

TEXAS REGISTER

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Texas Register



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How to Use the Texas Register

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

Governor - Appointments, executive orders, and proclamations.

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

Secretary of State - opinions based on the election laws.

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

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

Proposed Rules - sections proposed for adoption.

Withdrawn Rules - sections withdrawn by state agencies from consideration for adoption, or automatically withdrawn by the Texas Register six months after the proposal publication date.

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

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

Open Meetings - notices of open meetings.

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

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

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

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

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

Texas Administrative Code

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

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

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

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

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

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

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

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

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

TITLE 40. SOCIAL SERVICES AND ASSISTANCE
Part I. Texas Department of Human Services
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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.

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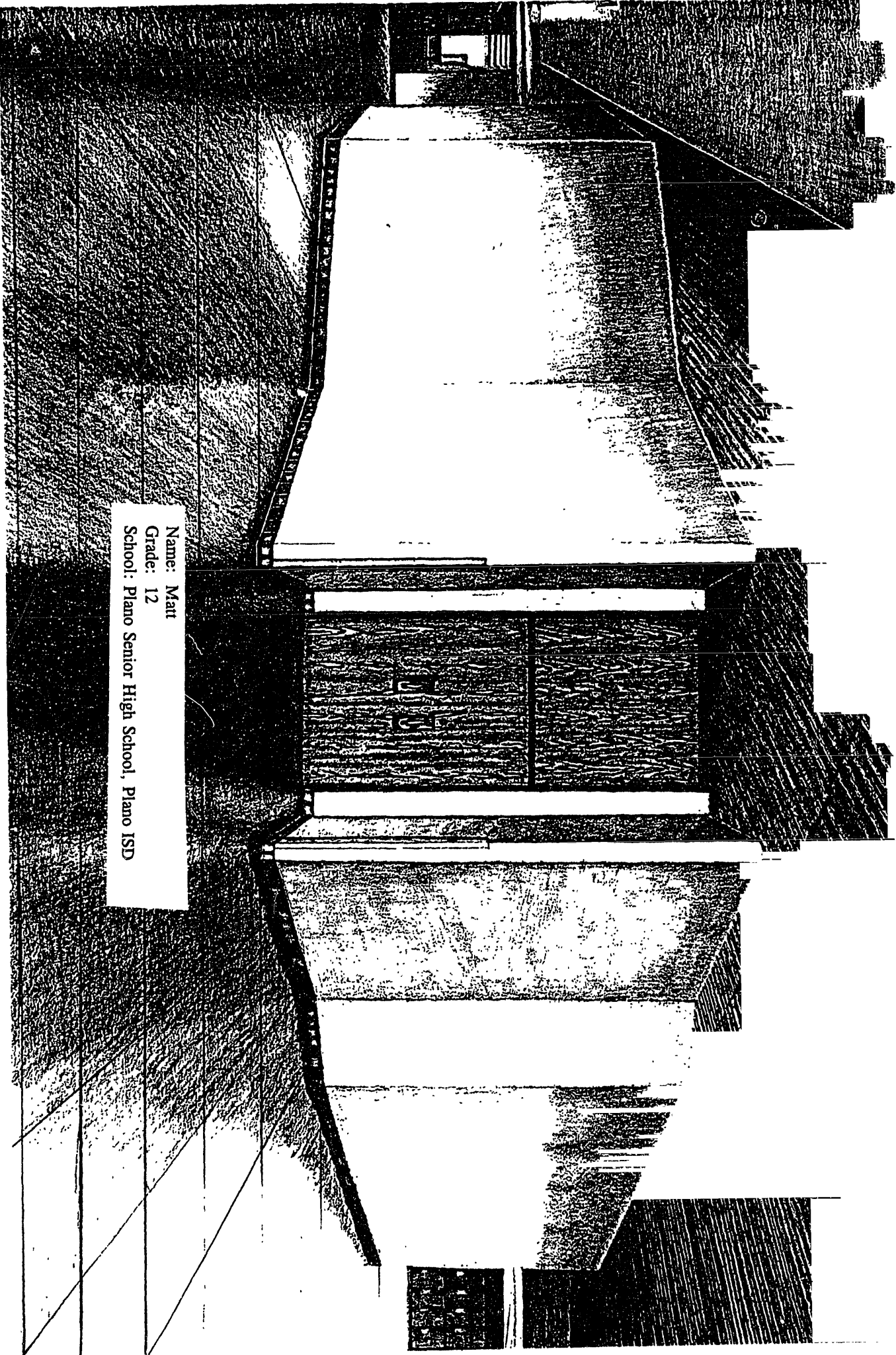
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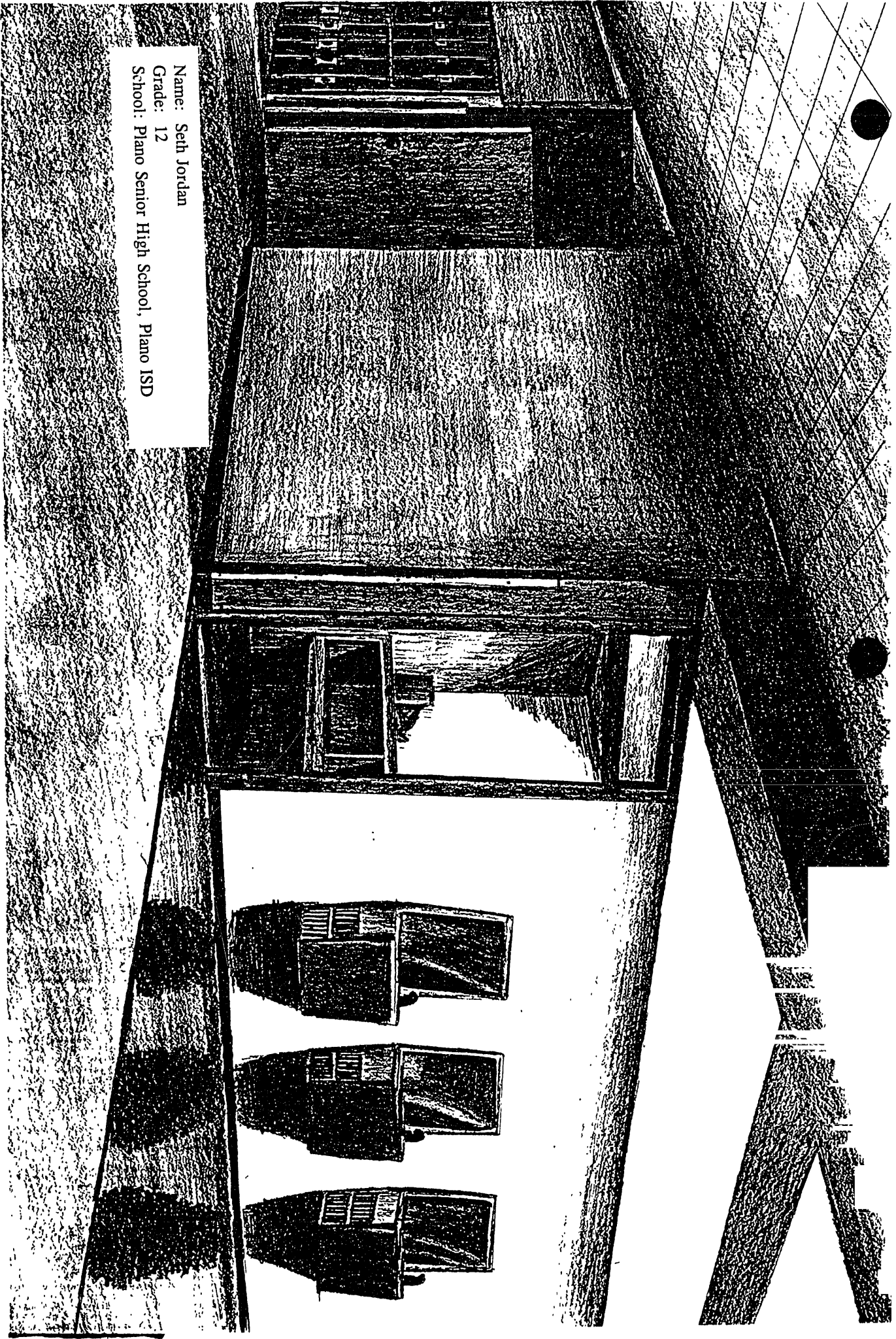
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ATTORNEY GENERAL

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

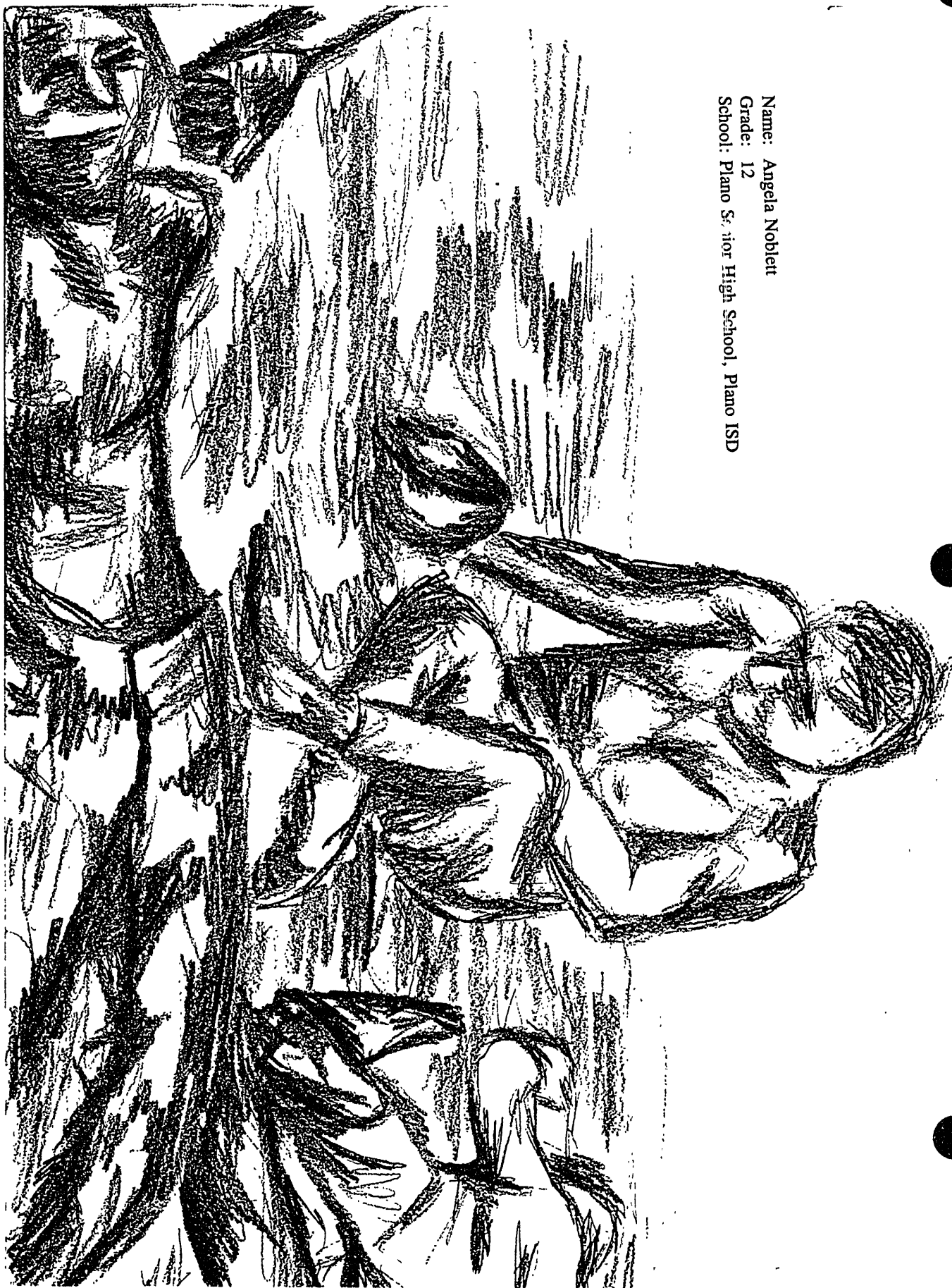
Requests for Opinion

(RQ-765). Requested by Honorable Mike Driscoll Harris County Attorney, 1001 Preston, Suite 634, Houston, Texas 77002-1891, concerning disposition of a case involving a seventeen-year-old defendant who is charged with committing a class C misdemeanor when the case was filed before the defendant reached the age of seventeen, and other questions.

TRD-9507747

◆ ◆ ◆

Name: Angela Noblett
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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 1. ADMINISTRATION

Part III. Office of the Attorney General

Chapter 61. Crime Victims Compensation

• 1 TAC §61.10

The Office of the Attorney General proposes an amendment to §61.10, concerning crime victims compensation. The amended §61.10 provides administrative limits for services and benefits. The purpose of the amendment is to articulate administrative limits on new benefits as a result of legislative changes to the Act. The proposed amendment of §61.10 retains limits on services previously articulated and adds limits for lost wages, lost support, costs of dependent and child care, crime scene cleanup, and certain property loss.

Elly Del Prado Dietz, Assistant Attorney General, has determined that for the first five-year period the section is in effect there will be fiscal implications for state or local government as a result of enforcing or administering the section. The fiscal implication for state government will be the increased cost to the Texas Crime Victims' Compensation Fund. The increase limits on compensation for lost wages and loss of support will have a total five-year impact of \$12.4 million. The increase in limits on child and dependent care benefits will have a total five-year impact of \$50,000. The reimbursement for crime scene cleanup will have an impact of \$3 million. The reimbursement for clothing and bedding seized during the criminal investigation will have an impact of \$500,000. There will be no fiscal impact on local government. There may be increased revenue for small businesses engaged in the practice of crime scene cleanup and increased local employment in this area. The local economy may be enhanced due to the increased dollars in circulation.

Elly Del Prado Dietz 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 increased monetary assistance for innocent victims of crime. There will be no cost to persons who are required to comply with the section as proposed.

Comments on the proposal may be submitted to Elly Del Prado Dietz, Crime Victims Compensation Division, Office of the Attorney General, P.O. Box 12548, Austin, Texas 78711-2548. Comments will be accepted for 30 days after publication in the *Texas Register*.

The amendment is authorized under the Crime Victims' Compensation Act, Texas Code of Criminal Procedure, Subchapter 56B, Article 56.33, which provides the Office of the Attorney General with the authority to promulgate and adopt rules consistent with the Act governing its administration, including rules relating to the method of filing claims and the proof of entitlement to compensation.

Section 61.10--Texas Code of Criminal Procedure, Article 56.32 is affected by this amendment.

§61.10. Limits on Compensation [Services]. In addition to the rates established under the Act, the following limits for compensation [the provision of services] are deemed to be an amount reasonably incurred under the Act, Article 56.32(9) [56.32(8)].

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

(4) Loss of earnings and loss of support to a dependent are limited to **\$400 per week** [the cost of non-prescription drugs or over the counter drugs is not a pecuniary loss under the Act. Under unusual fact and circumstance, the chief may authorize awards in excess of the limits contained in this rule].

(5) Care of dependents or minor children is limited to **\$100 per week per dependent or child**;

(6) Costs of crime scene cleanup are limited to **\$750 in the aggregate**; and

(7) Costs for the replacement of clothing, bedding or other property is limited to **\$750 in the aggregate**. Under unusual fact and circumstance, the Chief may authorize awards in excess of the limits contained in this rule.

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 June 26, 1995.

TRD-9507763

Jerry Benedict
Assistant Attorney General
Office of the Attorney
General

Earliest possible date of adoption: August 4, 1995

For further information, please call: (512) 475-4291

TITLE 16. ECONOMIC REGULATION

Part I. Railroad Commission of Texas

Chapter 9. Liquefied Petroleum Gas Division

Subchapter A. General Applicability and Requirements

• 16 TAC §9.33

The Railroad Commission of Texas proposes an amendment to §9.33, relating to the U.S. Department of Labor (DOL) Defense Conversion Adjustment Grant Advisory Committee. Under the current rule, this advisory committee will be abolished on July 1, 1995, unless the commission amends the section to establish a different date; since the commission has received approval to extend the grant period, the commission proposes to extend the advisory committee through June 15, 1996. Although the grant money is available only through December 17, 1995, the additional time is necessary to ensure the completion of all required reports and activities.

Thomas D. Petru, director, Liquefied Petroleum Gas Division, has determined that for each year of the first five years the section will be in effect there will be no fiscal implications for state and local governments as a result of enforcing or administering the section.

Mr. Petru also has determined that for each year of the first five years the section will be in effect the public benefit anticipated as a result of enforcing the section will be a more clearly understandable procedure by which

the U.S. Department of Labor Defense Conversion Adjustment Grant Advisory Committee is created and operates. There is an anticipated economic cost to small businesses and to individuals, but to only those small business owners and individuals who are members of the advisory committee, due to the nature of the provisions, the amount of that cost cannot be determined. The anticipated economic cost arises from the provision that the commission will not reimburse advisory committee members for travel or other expenses related to service on the committee. Such expenses are likely to be different for each committee member.

Comments on the proposal may be submitted to Thomas D. Petru, director, Liquefied Petroleum Gas Division, Railroad Commission of Texas, P.O. Box 12967, Austin, Texas, 78711-2967. Comments will be accepted for ten days after publication in the *Texas Register*.

The amendment is proposed under Texas Natural Resources Code, §113.051, which authorizes the commission to adopt rules relating to any and all aspects or phases of the LP-gas industry that will protect or tend to protect the health, welfare, and safety of the general public. The amendment implements the provisions of Senate Bill 383, 73rd Legislature, 1993, which mandates that state agency advisory committees conform to specific requirements set forth in the act.

The following is the statute, article, or code affected by the proposed amendment: §9.33 Texas Natural Resources Code, §113.051; Senate Bill 383, 73rd Legislature, 1993.

§9.33. *U.S. Department of Labor (DOL) Defense Conversion Adjustment Grant Advisory Committee.*

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

(1)-(15) (No change.)

(16) United States (U.S.) Department of Labor (DOL) Defense Conversion Adjustment Grant—a grant in the amount of \$480,979 to the Railroad Commission of Texas from the U.S. DOL for retraining displaced defense workers in the Dallas/Fort Worth area in alternative fuels technology. The term of the grant is from December 17, 1993, to December 17 [June 17], 1995.

(b) Establishment; Duration. The U.S. Department of Labor (DOL) Defense Conversion Adjustment Grant Advisory Committee of the Railroad Commission of Texas is hereby established effective November 1, 1994. The committee is abolished on June 15, 1996, [July 1, 1995,] unless the commission amends this subsection to establish a different date.

(c) (No change.)

(d) Composition of Committee; Membership Terms. The committee shall be

composed of 17 voting members, who shall include three private industry or consumer representatives, one for each alternative fuel; two industry representatives; three educational representatives; one representative of organized labor; one Texas Employment Commission representative; one Texas Department of Commerce representative; one Texas Education Agency representative; one Texas Higher Education Coordinating Board representative; and four service delivery area representatives; all of whom serve at the pleasure of the commission. [until] The members' terms shall expire June 15, 1996 [July 1, 1995]

(e)-(i) (No change.)

(j) Evaluation of Committee Costs and Benefits. By July 1, 1996 [July 15, 1995], the division director shall evaluate for the period of November 1, 1994, to June 15, 1996 [July 1, 1995], and report to the commission.

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

(k) Report to Legislative Budget Board. The commission shall report to the Legislative Budget Board in September 1996 [October 1995] the information developed under subsection (j) of this section in evaluating the committee's costs and benefits.

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 June 27, 1995.

TRD-9507924

Mary Ross McDonald
Assistant Director, Legal
Division, Gas
Utilities/LP Gas
Railroad Commission of
Texas

Earliest possible date of adoption: August 4, 1995

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

Chapter 15. Alternative Fuels Research and Education Division

Media Rebate Program

• 16 TAC §§15.205, 15.210, 15.215

The Railroad Commission of Texas proposes amendments to §§15.205, 15.210 and 15.215 (relating to the Alternative Fuels Research and Education Division's media rebate program). The commission proposes this action to broaden certain eligibility requirements and to continue the program in effect past August 21, 1995.

Changing the definitions of "commission advertising," "eligible media outlet," and "eligible media purchase" extends eligibility to new

classes of advertising (e.g., billboards) and to advertising that is not commission-produced but that has been approved in writing by the commission prior to use. Changing §15.215 makes more advertising eligible for rebates. Deleting the definition of "program year" and the last sentence of §15.210 continues the rule and the program in effect past August 21, 1995.

Dan Kelly, director, Alternative Fuels Research and Education Division, has determined that for each year of the first five years the sections will be in effect, there will be fiscal implications to state government as a result of enforcing or administering the sections. The estimated cost to state government will be not more than \$150,000 from the Alternative Fuels Research and Education Fund for the first year that the amended sections are in effect, plus the cost of commission employees' time spent in preparation, administration and enforcement of the program. The actual cost will depend on the degree of acceptance of the program by participating propane retailers. The fiscal implications for state government thereafter cannot be determined, since continuation of the program would depend on the availability and commitment of further funds to the program by the commission. There will be no fiscal implications for local governments as a result of enforcing or administering the sections as amended.

