission for the Deaf and Hearing Impaired (TCDHI) is issuing this request for bids for a minimum of two Interpreter Intern Projects to be conducted during Fiscal Year 1996. The funds will be available on September 1, 1995 through August 31, 1996.

The funds of this program will be available to projects that successfully bid to provide a method of mentoring and/or training for persons who have at least Level I BEI certification. The purpose of the project is to provide learning experiences and skill building to the interpreter interns

enabling them to upgrade their skill level and possibly obtain higher levels of certification. The intern is to accompany a more skilled interpreter in all phases of the proposed program for the purpose of obtaining appropriate guidance, feedback, and enhancement.

Funds available for any project will be based upon the number of hours of intern interpreting provided by the project multiplied by \$30 an hour. (Maximum \$10,000.)

Requirements of the project will include:

- (a) Proposed project goals and outcomes.
- (b) Qualifications of project provider and persons involved.
- (c) Proof of certification of all persons involved in the project.
- (d) Method of selection and qualification of persons to be involved with the project.
- (e) Anticipated costs of the project.
- (f) Proposed evaluation of project including quarterly reports.

(g) Assurances of adhering to the BEI Code of Ethics and to the rules and guidelines as set forth by the Commission

(h) Work with TCDHI to provide at least one workshop on skill enhancement open to interpreters statewide

Contact Person Questions may be directed to Billy Collins, Director of Service Programs, Texas Commission for the Deaf and Hearing Impaired, P.O. Box 12904, Austin, Texas 78711-2904. Telephone: (512) 451-8494 (V/TDD).

Deadline for Submission of Proposals. Deadline for the receipt of proposals in the offices of the Texas Commission for the Deaf and Hearing Impaired is July 24, 1995, at 5:00 p.m. Proposals received after 5:00 p.m. will not be considered. Proposals will not be accepted via facsimile. Proposals are to be addressed to Billy Collins, Director of Service Programs, Texas Commission for the Deaf and Hearing Impaired, P.O. Box 12904, Austin, Texas 78711-2904

The Commission reserves the right to accept or reject any or all proposals submitted.

The Commission is under no legal requirement to execute a resulting contract on the basis of this advertisement and intends the materials provided only as a means of identifying the various elements which the Commission considers basic to the delivery of the requested services. The Commission will base its choice on demonstrated competence, qualifications, and evidence of superior conformance to established criteria. This request does not commit the Commission to pay any costs incurred prior to execution of a contract

The Commission will announce the contract awards for the Interpreter Intern Program by the Commission's last scheduled meeting of Fiscal Year 1995. The contracted services shall begin September 1, 1995 and end on August 31, 1996

Contracts include the possibility for amendments to permit additional funds, if such funds become available, or reallocation of funds during the contract period if determined necessary by the Commission.

Conditions for Termination of Contract. Failure to comply with contract requirements may result in the termination of the contract.

Issued in Austin, Texas, on May 22, 1995

TRD-9506257 David W. Myers
Executive Director
Texas Commission for the Deaf and
Hearing Impaired

Filed: May 23, 1995

◆ ◆ ◆
Texas Commission on Fire Protection
Correction of Error

The Texas Commission on Fire Protection proposed amendments to §520.5 and §520.7, concerning testing laboratory rules. The rules appeared in the May 16, 1995, issue of the *Texas Register* (20 TexReg 3652).

Due to publishing error the definition of "commission" was omitted in the published text. The correct language should read: "Commission-Texas Commission on Fire Protection "

◆ ◆ ◆

Texas Department of Insurance
Notice of Public Hearing

The Commissioner of Insurance of the Texas Department of Insurance will consider the adoption of proposed §5.4501 in a public hearing under Docket Number 2150, scheduled for 1:30 p.m. on June 14, 1995, in Room 100 of the Texas Department of Insurance Building, 333 Guadalupe Street in Austin, Texas.

The proposed amendment and the statutory authority for the proposed amendment was published in the February 28, 1995, issue of the *Texas Register* (20 TexReg 1393).

Issued in Austin, Texas, on May 24, 1995.

TRD-9506291 Alicia M. Fechtel
General Counsel and Chief Clerk
Texas Department of Insurance

Filed: May 24, 1995

◆ ◆ ◆

Texas Department of Mental Health
and Mental Retardation
Notice of Public Hearing

The Texas Department of Mental Health and Mental Retardation (TDMHMR) will conduct a public hearing to receive comments on the department's proposed reimbursement for the state-operated small level V and level VI community-based intermediate care facilities for persons with mental retardation (ICF/MR) program in Texas. The public hearing is held in compliance with Title 25, Texas Administrative Code, Chapter 409, Subchapter A, §409.002(j), which requires a public hearing on proposed reimbursement rates for medical assistance programs.

The hearing will be held on June 8, 1995, at 1:30 p.m. in the auditorium of the TDMHMR Central Office (main building) at 909 West 45th Street in Austin, Texas.

Persons who wish to offer testimony but who are unable to attend the hearing may submit written comments which must be received by 5:00 p.m. the day of the hearing. The written comments should be sent to ICF/MR Section, Texas Department of Mental Health and Mental Retardation, P.O. Box 12668, Austin, Texas 78711-2668 or faxed to (512) 323-3278.

Copies of the reimbursement briefing package may be obtained by writing to the address given above or by calling the ICF/MR section at (512) 323-3261. If interpreters for the hearing impaired are required, please contact the ICF/MR Section at the number given above at least 72 hours in advance of the hearing.

Issued in Austin, Texas, on May 24, 1995.

TRD-9506292 Ann Utley
Chair, Texas MHMR Board
Texas Department of Mental Health and
Mental Retardation

Filed: May 24, 1995

◆ ◆ ◆

**Texas Natural Resource Conservation
Commission**

**Notice of Public Hearing (Inspection and
Emissions Fees)**

Notice is hereby given that pursuant to the requirements of the Texas Health and Safety Code, §382.017; Texas Government Code, Subchapter B, Chapter 2001; and 40 Code of Federal Regulations, §51.102 of the United States Environmental Protection Agency regulations concerning State Implementation Plans (SIP), the Texas Natural Resource Conservation Commission (TNRCC) will conduct a public hearing to receive testimony concerning revisions to Chapter 101 and the SIP.

The TNRCC proposes revisions to §101.24 and §101.27, concerning the collection of inspection and emissions fees from stationary sources. The proposed revisions update the reference from the Texas Air Control Board to the TNRCC, make other editorial improvements to the sections, and add a revision which retains \$25 on all inspection fee refunds issued by the agency to cover processing costs. In addition, in §101.27, the fees for the next biennium are being set at \$27 per ton of emissions for fiscal year (FY) 1997 and \$28 per ton of emissions for FY98. These are \$1.00 per ton increases for each year and are inflation adjustments as required in the Environmental Protection Agency rules under Title 40 Code of Federal Regulations, Part 70.

A public hearing on the proposal will be held June 8, 1995, at 10:00 a.m. in Room 365S of TNRCC Building E, located at 12118 North IH-35, Park 35 Technology Center, Austin. The hearing is structured for the receipt of oral or written comments by interested persons. Individuals may present oral statements when called upon in order of registration. Open discussion within the audience will not occur during the hearing; however, a TNRCC staff member will be available to discuss the proposal 30 minutes prior to the hearing and will answer questions before and after the hearing.

Written comments not presented at the hearing may be submitted to the TNRCC central office in Austin through June 8, 1995. Material received by the TNRCC Office of Policy and Regulatory Development by 4:00 p.m. on June 8, 1995 will be considered by the Commission prior to any final action on the proposal. Please mail written comments to Lisa Martin, Office of Policy and Regulatory Development, MC 205, P.O. Box 13087, Austin, Texas 78711-3087, and reference Rules Tracking Log #95089-101-AI. Copies of the revision are available at the central office of the TNRCC located at 12118 North IH-35, Park 35 Technology Center, Building E, Austin, and at all TNRCC regional offices. For further information, please contact Steve Ortiz at (512) 239-2008 or Al Langley at (512) 239-1549.