Mr. Kelly also has determined that for each year of the first five years the sections are in effect the public benefits anticipated will be increased public awareness and understanding of propane as an environmentally beneficial alternative fuel.

There will be fiscal implications for certain small businesses that choose to participate in the voluntary program. Participating propane dealers will be required to process applications and meet other administrative requirements. The extent to which the cost of performing these services will be offset by increased propane sales and cost-recovery practices will vary from business to business and cannot be determined in advance.

There is no anticipated economic cost to individuals who would be required to comply with the sections as amended, since participation is voluntary.

Comments on the proposal may be submitted to Dan Kelly, Director, Alternative Fuels Research and Education Division, Railroad Commission of Texas, P.O. Box 12967, Austin, Texas 78711-2967. Comments will be accepted for 30 days after publication in the *Texas Register*.

The amendments are proposed under Texas Natural Resources Code, §113.241, which authorizes the commission to adopt rules relating to educating the public regarding the use of LPG and other environmentally beneficial alternative fuels that are or have the potential to be effective in improving the quality of air in this state; Texas Natural Resources Code, §113.243(c) (2), which authorizes the commission to implement marketing and advertising programs relating to alternative fuels to make alternative fuels more understandable and readily available to

consumers; and Texas Natural Resources Code, §113.243(c)(6), which authorizes the commission to use money in the Alternative Fuels Research and Education Fund to implement programs necessary to promote the use of LPG or other environmentally beneficial alternative fuels.

The following is the statute, article, or code affected by the proposed amendments: Texas Natural Resources Code, §§113.243(c)(2), 113.243(c)(6); 113.248, 113.249, and 113.250.

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

Commission advertising—Advertising produced or approved by the division, including, but not limited to, print advertisements, billboards, written radio copy or [fully produced] radio or television commercials.

Eligible media outlet—A radio or television station or cable franchise licensed by the Federal Communications Commission; a weekly or daily published newspaper; a weekly, monthly or bi-monthly magazine; a provider of billboard advertising; or a publisher of an annual or seasonal special events program that regularly accepts paid advertising, including, but not limited to, souvenir programs for sporting events, musical events or theatrical productions. The term does not include dealer-published newsletters, fliers or specialty advertising.

Eligible media purchase—Any payment for commission advertising displayed or broadcast in or on eligible media.

[Program year—The one-year period beginning on August 22, 1994, and ending on August 21, 1995.]

§15.210. Establishment; Duration. The media rebate program is hereby established on the effective date of this undesignated head (relating to the Alternative Fuels Research and Education Division). The commission may terminate this rebate program at any time. [The program shall terminate on August 22, 1995, unless the commission amends this subsection to continue it in effect past that date.]

§15.215. Eligibility.

(a) To be eligible for a rebate under this program, a propane dealer must document, using forms prescribed by the commission for the purpose, that an eligible media purchase has been made from an eligible media outlet.

(b) Existing commission advertising that is altered in form, content, or both form and content may be eligible for a rebate if written approval is obtained from the division director prior to use of the advertising.

(c) The commission may, at its sole discretion, find non-commission advertising eligible for a rebate if the advertising complements existing commission advertising and promotes propane and the propane industry generally, and if written approval is obtained from the division director prior to use of the advertising.

(d) Advertising is not eligible for a rebate under this program if, in the commission's sole judgment, the advertising is anti-competitive, promotes one company over another, mentions a specific brand name or names, or is otherwise detrimental to the promotion of propane as an environmentally beneficial alternative fuel.

(e)[(b)] No more than one rebate may be paid for each eligible media purchase.

(f)[(c)] The commission may limit the total percentage and amount of rebates that may be paid to any applicant.

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 June 27, 1995.

TRD-9507923

Mary Ross McDonald
Assistant Director, Legal
Division, Gas
Utilities/LP Gas
Railroad Commission of
Texas

Earliest possible date of adoption: August 4, 1995

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

Part III. Texas Alcoholic Beverage Commission

Chapter 33. Licensing

Application Procedures

• 16 TAC §33.5

The Texas Alcoholic Beverage Commission proposes new §33.5, concerning the fee and requirements for holders of food and beverage certificates as required by Texas Alcoholic Beverage Code, §25.13(b) and (c), §28.18(b) and (c), §32.23(b) and (c) and §69.16(b) and (c).

Jeannene Fox, Director of License and Compliance, has determined that the estimated revenues the first five years to be \$300,000 and \$500,000 for each year thereafter with an estimated cost of \$500,000 each year. There will be no fiscal implications for units of local government.

Jeannene Fox also has determined the public benefit is that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the sec-

tion will be that the commission may appropriately identify those licenses or permits whose primary business is that of a food service establishment and will lead to better regulation through the unique identification of the marketing of alcoholic beverages.

Comments on the proposal may be submitted to Lou Bright, Legal Counsel, Texas Alcoholic Beverage Commission, P.O. Box 13127, Austin, Texas 78711

The new section is proposed under the authority of §5.31, Texas Alcoholic Beverage Code, which provides the Alcoholic Beverage Commission with the authority to prescribe and publish rules necessary to carry out the provisions of the Texas Alcoholic Beverage Code.

Cross Reference to Statute: §§25.13, 28.18, 32.23 and 69.16, Texas Alcoholic Beverage Code.

§33.5. Food and Beverage Certificate.

(a) Each applicant for an original or renewal food and beverage certificate shall include all information required by the commission to insure compliance with all applicable statutes and rules and regulations of the agency.

(b) Application for the certificate shall be upon forms provided by the agency.

(c) The annual certificate fee for each location is \$100 and must be submitted in the form of a cashier's check or U.S. postal money order payable to the Texas Alcoholic Beverage Commission.

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

(1) Food service—cooking or assembling food on premise primarily for on-premise consumption. Commercially pre-packaged items which require no cooking or assembly and which may be purchased off-premise do not constitute food service under this section;

(2) Entree—main dish of a meal;

(3) Multiple entrees—no fewer than eight different entrees per meal period must be available to customers; and

(4) Food service facilities—a portion of the licensed premises where food is stored and prepared primarily for on-premise consumption.

(e) An applicant is not qualified for a food and beverage certificate unless the following conditions, in addition to other requirements, are satisfied:

(1) the primary business on the premises is food service;

(2) multiple entrees are available to customers;

(3) food service facilities are maintained on the premises; and

(4) the hours of operation for sale and service of food and alcoholic beverages are the same except that food may be sold or served before or after the legal hours for sale of alcoholic beverages.

(f) If the applicant is a hotel that maintains separate area restaurants, lounges or bars, food service facilities must exist for each of the licensed premises.

(g) An applicant for an originally issued food and beverage certificate shall submit a sworn statement attesting that food service is maintained on the premises and is the primary business on the premises. The applicant shall furnish the following, as well as any other information as may be deemed reasonably necessary by the commission:

(1) the menu or, if no menu is available, a listing of the food and beverage items;

(2) hours of operation of food service and hours of operation for sale or service of alcoholic beverages;

(3) sales data or, if not available, projection of sales. The projection or data should include sufficient breakdown of revenues of food, alcoholic beverages and other major categories at the location;

(4) listing of equipment used in preparation and service of food versus the equipment used in preparation and service of alcoholic beverages; and

(5) copies of floor plans of the licensed premises indicating areas devoted primarily to the preparation and service of food and those devoted primarily to the preparation and service of alcoholic beverages. The original certificate will expire upon expiration of the primary permit or license. No prorated certificate fees will be given and no refunds made for issuance of the food and beverage certificate for less than one year.

(h) Applicants for renewal of food and beverage certificates shall submit sales information and other information or documents required by the commission to indicate the business at the licensed location is a food service establishment with food service facilities for the preparation and service of multiple entrees.

(i) The commission may review the operation at the licensed premises to determine the applicant or holder of the food and beverage certificate has or is maintaining food service with food service facilities for the preparation and service of multiple entrees. In doing so the commission may review such items as required in the original or renewal application and advertising, promotional items, changes in operations or

hours, changes in floor plans, prominence of food items on menu as compared to alcoholic beverages, name of business, number of transactions with food components, copies of city or county permits or certificates relating to type of business operation and any other item deemed necessary or applicable.

(j) Failure to submit documentation requested or accurately maintain required records is prima facie evidence of non-compliance.

(k) The certificate shall be posted in a conspicuous place adjacent to the primary permit or license at all times on the licensed premises.

(l) In verifying that the certificate holder is maintaining food service as the primary business on the premises, the commission may examine all books, papers, records, documents, supplies and equipment of the certificate holder.

(m) Recordkeeping requirements for wine and beer retailer's permits, including railway cars and excursion boats, and beer retailer's on-premise licenses:

(1) each holder of a food and beverage certificate whose primary permit or license is a wine and beer retailer's permit, including those issued for railway cars and excursion boats, or a beer retailer's on-premise license shall maintain records to reflect separate totals for alcoholic beverage sales, food sales and other major sales categories at the location. Purchase invoices must be maintained to reflect the total purchases of alcoholic beverages, food and other major purchase categories;

(2) complimentary alcoholic beverages shall be recorded and included in the total alcoholic beverage sales as if it was a normal sale and clearly marked as being complimentary;

(3) all records are required to be maintained for four years and made available to authorized representatives of the commission upon reasonable request; and

(4) in examining the alcoholic beverage sales, the commission may compute and determine the percentage of alcoholic beverage sales upon the basis of information filed with the commission or held by the certificate holder, but if such information is insufficient, the computation and determination of the percentage of sales may be based upon any records or information which is available.

(n) In considering alcoholic beverage sales for holders of mixed beverage permits, private club registration permits, private club exemption certificate permits and private club beer and wine permits, the dollar value of complimentary drinks shall be added to total sales of alcoholic beverage

ages in determining the percentage of alcoholic beverage sales on the licensed premises.

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 June 28, 1995.

TRD-9507927

Doyle Bailey
Administrator
Texas Alcoholic Beverage
Commission

Earliest possible date of adoption: August 4, 1995

For further information, please call: (512) 206-3204

License and Permit Surcharges • 16 TAC §33.23

The Texas Alcoholic Beverage Commission proposes an amendment to §33.23, concerning the annual surcharges for all holders of permits and licenses issued by the commission as required by the Texas Alcoholic Beverage Code, §5.50(b), and contingency riders 11, 12, 13 and 14 to the agency's appropriation in House Bill 1, 74th Legislature, Regular Session. The section is amended by changing surcharges for all licenses and permits.

Jeannene Fox, Director of License and Compliance, has determined, based upon an estimation of the number of licenses and permits the commission will issue within the fiscal year, that for state government the estimated revenue for each of the first five years is \$1,100,000, with estimated additional cost being insignificant. There will be no fiscal implications for units of local government.

Ms. Fox also has determined that for each year of the first five years the regulated alcoholic beverage industry will bear the entire amount of the cost of regulation by the Texas Alcoholic Beverage Commission. The effect on small businesses cannot be determined but is considered to be minimal and would not anticipate having a disproportionate impact on those in the alcoholic beverage industry. The anticipated economic cost to persons required to comply is the applicable surcharge.

Comments on the proposal may be submitted to Lou Bright, Legal Counsel, Texas Alcoholic Beverage Commission, P.O. Box 13127, Austin, Texas 78711.

The amendment is proposed under the Texas Alcoholic Beverage Code, Subchapter B, §5.31, which provides the Alcoholic Beverage Commission with the authority to prescribe and publish rules necessary to carry out the provisions of the Texas Alcoholic Beverage Code and §5.50(b) which specifically mandates the surcharges.

Cross Reference to Statute: Texas Alcoholic Beverage Code, §§11.32, 11.35 and 61.35.

§33.23. Alcoholic Beverage License and Permit Surcharges.

(a) A surcharge of all original or renewal permit or license fees set by the Texas Alcoholic Beverage Code shall be levied against all license and permit holders as follows:

Figure 1: 16 TAC §33.23(a)

(1) The surcharge shall apply to each brewpub licensed under Texas Alcoholic Beverage Code, Chapter 74, even though one or more are licensed under the same general management or ownership.

(2) An organization which meets the requirements for exemption from a private club registration permit under the Texas Alcoholic Beverage Code, §32.11, is also exempt from the surcharge.

(b) In order to cover the costs of the administration of the mixed beverage tax by the comptroller, all holders of mixed beverage permits and private club registration permits shall pay in addition to the surcharge levied in subsection (a) of this section, an annual surcharge of \$190.]

(b)(c) The surcharges shall be due and payable at the same time and in the same place and manner as the original or renewal permit, certificate, or license fee to which the surcharges apply.

(c)(d) Failure or refusal to timely pay the license, certificate or permit surcharge shall be considered the same as failure to timely pay the original or renewal certificate, permit or license fee and the same penalties will apply.

(d)(e) The amount of surcharge due shall be determined by the issue date of the permit or license and the surcharge in effect under this rule on the issue date of that license or permit.

(e)(f) This section shall take effect September 1, 1995 [1994].

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 June 26, 1995.

TRD-9507750
Doyme Bailey
Administrator
Texas Alcoholic Beverage
Commission

Earliest possible date of adoption: August 4, 1995

For further information, please call: (512) 206-3204

Chapter 39. Port of Entry

• 16 TAC §39.1

The Texas Alcoholic Beverage Commission proposes an amendment to §39.1, concerning tax stamps.

Jeannene Fox, director of Licensing and Compliance, 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. Fox also has determined that for each year of the first five years the rule is in effect the public benefit anticipated as a result of enforcing the rule will be increased efficiency in the administration of the alcoholic beverage tax stamp program. There will be no effect on small businesses. There is no anticipated economic costs to persons who are required to comply with the rule as proposed.

Comments on the proposal may be submitted to Lou Bright, General Counsel, Texas Alcoholic Beverage Commission, P.O. Box 13127, Austin, Texas 78711.

The amendment is proposed under the authority of §5.31 of the Texas Alcoholic Beverage Code.

Sections 201.74, 201.75, and 201.76 of the Texas Alcoholic Beverage Code are affected by this proposed rule.

§39.1. Tax Stamps.

(a) (No change.)

(b) [All tax stamps issued by the commission at ports of entry are supplied by the state treasurer to the commission.] Funds received by the commission from the issuance of such stamps shall be deposited by the commission representative in charge at each respective port of entry in a bank or banks designated by the administrator [and shall be withdrawn only on drafts payable to the state treasurer and signed by the director of accounting and countersigned by the administrator] and shall be electronically transferred to the State Treasury by the commission.

(c) The value of all stamps returned for any reason by the commission are, upon delivery to the state treasurer, to be applied as a credit on the commission's account.]

(c)(d) It shall be unlawful for any person to affix a state tax stamp to any alcoholic beverage container unless such stamp as indicated by its class corresponds with the type of beverage in such container.

(d)(e) Any alcoholic beverage to which a stamp of a different class has been affixed shall be deemed an illicit beverage and subject to confiscation.

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 June 26, 1995.

TRD-9507736
Doyme Bailey
Administrator
Texas Alcoholic Beverage
Commission

Earliest possible date of adoption: August 4, 1995

For further information, please call: (512) 206-3204

TITLE 22. EXAMINING BOARDS

Part XV. Texas State Board of Pharmacy

Chapter 281. General Provisions

• 22 TAC §281.24, §281.25

The Texas State Board of Pharmacy proposes amendments to §281.24 and §281.25 concerning Grounds for Discipline for a Pharmacist License and Grounds for Discipline for a Pharmacy License.

The amendments to §281.24, if adopted, will amend the rules to clarify that making a dispensing error is unprofessional conduct and grounds for discipline of a pharmacist license. The other amendments to §281.24 and §281.25 are non-substantive changes to correct references to other sections of the rules.

Fred S. Brinkley, Jr., R.Ph., M.B.A., has determined that for the first five-year period the rules are in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the rules.

Mr. Brinkley also has determined that for each year of the first five-year period the rule will be in effect the public benefit anticipated as a result of enforcing the rule will be to protect the public health through the clarification of the grounds for discipline of a pharmacist license. There will be no effect on small businesses. There are not anticipated economic costs to persons who are required to comply with the rules as proposed.

Comments on the proposal may be submitted to Gay Dodson, Director of Compliance, 8505 Cross Park Drive, Suite 110, Austin, Texas 78754.

The amendments are proposed under the Texas Pharmacy Act (Texas Civil Statutes, Article 4542-1, §16(a) which specifies that the Board has the authority to adopt rules for the proper administration and enforcement of the Act; §16(b)(3) which specifies that the Board is responsible for the specification of procedures for the delivery, dispensing in a suitable container appropriately labeled; and §26(b) which specifies that the Board may discipline a pharmacist's license or application for a pharmacist's license if the licensee or applicant has engaged in unprofessional conduct as that term is defined by the rules of the Board.

The statutes affected by the amendments: Texas Civil Statutes, Article 4542a-1.

§281.24. Grounds for Discipline for a Pharmacist License.

(a) For the purposes of the Act, §26(a), "unprofessional conduct" shall include, but not be limited to:

(1)-(26) (No change.)

(27) the sale, purchase, or trade or the offer to sell, purchase, or trade of prescription drug samples; provided how-

ever, this paragraph [subdivision] does not apply to:

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

(28) the sale, purchase, or trade or the offer to sell, purchase, or trade of prescription drugs:

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

(D) provided that subparagraphs (A)-(C) of this paragraph do not apply to:

(i) (No change.)

(ii) the sale, purchase, or trade of a drug or an offer to sell, purchase, or trade a drug by an organization described in paragraph (28) (C) [subparagraph (B)(iii)] of this subsection [paragraph] to a nonprofit affiliate of the organization to the extent otherwise permitted by law;

(iii)-(v) (No change.)

(29) (No change.)

(30) failure to repay a guaranteed student loan, as provided in the Texas Education Code 57.491; [or]

(31) failure to respond and to provide all requested records within the time specified in an audit of continuing education records under §295.8 of this title (relating to Continuing Education Requirements); or

(32) making or causing a dispensing error. For the purpose of this paragraph a dispensing error includes, but is not limited to the following:

(A) dispensing or distributing a drug or device or a strength or quantity of a drug or device, other than that ordered for the patient by a practitioner;

(B) labeling a drug or device incorrectly; or

(C) dispensing or distributing a drug or device to a person other than the patient or agent of the patient for whom the drug or device was ordered.

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

§281.25. *Grounds for Discipline for a Pharmacy License.* For the purposes of subdivision (9) of subsection (b) of §26 of the Act, a pharmacy fails to establish and maintain effective controls against diversion of prescription drugs when:

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

(4) the pharmacy possesses or engages in the sale, purchase, or trade or the offer to sell, purchase, or trade prescription drug samples; provided however, this paragraph [subparagraph] does not apply to:

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

(5) the pharmacy possesses or engages in the sale, purchase, or trade or the offer to sell, purchase, or trade of prescription drugs:

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

(D) provided that subparagraphs (A)-(C) of this paragraph do not apply to:

(i) (No change.)

(ii) the sale, purchase, or trade of a drug or an offer to sell, purchase, or trade a drug by an organization described in paragraph (4)(C) [subparagraph (B)(iii)] of this section [paragraph] to a nonprofit affiliate of the organization to the extent otherwise permitted by law;

(iii)-(v) (No change.)

(6) (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 June 27, 1995.

TRD-9507810 Fred Brinkley, Jr. R.Ph.
M.B.A.
-Executive
Director/Secretary
Texas State Board of
Pharmacy

Earliest possible date of adoption: August 4, 1995

For further information, please call: (512) 832-0661

Part XXIII. Texas Real Estate Commission

Chapter 535. Provisions of The Real Estate License Act

Education, Experience, Educational Programs, Time Periods, and Type of License

• 22 TAC §535.61, §535.66

The Texas Real Estate Commission proposes amendments to §535.61 concerning examinations and acceptance of courses, and to §535.66, concerning accreditation of educational programs. The amendments primarily address the offering by educational

providers and acceptance by the commission of real estate courses using alternative delivery methods, such as computers.

The amendment to §535.61 generally permits applicants for a real estate license to receive course credit for a course offered by alternative delivery methods if the course satisfies the specific requirements established by the commission. The amendment to §535.66 addresses schools accredited by the commission and permits the schools to offer courses by alternative delivery methods if the course meets the specific requirements established by §535.71, relating to Mandatory Continuing Education: Approval of Providers, Courses and Instructors. These amendments are proposed in connection with a proposed amendment to §535.71 establishing the specific guidelines for courses offered by alternative delivery methods. The amendments are necessary if the commission is to accept courses offered by methods other than classroom presentation or correspondence.

Mark A. Moseley, general counsel, 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. There is no anticipated impact on local or state employment as a result of implementing the sections.

Mr. Moseley also has determined that for each year of the first five years the sections as proposed are in effect the public benefit anticipated as a result of enforcing the sections will be the clarification of educational courses acceptable for real estate licensing or license renewal. There will be no effect on small businesses. There are no anticipated economic cost to persons who are required to comply with the proposed sections.

Comments on the proposal may be submitted to Mark A. Moseley, General Counsel, Texas Real Estate Commission, P.O. Box 12188, Austin, Texas 78711-2188.

The amendments are proposed under Texas Civil Statutes, Article 6573a, §5(h), which authorize the Texas Real Estate Commission to make and enforce all rules and regulations necessary for the performance of its duties.

The amendments affect Texas Civil Statutes, Article 6573a.

§535.61. *Examinations and Acceptance of Courses.*

(a)-(dd) (No change.)

(ee) Experiential learning credits or credits obtained only by final course examination may not be accepted by the commission for licensure. Credits obtained from alternative delivery methods may [not] be accepted by the commission if the course satisfies the requirements for such a course contained in §535.71 of this title (relating to Mandatory Continuing Education). [prior to the adoption of specific guidelines for such courses]

(ff) (No change.)

§535.66. Educational Programs: Accreditation.

(a)-(aa) (No change.)

(bb) Schools may offer a course using an alternative delivery method such as computers if the course satisfies the requirements of such a course contained in §535.71 of this title (relating to Mandatory Continuing Education). [Prior to the adoption of specific guidelines by the commission schools may not offer courses using alternative delivery systems, such as computers].

(cc)-(ss)(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 June 26, 1995.

TRD-9507803

Mark A. Moseley
General Counsel
Texas Real Estate
Commission

Earliest possible date of adoption: August 4, 1995

For further information, please call: (512) 465-3900

◆ ◆ ◆
Mandatory Continuing Education

• 22 TAC §535.71

The Texas Real Estate Commission proposes an amendment to §535.71, concerning approval of providers, courses and instructors for mandatory continuing education (MCE). The amendment is proposed in connection with other changes to commission rules relating to the acceptance of courses offered by alternative delivery methods, such as computers. The amendment to §535.71 establishes guidelines for the offering of the courses, requiring providers to divide the course material into major units of content and each unit into modules of instruction. Learning objectives and a means of diagnostic assessment of each student's performance also would be required. Courses must be tailored to the individual student and provide remediation until mastery is achieved. The basis and rationale for each instructional approach must be specified in the application for course approval, and courses consisting primarily of text material presented on a computer or questions similar to the state licensing examination will not be approved.

The amendment also would require an approved instructor or provider's representative to grade any coursework. The provider must offer the courses under an approved instructor or provider who would be available to answer students' questions or to provide assistance and to ensure that the student who completes the work is the student who is enrolled in the course. Students would not be certified by the provider as having success-

fully completed the course unless the student has completed all instructional modules required to demonstrate mastery of the material, has attended any hours of live instruction or testing required for the course and has passed a proctored final examination conducted in a secure setting.

The amendment also permits MCE credit to be given for a number of core real estate courses. The student would request credit by filing a form adopted by the commission for that purpose. The caption of a similar form now in use for obtaining credit for courses approved by the State Bar of Texas would be changed for clarity as part of the amendment.

Mark A. Moseley, 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. There is no anticipated impact on local or state employment as a result of implementing the section.

Mr. Moseley also has determined that for each year of the first five years the section as proposed is in effect the public benefit anticipated as a result of enforcing the section will be guidelines to ensure that students being offered courses by alternative delivery methods have done the course work and mastered the course material. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the proposed section.

Comments on the proposal may be submitted to Mark A. Moseley, General Counsel, Texas Real Estate Commission, P.O. Box 12188, Austin, Texas 78711-2188

The amendment is proposed under Texas Civil Statutes, Article 6573a, §5(h), which authorize the Texas Real Estate Commission to make and enforce all rules and regulations necessary for the performance of its duties.

The amendment affects Texas Civil Statutes, Article 6573a.

§535.71. Mandatory Continuing Education: Approval of Providers, Courses and Instructors.

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

(c) The commission adopts by reference the following forms published by and available from the commission, P.O. Box 12188, Austin, Texas 78711-2188:

(1)-(12) (No change.)

(13) MCE Form 11-3, MCE Instructor Credit Request; [and]

(14) MCE Form 12-0, MCE Credit Request for State Bar Courses [Course Credit Request.]; and

(15) MCE Form 13-0, MCE Credit Request for Core Courses.

(d)-(k) (No change.)

(l) A course must be devoted to one or more of the subjects specified under the course titles in the Act, §7(a)(2)-4 and

§7(a)(7)-(10), to real estate professionalism and ethics or to other subjects approved by the commission for MCE credit. MCE courses must be presentations of relevant issues and changes within the subject areas as they apply to the practice of real estate in the current market. The commission shall periodically publish lists of subjects other than legal topics which are approved for MCE credit. Courses approved by the commission for prelicensing education or salesman annual education requirements provided in the Act, §7(d)-(e), will [may] be accepted for satisfying MCE requirements provided the student files an MCE Form 13, MCE Credit Request for Core Courses, and the course meets all of the requirements of the commission for core real estate course credit [attended the entire course], and MCE courses may be accepted by the commission as real estate related courses for satisfying the education requirements of §7(d)-(e) of the Act. The commission may not approve a course which promotes the sale of goods or services by the provider or by a vendor affiliated or associated with the provider. Providers may sell educational materials, such as textbooks or recordings, related to the subjects of the course.

(m)-(q) (No change.)

(r) The commission may accept courses offered by alternative delivery methods subject to the following conditions.

(1) Every course accepted under this subsection shall teach to mastery. Teaching to mastery means that the course must, at a minimum:

(A) divide the material into major units as approved by the commission;

(B) divide each of the major units of content into modules of instruction for delivery on a computer or other approved interactive audio or audiovisual programs;

(C) specify the learning objectives for each module of instruction. The learning objectives must be comprehensive enough to ensure that if all the objectives are met, the entire content of the course will be mastered;

(D) specify an objective, quantitative criterion for mastery used for each learning objective;

(E) implement a structured learning method by which each student is able to attain each learning objective;

(F) provide a means of diagnostic assessment of each student's performance on an ongoing basis during each module of instruction, measuring what each student has learned and not learned at regular intervals throughout each module of instruction, and specifically assessing the mastery of each concept covered in the content material;

(G) provide a means of tailoring the instruction to the needs of each student as identified in Subparagraph (E) of this subsection. The process of tailoring the instruction shall ensure that each student receives adequate remediation for specific deficiencies identified by the diagnostic assessment;

(H) continue the appropriate remediation on an individualized basis until the student demonstrates achievement of each mastery criterion; and

(I) require that the student demonstrate mastery of all material covered by the learning objectives for the module before the module is completed.

(2) The commission must approve the method by which each of the elements in subparagraphs (A)-(I) of this subsection of mastery is accomplished.

(3) The rationale for the education processes implemented with independent study must be based on sound instructional strategies which have been systematically designed and proven effective through educational research and development. The basis and rationale for any proposed instructional approach must be specified in the application for approval. The following types of programs will not be approved:

(A) those which consist primarily of text material presented on a computer or other audio or audiovisual programs rather than in printed material;

(B) those which primarily consist of questions similar to those on the state licensing examination; or

(C) those which consist primarily of combinations of the elements in subparagraph (A) and (B) of this paragraph.

(4) An approved instructor and/or the provider's coordinator/director shall grade the written course work required of students in independent study courses.

(5) Every provider offering an approved course under this subsection shall offer those courses under an approved instructor or provider who shall:

(A) be available to answer students' questions or provide them assistance as necessary;

(B) satisfy the commission that procedures are in place to ensure that the student who completes the work is the student who is enrolled in the course; and

(C) certify students as successfully completing an independent study only if the student;

(i) has completed all instructional modules required to demonstrate mastery of the material;

(ii) has attended any hours of live instruction and/or testing required for a given course; and

(iii) has passed a proctored final examination in a secure setting.

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 June 26, 1995.

TRD-9507913

Mark A. Moseley
General Counsel
Texas Real Estate
Commission

Earliest possible date of adoption: August 4, 1995

For further information, please call: (512) 465-3900

◆ ◆ ◆
Fees

• 22 TAC §535.101

The Texas Real Estate Commission proposes an amendment to §535.101, concerning fees charged by the commission. The amendment adjusts the fees paid under the section by real estate brokers and salesmen for annual renewal of their licenses. The fee for annual renewal of a real estate broker license will be reduced from \$36 to \$28; the fee for annual renewal of a real estate salesman license will be reduced from \$36 to \$28. Adoption of the amendment is necessary to conform the commission's fee schedule with an amendment to Texas Civil Statutes, Article 6573a (the Act), §11, passed by the 74th Legislature, Regular Session, which separates the fees collected under the section by the commission for the Texas Real Estate Research Center (the Research Center) from the licensing fees collected from applicants and licensees. Although the commission will continue to collect fees for the Research Cen-

ter in connection with license applications and renewals, the fees are not part of the filing fees established by the section, and it is necessary to adjust the fee schedule to reflect the statutory change. Total fees paid by licensees will increase, because the amendment to the Act increases the fee received by the Center from \$15 to \$20 for brokers and from \$7.50 to \$17.50 for salesmen.

Mark A. Moseley, general counsel, has determined that for the first five-year period the section is in effect there will be fiscal implications for state government as a result of enforcing or administering the section. Assuming that license renewal rates remain constant, there will be a reduction of approximately \$480,000 per year in fees collected by the commission for FY 1996 and for each year of the first five-year period following adoption of the amendment. No fiscal implications are anticipated for local government, and there is no anticipated impact on local or state employment as a result of implementing the section.

Mr. Moseley 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 collection of fees sufficient to fund the operations of the commission. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the section other than the payment of the fees required by the section.

Comments on the proposal may be submitted to Mark A. Moseley, General Counsel, Texas Real Estate Commission, P.O. Box 12188, Austin, Texas 78711-2188.

The amendment is proposed under Texas Civil Statutes, Article 6573a, §5(h), which authorize the Texas Real Estate Commission to make and enforce all rules and regulations necessary for the performance of its duties.

The amendment affects Texas Civil Statutes, Article 6573a.

§535.101. Fees.

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

(c) The commission shall charge and collect the following fees:

(1) (No change.)

(2) a fee of \$28 [\$36] for annual renewal of a real estate broker license;

(3) (No change.)

(4) a fee of \$28 [\$36] for annual renewal of a real estate salesman license;

(5)-(13) (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 June 27, 1995.

TRD-9507804

Mark A. Moseley
General Counsel
Texas Real Estate
Commission

Earliest possible date of adoption: August 4, 1995

For further information, please call: (512) 465-3900

TITLE 25. HEALTH SERVICES

Part I. Texas Department of Health

Chapter 38. Chronically Ill and Disabled Children's Services Program

• 25 TAC §38.4

The Texas Department of Health (department) proposes an amendment to §38.4 concerning limitations on covered services in the Chronically Ill and Disabled Children's Services Program (CIDC). Increasing service costs, without significant increases in general revenue funding, have necessitated review of all aspects of CIDC service delivery and client eligibility. The proposed amendment to §38.4 authorizes CIDC to limit expenditures within a fiscal year (September 1 to August 31) for an individual client to \$20,000 for inpatient and outpatient hospital services, ambulatory surgical center services, inpatient rehabilitation services, physician fees, x-rays, and laboratory fees and to limit expenditures to \$20,000 for all other services which are covered by the program.

Debra Stabeno, Deputy Associate Commissioner for Health Care Delivery, Texas Department of Health, has determined that for the first five-year period the section as proposed is in effect, there will be fiscal implications to state government as a result of enforcing and administering the section as proposed. The effect on state government will be an estimated reduction in expenditures of between \$9.5 million to \$10.5 million for each fiscal year (FY) from FY 1996 through FY 2000. There may be fiscal implications for local governments depending on the scope of services provided by the local indigent health care programs and county hospitals serving the medical needs of this population.

Ms. Stabeno also has determined that for each year of the first five years these sections are in effect, the public benefit anticipated as a result of enforcing the section will be to align program expenditures with the funding level appropriated by the legislature. There will be no effect on small businesses to comply with the sections. There are anticipated economic costs to individuals who exhaust their benefits. There is no anticipated impact on local employment.

Written comments on the proposed amendments may be submitted to Susan C. Penfield, M.D., Director, Children's Health Division, Texas Department of Health, 1100 West 49th Street, Austin, Texas 78756, (512) 458-7111, extension 3104. Public comments will be accepted for 30 days after the publication of the sections in the *Texas Register*.

The amendments are proposed under Health and Safety Code, §35.005(a)(1), which requires the Board of Health (board) to define medical, financial, and other criteria for eligibility to receive services; and under Health and Safety Code, §12.001(b), which authorizes the board to adopt rules for the performance of every duty imposed by law on the board, the department, and the commissioner of health.

The amendment will affect Health and Safety Code, Chapter 35.

§38.4. Covered Services.

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

(d) Limitations. No client may be reimbursed more than a total of \$20,000 for inpatient and outpatient hospital services, ambulatory surgical center services, inpatient rehabilitation services, physician fees, x-rays, and laboratory fees; and no more than a total of \$20,000 for all other services which are program benefits during a fiscal year (September 1 through August 31). [Upon board approval, the CIDC Program may limit or restrict services to remain within available funding and to provide effective and efficient administration in accordance with subsection (b)(3) of this section. If cutbacks in services are required and notification is not published, clients and providers directly affected will be given a minimum of 30 days notice.]

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

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

Issued in Austin, Texas, on June 26, 1995.

TRD-9507756

Susan K. Steeg
General Counsel
Texas Department of
Health

Earliest possible date of adoption: August 4, 1995

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

Chapter 98. HIV and STD Control

The Texas Department of Health (department) proposes the repeal of §98.104 and §98.105, and new §98.104 concerning medication coverage and drug specific eligibility criteria for the HIV Medication Program. The new rule specifies that medication coverage and drug specific eligibility criteria shall be determined by the commissioner of health considering the recommendation of the Texas HIV Medication Advisory Committee. The repeal and proposed new section are necessary to implement the provisions of the "Communicable Disease Prevention and Control Act." The Texas HIV Medication Pro-

gram is established by Texas Health and Safety Code (HSC), Chapter 85, §85.063, Subchapter C to assist hospital districts, local health departments, public or nonprofit hospitals and clinics, nonprofit community organizations, and HIV-infected individuals in the purchase of medications approved by the board that have been shown to be effective in reducing hospitalizations due to HIV-related conditions. Although not required by the statute, the Texas Board of Health (board) has selected these medications by rule. The proliferation of available medications used in treating HIV-infected individuals, and advances in the medical knowledge concerning their use has resulted in frequent amendments of 25 Texas Administrative Code §98.104 and §98.105. The rulemaking process is time consuming and could result in a delay between the Food and Drug Administration and advisory committee approval, and the addition of drugs to the program in the future.

Therefore, the department proposes to make amendment of the formulary a matter for internal department decision rather than a rulemaking procedure. The board proposes to do this by deleting the existing rules, but not policies; establishing medication coverage and drug specific eligibility criteria; and by delegating the authority to approve medications to the commissioner of health. The board's authority to approve medications is given in HSC, Chapter 85, §85.061. The authority to delegate authority to the commissioner is found in HSC, Chapter 11, §11.013(b).

Anita Martinez, Chief of Staff Services for the Disease Control and Prevention Association, Texas Department of Health, has determined that for the first five-year period the section will be in effect, there will be no fiscal implications for state or local government as a result of enforcing or administering the new sections as proposed.

Ms. Martinez also has determined that for each year of the first five years the proposed new section is in effect, the public benefit anticipated as a result of enforcing the amended sections will be to eliminate a delay in providing medications. There is no anticipated economic cost to small or large businesses to comply with the sections as proposed. There are no anticipated costs to persons affected by this proposal. There is no anticipated effect on local employment.

Comments on the proposed amendments may be submitted to Charles E. Bell, M.D., Chief, Bureau of HIV and STD Prevention, Texas Department of Health, 1100 West 49th Street, Austin, Texas 78756. Telephone inquiries also may be made to Sheral Skinner at (512) 490-2510. Comments will be accepted for 30 days after publication of the proposal in the *Texas Register*.

Subchapter C. Texas HIV Medication Program

• 25 TAC §98.104, §98.105

(Editor's note: The text of the following sections proposed for repeal will not be published. The sections may be examined in the offices of the Texas Department of Health or in the Texas

Register office, Room 245, James Earl Rudder Building, 1019 Brazos Street, Austin.)

The repeal is proposed under the Health and Safety Code, §85.016, which provides the board with the authority to adopt rules concerning the Texas HIV Medication Program; under Health and Safety Code, §11.013 which allows the board to adopt rules and to delegate its legal duties to the commissioner of health; and under Health and Safety Code, §12.001, which provides the board with the authority to adopt rules for the performance of every duty imposed by law on the board, the department, and the commissioner of health.

The repeal affects Health and Safety Code, Chapter 85.

§98.104. Medication Coverage.

§98.105. Drug Specific Eligibility Criteria.

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 June 26, 1995.

TRD-9507758

Susan K. Steeg
General Counsel
Texas Department of
Health

Earliest possible date of adoption: August 4, 1995

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



• 25 TAC §98.104

The new section is proposed under the Health and Safety Code, §85.016, which provides the board with the authority to adopt rules concerning the Texas HIV Medication Program; under Health and Safety Code, §11.013 which allows the board to adopt rules and to delegate its legal duties to the commissioner of health; and under Health and Safety Code, §12.001, which provides the board with the authority to adopt rules for the performance of every duty imposed by law on the board, the department, and the commissioner of health.

This new section affects Health and Safety Code, Chapter 85.

§98.104. Medication Coverage.

(a) The medications provided under the Texas HIV Medication Program, and the specific eligibility criteria for them shall be determined by the commissioner of health, considering the recommendations of the HIV Medication Advisory Committee.

(b) A list of the approved medications and specific eligibility criteria for them may be obtained from Texas Department of Health, Bureau of HIV & STD Prevention, Program Manager, 1100 West 49th Street, Austin, Texas 78756.

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 June 26, 1995.

TRD-9507757

Susan K. Steeg
General Counsel
Texas Department of
Health

Earliest possible date of adoption: August 4, 1995

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



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 16. ECONOMIC REGULATION

Part I. Railroad Commission of Texas

Chapter 5. Transportation Division

Subchapter C. Household Goods Carriers

• 16 TAC §5.133

The Railroad Commission of Texas has withdrawn from consideration for permanent adoption a proposed new §5.133, which appeared in the February 7, 1995, issue of the *Texas Register* (20 TexReg 816). The effective date of this withdrawal is July 18, 1995.

Issued in Austin, Texas, on June 27, 1995.

TRD-9507899

Mery Ross McDonald
Assistant Director, Legal
Division, Gas
Utilities/LP Gas
Railroad Commission of
Texas

Effective date: July 18, 1995

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

TITLE 40. SOCIAL SER- VICES AND ASSIS- TANCE

Part I. Texas Department of Human Services

Chapter 19. Nursing Facility Requirements for Licensure and Medicaid Certification

Subchapter S. Reimbursement Methodology for Nursing Facilities

• 40 TAC §§19.1801-19.1805, 19.1808, 19.1809

The Texas Department of Human Services has withdrawn from consideration the proposed repeals of §§19.1801-19.1805, 19.1808, and 19.1809, concerning Reim-

bursement Methodology for Nursing Facilities, in its Nursing Facility Requirements for Licensure and Medicaid Certification chapter which appeared in the December 30, 1994, issue of the *Texas Register* (19 TexReg 10492). The effective date of the withdrawal is immediately on filing, June 27, 1995.

Issued in Austin, Texas, on June 27, 1995.

TRD-9507840

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

Effective date: June 27, 1995

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

Chapter 19. Long Term Care Nursing Facility Requirements for Licensure and Medicaid Certification

• 40 TAC §§19.1801-19.1807

The Texas Department of Human Services has withdrawn from consideration the proposed new §§19.1801-19.1807, concerning reimbursement methodology for nursing facilities, in its Nursing Facility Requirements for Licensure and Medicaid Certification chapter which appeared in the December 30, 1994, issue of the *Texas Register* (19 TexReg 10493). The effective date of the withdrawal is June 27, 1995.

Issued in Austin, Texas, on June 27, 1995.

TRD-9507841

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

Effective date: June 27, 1995

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

Subchapter BB. Nursing Facili- ties Program Cost Determi- nation Process

• 40 TAC §§19.2701-19.2703

The Texas Department of Human Services has withdrawn from consideration the proposed new §§19.2701-19.2703, concerning Nursing Facilities Program Cost Determination Process, in its Nursing Facility Require-

ments for Licensure and Medicaid Certification chapter, which appeared in the December 30, 1995, issue of the *Texas Register* (19 TexReg 10495). The effective date of the withdrawal is immediately on filing, June 27, 1995.

Issued in Austin, Texas, on June 27, 1995.

TRD-9507842

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

Effective date: June 27, 1995

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

Chapter 20. Cost Determination Process

• 40 TAC §§20.101-20.111

The Texas Department of Human Services has withdrawn from consideration the proposed new §§20.101-20.111 in its proposed Cost Determination Process chapter, which appeared in the December 30, 1994, issue of the *Texas Register* (19 TexReg 10496). The effective date of the withdrawal is immediately on filing, June 27, 1995.

Issued in Austin, Texas, on June 27, 1995.

TRD-9507843

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

Effective date: June 27, 1995

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

Chapter 24. Reimbursement Methodology

Subchapter A. Determination of Payment Rates

• 40 TAC §§24.101, §24.102

The Texas Department of Human Services has withdrawn from consideration the proposed repeal of §24.101 and §24.102, concerning determination of payment rates, in its Reimbursement Methodology chapter, which appeared in the December 30, 1994, issue of the *Texas Register* (19 TexReg 10521). The effective date of the withdrawal is immediately on filing, June 27, 1995.

Issued in Austin, Texas, on June 27, 1995.

TRD-9507844 Nancy Murphy
Section Manager, Media
and Policy Services
Texas Department of
Human Services

Effective date: June 27, 1995

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

◆ ◆ ◆
• 40 TAC §24.101

The Texas Department of Human Services has withdrawn from consideration the proposed new §24.101, concerning Cost Determination Process, in its Reimbursement Methodology chapter, which appeared in the December 30, 1994, issue of the *Texas Register* (19 TexReg 10521). The effective date of the withdrawal is immediately on filing, June 27, 1995.

Issued in Austin, Texas, on June 27, 1995.

TRD-9507845 Nancy Murphy
Section Manager, Media
and Policy Services
Texas Department of
Human Services

Effective date: June 27, 1995

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

◆ ◆ ◆
Subchapter B. Desk Review of
Cost Reports

• 40 TAC §24.201

The Texas Department of Human Services has withdrawn from consideration the proposed repeal of §24.201, concerning desk review of cost reports, in its Reimbursement Methodology chapter, which appeared in the December 30, 1994, issue of the *Texas Register* (19 TexReg 10521). The effective date of the withdrawal is immediately on filing, June 27, 1995.

Issued in Austin, Texas, on June 27, 1995.

TRD-9507846 Nancy Murphy
Section Manager, Media
and Policy Services
Texas Department of
Human Services

Effective date: June 27, 1995

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

◆ ◆ ◆
Subchapter C. Inflation Indices

• 40 TAC §24.301

The Texas Department of Human Services has withdrawn from consideration the proposed repeal of §24.301, concerning inflation indices, in its Reimbursement Methodology chapter, which appeared in the December 30, 1994, issue of the *Texas Register* (19 TexReg 10522). The effective date of the withdrawal is immediately on filing, June 27, 1995.

Issued in Austin, Texas, on June 27, 1995.

TRD-9507847 Nancy Murphy
Section Manager, Media
and Policy Services
Texas Department of
Human Services

Effective date: June 27, 1995

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

◆ ◆ ◆
Subchapter D. Notification of
Exclusions and Adjustments

• 40 TAC §24.401

The Texas Department of Human Services has withdrawn from consideration the proposed repeal of §24.401, concerning Notification of Exclusions and Adjustments, in its Reimbursement Methodology chapter, which appeared in the December 30, 1994, issue of the *Texas Register* (19 TexReg 10522). The effective date of the withdrawal is immediately on filing, June 27, 1995.

Issued in Austin, Texas, on June 27, 1995.

TRD-9507848 Nancy Murphy
Section Manager, Media
and Policy Services
Texas Department of
Human Services

Effective date: June 27, 1995

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

◆ ◆ ◆
Subchapter E. Adjustments that
Result from New Legisla-
tion, Regulations, or Eco-
nomic Factors

• 40 TAC §24.501

The Texas Department of Human Services has withdrawn from consideration the proposed repeal of §24.501, concerning adjustments that result from new legislation, regulations, or economic factors, in its Reimbursement Methodology chapter, which appeared in the December 30, 1994, issue of the *Texas Register* (19 TexReg 10522). The effective date of the withdrawal is immediately on filing, June 27, 1995.

Issued in Austin, Texas, on June 27, 1995.

TRD-9507849 Nancy Murphy
Section Manager, Media
and Policy Services
Texas Department of
Human Services

Effective date: June 27, 1995

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

Subchapter F. Dispute Resolu-
tion

• 40 TAC §24.601

The Texas Department of Human Services has withdrawn from consideration the proposed repeal of §24.601, concerning adjustments that result from new legislation, regulations, or economic factors, in its Reimbursement Methodology chapter, which appeared in the December 30, 1994, issue of the *Texas Register* (19 TexReg 10522). The effective date of the withdrawal is immediately on filing, June 27, 1995.

Issued in Austin, Texas, on June 27, 1995.

TRD-9507850 Nancy Murphy
Section Manager, Media
and Policy Services
Texas Department of
Human Services

Effective date: June 27, 1995

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

◆ ◆ ◆
Chapter 46. Residential Care
Program

Support Documents

• 40 TAC §46.7001

The Texas Department of Human Services has withdrawn from consideration the proposed repeal of §46.7001, concerning support documents, in its Residential Care Program chapter which appeared in the December 30, 1994, issue of the *Texas Register* (19 TexReg 10523). The effective date of the withdrawal is immediately on filing, June 27, 1995.

Issued in Austin, Texas, on June 27, 1995.

TRD-9507851 Nancy Murphy
Section Manager, Media
and Policy Services
Texas Department of
Human Services

Effective date: June 27, 1995

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

◆ ◆ ◆
The Texas Department of Human Services has withdrawn from consideration the proposed new §46.7001, concerning support documents, in its Residential Care Program chapter which appeared in the December 30, 1994, issue of the *Texas Register* (19 TexReg 10523). The effective date of the withdrawal is immediately on filing, June 27, 1995.

Issued in Austin, Texas, on June 27, 1995.

TRD-9507852 Nancy Murphy
Section Manager, Media
and Policy Services
Texas Department of
Human Services

Effective date: June 27, 1995

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

Chapter 47. Primary Home Care

Support Documents

• 40 TAC §47.5901

The Texas Department of Human Services has withdrawn from consideration a proposed amendment to §47.5901, concerning support documents, in its Primary Home Care chapter, which appeared in the December 30, 1994, issue of the *Texas Register* (19 TexReg 10524). The effective date of the withdrawal is immediately on filing, June 27, 1995.

Issued in Austin, Texas, on June 27, 1995.

TRD-9507853 Nancy Murphy
Section Manager, Media
and Policy Services
Texas Department of
Human Services

Effective date: June 27, 1995

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

Chapter 48. Community Care for Aged and Disabled

Client-Managed Attendant Services

• 40 TAC §48.2603

The Texas Department of Human Services has withdrawn from consideration a proposed amendment to §48.2603, concerning contractor responsibilities, in its Community Care for Aged and Disabled chapter which appeared in the December 30, 1994, issue of the *Texas Register* (19 TexReg 10528). The effective date of the withdrawal is immediately on filing, June 27, 1995.

Issued in Austin, Texas, on June 27, 1995.

TRD-9507854 Nancy Murphy
Section Manager, Media
and Policy Services
Texas Department of
Human Services

Effective date: June 27, 1995

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

1915(c) Medicaid Home and Community-Based Waiver Services for Aged and Disabled Adults Who Meet Criteria for Alternatives to Nursing Facility Care

• 40 TAC §48.6020

The Texas Department of Human Services has withdrawn from consideration a proposed amendment to §48.6020, concerning reimbursement methodology, in its Community Care for Aged and Disabled chapter, which

appeared in the December 30, 1994, issue of the *Texas Register* (19 TexReg 10530). The effective date of the withdrawal is immediately on filing, June 27, 1995.

Issued in Austin, Texas, on June 27, 1995.

TRD-9507855 Nancy Murphy
Section Manager, Media
and Policy Services
Texas Department of
Human Services

Effective date: June 27, 1995

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

Support Documents

• 40 TAC §§48.9801, 48.9805, 48.9808, 48.9811

The Texas Department of Human Services has withdrawn from consideration a proposed amendments to §§48.9801, 48.9805, 48.9808, and 48.9811, concerning reimbursement methodology for special services to persons with disabilities-shared attendant care; reimbursement methodology for congregate and home-delivered meals; reimbursement methodology for 1915(c) of the Social Security Act Medicaid Home and Community Based Waiver Services for Persons with Related Conditions; reimbursement methodology for the Medically Dependent Children Program, a 1915(c) Home and Community-Based Waiver Program, in its Community Care for Aged and Disabled chapter, which appeared in the December 30, 1994, issue of the *Texas Register* (19 TexReg 10532). The effective date of the withdrawal is immediately on filing, June 27, 1995.

Issued in Austin, Texas, on June 27, 1995.

TRD-9507856 Nancy Murphy
Section Manager, Media
and Policy Services
Texas Department of
Human Services

Effective date: June 27, 1995

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

• 40 TAC §48.9805

The Texas Department of Human Services has withdrawn from consideration a proposed repeal to §48.9805, concerning reimbursement methodology for congregate and home-delivered meals, in its Community Care for Aged and Disabled chapter which appeared in the December 30, 1994, issue of the *Texas Register* (19 TexReg 10542). The effective date of the withdrawal is immediately on filing, June 27, 1995.

Issued in Austin, Texas, on June 27, 1995.

TRD-9507857 Nancy Murphy
Section Manager, Media
and Policy Services
Texas Department of
Human Services

Effective date: June 27, 1995

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

Chapter 50. Day Activity and Health Services

Reimbursement Methodology for Day Activity and Health Services

• 40 TAC §§50.901-50.905

The Texas Department of Human Services has withdrawn from consideration proposed new §§50.901-50.905, concerning Reimbursement Methodology for Day Activity and Health Services, in its Day Activity and Health Services chapter which appeared in the December 30, 1994, issue of the *Texas Register* (19 TexReg 10543). The effective date of the withdrawal is immediately on filing, June 27, 1995.

Issued in Austin, Texas, on June 27, 1995.

TRD-9507858 Nancy Murphy
Section Manager, Media
and Policy Services
Texas Department of
Human Services

Effective date: June 27, 1995

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

• 40 TAC §§50.6901-50.6906

The Texas Department of Human Services has withdrawn from consideration the proposed repeals of §§50.6901-50.6906, concerning Reimbursement Methodology for Day Activity and Health Services, in its Day Activity and Health Services chapter, which appeared in the December 30, 1994, issue of the *Texas Register* (19 TexReg 10542). The effective date of the withdrawal is immediately on filing, June 27, 1995.

Issued in Austin, Texas, on June 27, 1995.

TRD-9507859 Nancy Murphy
Section Manager, Media
and Policy Services
Texas Department of
Human Services

Effective date: June 27, 1995

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

Chapter 52. Emergency Response Services

Claims

• 40 TAC §52.502

The Texas Department of Human Services has withdrawn from consideration the proposed repeal of §52.502, concerning reimbursement methodology for Emergency Response Services, in its Emergency Response Services chapter, which appeared in the December 30, 1994, issue of the *Texas Register* (19 TexReg 10544). The effective date of the withdrawal is immediately on filing, June 27, 1995.

Issued in Austin, Texas, on June 27, 1995.

TRD-9507860 Nancy Murphy
 Section Manager, Media
 and Policy Services
 Texas Department of
 Human Services

Effective date: June 27, 1995

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



The Texas Department of Human Services has withdrawn from consideration proposed new §52.502, concerning reimbursement methodology for Emergency Response Services, in its Emergency Response Services chapter, which appeared in the December 30, 1994, issue of the *Texas Register* (19 TexReg 10544). The effective date of the withdrawal is immediately on filing, June 27, 1995.

Issued in Austin, Texas, on June 27, 1995.

TRD-9507861 Nancy Murphy
 Section Manager, Media
 and Policy Services
 Texas Department of
 Human Services

Effective date: June 27, 1995

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



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 16. ECONOMIC REGULATION

Part I. Railroad

Commission of Texas

Chapter 5. Transportation

Division

Subchapter A. General Provisions

• 16 TAC §§5.1-5.6

The Railroad Commission of Texas adopts the repeal of §§5.1-5.6, concerning policy, scope, citation, definitions, examination of facilities and records, and preservation duplicates of commission records, without changes to the proposed text as published in the February 7, 1995, issue of the *Texas Register* (20 TexReg 811).

The commission repeals these sections to eliminate rules that are unnecessary or that have been preempted by the enactment of Title VI of the Federal Aviation Administration Authorization Act of 1994 (Public Law 103-305), effective January 1, 1995, and to reorganize the commission's rules into concise subchapters for each category of the rules.

No comments were received regarding adoption of the repeals.

The repeals are adopted pursuant to the Texas Motor Carrier Act, Texas Civil Statutes, Article 911b; the Texas Motor Bus Act, Texas Civil Statutes, Article 911a; and the Texas Transportation Brokers Act, Texas Civil Statutes, Article 911f, which authorize the commission to prescribe rules and regulations for the operations of motor carriers of property and passengers and the regulation of motor transportation brokers of fresh fruits and vegetables.

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 June 27, 1995.

TFID-9507870

Mary Ross McDonald
Assistant Director, Legal
Division-Gas Utilities/LP
Gas
Railroad Commission of
Texas

Effective date: July 18, 1995

Proposal publication date: February 7, 1995
For further information, please call: (512)
463-7008

• 16 TAC §§5.1-5.4

The Railroad Commission of Texas adopts new §§5.1-5.4, concerning policy, scope, citation, and preservation duplicates of commission records, without changes to the proposed text as published in the February 7, 1995, issue of the *Texas Register* (20 TexReg 812).

The commission adopts these sections in conjunction with other proposed changes to Chapter 5, which is being updated in response to the enactment of Title VI of the Federal Aviation Administration Authorization Act of 1994 (Public Law 103-305), effective January 1, 1995. The new sections bring the general provisions of the title into conformity with the remainder of this title.

No comments were received regarding adoption of the new sections.

The new sections are adopted pursuant to the Texas Motor Carrier Act, Texas Civil Statutes, Article 911b; the Texas Motor Bus Act, Texas Civil Statutes, Article 911a; Texas Civil Statutes, Article 911f; and Texas Civil Statutes, Article 6687-9b, which authorize the commission to prescribe rules and regulations for the operations of motor carriers of property and passengers, the operations of tow trucks and vehicle storage facilities, and the regulation of motor transportation brokers of fresh fruits and vegetables.

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 June 27, 1995.

TRD-9507897

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Gas
Railroad Commission of
Texas

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Proposal publication date: February 7, 1995
For further information, please call: (512)
463-7008

Subchapter B. Operating Certificates, Permits, and Licenses

• 16 TAC §§5.21, §5.22

The Railroad Commission of Texas adopts amendments to §5.21 and §5.22, concerning definitions and application for certificate of registration, without changes to the proposed text as published in the February 7, 1995, issue of the *Texas Register* (20 TexReg 812).

The commission adopts these sections in conjunction with other proposed changes to Chapter 5, which is being updated in response to the enactment of Title VI of the Federal Aviation Administration Authorization Act of 1994 (Public Law 103-305), effective January 1, 1995. These amendments correct internal cross-references to other subchapters, amend the provisions for a safety affidavit, and eliminate double payment of per-vehicle fees that would result under the commercial carrier registration system and the federal single-state registration system.

The commission received two comments supporting the amendment in §5.22, which eliminates double payment of per-vehicle fees when vehicles are registered under both the commercial vehicle system and the single-state system. The commission received no comments from groups or associations regarding the proposed amendments.

The amendments are adopted pursuant to the Texas Motor Carrier Act, Texas Civil Statutes, Article 911b; the Texas Motor Bus Act, Texas Civil Statutes, Article 911a; and Texas Civil Statutes, Article 6687-9b, which authorize the commission to prescribe rules and regulations for the operations of motor carriers of property and passengers and for the operations of tow trucks.

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 June 27, 1995.

TRD-9507905

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Railroad Commission of
Texas

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Proposal publication date: February 7, 1995

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• 16 TAC §5.33, §5.34

The Railroad Commission of Texas adopts new §5.33, concerning safety regulations of the Department of Transportation and §5.34, concerning explosives and other dangerous articles. Section 5.33 is adopted with changes to the proposed text as published in the February 7, 1995, issue of the *Texas Register* (20 TexReg 813), and §5.34 is adopted without changes and will not be republished.

The commission adopts these sections in light of recent legislative changes to statutes concerning regulation of transportation to reorganize commission rules into concise subchapters for each category of rules, and to incorporate safety and hazardous material rules applicable to motor carriers into Subchapter B, which concerns commercial carriers.

The change to §5.33(d)(10) will allow police in cities with populations of 100,000 or more to be certified by the Department of Public Safety in the enforcement of federal and state motor carrier safety laws and rules. The change makes the rule consistent with an amendment to the Texas Motor Carrier Safety Law, Texas Civil Statutes, Article 6701d, §139, made by the 73rd Legislature, which changed the population requirement from 300,000 to 100,000.

No comments were received regarding adoption of the new sections.

The new sections are adopted pursuant to the Texas Motor Carrier Act, Texas Civil Statutes, Article 911b, which authorize the commission to prescribe rules and regulations for the operations of motor carriers of property.

§5.33. *Safety Regulations of the Department of Transportation.*

(a) The commission incorporates by reference the Federal Motor Carrier Safety Regulations, 49 Code of Federal Regulations, Parts 390-393 and 395-397, including amendments and interpretations thereto.

(b) For purposes of this section only, and with respect to the adoption in subsection (a), certain terms when used in the federal regulations as adopted in subsection (a) of this section will be defined as follows:

(1) the definition of a motor carrier will be the same as that given in Texas Civil Statutes, Article 6701d, §2(o);

(2) the definition of hazardous material shipper will be the same as that given in Texas Civil Statutes, Article 6701d, §2(p);

(3) interstate or foreign commerce will include all movements by motor vehicle, both interstate and intrastate, over the streets and highways of this state;

(4) department means the Railroad Commission of Texas;

(5) regional highway administrator means the director of the Texas Department of Public Safety;

(6) farm vehicle means any vehicle or combination of vehicles controlled and/or operated by a farmer or rancher being used to transport agriculture products, farm machinery, and farm supplies to or from a farm or ranch; and

(7) private carrier means any person not included in the terms "common carrier by motor vehicle" or "contract carrier by motor vehicle" who or which transports by motor vehicle property of which person is the owner, lessee, or bailee, when such transportation is for the purpose of sale, lease, rent, or bailment, or in furtherance of any commercial enterprise.

(c) Exceptions to the adoption in subsection (a) of this section were made by Texas Civil Statutes, Article 6701d, §139, and are adopted as follows.

(1) The regulations shall be applicable to vehicles with an actual gross weight, a registered gross weight, or a gross weight rating in excess of 26,000 pounds, except that the regulations will be applicable to farm vehicles with an actual gross weight, a registered gross weight, or vehicles with a gross rating of 48,000 pounds or more. Vehicles transporting 15 or more passengers and all vehicles transporting hazardous materials requiring a placard are subject to the regulations.

(2) Drivers in intrastate commerce will be permitted to drive 12 hours following eight consecutive hours off duty.

(3) Such regulations shall not apply to vehicles operated intrastate used in oil or water well servicing or drilling which are constructed as a machine consisting of a mast, an engine for power, a draw works, and a chassis permanently constructed or assembled for such purpose or purposes.

(4) Such regulations shall not apply to a mobile crane which is an unladen, self-propelled vehicle constructed as a machine used to raise, shift, or lower weights when operated intrastate.

(5) The maintenance of any type of government form, separate company form, driver's record of duty status, or a driver's daily log is not required if the vehicle is operated within a 150 air mile radius of the normal work reporting location:

(A) if owner has another method by which he keeps, as a business record, date and time of delivery of product or service, and location of delivery of prod-

uct or service so that a general record of the driver's hours of service may be compiled; or

(B) if another law requires or specifies the maintenance of delivery tickets, sales invoices, or other documents which show the date of delivery and quantity of merchandise delivered, so that a general record of the driver's hours of service may be compiled; and

(C) provided that the business records generally conform with the following:

(i) the time the driver reports for duty each day;

(ii) the total number of hours the driver is on duty each day;

(iii) the time the driver is released from duty each day; and

(iv) the total time for the preceding seven days in accordance with 49 Code of Federal Regulations, §395.8, of the Federal Motor Carrier Safety Regulations for drivers used for the first time or intermittently.

(6) Drivers who are not transporting hazardous materials and were regularly employed in Texas as an intrastate motor carrier prior to the effective date of this adoption are not required to meet the medical standards contained in the federal regulations.

(A) For the purpose of enforcement of this regulation, those drivers who reached their 18th birthday after September 1, 1989, shall be required to meet all medical standards.

(B) The exceptions contained in this paragraph shall not be deemed as exemption from drug testing requirements contained in 49 Code of Federal Regulations, Part 391.

(d) Exceptions adopted by the commission not specified in Texas Civil Statutes, Article 6701d, §139, are as follows.

(1) 49 Code of Federal Regulations, §393.86, requiring rear end protection shall not be applicable provided the vehicle was manufactured prior to September 1, 1991.

(2) Under this section, the Texas Department of Public Safety may provide a waiver for a person who is otherwise disqualified under 49 Code of Federal Regulations, §391.41(b)(10), provided the person meets the vision standards adopted by the Texas Department of Public Safety in 37 Texas Administrative Code §15.51 (relating to vision tests).

(A) Applications for a waiver shall not be accepted by the Texas Department of Public Safety after January 1, 1990.

(B) Waivers granted under this paragraph are automatically renewed, provided the applicant continues to meet vision standards adopted by the Texas Department of Public Safety in 37 Texas Administrative Code §15.51 (relating to vision tests).

(3) Drivers of vehicles under this section operating in intrastate transportation shall not be permitted to drive after having worked and/or driven for 70 hours in any consecutive seven-day period.

(4) 49 Code of Federal Regulations, §391.11b(1), is not adopted for intrastate drivers. The minimum age for an intrastate driver shall be 18 years of age.

(5) 49 Code of Federal Regulations, §391.11b(2), is not adopted for intrastate drivers. An intrastate driver must have successfully passed the examination for a Texas driver's license and be a minimum age of 18 years old.

(6) 49 Code of Federal Regulations, §391.51, pertaining to driver qualification files is effective on and after January 1, 1990.

(7) Part 391, 49 Code of Federal Regulations, as it pertains to drug testing requirements, are effective on and after December 21, 1990, for intrastate drivers.

(8) Texas Civil Statutes, Article 6701d, §132(b) and (c), concerning brakes on trailers weighing 15,000 pounds gross weight or less, take precedence over the brake requirements in the federal regulations for trailers of this gross weight specification.

(9) Texas Civil Statutes, Article 6701b-1, concerning identifying markings on commercial motor vehicles shall take precedence over 49 Code of Federal Regulations, §390.21, for vehicles operated in intrastate commerce.

(10) Peace officers of any Texas city having a population of 100,000 or more are considered to be certified by the Texas Department of Public Safety and eligible to enforce the Federal Motor Carrier Safety Regulations, provided each officer enforcing the Federal Motor Carrier Safety Regulations must have completed a course of training of which the curriculum and instructors have been approved by the director of the Texas Department of Public Safety. Peace officers requesting certification as required in this paragraph shall submit to the Texas Department of Public Safety a schedule of the courses which have been com-

pleted, including identification of the instructor(s). Peace officers certified by the director of the Texas Department of Public Safety shall have the authority to enforce the regulations herein adopted applicable to intrastate drivers and vehicles and all regulations in 49 Code of Federal Regulations, Parts 390-393 and 395-397, applicable to interstate drivers and vehicles.

(11) Regulations and exceptions adopted herein are applicable to intrastate drivers and vehicles. All regulations contained in 49 Code of Federal Regulations, Parts 390-393 and 395-397, and all amendments thereto pertaining to interstate drivers and vehicles are adopted.

(12) Nothing in this section shall be construed to prohibit an employer from requiring and enforcing more stringent requirements relating to safety of operation and employee safety and health.

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 June 27, 1995.

TRD-9507906 Mary Ross McDonald
Assistant Director, Legal
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Gas
Railroad Commission of
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For further information, please call: (512) 463-7008

Subchapter C. System of Accounts and Records

• 16 TAC §§5.51, 5.52, 5.56-5.59

The Railroad Commission of Texas adopts the repeal of §§5.51, 5.52, and 5.56-5.59, concerning definitions, double entry books required, verification of entries, claim register, information required, and limited common carrier motor carrier, without changes to the proposed text as published in the February 7, 1995, issue of the *Texas Register* (20 TexReg 814).

The commission repeals these sections to eliminate rules that are unnecessary or that have been preempted by the enactment of Title VI of the Federal Aviation Administration Authorization Act of 1994 (Public Law 103-305), effective January 1, 1995, and to reorganize the commission's rules into concise subchapters for each category of the rules.

No comments were received regarding adoption of the repeals.

The repeals are adopted pursuant to the Texas Motor Carrier Act, Texas Civil Statutes, Article 911b; and the Texas Motor Bus Act, Texas Civil Statutes, Article 911a, which authorize the commission to prescribe rules

and regulations for the operations of motor carriers of property and passengers.

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

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TRD-9507871 Mary Ross McDonald
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For further information, please call: (512) 463-7008

Subchapter D. Maintenance, Preservation, and Destruction of Records

• 16 TAC §§5.71-5.73

The Railroad Commission of Texas adopts the repeal of §§5.71-5.73, without changes to the proposed text as published in the February 7, 1995, issue of the *Texas Register* (20 TexReg 815).

The commission repeals these sections to eliminate rules that are unnecessary or that have been preempted by the enactment of Title VI of the Federal Aviation Administration Authorization Act of 1994 (Public Law 103-305), effective January 1, 1995, and to reorganize the commission's rules into concise subchapters for each category of the rules.

No comments were received regarding adoption of the repeals.

The repeals are adopted pursuant to the Texas Motor Carrier Act, Texas Civil Statutes, Article 911b and the Texas Motor Bus Act, Texas Civil Statutes, Article 911a, which authorize the commission to prescribe rules and regulations for the operations of motor carriers of property and passengers.

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 June 27, 1995.

TRD-9507872 Mary Ross McDonald
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Gas
Railroad Commission of
Texas

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

Subchapter E. Annual and Other Reports

• 16 TAC §§5.81-5.83, 5.85

The Railroad Commission of Texas adopts the repeal of §§5.81-5.83 and 5.85, concerning annual report required, form of annual reports, additional reports, and sale and transfer, lease, and annual report, without changes to the proposed text as published in the February 7, 1995, issue of the *Texas Register* (20 TexReg 815).

The commission repeals these sections to eliminate rules that are unnecessary or that have been preempted by the enactment of Title VI of the Federal Aviation Administration Authorization Act of 1994 (Public Law 103-305), effective January 1, 1995, and to reorganize the commission's rules into concise subchapters for each category of the rules.

No comments were received regarding adoption of the repeals.

The repeals are adopted pursuant to the Texas Motor Carrier Act, Texas Civil Statutes, Article 911b and the Texas Motor Bus Act, Texas Civil Statutes, Article 911a, which authorize the commission to prescribe rules and regulations for the operations of motor carriers of property and passengers.

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 June 27, 1995.

TRD-9507873
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Assistant Director, Legal
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Gas
Railroad Commission of
Texas

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Proposal publication date: February 7, 1995

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

Subchapter F. Bills of Lading and Waybills

• 16 TAC §§5.91-5.104

The Railroad Commission of Texas adopts the repeal of §§5.91-5.104, concerning bills of lading to be issued, contents of bills of lading, issuance of waybills, contents of waybills, waybill to accompany shipment, carriers of newspapers, limited common carriers: waybill-bill of lading, carriers of motion picture films, common carriers providing courier service, through billing by regular route common carriers, motor carriers providing service in armored cars and trucks, operations as a parcel carrier, contract carriers providing pickup and delivery service, and contract carriers providing dedicated service, without changes to the proposed text as published in the February 7, 1995, issue of the *Texas Register* (20 TexReg 816).

The commission repeals these sections to eliminate rules that are unnecessary or that have been preempted by the enactment of Title VI of the Federal Aviation Administration Authorization Act of 1994 (Public Law 103-305), effective January 1, 1995, and to reorganize the commission's rules into concise subchapters for each category of the rules.

No comments were received regarding adoption of the repeals.

The repeals are adopted pursuant to the Texas Motor Carrier Act, Texas Civil Statutes, Article 911b, which authorizes the commission to prescribe rules and regulations for the operations of motor carriers of property.

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 June 27, 1995.

TRD-9507874
Mary Ross McDonald
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Railroad Commission of
Texas

Effective date: July 18, 1995

Proposal publication date: February 7, 1995

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

Subchapter C. Household Goods Carriers

• 16 TAC §§5.101, §5.124

The Railroad Commission of Texas adopts new §5.101 and §5.124, concerning definitions and bills of lading to be issued, without changes to the proposed text as published in the February 10, 1995, issue of the *Texas Register* (20 TexReg 928).

The commission adopts these sections in light of recent legislative changes to statutes concerning regulation of transportation to reorganize commission rules into concise subchapters for each category of rules.

No comments were received regarding adoption of the new sections.

The new sections are adopted pursuant to Texas Civil Statutes, Article 911b, which authorizes the commission to prescribe rules and regulations for motor carriers of property.

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 June 27, 1995.

TRD-9507907
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Proposal publication date: February 10, 1995

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

• 16 TAC §§5.103-5.123, 5.125-5.132, 5.134-5.147

The Railroad Commission of Texas adopts new §§5.103-5.113, 5.115-5.122, 5.125-5.132, 5.134, 5.135, and 5.137-5.147, concerning explosives and other dangerous articles, driver's daily log, minimum limits of financial responsibility, insurance carriers, termination of insurance coverage, qualification as self-insurer, compliance with laws and regulations, prohibition of unauthorized services, call and demand service, use of highways, pick-up and delivery service, joinder of motor carrier certificates, division of certificate or permit authority, consolidation of certificate or permit authority, compliance pending approval, cancellation, suspension, and reinstatement of intrastate certificates or permits, reinstatement fee, local representatives, deceptive advertising prohibited, issuance of waybills, freightbills, inventory of shipment, weights, accessorial service statement, claims for loss or damage, equipment registration and cab cards, other identifying marks, joint transportation between carriers, credit, mileage rates, ratemaking, collective rate applications, temporary rates, annual reports, records, examination of facilities and records, registered agent and address for service of process, forms, procedure, and administrative sanctions. Sections 5.102, 5.114, 5.123, and 5.136, concerning safety requirements, operating authority, estimate sheet, and tariff rates and charges, are adopted with changes to the proposed text and withdraws from consideration proposed §5.133, concerning lease-related activities of motor carriers, as published in the February 7, 1995, issue of the *Texas Register* (20 TexReg 816). Sections 5.103-5.113, 5.115-5.122, 5.125-5.132, 5.134, 5.135, and 5.137-5.147 are adopted without changes and will not be republished.

The commission adopts these sections in light of recent legislative changes to statutes concerning regulation of transportation to reorganize commission rules into concise subchapters for each category of rules.

The commission held a public hearing on March 30, 1995, and received both written and oral comments on the proposed rules, summarized as follows.

(1) The safety provisions included in proposed §5.102 exempt vehicles with an actual weight, a registered gross weight, or a gross weight rating of 26,000 pounds or less. Household goods carriers should be subject to the safety requirements regardless of the weight of the vehicle being operated by the carrier.

(2) Proposed §5.102(d)(10) would allow police officers in cities with a population of 300,000 or greater to be certified by the Texas Department of Public Safety to enforce state and federal safety laws and rules. Cities with populations of 100,000 or greater should be permitted to have their peace officers certified to enforce the safety laws. Such a

change to the proposed rule would free up more of the Texas Department of Public Safety officers to work the rural areas of the state.

(3) The commission should not merge separately granted portions of a certificate where there is duplicative authority granted, particularly where there exist "buy-back" agreements between a household goods carrier and its agents. This would be contrary to the long standing practice of the commission as announced in *Applications of Allied Van Lines*, Docket Numbers 007143C8D and 036088A1S, in which the commission held that the "Doctrine of Merger" does not apply where there is a "buy-back" agreement between the carrier and its agent.

(4) The commission should not adopt language in its rules that would require household goods carriers to exercise direction and control of personnel or equipment used in operations under a certificate. Such language in the proposed rules could conflict with the present Internal Revenue Service opinion on the amount of control a carrier can exercise over contractors before they are deemed employees.

(5) The proposed credit rules do not provide relief to carriers who are not paid in a timely manner to compensate them for the cost of money.

(6) In light of legislation reforming trucking regulation now pending in the 74th legislature, and with the high probability of its passage, why is the commission now attempting to change its rules? [Senate Bill 3 was enacted by the 74th Legislature and will become effective on September 1, 1995.]

(7) Because it has no authority to do so, the commission should not adopt rules that establish the existing rates and charges for household goods carriers as benchmark rates from which carriers can charge as much as 15% above or below the current tariff rates.

The commission received other comments, relating to federal deregulation legislation and state legislation pending in the 74th Legislature, which comments cannot be addressed within either the rulemaking function of the commission or within the scope of the notice given for specific proposed rules.

The commission disagrees with comment (1) that all vehicles operated by household goods carriers, regardless of weight, should be subject to the safety requirements of the commission. The legislature has determined in Texas Civil Statutes, Article 6701d, §139, that only vehicles having gross weight rating of 26,000 pounds or less should not be subject to the federal motor carrier safety regulations. Through its adoption of §5.102, the commission is adopting the federal motor carrier safety regulations along with certain exemptions contained in Texas Civil Statutes, Article 6701d, §139, one of which exempts motor vehicles weighing 26,000 pounds or less.

The commission agrees with comment (2) concerning the certification of municipal peace officers in cities with populations of 100,000 or more. Texas Civil Statutes, Article 6701d, §139 was amended by the 73rd Legislature to allow certification of peace officers in

cities with populations of 100,000 or more, instead of the 300,000 or more previously permitted by the statute. The proposed rule failed to recognize this change to the statute. The adopted version of §5.102(d)(10) makes this change, consistent with the amendment to the statute made by the 73rd Legislature.

The commission disagrees with comment (3) concerning the merger of separately granted portions of a certificate(s) where there is a duplicative grant of authority. As proposed, the rule is entirely permissive and allows the commission to consider its past practice as announced in *Applications of Allied Van Lines*, Docket Numbers 007143C8D and 036088A1S, regarding the "Doctrine of Merger." Nevertheless, the commission adopts §5.114(b) with additional language clearly exempting grants of authority to household goods carriers from the "Doctrine of Merger," in cases where there are "buy-back" agreements between carriers and their agents.

The commission agrees with comment (4) concerning the degree of direction and control household goods carriers must exercise over personnel and equipment. Section 5.133 is unnecessary in light of the adoption of §5.121, which sets out the relationship between a household goods carrier and its local agents, and the required control that must be over the activities of such agents. The commission withdraws from consideration proposed §5.133.

The commission disagrees with comment (5) concerning credit extended by carriers of household goods. The commission adopts credit rules identical to those that have been in force at the commission for many years. Those rules require the carriers to investigate the credit worthiness of prospective shippers to ensure that freight bills are paid promptly within the time frame set forth in the rules. A carrier failing to take these required precautions does so at its own risk. The purpose of credit rules is to ensure that household goods carriers maintain an adequate cash flow without having to borrow money to cover operating costs and to prevent undue discrimination between shippers with the extension of credit, not to provide carriers with an additional revenue source to recover the cost of money.

By way of addressing comment (6), the commission's adoption of these rules is intended to provide the Texas Department of Transportation (department) with a comprehensive set of rules that can be used in the likely event that the department is unable to have its own rules in place by September 1, 1995. Senate Bill 3 provides for the department to transfer the existing rules of the commission to administer the act until January 1, 1996. Also, changes are necessary because of the federal preemption of certain state regulatory functions regarding transportation.

With regard to comment (7) concerning benchmark rates, the commission disagrees with the argument that it lacks the authority to establish maximum and minimum rates in this rulemaking, but will decline to adopt §5.136(b) as proposed. The 74th Legislature's passage of Senate Bill 3, which becomes effective on September 1, 1995, makes the concept of rate flexibility moot for carriers of household goods. At most, any

rule in this regard would have a life of only about two months and, with such a short existence, would likely confuse an orderly transition of household goods carriers into an unregulated market. Adopted §5.136 deletes proposed subsection (b) entirely. Adopted §5.123 is also changed from the proposed version, by deleting language referring to the benchmark rates proposed to be established by §5.136(b).

Southwest Warehouse Association was the only group or association commenting on the proposed rules.

The new sections are adopted pursuant to the Texas Motor Carrier Act, Texas Civil Statutes, Article 911b, which authorizes the commission to prescribe rules and regulations for the operations of motor carriers of property.

§5.102. Safety Requirements.

(a) The commission incorporates by reference the Federal Motor Carrier Safety Regulations, 49 Code of Federal Regulations, Parts 390-393 and 395-397, including amendments and interpretations thereto.

(b) For purposes of this section only, and with respect to the adoption in subsection (a), certain terms when used in the federal regulations as adopted in subsection (a) of this section will be defined as follows:

(1) the definition of a motor carrier will be the same as that given in Texas Civil Statutes, Article 6701d, §2(o);

(2) the definition of hazardous material shipper will be the same as that given in Texas Civil Statutes, Article 6701d, §2(p);

(3) interstate or foreign commerce will include all movements by motor vehicle, both interstate and intrastate, over the streets and highways of this state;

(4) department means the Railroad Commission of Texas;

(5) regional highway administrator means the director of the Texas Department of Public Safety;

(6) farm vehicle means any vehicle or combination of vehicles controlled and/or operated by a farmer or rancher being used to transport agriculture products, farm machinery, and farm supplies to or from a farm or ranch; and

(7) private carrier means any person not included in the terms "common carrier by motor vehicle" or "contract carrier by motor vehicle" who or which transports by motor vehicle property of which person is the owner, lessee, or bailee, when such transportation is for the purpose of sale, lease, rent, or bailment, or in furtherance of any commercial enterprise.

(c) Exceptions to the adoption in subsection (a) of this section were made by

Texas Civil Statutes, Article 6701d, §139, and are adopted as follows.

(1) The regulations shall be applicable to vehicles with an actual gross weight, a registered gross weight, or a gross weight rating in excess of 26,000 pounds, except that the regulations will be applicable to farm vehicles with an actual gross weight, a registered gross weight, or vehicles with a gross rating of 48,000 pounds or more. Vehicles transporting 15 or more passengers and all vehicles transporting hazardous materials requiring a placard are subject to the regulations.

(2) Drivers in intrastate commerce will be permitted to drive 12 hours following eight consecutive hours off duty.

(3) Such regulations shall not apply to vehicles operated intrastate used in oil or water well servicing or drilling which are constructed as a machine consisting of a mast, an engine for power, a draw works, and a chassis permanently constructed or assembled for such purpose or purposes.

(4) Such regulations shall not apply to a mobile crane which is an unladen, self-propelled vehicle constructed as a machine used to raise, shift, or lower weights when operated intrastate.

(5) The maintenance of any type of government form, separate company form, driver's record of duty status, or a driver's daily log is not required if the vehicle is operated within a 150 air mile radius of the normal work reporting location:

(A) if owner has another method by which he keeps, as a business record, date and time of delivery of product or service, and location of delivery of product or service so that a general record of the driver's hours of service may be compiled; or

(B) if another law requires or specifies the maintenance of delivery tickets, sales invoices, or other documents which show the date of delivery and quantity of merchandise delivered, so that a general record of the driver's hours of service may be compiled; and

(C) provided that the business records generally conform with the following:

(i) the time the driver reports for duty each day;

(ii) the total number of hours the driver is on duty each day;

(iii) the time the driver is released from duty each day; and

(iv) the total time for the preceding seven days in accordance with 49 Code of Federal Regulations, §395.8, of the Federal Motor Carrier Safety Regulations for drivers used for the first time or intermittently.

(6) Drivers who are not transporting hazardous materials and were regularly employed in Texas as an intrastate motor carrier prior to the effective date of this adoption are not required to meet the medical standards contained in the federal regulations.

(A) For the purpose of enforcement of this regulation, those drivers who reached their 18th birthday after September 1, 1989, shall be required to meet all medical standards.

(B) The exceptions contained in this paragraph shall not be deemed as exemption from drug testing requirements contained in 49 Code of Federal Regulations, Part 391.

(d) Exceptions adopted by the commission not specified in Texas Civil Statutes, Article 6701d, §139, are as follows.

(1) 49 Code of Federal Regulations, §393.86, requiring rear end protection shall not be applicable provided the vehicle was manufactured prior to September 1, 1991.

(2) Under this section, the Texas Department of Public Safety may provide a waiver for a person who is otherwise disqualified under 49 Code of Federal Regulations, §391.41(b)(10), provided the person meets the vision standards adopted by the Texas Department of Public Safety in 37 Texas Administrative Code §15.51 (relating to vision tests).

(A) Applications for a waiver shall not be accepted by the Texas Department of Public Safety after January 1, 1990.

(B) Waivers granted under this paragraph are automatically renewed, provided the applicant continues to meet vision standards adopted by the Texas Department of Public Safety in 37 Texas Administrative Code §15.51 (relating to vision tests).

(3) Drivers of vehicles under this section operating in intrastate transportation shall not be permitted to drive after having worked and/or driven for 70 hours in any consecutive seven-day period.

(4) 49 Code of Federal Regulations, §391.11(b)(1), is not adopted for intrastate drivers. The minimum age for an intrastate driver shall be 18 years of age.

(5) 49 Code of Federal Regulations, §391.11(b)(2), is not adopted for intrastate drivers. An intrastate driver must have successfully passed the examination for a Texas driver's license and be a minimum age of 18 years old.

(6) 49 Code of Federal Regulations, §391.51, pertaining to driver qualification files is effective on and after January 1, 1990.

(7) The portions of 49 Code of Federal Regulations, Part 391, pertaining to drug testing requirements, are effective on and after December 21, 1990 for intrastate drivers.

(8) Texas Civil Statutes, Article 6701d, §132(b) and (c), concerning brakes on trailers weighing 15,000 pounds gross weight or less, take precedence over the brake requirements in the federal regulations for trailers of this gross weight specification.

(9) Texas Civil Statutes, Article 6701b-1, concerning identifying markings on commercial motor vehicles shall take precedence over 49 Code of Federal Regulations, §390.21, for vehicles operated in intrastate commerce.

(10) Peace officers of any Texas city having a population of 100,000 or more are considered to be certified by the Texas Department of Public Safety and eligible to enforce the Federal Motor Carrier Safety Regulations, provided each officer enforcing the Federal Motor Carrier Safety Regulations must have completed a course of training of which the curriculum and instructors have been approved by the director of the Texas Department of Public Safety. Peace officers requesting certification as required in this paragraph shall submit to the Texas Department of Public Safety a schedule of the courses which have been completed, including identification of the instructor(s). Peace officers certified by the director of the Texas Department of Public Safety shall have the authority to enforce the regulations herein adopted applicable to intrastate drivers and vehicles and all regulations in 49 Code of Federal Regulations, Parts 390-393 and 395-397, applicable to interstate drivers and vehicles.

(11) Regulations and exceptions adopted herein are applicable to intrastate drivers and vehicles. All regulations contained in 49 Code of Federal Regulations, Parts 390-393 and 395-397, and all amendments thereto pertaining to interstate drivers and vehicles are adopted.

(12) Nothing in this section shall be construed to prohibit an employer from requiring and enforcing more stringent requirements relating to safety of operation and employee safety and health.

§5.114. Operating Authority.

(a) Certificate of public convenience and necessity or permit required. No household goods carrier shall transport household goods for hire between two or more incorporated cities without first obtaining a certificate of public convenience and necessity or permit from the commission. The application fee for a certificate of public convenience and necessity or permit shall be \$100. The application shall be in the form prescribed by the commission.

(b) Duplicative authority prohibited. No household goods carrier shall be granted operating authority duplicative of that held by such household goods carrier under any existing certificate or permit. If a household goods carrier receives additional duplicative authority by sale or transfer, the commission may provide for merger of the duplicative portion of such authority, except where there exists a bona fide contract between a household goods carrier and its agent providing for the repurchase of the authority by the agent.

(c) Sale, assignment, lease, or transfer of operating authority.

(1) On application a certificate or permit may be sold, assigned, leased, or transferred, with the approval of the commission and upon payment of a tax equal to 10% of the amount paid as consideration for the certificate.

(2) A person acquiring control over a household goods carrier, whether through ownership of stock, merger, consolidation, or otherwise, shall, within 15 days after the day on which control is acquired, file notice of the change in controlling interest with the director.

(3) Authority is dormant, and an application to transfer may be denied, if the commission finds that the authority, or any portion thereof, has been inactive for a period of at least three consecutive years, with no resumption of activity for a period of at least one year prior to the filing of the application. If a complaint alleging dormancy is filed against a certificate holder and the authority is shown to be dormant, then the complaint may be sustained and the dormant authority may be canceled. Nothing in this section shall prohibit the commission from bringing on its own motion a complaint alleging dormancy.

(4) A current intrastate operating report covering the operation in that portion of the year immediately preceding the sale, transfer, or lease of a certificate or permit must be furnished by the seller or lessor before final approval of the sale and transfer or lease will be given by the commission.

(d) Voluntary suspension of a certificate. On application by a household

goods carrier, the commission may authorize such household goods carrier to suspend services under its certificate or permit for a period not to exceed one year. The application shall be in the form prescribed by the commission. The application shall be accompanied by all cab cards currently held by the applicant, together with a reinstatement fee of \$25. No notice of hearing shall be required in such cases. Upon subsequent application, the commission may authorize a household goods carrier to suspend service for one additional year without notice or hearing. Any subsequent application for authority to suspend service shall be heard and determined by the commission.

(e) Transportation of property other than household goods. Household goods carriers transporting property other than household goods in equipment registered with the commission are not required to comply with §5.22 of this title (relating to application for certificate of registration) and §5.23 of this title (relating to cab cards). All other provisions in Subchapter B of this title (relating to commercial carriers) will apply to household goods carriers when operating as commercial carriers.

§5.123. Estimate Sheet.

(a) Estimate of total charges made at shipper request. Whenever a shipper requests that an estimated total cost of proposed services or estimated total weight of shipment be furnished by a household goods carrier, the household goods carrier shall furnish a written estimate of charges before the shipment is loaded and only after a visual inspection of the goods to be moved is made by the estimator. The estimate sheet shall be made in the form prescribed by the commission.

(b) Required information on estimate sheet. Such estimate shall contain the information hereinafter set forth, and across the top of each form there shall be imprinted in red letters not less than 1/2 inch high, the words "estimated cost of service." The following statement will also be included on the estimate form in red letters not less than 1/4 inch high: "Not a guaranteed price. When assessing final charges to the shipper, the actual weight, obtained after loading is completed, will be used." The form shall be fully executed as appropriate in each case in accordance with the instructions therein. The original or a true legible copy of each estimate form prepared in accordance with this subsection shall be delivered to the shipper and a copy thereof shall be maintained by the carrier as part of its record of shipment, in accordance with §5.142 of this chapter (relating to records).

(c) Notification of actual weight. Whenever the shipper specifically requests

notification of the actual weight and charges on a shipment, the carrier shall determine the actual weight and charges and notify the shipper within 24 hours of the time the shipment is offered for delivery. Such notification shall be at the carrier's expense. Where the shipment is in transit less than 24 hours, notification shall be made at the earliest possible time.

(d) Actual charges greater than estimated charges. When assessing final charges to the shipper, the carrier must utilize the percentage, if any, from the applicable benchmark rate as in the estimate to the shipper in assessing the total charges. Whenever actual transportation charges, including packing and other accessorial charges, exceed the estimated charges by more than 10% or \$25, whichever is greater, the carrier shall notify the shipper of the amount thereof by telegram or telephone at the carrier's expense. Such notice shall be made no later than 24 hours prior to the time the shipment is offered for delivery, except where the shipment is in transit less than 24 hours. Where the shipment is in transit less than 24 hours, notification shall be made at the earliest possible time. This subsection shall not apply:

(1) where credit is to be extended by the carrier; or

(2) where the shipper has not supplied an address or telephone number at which the communication would be received.

(e) Reports of underestimates. At the request of the director, a household goods carrier shall report all instances of underestimates during the preceding month.

§5.136. Tariff Rates and Charges. No household goods carrier shall charge, demand, collect, or receive, a different compensation for transportation services or for any accessorial service rendered, other than the rates and charges specified in the applicable tariff as prescribed by the commission. No allowance is permitted unless prescribed in the applicable tariff.

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 June 27, 1995.

TRD-9507898
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Assistant Director, Legal
Division-Gas Utilities/LP
Gas
Railroad Commission of
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Proposal publication date: February 7, 1995

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



Subchapter G. C.O.D. Shipments

• 16 TAC §§5.111-5.117

The Railroad Commission of Texas adopts the repeal of §§5.111-5.117, concerning C.O.D. shipments permitted, C.O.D. bonds or affidavits in lieu thereof, package to be marked, collection of C.O.D. charges, undelivered C.O.D. shipments, remittance, and C.O.D. records, without changes to the proposed text as published in the February 7, 1995, issue of the *Texas Register* (20 TexReg 829).

The commission repeals these sections to eliminate rules that are unnecessary or that have been preempted by the enactment of Title VI of the Federal Aviation Administration Authorization Act of 1994 (Public Law 103-305), effective January 1, 1995, and to reorganize the commission's rules into concise subchapters for each category of the rules.

No comments were received regarding adoption of the repeals.

The repeals are adopted pursuant to the Texas Motor Carrier Act, Texas Civil Statutes, Article 911b and the Texas Motor Bus Act, Texas Civil Statutes, Article 911a, which authorize the commission to prescribe rules and regulations for the operations of motor carriers of property and passengers.

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

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

Subchapter H. Tariffs and Schedules

• 16 TAC §§5.131-5.148

The Railroad Commission of Texas adopts the repeal of §§5.131-5.148, concerning maintenance of copies, variations in charges prohibited, allowances prohibited, temporary rates, commencement of operations, weights to be used in assessing freight charges, weighing unnecessary, alternation of freight charges, mileage rates, reference to other documents, freight bills, contract for indemnity, credit, shipper certification of weight or other measure used in assessing freight charges, prescribed rates, rates, ratemaking standards, and collective applications, without changes to the proposed text as published in the February 7, 1995, issue of the *Texas Register* (20 TexReg 830).

The commission repeals these sections to eliminate rules that are unnecessary or that have been preempted by the enactment of Title VI of the Federal Aviation Administration Authorization Act of 1994 (Public Law 103-305), effective January 1, 1995, and to reorganize the commission's rules into concise subchapters for each category of the rules.

No comments were received regarding adoption of the repeals.

The repeals are adopted pursuant to the Texas Motor Carrier Act, Texas Civil Statutes, Article 911b and the Texas Motor Bus Act, Texas Civil Statutes, Article 911a, which authorize the commission to prescribe rules and regulations for the operations of motor carriers of property and passengers.

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

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TRD-9507876
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For further information, please call: (512) 463-7008

Subchapter I. Equipment, Identification and Reports

• 16 TAC §§5.151-5.153

The Railroad Commission of Texas adopts the repeal of §§5.151-5.153, concerning equipment reports, cab cards, and other identifying marks, without changes to the proposed text as published in the February 7, 1995, issue of the *Texas Register* (20 TexReg 830).

The commission repeals these sections to eliminate rules that are unnecessary or that have been preempted by the enactment of Title VI of the Federal Aviation Administration Authorization Act of 1994 (Public Law 103-305), effective January 1, 1995, and to reorganize the commission's rules into concise subchapters for each category of the rules.

No comments were received regarding adoption of the repeals.

The repeals are adopted pursuant to the Texas Motor Carrier Act, Texas Civil Statutes, Article 911b and the Texas Motor Bus Act, Texas Civil Statutes, Article 911a, which authorize the commission to prescribe rules and regulations for the operations of motor carriers of property and passengers.

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 June 27, 1995.

TRD-9507877
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For further information, please call: (512) 463-7008

Subchapter J. Leasing and Interchange of Equipment

• 16 TAC §§5.161-5.163, 5.167

The Railroad Commission of Texas adopts the repeal of §§5.161-5.163 and 5.167, concerning leasing of power equipment, leasing and interchange of trailers, lease of motor vehicle with operator, and lease-related activities of motor carriers, without changes to the proposed text as published in the February 7, 1995, issue of the *Texas Register* (20 TexReg 831).

The commission repeals these sections to eliminate rules that are unnecessary or that have been preempted by the enactment of Title VI of the Federal Aviation Administration Authorization Act of 1994 (Public Law 103-305), effective January 1, 1995, and to reorganize the commission's rules into concise subchapters for each category of the rules.

No comments were received regarding adoption of the repeals.

The repeals are adopted pursuant to the Texas Motor Carrier Act, Texas Civil Statutes, Article 911b, which authorizes the commission to prescribe rules and regulations for the operations of motor carriers of property.

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 June 27, 1995.

TRD-9507878
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For further information, please call: (512) 463-7008

Subchapter K. Safety Requirements

• 16 TAC §§5.171-5.173

The Railroad Commission of Texas adopts the repeal of §§5.171-5.173, concerning safety regulations of the Department of Transportation adopted, explosives and other

dangerous articles, and driver's daily logs, without changes to the proposed text as published in the February 7, 1995, issue of the *Texas Register* (20 TexReg 831).

The commission repeals these sections to eliminate rules that are unnecessary or that have been preempted by the enactment of Title VI of the Federal Aviation Administration Authorization Act of 1994 (Public Law 103-305), effective January 1, 1995, and to reorganize the commission's rules into concise subchapters for each category of the rules.

No comments were received regarding adoption of the repeals.

The repeals are adopted pursuant to the Texas Motor Carrier Act, Texas Civil Statutes, Article 911b and the Texas Motor Bus Act, Texas Civil Statutes, Article 911a, which authorize the commission to prescribe rules and regulations for the operations of motor carriers of property and passengers.

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 June 27, 1995.

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

Subchapter L. Insurance Requirements

• 16 TAC §§5.181-5.187

The Railroad Commission of Texas adopts the repeal of §§5.181-5.187, concerning evidence of insurance required, qualification as self-insurer, minimum limits, insurance carrier, termination, cargo insurance exceptions, and failure of insurance carrier, without changes to the proposed text as published in the February 7, 1995, issue of the *Texas Register* (20 TexReg 832).

The commission repeals these sections to eliminate rules that are unnecessary or that have been preempted by the enactment of Title VI of the Federal Aviation Administration Authorization Act of 1994 (Public Law 103-305), effective January 1, 1995, and to reorganize the commission's rules into concise subchapters for each category of the rules.

No comments were received regarding adoption of the repeals.

The repeals are adopted pursuant to the Texas Motor Carrier Act, Texas Civil Statutes, Article 911b and the Texas Motor Bus Act, Texas Civil Statutes, Article 911a, which authorize the commission to prescribe rules and regulations for the operations of motor carriers of property and passengers.

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

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TRD-9507880 Mary Ross McDonald
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Subchapter M. Motor Bus Companies

• 16 TAC §§5.201-5.246, 5.248, 5.249

The Railroad Commission of Texas adopts the repeal of §§5.201-5.246, 5.248, and 5.249, concerning condition of buses, heating system, interior lighting system, tires, cleaning, disinfecting, and deinfestation, reserve equipment, posted information, sign prohibiting conversation with the driver, trailers, qualifications of drivers, conduct of drivers, conduct of passengers, right of transportation, transportation of property, receiving and discharging passengers, railroad crossings, insurance, systems of accounts and records, stations and terminals, station facilities, prohibited conduct, rest stops, posting of schedules, routing of passengers, baggage, compliance with schedules, unauthorized schedules, call and demand, irregular route service, interruption of service, deviation from authorized routes, establishment, change or discontinuation of bus schedules, connecting line agreement, interline bond, charger operation, transportation of Mexican national migratory workers, driver's trip report required, rates, fares, and charges for motor bus companies, required information of trip tickets, required information on continuous passage tickets, credit extended for transportation, lease or rental of motor buses, method of keeping records, motor bus package express-uniform bus bill, through bus agreements, government subsidized or mileage-reimbursed motor bus operations, registration and operation of intrastate certificates issued by the Interstate Commerce Commission pursuant to 49 United States Code, §10922, contract motor bus companies, motor bus certificates, rates, and regulations, and operations wholly within certain cities and their suburbs, without changes to the proposed text as published in the February 7, 1995, issue of the *Texas Register* (20 TexReg 832).

The commission repeals these sections to eliminate rules that are unnecessary or that have been preempted by the enactment of Title VI of the Federal Aviation Administration Authorization Act of 1994 (Public Law 103-305), effective January 1, 1995, and Title II of the Trucking Industry Regulatory Reform Act of 1994 (Public Law 103-311), and to

reorganize the commission's rules into concise subchapters for each category of the rules.

No comments were received regarding adoption of the repeals.

The repeals are adopted pursuant to the Texas Motor Carrier Act, Texas Civil Statutes, Article 911b and the Texas Motor Bus Act, Texas Civil Statutes, Article 911a, which authorize the commission to prescribe rules and regulations for the operations of motor carriers of property and passengers.

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 June 27, 1995.

TRD-9507881 Mary Ross McDonald
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For further information, please call: (512) 463-7008

Subchapter D. Motor Bus Companies

• 16 TAC §§5.201-5.246

The Railroad Commission of Texas adopts new §§5.201, 5.203-5.210, and 5.212-5.246, concerning definitions, explosives and other dangerous articles, driver's daily log, minimum limits of financial responsibility, insurance carriers, qualification as self-insurer, compliance with laws and regulations, prohibition of unauthorized services, use of highways, registration and operation of intrastate certificates issued by the Interstate Commerce Commission pursuant to 49 United States Code, §10922, operations wholly within certain cities and their suburbs, division of certificate or permit authority, consolidation of certificate or permit authority, compliance pending approval, voluntary suspension, cancellation, suspension, and reinstatement of intrastate certificates or permits, reinstatement fee, motor bus equipment, equipment registration and cab cards, other identifying marks, conduct of drivers and passengers, tickets, credit extended for transportation, trip report required, claims for loss or damage, stations and terminals, routing, establishment, change, or discontinuance of bus schedules, connecting line agreement, rates, fares, and charges of motor bus companies operating a wholly intrastate route, charter, or call and demand service, rate-making, collective rate applications, annual report required, annual review of motor bus base rates and charges, deviations from motor bus base rates, publication of deviations, suspension of deviations, specific rates and charges, records required, examination of facilities and records, registered agent and address for service of process, forms, procedure, and administrative sanctions. Section 5.202 and

§5.211, concerning safety regulations of the Department of Transportation and operating authority, are adopted with changes to the proposed text as published in the February 7, 1995, issue of the *Texas Register* (20 TexReg 833). Sections 5.201, 5.203-5.210, and 5.212-5.246 are adopted without changes and will not be republished.

The commission adopts these sections to eliminate rules that are unnecessary or that have been preempted by the enactment of Title VI of the Federal Aviation Administration Authorization Act of 1994 (Public Law 103-305), and of the Trucking Industry Regulatory Reform Act of 1994 (Public Law 103-311), and to reorganize the commission's rules into concise subchapters for each category of rules.

The commission received one comment concerning the proposed new sections. The commenter, a motor bus company serving the transportation needs of 30 school districts in Texas pursuant to Texas Education Code, §§21.181, supported adoption of §§5.229(f), 5.211(h)(1)(C), and 5.232, and urged the commission to adopt additional language within the proposed rules that would exempt providers of motor bus transportation service under contract with a college or university from the public convenience and necessity requirements imposed by the Texas Motor Bus Act, Texas Civil Statutes, Article 911a. Additionally, this commenter sought clarifying language in the adopted rules to the effect that the restrictions proposed in §5.211(h)(2) do not apply to those motor bus companies providing service pursuant to Texas Education Code, §21.181, or those that provide service to colleges or universities.

The commission disagrees with the commenter concerning the addition of language that providers of bus services under contract with colleges or universities should be exempt from the public convenience and necessity requirements of the Texas Motor Bus Act with the adoption of these rules. The commission finds the addition of such language would be beyond the scope of the subject matter contained in these proposed rules, and thus proper notice has not been provided to the public regarding such additional language. The commenter's proposal in this regard could be taken up in a petition for rulemaking after final adoption of these rules.

The commission finds merit in the commenter's suggestion for clarifying language in §5.211(h)(2) regarding providers of bus services pursuant to Texas Education Code, §21.181. Providers of school bus services would be restricted to irregular route, call-and-demand service, for example, as the proposed rule might have been construed. Accordingly, §5.211(h)(2) has been changed to clarify this possible but unintended construction.

The text in §5.202(d)(10) is changed to allow law enforcement officers in cities with populations of 100,000 or more to be certified by the Department of Public Safety in the enforcement of federal and state motor carrier safety laws and rules. This change makes the rule consistent with an amendment to the Texas Motor Carrier Safety Law, Texas Civil Statutes, Article 6701d, §139, made by the 73rd

Legislature, which changed the population requirement for such certification from 300,000 to 100,000.

The commission received no comments from groups or associations regarding the adoption of these rules.

The new sections are adopted pursuant to the Texas Motor Carrier Act, Texas Civil Statutes, Article 911b and the Texas Motor Bus Act, Texas Civil Statutes, Article 911a, which authorize the commission to prescribe rules for the operations of motor carriers of property and passengers.

§5.202. *Safety Regulations of the Department of Transportation.*

(a) The commission incorporates by reference the Federal Motor Carrier Safety Regulations, 49 Code of Federal Regulations, Parts 390-393 and 395-397, including amendments and interpretations thereto.

(b) For purposes of this section only, and with respect to the adoption in subsection (a) of this section, certain terms when used in the federal regulations as adopted in subsection (a) of this section will be defined as follows:

(1) the definition of a motor carrier will be the same as that given in Texas Civil Statutes, Article 6701d, §2(o);

(2) the definition of hazardous material shipper will be the same as that given in Texas Civil Statutes, Article 6701d, §2(p);

(3) interstate or foreign commerce will include all movements by motor vehicle, both interstate and intrastate, over the streets and highways of this state;

(4) department means the Railroad Commission of Texas;

(5) regional highway administrator means the director of the Texas Department of Public Safety;

(6) farm vehicle means any vehicle or combination of vehicles controlled and/or operated by a farmer or rancher being used to transport agriculture products, farm machinery, and farm supplies to or from a farm or ranch; and

(7) private carrier means any person not included in the terms "common carrier by motor vehicle" or "contract carrier by motor vehicle" who or which transports by motor vehicle property of which such person is the owner, lessee, or bailee, when such transportation is for the purpose of sale, lease, rent, or bailment, or in furtherance of any commercial enterprise.

(c) Exceptions to the adoption in subsection (a) of this section were made by Texas Civil Statutes, Article 6701d, §139, and are adopted as follows.

(1) The regulations shall be applicable to vehicles with an actual gross weight, a registered gross weight, or a gross weight rating in excess of 26,000 pounds, except that the regulations will be applicable to farm vehicles with an actual gross weight, a registered gross weight, or vehicles with a gross rating of 48,000 pounds or more. Vehicles transporting 15 or more passengers and all vehicles transporting hazardous materials requiring a placard are subject to the regulations.

(2) Drivers in intrastate commerce will be permitted to drive 12 hours following eight consecutive hours off duty.

(3) Such regulations shall not apply to vehicles operated intrastate used in oil or water well servicing or drilling which are constructed as a machine consisting of a mast, an engine for power, a draw works, and a chassis permanently constructed or assembled for such purpose or purposes.

(4) Such regulations shall not apply to a mobile crane which is an unladen, self-propelled vehicle constructed as a machine used to raise, shift, or lower weights when operated intrastate.

(5) The maintenance of any type of government form, separate company form, driver's record of duty status, or a driver's daily log is not required if the vehicle is operated within a 150 air mile radius of the normal work reporting location:

(A) if the owner has another method by which he keeps, as a business record, date and time of delivery of product or service, and location of delivery of product or service so that a general record of the driver's hours of service may be compiled; or

(B) if another law requires or specifies the maintenance of delivery tickets, sales invoices, or other documents which show the date of delivery and quantity of merchandise delivered, so that a general record of the driver's hours of service may be compiled; and

(C) provided that the business records generally conform with the following:

(i) the time the driver reports for duty each day;

(ii) the total number of hours the driver is on duty each day;

(iii) the time the driver is released from duty each day; and

(iv) the total time for the preceding seven days in accordance with 49 Code of Federal Regulations, §395.8, of the

Federal Motor Carrier Safety Regulations for drivers used for the first time or intermittently.

(6) Drivers who are not transporting hazardous materials and were regularly employed in Texas as an intrastate motor carrier prior to the effective date of this adoption are not required to meet the medical standards contained in the federal regulations.

(A) For the purpose of enforcement of this regulation, those drivers who reached their 18th birthday after September 1, 1989, shall be required to meet all medical standards.

(B) The exceptions contained in this paragraph shall not be deemed as exempt from drug testing requirements contained in 49 Code of Federal Regulations, Part 391.

(d) Exceptions adopted by the commission not specified in Texas Civil Statutes, Article 6701d, §139, are as follows.

(1) 49 Code of Federal Regulations, §393.86, requiring rear end protection shall not be applicable provided the vehicle was manufactured prior to September 1, 1991.

(2) Under this section, the Texas Department of Public Safety may provide a waiver for a person who is otherwise disqualified under 49 Code of Federal Regulations, §391.41(b)(10), provided the person meets the vision standards adopted by the Texas Department of Public Safety in 37 Texas Administrative Code §15.51 (relating to vision tests).

(A) Applications for a waiver shall not be accepted by the Texas Department of Public Safety after January 1, 1990.

(B) Waivers granted under this paragraph are automatically renewed, provided the applicant continues to meet vision standards adopted by the Texas Department of Public Safety in 37 Texas Administrative Code §15.51 (relating to vision tests).

(3) Drivers of vehicles under this section operating in intrastate transportation shall not be permitted to drive after having worked and/or driven for 70 hours in any consecutive seven-day period.

(4) 49 Code of Federal Regulations, §391.(b)(1), is not adopted for intrastate drivers. The minimum age for an intrastate driver shall be 18 years of age.

(5) 49 Code of Federal Regulations, §391.11(b)(2), is not adopted for in-

trastate drivers. An intrastate driver must have successfully passed the examination for a Texas driver's license and be a minimum age of 18 years old.

(6) 49 Code of Federal Regulations, §391.51, pertaining to driver qualification files is effective on and after January 1, 1990.

(7) The portions of 49 Code of Federal Regulations, Part 391, pertaining to drug testing requirements, are effective on and after December 21, 1990, for intrastate drivers.

(8) Texas Civil Statutes, Article 6701d, §132(b) and (c), as it relates to brakes on trailers weighing 15,000 pounds gross weight or less, takes precedence over the brake requirements in the federal regulations for trailers of this gross weight specification.

(9) Texas Civil Statutes, Article 6701b-1, concerning identifying markings on commercial motor vehicles, shall take precedence over 49 Code of Federal Regulations, §390.21, for vehicles operated in intrastate commerce.

(10) Peace officers of any Texas city having a population of 100,000 or more are considered to be certified by the Texas Department of Public Safety and eligible to enforce the Federal Motor Carrier Safety Regulations, provided each officer enforcing the Federal Motor Carrier Safety Regulations must have completed a course of training of which the curriculum and instructors have been approved by the director of the Texas Department of Public Safety. Peace officers requesting certification as required in this paragraph shall submit to the Texas Department of Public Safety a schedule of the courses which have been completed, including identification of the instructor(s). Peace officers certified by the director of the Texas Department of Public Safety shall have the authority to enforce the regulations herein adopted applicable to intrastate drivers and vehicles and all regulations in 49 Code of Federal Regulations, Parts 390-393 and 395-397, applicable to interstate drivers and vehicles.

(11) Regulations and exceptions adopted herein are applicable to intrastate drivers and vehicles. All regulations contained in 49 Code of Federal Regulations, Parts 390-393 and 395-397, and all amendments thereto pertaining to interstate drivers and vehicles are adopted.

(12) Nothing in this section shall be construed to prohibit an employer from requiring and enforcing more stringent requirements relating to safety of operations and employee safety and health.

§5.211. Operating Authority.

(a) Certificate required. Motor bus companies may provide intrastate regular route passenger service in Texas only to the extent authorized in a certificate issued by the commission after demonstrating a need of public convenience and necessity or by the Interstate Commerce Commission pursuant to 49 United States Code, §10922.

(b) Duplicative authority prohibited. No motor bus company shall be granted operating authority duplicative of that held by such motor bus company under any existing certificate or permit. If a motor bus company receives additional duplicative authority by sale or transfer, the commission may provide for merger of the duplicative portion of such authority.

(c) Sale, assignment, lease, or transfer of operating authority.

(1) A certificate or permit may be sold, assigned, leased, or transferred, with the approval of the commission and upon payment of a tax equal to 10% of the amount paid as consideration for the certificate.

(2) A person acquiring control over a motor bus company, whether through ownership of stock, merger, consolidation, or otherwise, shall, within 15 days after the day on which control is acquired, file notice of the change in controlling interest with the director.

(3) Authority is dormant, and an application to transfer may be denied, if the commission finds that the authority, or any portion thereof, has been inactive for a period of at least three consecutive years, with no resumption of activity for a period of at least one year prior to the filing of the application. If a complaint alleging dormancy is filed against a certificate holder and the authority is shown to be dormant, then the complaint may be sustained and the dormant authority may be cancelled. Nothing in this section shall prohibit the commission from bringing on its own motion a complaint alleging dormancy.

(4) A current intrastate operating report covering the operation in that portion of the year immediately preceding the sale, transfer, or lease of a certificate or permit must be furnished by the seller or lessor before final approval of the sale and transfer or lease will be given by the commission.

(d) Charter operation. Authority to transport charter or special parties may be obtained by demonstrating a public convenience and necessity for such service.

(e) Call and demand; irregular route service. A motor bus company may operate on a call and demand or irregular route

basis, or both, provided such service is specifically authorized by its certificate and the service rendered qualifies under one or more of the following conditions:

(1) the vehicle used in such service has a seating capacity of not more than 15 persons, including the driver;

(2) the origin or destination point is an airport at which regularly schedule airlines depart and arrive;

(3) the service rendered is dedicated to transporting handicapped or physically disabled persons, or both, in vehicles designed for the accommodation of wheel chairs;

(4) the service rendered is transporting railroad train crews to or from train locations, or both, on rail sidings; or

(5) the service rendered is transporting a ship's crew, shipping company personnel, maintenance or repair workmen, and servicing personnel when such transportation is necessary for the health, safety, and welfare of these persons or the operation, maintenance, and repair of oceangoing ships or vessels.

(f) Provisions not applicable. A motor bus company that qualifies under any of the provisions of subsection (e) of this section shall not be subject to any regulations within this subchapter to the extent such other regulations would prohibit the special services authorized in this section.

(g) Railroad crew motor bus companies.

(1) Applications for railroad crew motor bus permits. Applications for contract motor bus permits shall be filed on forms prescribed by the commission.

(2) Hearings and proof required. At hearing, in addition to producing the contracts listed in the application, the applicant must demonstrate that it has financial and operating fitness. Any person may protest an application for a railroad crew motor bus permit, subject to a motion to strike, upon a showing that the person has not justiciable or administratively cognizable interest in the application. The possession or operation of a railroad crew motor bus permit shall not alone constitute a justiciable or administratively cognizable interest in the application.

(h) Government subsidized or mileage-reimbursed motor bus operations.

(1) Exemption of government contract or subsidized motor bus operations. The commission may, upon receipt of a properly filed application on a form prescribed by the commission, issue to a motor bus company a certificate authorizing the transportation of persons, together with such passengers' baggage, where such transportation service is provided pursuant to:

(A) a contract between the motor bus company and a governmental body under which compensation for the transportation service is paid exclusively by the governmental body;

(B) a grant or other subsidy agreement between the motor bus company and a governmental body under which the governmental body provides a direct operating subsidy to the motor bus company equal to at least one-half of total compensation for the transportation service; or

(C) a contract pursuant to Texas Education Code, §21.181.

(2) Restrictions. Except as to operations conducted under a contract pursuant to Texas Education Code, §21.181, operations under a government subsidized motor bus certificate are restricted:

(A) to operations over irregular routes on a call-and-demand basis;

(B) against transportation of the general public as presently being transported by regular route passenger carriers in direct competition with such carriers.

(3) Copy of government subsidized motor bus certificate required in each vehicle. A copy of the government subsidized motor bus certificate must be carried in each vehicle operated under the certificate. Regulated transportation service of the general public is not authorized when provided in a vehicle which does not carry a copy of the certificate.

(4) Term of government subsidized motor bus certificate. A government subsidized motor bus certificate shall, unless revoked by the commission, remain effective throughout the duration of the underlying contract or subsidy agreement.

(5) Revocation of government subsidized motor bus certificate. The commission may, after notice and hearing, revoke a government subsidized motor bus certificate if the commission determines that the holder violated the terms of its certificate, the provisions of this subchapter, or the Texas Motor Bus Act, Texas Civil Statutes, Article 911a, in effect at the time the violation occurred.

(6) Scope of authority. A motor bus company may, under a government subsidized motor bus certificate and notwithstanding any other provision of this subtitle, provide transportation service without:

(A) a certificate of public convenience and necessity;

(B) commission-authorized routes or schedules; and

(C) a tariff of commission-prescribed rates.

(7) Certain motor transportation regulations not applicable. A government subsidized or mileage-reimbursed motor bus company providing transportation service pursuant to this subsection shall not be subject to any regulations within this title to the extent such other regulations would prohibit the special services authorized in this section, except for regulations pertaining to insurance and safety.

(8) Requests for issuance of a government subsidized motor bus certificate. A motor bus company may request issuance of a government subsidized motor bus certificate by filing with the commission:

(A) proof of insurance as required by §5.205 of this title (relating to minimum limits of financial responsibility);

(B) an equipment report as required by §5.221 of this title (relating to equipment registration and cab cards);

(C) an executed copy of the involved grant or subsidy agreement or contract, showing the grant or agreement number;

(D) where applicable, an affidavit establishing that the governmental body which is a party to the agreement is expected to provide direct operating subsidies to the motor bus company equal to at least one-half of total compensation for the transportation service; and

(E) a \$25 filing fee.

(i) Transportation of Mexican national migratory workers.

(1) A motor bus company may transport Mexican national migratory agricultural workers and their baggage under a certificate authorizing such transportation only when each worker has entered into a contract of employment with a farmer or farm organization, arranged by the United States Department of Labor, through its farm placement service, and when the employer of such worker has arranged with the motor bus company for the transportation of such worker and has agreed to pay all applicable transportation fares and charges directly to the motor bus company.

(2) Certificates authorizing the transportation of Mexican national migra-

tory agricultural workers shall not be construed to include the authority to transport any such person who is traveling while on furlough or leave of absence during any period of employment under a contract of employment or who tenders payment of the fare in cash.

(3) Every motor bus company which operates under a certificate authorizing the transportation of Mexican national migratory agricultural workers shall make and keep records to reflect the following information for each worker or group of workers:

(A) the number of such workers transported;

(B) the date on which such transportation originated;

(C) the points of origin and destination;

(D) the amount collected by the motor bus company from the employer for the transportation;

(E) the name and address of the employer; and

(F) the name and address of the person who tendered payment for the transportation.

(j) Rates to be approved. No motor bus company shall begin operations or perform any new service under its operating authority until rates, fares, or charges for the services to be performed shall have been approved by the commission.

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 June 27, 1995.

TRD-9507900 Mary Ross McDonald
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Gas
Railroad Commission of
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For further information, please call: (512) 463-7008

Subchapter N. Household Goods Carriers

• 16 TAC §§5.251-5.255, 5.257, 5.258

The Railroad Commission of Texas adopts the repeal of §§5.251-5.255, 5.257, and 5.258, concerning authority, local repre-

sentatives, joint transportation between carriers, estimate sheet, inventory on each shipment, deceptive advertising prohibited, and accessorial services, without changes to the proposed text as published in the February 7, 1995, issue of the *Texas Register* (20 TexReg 851).

The commission repeals these sections to reorganize the commission's rules into concise subchapters for each category of the rules.

No comments were received regarding adoption of the repeals.

The repeals are adopted pursuant to the Texas Motor Carrier Act, Texas Civil Statutes, Article 911b, which authorizes the commission to prescribe rules and regulations for the operations of motor carriers of property.

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

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

Subchapter O. Motor Transportation Brokers

• 16 TAC §§5.271-5.280

The Railroad Commission of Texas adopts the repeal of §§5.271-5.280, concerning scope, licenses, applications for license, order on application for issuance of license, bond, suspension or revocation of license, insurance, records, charges for services rendered, and submission of records, without changes to the proposed text as published in the February 7, 1995, issue of the *Texas Register* (20 TexReg 851).

The commission repeals these sections to reorganize the commission's rules into concise subchapters for each category of the rules.

No comments were received regarding adoption of the repeals.

The repeals are adopted pursuant to Texas Civil Statutes, Article 911f, which authorize the commission to prescribe rules for the licensing and regulation of motor transportation brokers of fresh fruits and vegetables.

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

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TRD-9507883

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

Subchapter P. Commercial Zones

• 16 TAC §§5.291-5.294

The Railroad Commission of Texas adopts the repeal of §§5.291-5.294, concerning designation of commercial zones, factors considered by the commission, restrictions on exemptions, and existing commercial zones, without changes to the proposed text as published in the February 7, 1995, issue of the *Texas Register* (20 TexReg 852).

The commission repeals these sections to eliminate rules that are unnecessary or that have been preempted by the enactment of Title VI of the Federal Aviation Administration Act of 1994 (Public Law 103-305), effective January 1, 1995, and to reorganize the commission's rules into concise subchapters for each category of the rules.

No comments were received regarding adoption of the repeals.

The repeals are adopted pursuant to the Texas Motor Carrier Act, Texas Civil Statutes, Article 911b, which authorize the commission to prescribe rules and regulations for the operations of motor carriers of property.

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

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

Subchapter Q. Miscellaneous Provisions

• 16 TAC §§5.301, 5.302, 5.304-5.307, 5.309-5.311, 5.313-5.317

The Railroad Commission of Texas adopts the repeal of §§5.301, 5.302, 5.304-5.307, 5.309-5.311, and 5.313-5.317, concerning procedure, forms, rates, charges, and fares, changes in ownership, possession, or control

of certificates or permits, compliance pending approval, voluntary suspensions, reinstatement fee, consolidation of certificate or permit authority, division of certificate or permit authority, effective date, additional regulations concerning utilization, transferability, and suspension of certificate of regular route common carrier motor carriers, approval of agreements between carriers concerning group representation, claims for loss or damage, and cancellation of dormant authority, without changes to the proposed text as published in the February 7, 1995, issue of the *Texas Register* (20 TexReg 852).

The commission repeals these sections to eliminate rules that are unnecessary or that have been preempted by the enactment of Title VI of the Federal Aviation Administration Authorization Act of 1994 (Public Law 103-305), effective January 1, 1995, and Title II of the Trucking Industry Regulatory Reform Act of 1994 (Public Law 103-311), and to reorganize the commission's rules into concise subchapters for each category of the rules.

No comments were received regarding adoption of the repeals.

The repeals are adopted pursuant to the Texas Motor Carrier Act, Texas Civil Statutes, Article 911b and the Texas Motor Bus Act, Texas Civil Statutes, Article 911a, which authorize the commission to prescribe rules and regulations for the operations of motor carriers of property and passengers.

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

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

Subchapter E. Motor Transportation Brokers

• 16 TAC §§5.301-5.314

The Railroad Commission of Texas adopts new §§5.301-5.314, concerning definitions, scope, compliance with laws and regulations, prohibition of unauthorized services, licenses, applications for license, order on application for issuance of license, bond, suspension or revocation of license, insurance, records, submission of records, forms, and procedure, without changes to the proposed text as published in the February 7, 1995, issue of the *Texas Register* (20 TexReg 853).

The commission adopts these sections in light of recent legislative changes to statutes concerning regulation of transportation to reorganize commission rules into concise subchapters for each category of rules.

No comments were received regarding adoption of the new sections.

The new sections are adopted pursuant to Texas Civil Statutes, Article 911f, which authorize the commission to prescribe rules for the licensing and regulation of motor transportation brokers of fresh fruits and vegetables.

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

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

Subchapter R. Registration of Operations Exempt from ICC Regulations

• 16 TAC §§5.331, 5.332, 5.334-5.345, 5.347-5.349

The Railroad Commission of Texas adopts the repeal of §§5.331, 5.332, 5.334-5.345, and 5.347-5.349, concerning definitions, operations within borders of states, registration of motor carrier operations exempt from economic regulation by the ICC, designation of process agent, identification of vehicles and driveaway operations, form and execution of application for identification stamps, use of cab cards in connection with vehicles not used in driveaway operations, inspection of the cab card, destruction of cab cards, alteration of cab card/replacement, identification, evidence of liability security, notice of security cancellation, certificate of interstate operations by intrastate carriers, exempt operations by registered carriers, and cancellation of registration, without changes to the proposed text as published in the February 7, 1995, issue of the *Texas Register* (20 TexReg 855).

The commission repeals these sections to reorganize the commission's rules into concise subchapters for each category of the rules.

No comments were received regarding adoption of the repeals.

The repeals are adopted pursuant to the Texas Motor Carrier Act, Texas Civil Statutes, Article 911b and the Texas Motor Bus Act, Texas Civil Statutes, Article 911a, which authorize the commission to prescribe rules and regulations for the operations of motor carriers of property and passengers.

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

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

Subchapter S. Specialized Motor Carriers of Mobile Homes

• 16 TAC §5.361

The Railroad Commission of Texas adopts the repeal of §5.361, concerning definitions, without changes to the proposed text as published in the February 7, 1995, issue of the *Texas Register* (20 TexReg 856).

The commission repeals this section to eliminate rules that are unnecessary or that have been preempted by the enactment of Title VI of the Federal Aviation Administration Authorization Act of 1994 (Public Law 103-305), effective January 1, 1995, and to reorganize the commission's rules into concise subchapters for each category of the rules.

No comments were received regarding adoption of the repeal.

The repeal is adopted pursuant to the Texas Motor Carrier Act, Texas Civil Statutes, Article 911b, which authorize the commission to prescribe rules and regulations for the operations of motor carriers of property.

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

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

Subchapter T. Standards for Registration of ICC Motor Carriers

• 16 TAC §§5.371-5.381

The Railroad Commission of Texas adopts the repeal of §§5.371-5.381, concerning participation in the single state registration system, definitions, the registration process, amendments and changes after the initial registration, change of registrant's principal

place of business, designation of process agent, proof of insurance, registration receipts, change of name, address, and ownership of registrant, failure to comply, and auditing, without changes to the proposed text as published in the February 7, 1995, issue of the *Texas Register* (20 TexReg 856).

The commission repeals these sections to reorganize the commission's rules into concise subchapters for each category of the rules.

No comments were received regarding adoption of the repeals.

The repeals are adopted pursuant to the Texas Motor Carrier Act, Texas Civil Statutes, Article 911b and the Texas Motor Bus Act, Texas Civil Statutes, Article 911a, which authorize the commission to prescribe rules and regulations for the operations of motor carriers of property and passengers.

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 June 27, 1995.

TRD-9507888 Mary Ross McDonald
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For further information, please call: (512) 463-7008

Subchapter U. General and Special Rules of Practice and Procedure

- 16 TAC §§5.401, 5.402, 5.404, 5.407, 5.411, 5.412, 5.423, 5.424, 5.431, 5.456-5.464, 5.466, 5.467

The Railroad Commission of Texas adopts the repeal of §§5.401, 5.402, 5.404, 5.407, 5.411, 5.412, 5.423, 5.424, 5.431, 5.456-5.464, 5.466, and 5.467, concerning definitions, object of rules, filing of documents, service of notice in nonrulemaking proceedings, parties in interest, appearances personally or by representative, applications to establish or change rates, unopposed proceedings, reporters and transcript, effective date, additional representatives authorized, filing fee accompanying application, document subscriptions, certification of minority-owned applicants, commission survey of fuel prices, certification of disadvantaged businesses for motor carrier and motor bus authority, administrative penalties procedures, filing requirements for applications in authority cases, proposals for decision, and final decisions and orders, without changes to the proposed text as published in the April 25, 1995, issue of the *Texas Register* (20 TexReg 3077).

The commission repeals these sections to

reorganize the commission's rules into concise subchapters for each category of the rules.

A federal district court in *Bilbo Freight Lines, Inc. vs. Morales*, Civil Action Number H-93-3808, ruled §4 of Senate Bill 1313, 73rd Legislature, unconstitutional. The district court permanently enjoined the commission from issuing any order or operating authority under the commission's rule 16 TAC §5.462 which implemented §4. The Defendants appealed that ruling to the United States Fifth Circuit Court of Appeals. Subsequently, in light of federal legislation preempting most state economic regulation of motor carriers, the Defendants filed a motion to dismiss, on the basis of mootness. That motion is pending. Depending on the ruling of the appellate court, the commission may consider adoption of proposed new §5.714 (currently §5.462) or proposed new §5.716 (currently §5.460) in this issue. The proposed new §5.714 will not be implemented or enforced while the injunction remains in effect. The proposed new §5.716 is a measure to implement state and commission minority business enterprise policies during the pendency of the court proceedings.

No comments were received regarding adoption of the repeals.

The repeals are adopted under the Texas Motor Carrier Act and the Texas Motor Bus Act, Texas Civil Statutes, Articles 911a and 911b, which authorize the commission to prescribe rules and regulations for certain motor carriers and motor bus companies; and Texas Government Code, §§2001.004 and 2001.051-2001.902, which requires state agencies to adopt rules of practice for formal and informal procedures and which specify standards for contested cases.

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

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TRD-9507896 Mary Ross McDonald
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Proposal publication date: April 25, 1995

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

Subchapter F. Registration of Interstate Motor Carriers

- 16 TAC §§5.401-5.412

The Railroad Commission of Texas adopts new §§5.401-5.412, concerning participation in the single state registration system, definitions, the registration process, amendments and changes after the initial registration, change of registrant's principal place of business, designation of process agent, proof of insurance, registration receipts, change of

name, address and ownership of registrant, failure to comply, auditing, and registration of motor carrier operations exempt from economic regulation by the ICC, without changes to the proposed text as published in the February 7, 1995, issue of the *Texas Register* (20 TexReg 857).

The commission adopts these sections in light of recent legislative changes to statutes concerning regulation of transportation to reorganize commission rules into concise subchapters for each category of rules.

No comments were received regarding adoption of the new sections.

The new sections are adopted pursuant to the Texas Motor Carrier Act, Texas Civil Statutes, Article 911b and the Texas Motor Bus Act, Texas Civil Statutes, Article 911a, which authorize the commission to prescribe rules and regulations for the operations of motor carriers of property and passengers.

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

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TRD-9507902 Mary Ross McDonald
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For further information, please call: (512) 463-7008

Subchapter G. Tow Trucks

- 16 TAC §§5.501-5.503, 5.505-5.516

The Railroad Commission of Texas adopts new §§5.501-5.503 and 5.505-5.516, concerning authority, definitions, registration requirements, insurance requirements, fees, tow trucks as commercial motor vehicles, inspection and investigation by the commission, denial, revocation, or suspension for a criminal conviction, administrative sanctions, criminal penalty sanctions, general technical requirements, technical requirements for accident scene tow trucks, technical requirements for recovery of vehicles for a lien holder, leases, and assumed business names, without changes to the proposed text as published in the February 7, 1995, issue of the *Texas Register* (20 TexReg 860).

The commission adopts these sections in light of recent legislative changes to statutes concerning regulation of transportation to reorganize commission rules into concise subchapters for each category of rules.

No comments were received regarding adoption of the new sections.

The new sections are adopted pursuant to Texas Civil Statutes, Article 6687-9b, which authorize the commission to prescribe rules for the licensing and operations of tow trucks.

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 June 27, 1995.

TRD-9507903 Mary Ross McDonald
Assistant Director, Legal
Division-Gas Utilities/LP
Gas
Railroad Commission of
Texas

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Proposal publication date: February 7, 1995

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

◆ ◆ ◆
• 16 TAC §5.504

The Railroad Commission of Texas adopts new §5.504, concerning exemptions, without changes to the proposed text as published in the February 10, 1995, issue of the *Texas Register* (20 TexReg 931).

The commission adopts this section in light of recent legislative changes to statutes concerning regulation of transportation to reorganize commission rules into concise subchapters for each category of rules.

No comments were received regarding adoption of the new section.

The new section is adopted pursuant to Texas Civil Statutes, Article 6687-9b, which authorize the commission to prescribe rules for the licensing and operations of tow trucks.

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 June 27, 1995.

TRD-9507908 Mary Ross McDonald
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Division-Gas Utilities/LP
Gas
Railroad Commission of
Texas

Effective date: July 18, 1995

Proposal publication date: February 10, 1995

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

◆ ◆ ◆
Subchapter X. Agricultural
Permits

• 16 TAC §§5.534-5.538

The Railroad Commission of Texas adopts the repeal of §§5.534-5.538, concerning scope of exemption under House Bill 593, definitions of key terms relating to agricultural commodities exemption, procedures for obtaining agricultural permits, grace period for holders of seasonal agricultural permits, and enforcement of regulations governing operations under an agricultural permit, without changes to the proposed text as published in the February 7, 1995, issue of the *Texas Register* (20 TexReg 866).

The commission repeals these sections to eliminate rules that are unnecessary or that have been preempted by the enactment of Title VI of the Federal Aviation Administration Authorization Act of 1994 (Public Law 103-305), effective January 1, 1995, and to reorganize the commission's rules into concise subchapters for each category of the rules.

No comments were received regarding adoption of the repeals.

The repeals are adopted pursuant to the Texas Motor Carrier Act, Texas Civil Statutes, Article 911b, which authorize the commission to prescribe rules and regulations for the operations of motor carriers of property.

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 June 27, 1995.

TRD-9507889 Mary Ross McDonald
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Division-Gas Utilities/LP
Gas
Railroad Commission of
Texas

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Proposal publication date: February 7, 1995

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

◆ ◆ ◆
Subchapter Z. Base Rates, De-
viations, and Suspensions

• 16 TAC §§5.581-5.590

The Railroad Commission of Texas adopts the repeal of §§5.581-5.590, concerning annual review of base rates and charges, deviations from base rates, contract carrier deviations, suspension of deviations, increase or decrease in base rate or charge, procedures for annual base rate adjustment hearings, base rate deviation procedures, procedures for deviation suspension proceedings, publication of deviations, and specific rates and charges, without changes to the proposed text as published in the February 7, 1995, issue of the *Texas Register* (20 TexReg 866).

The commission repeals these sections to eliminate rules that are unnecessary or that have been preempted by the enactment of Title VI of the Federal Aviation Administration Authorization Act of 1994 (Public Law 103-305), effective January 1, 1995, and to reorganize the commission's rules into concise subchapters for each category of the rules.

No comments were received regarding adoption of the repeals.

The repeals are adopted pursuant to the Texas Motor Carrier Act, Texas Civil Statutes, Article 911b and the Texas Motor Bus Act, Texas Civil Statutes, Article 911a, which authorize the commission to prescribe rules and regulations for the operations of motor carriers of property and passengers.

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

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TRD-9507890 Mary Ross McDonald
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Railroad Commission of
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For further information, please call: (512) 463-7008

◆ ◆ ◆
Subchapter H. Vehicle Storage
Facilities

• 16 TAC §§5.601, 5.603-5.620

The Railroad Commission of Texas adopts new §§5.601, 5.603-5.605, and 5.607-5.620, concerning authority, licensing requirements, exemptions, insurance requirements, responsibilities of the licensee-storage requirements, responsibilities of the licensee-documentation, responsibilities of the licensee-vehicle transfers, fees-original license, fees-renewal license, fees-duplicate license, sanctions-administrative sanctions, sanctions-administrative penalty/fine, sanctions-injunctive relief and civil penalty, sanctions-criminal penalty, sanctions-revocation or suspension because of a criminal conviction, technical requirements, technical requirements-storage fees/charges, and technical requirements-other statutes and administrative rules, city ordinances. Section 5.606, concerning responsibilities of the licensee-accepting vehicles for storage, is adopted with changes to the proposed text as published in the February 7, 1995, issue of the *Texas Register* (20 TexReg 867). Sections 5.601, 5.603-5.605, and 5.607-5.620 are adopted without changes and will not be republished.

The commission adopts these sections in light of recent legislative changes to statutes concerning regulation of transportation to reorganize commission rules into concise subchapters for each category of rules.

Within new §5.606(g)(6), the citation to Texas Civil Statutes, Article 6701g, is being changed to Texas Civil Statutes, Article 6701g-3, which is the correct citation of the statute addressing the rights of the owner of a stored vehicle.

No comments were received regarding adoption of the new sections.

The new sections are adopted pursuant to the Texas Storage Facility Act, Texas Civil Statutes, Article 6687-9a, which authorize the commission to prescribe rules for the licensing and operations of vehicle storage facilities.

§5.606. Responsibilities of the Licensee-Accepting Vehicles for Storage.

(a) When the licensee, his agent, or his employee accepts a vehicle towed without the vehicle owner's consent, he shall inspect the vehicle and note as an addition on the wrecker slip or wrecker ticket any differences from the information previously set out thereon, but shall not write over or deface any prior writing on the slip or ticket. If the license plate number or vehicle identification number on the wrecker ticket or wrecker slip was incorrect, the storage facility shall note on its records the correct number and notify every previously advised person within 48 hours of noting the correct information.

(b) After accepting for storage a vehicle registered in Texas, the vehicle storage facility must notify the vehicle's last registered owner and all recorded lienholders by certified/registered mail within five days, but in no event sooner than within 24 hours of receipt of the vehicle. If the certified/registered letter is returned unclaimed, refused, or moved, left no forwarding address, publication in a newspaper is not required. If the identity of the last registered owner cannot be determined, if the registration contains no address for the owner, or if it is impossible to determine with reasonable certainty the identity and address of all lienholders, notice in one publication in one newspaper of general circulation in the area where the vehicle was towed from is sufficient.

(c) After accepting for storage a foreign registered vehicle, the vehicle storage facility must notify the vehicle's last registered owner and all recorded lienholders by certified/registered mail within 14 days, but in no event sooner than within 24 hours of receipt of the vehicle. If the certified/registered letter is returned unclaimed, refused, or moved, left no forwarding address, publication in a newspaper is not required. If the identity of the last registered owner cannot be determined, if the registration contains no address for the owner, or if it is impossible to determine with reasonable certainty the identity and address of all lienholders, notice in one publication in one newspaper of general circulation in the area where the vehicle was towed from is sufficient.

(d) It shall be a defense to an action initiated by the commission for violation of this section that the facility has attempted, in writing, but been unable to obtain information from the foreign registry department.

(e) The vehicle storage facility operator may not charge an owner more than \$25 for this notification. However, if a vehicle is removed by the owner within 24

hours after the date the operator receives the vehicle, then no notification is required under this section, and no notification fee may be charged to the owner by the vehicle storage facility operator.

(f) Notification will be considered to have occurred when the United States Postal Service places its postmark upon the written notice.

(g) All notifications shall state:

(1) the full name of the vehicle storage facility where the motor vehicle is located, its street address and telephone number, and the hours the vehicle can be released to the vehicle owner;

(2) the daily storage rate, the type and amount of all other charges assessed, and the total amount of fees which must be paid before the vehicle will be released;

(3) if the operator will be transferring a vehicle to a second lot if it is not claimed within a certain time period, the date the vehicle will be moved from the vehicle storage facility and the address to which it will be moved;

(4) the date the vehicle was accepted for storage and from where, when, and by whom the vehicle was towed;

(5) the vehicle storage facility number preceded by the words "Railroad Commission of Texas Vehicle Storage Facility License Number"; and

(6) a notice of the towed vehicle owner's right under Texas Civil Statutes, Article 6701g-3, to challenge the legality of the tow involved.

(h) A vehicle storage facility accepting a non-consent towed vehicle towed from private property must report that tow to the local law enforcement agency from the area where the vehicle was towed. This report must be made within two hours of receiving the vehicle, giving the vehicle's license plate number and issuing state, vehicle identification number, and location from which it was towed. Facility records must indicate specifically to whom the stated information was reported and in what manner, as well as the time and date of the report.

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 June 27, 1995.

TRD-9507904 Mary Ross McDonald
Assistant Director, Legal
Division-Gas Utilities/LP
Gas
Railroad Commission of
Texas

Effective date: July 18, 1995

Proposal publication date: February 7, 1995

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

◆ ◆ ◆
• 16 TAC §5.602

The Railroad Commission of Texas adopts new §5.602, concerning definitions, without changes to the proposed text as published in the February 10, 1995, issue of the *Texas Register* (20 TexReg 932)

The commission adopts this section in light of recent legislative changes to statutes concerning regulation of transportation to reorganize commission rules into concise subchapters for each category of rules.

No comments were received regarding adoption of the new section

The new section is adopted pursuant to Texas Civil Statutes, Article 6687-9a, which authorize the commission to prescribe rules for the licensing and operations of vehicle storage facilities.

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 June 27, 1995

TRD-9507909 Mary Ross McDonald
Assistant Director, Legal
Division-Gas Utilities/LP
Gas
Railroad Commission of
Texas

Effective date: July 18, 1995

Proposal publication date: February 10, 1995

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

◆ ◆ ◆
Subchapter AA. Rail Safety

• 16 TAC §§5.611-5.618, 5.620, 5.621, 5.625

The Railroad Commission of Texas adopts the repeal of §§5.611-5.618, 5.620, 5.621, and 5.625, concerning clearances of structures over and alongside railway tracks, reports of railroad accidents/incidents, railroad safety requirements, right to inspect railroad property, enforcement of railroad safety requirements, reporting/filing requirements, safety equipment, wayside detector map, list or chart, visual obstructions at public grade crossings, severability clause, and hazardous materials reporting requirements, without changes to the proposed text as published in the April 18, 1995, issue of the *Texas Register* (20 TexReg 2762).

The commission repeals these sections to reorganize the commission's rules into concise subchapters for each category of the rules.

No comments were received regarding adoption of the repeals.

The repeals are adopted pursuant to Texas Civil Statutes, Title 112, Articles 6259, et seq, which authorize the commission to prescribe

rules and regulations for the safe operation of railroads in this state.

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 June 27, 1995.

TRD-9507895 Mary Ross McDonald
Assistant Director, Legal
Division-Gas Utilities/LP
Gas
Railroad Commission of
Texas

Effective date: July 18, 1995

Proposal publication date: April 18, 1995

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

Subchapter BB. Miscellaneous Provisions for Commercial Motor Vehicles

• 16 TAC §5.701

The Railroad Commission of Texas adopts the repeal of §5.701, concerning violations by owners or operators of commercial motor vehicles, without changes to the proposed text as published in the February 7, 1995, issue of the *Texas Register* (20 TexReg 872).

The commission repeals this section to eliminate rules that are unnecessary or that have been preempted by the enactment of Title VI of the Federal Aviation Administration Authorization Act of 1994 (Public Law 103-305), effective January 1, 1995, and to reorganize the commission's rules into concise subchapters for each category of the rules.

No comments were received regarding adoption of the repeal.

The repeal is adopted pursuant to Texas Civil Statutes, Article 6701d, which authorize the commission to prescribe rules and regulations regarding of commercial carriers.

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 June 27, 1995.

TRD-9507891 Mary Ross McDonald
Assistant Director, Legal
Division-Gas Utilities/LP
Gas
Railroad Commission of
Texas

Effective date: July 18, 1995

Proposal publication date: February 7, 1995

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

Subchapter I. General and Special Rules of Practice and Procedure

• 16 TAC §§5.701-5.721

The Railroad Commission of Texas adopts new §§5.701-5.721, concerning definitions, object of rules, filing of documents, service of notice in nonrulemaking proceedings, parties in interest, appearances personally or by representative, applications to establish or change rates, unopposed proceedings, reporters and transcript, effective date, additional representatives authorized, filing fee accompanying application, document subscriptions, certification of minority-owned applicants, commission survey of fuel prices, certification of disadvantaged businesses for motor carrier and motor bus authority, administrative penalties procedures, filing requirements for applications in authority cases, orders, and statement of philosophy, without changes to the proposed text as published in the April 25, 1995, issue of the *Texas Register* (20 TexReg 3078).

The commission adopts these sections to reorganize the commission's rules into concise subchapters for each category of the rules.

A federal district court in *Bilbo Freight Lines, Inc vs. Morales*, Civil Action Number H-93-3808, ruled §4 of Senate Bill 1313, 73rd Legislature, unconstitutional. The district court permanently enjoined the commission from issuing any order or operating authority under the commission's rule 16 TAC §5.482 which implemented §4. The Defendants appealed that ruling to the United States Fifth Circuit Court of Appeals. Subsequently, in light of federal legislation preempting most state economic regulation of motor carriers, the Defendants filed a motion to dismiss, on the basis of mootness. That motion is pending. Depending on the ruling of the appellate court, the commission may consider adoption of proposed new §5.714 (currently §5.462) or proposed new §5.716 (currently §5.460). The proposed new §5.714 will not be implemented or enforced while the injunction remains in effect. The proposed new §5.716 is a measure to implement state and commission minority business enterprise policies during the pendency of the court proceedings.

No comments were received regarding adoption of the new sections.

The new sections are adopted under Texas Civil Statutes, Articles 911a and 911b, which authorize the commission to prescribe rules and regulations for certain motor carriers and motor bus companies; and under Texas Government Code, §§2001.004 and 2001.051-2001.902, which requires state agencies to adopt rules of practice for formal and informal procedures and which specify standards for contested cases.

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 June 27, 1995.

TRD-9507911

Mary Ross McDonald
Assistant Director, Legal
Division-Gas Utilities/LP
Gas
Railroad Commission of
Texas

Effective date: July 18, 1995

Proposal publication date: April 25, 1995

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

Subchapter CC. Tow Trucks

• 16 TAC §§5.801-5.819

The Railroad Commission of Texas adopts the repeal of §§5.801-5.819, concerning authority, definitions, registration requirements, exemptions, insurance requirements, fees, tow trucks as commercial motor vehicles, inspection and investigation by the commission, denial, revocation, or suspension for a criminal conviction, administrative sanctions, criminal penalty sanctions, general technical requirements, technical requirements for accident scene tow trucks, technical requirements for recovery of vehicles for a lien holder, leases, assumed business names, technical requirements-accident scene tow trucks, technical requirements-repossession/recovery tow trucks, and technical requirements-other statutes and administrative rules, without changes to the proposed text as published in the February 7, 1995, issue of the *Texas Register* (20 TexReg 872).

The commission repeals these sections to reorganize the commission's rules into concise subchapters for each category of the rules.

No comments were received regarding adoption of the repeals.

The repeals are adopted pursuant to the Texas Tow Truck Act, Texas Civil Statutes, Article 6687-9b, which authorize the commission to prescribe rules for the licensing and operations of tow trucks.

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 June 27, 1995.

TRD-9507892 Mary Ross McDonald
Assistant Director, Legal
Division-Gas Utilities/LP
Gas
Railroad Commission of
Texas

Effective date: July 18, 1995

Proposal publication date: February 7, 1995

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

Subchapter J. Rail Safety

• 16 TAC §§5.801-5.811

The Railroad Commission of Texas adopts new §§5.801-5.811, concerning clearances of structures over and alongside railway tracks,

reports of railroad accidents/incidents, railroad safety requirements, right to inspect railroad property, enforcement of railroad safety requirements, reporting/filing requirements, safety equipment, wayside detector map, list or chart, visual obstructions at public grade crossings, severability clause, and hazardous materials reporting requirements, without changes to the proposed text as published in the April 18, 1995, issue of the *Texas Register* (20 TexReg 2763).

The commission adopts these sections to reorganize commission rules into concise subchapters for each category of rules.

No comments were received regarding adoption of the new sections.

The new sections are adopted pursuant to Texas Civil Statutes, Title 112, Articles 6259, et seq, which authorize the commission to prescribe rules and regulations for the safe operation of railroads in this state.

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 June 27, 1995.

TRD-9507910 Mary Ross McDonald
Assistant Director, Legal
Division-Gas Utilities/LP
Gas
Railroad Commission of
Texas

Effective date: July 18, 1995

Proposal publication date: April 18, 1995

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

Subchapter DD. Vehicle Storage Facilities

• 16 TAC §§5.901-5.920

The Railroad Commission of Texas adopts the repeal of §§5.901-5.920, concerning authority, definitions, licensing requirements, exemptions, insurance requirements, responsibilities of the licensee-accepting vehicles for storage, responsibilities of the licensee-storage requirements, responsibilities of the licensee-documentation, responsibilities of the licensee-vehicle transfers, fees-original license, fees-renewal license, fees-duplicate license, sanctions-administrative sanctions, sanctions-administrative penalty/fine, sanctions-injunctive relief and civil penalty, sanctions-criminal penalty, sanctions-revocation or suspension because of a criminal conviction, technical requirements, technical requirements-storage fees/charges, and technical requirements-other statutes and administrative rules, city ordinances, without changes to the proposed text as published in the February 7, 1995, issue of the *Texas Register* (20 TexReg 873).

The commission repeals these sections to reorganize the commission's rules into concise subchapters for each category of the rules.

No comments were received regarding adoption of the repeals.

The repeals are adopted pursuant to the