Persons with disabilities who have special communication or other accommodation needs who are planning to attend the hearing should contact the agency at (512) 239-4900. Requests should be made as far in advance as possible.

Issued in Austin, Texas, on May 16, 1995

TRD-9506286

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

Filed: May 24, 1995

◆ ◆ ◆
**Texas Parks and Wildlife Department
Public Notice**

In the February 17, 1995, issue of the *Texas Register* (20 TexReg 1106), the Texas Parks and Wildlife Department published proposed amendments to 31 TAC §65.314 and §65.316, concerning the Early Season Migratory Game Bird Proclamation. In the May 16, 1995, issue of the *Texas Register* (20 TexReg 3631), the Texas Parks and Wildlife Department published proposed amendments to 31 TAC §§65.333-65.335, concerning the Late Season Migratory Game Bird Proclamation. The Department publishes this public notice to reiterate and clarify that the amendments as proposed are subject to adoption with changes. The final regulations establishing bag limits, shooting hours, opening and closing dates, and season lengths for migratory game birds are contingent upon regulatory frameworks yet to be established by the U.S. Fish and Wildlife Service, but the Department intends to adopt the most liberal regulations possible within the federal frameworks.

Issued in Austin, Texas, on May 19, 1995.

TRD-9506295

Paul M. Shinkawa
Acting General Counsel
Texas Parks and Wildlife Department

Filed: May 24, 1995

◆ ◆ ◆
**Texas Public Finance Authority
Invitation to Bid for Insurance Policy**

The Texas Public Finance Authority (the Authority) is requesting invitations to bid for insurance coverage with no coinsurance penalty, in the amount of 100% of the replacement value of each insurable building project on which bond issues are outstanding and business interruption (loss of rents) insurance as set forth in the Invitation to Bid. The deadline for bid proposal submission is Noon, August 4, 1995.

The Authority's selection will be based upon lowest cost for a two-year period provided that all criteria and specifications are met or exceeded. The Authority reserves the right to negotiate individual elements of the bidders' proposal and to reject any and all bid proposals.

Copies of the Invitation to Bid may be obtained by calling or writing Patricia Logan or Jeanine Barron, Texas Public Finance Authority, P.O. Box 12906, Austin, Texas 78711, (512) 463-5544.

Issued in Austin, Texas on May 22, 1995.

TRD-9506206

Anne L. Schwartz
Executive Director
Texas Public Finance Authority

Filed: May 22, 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 the City of Odessa, Odessa, Texas.

Docket Title and Number. Application of Southwestern Bell Telephone Company for PLEXAR-Custom Service for the City of Odessa pursuant to Public Utility Commission Substantive Rule 23.27. Docket Number 14238.

The Application. Southwestern Bell Telephone Company is requesting approval of a new PLEXAR-Custom service for the City of Odessa. The geographic service market for this specific service is the Odessa, 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, on May 24, 1995.

TRD-9506290

John M. Renfrow
Secretary of the Commission
Public Utility Commission of Texas

Filed: May 24, 1995



Notice of Workshop

The Public Utility Commission of Texas will hold a workshop on Thursday, June 8, 1995, at 9:00 a.m. in the Commissioners Hearing Room on the issue of whether the Commission should adopt uniform standards for interconnection of small power producers with their host utilities. The workshop will include discussion of what the standards should be, if such uniform standards were adopted. The Commissioners are not expected to be present at the workshop.

Persons who plan to attend the workshop should register with Irene Powell, who can be reached at (512) 458-0360. If you have questions, please call (512) 458-0356.

Issued in Austin, Texas, on May 24, 1995.

TRD-9506289

John M. Renfrow
Secretary of the Commission
Public Utility Commission of Texas

Filed: May 24, 1995

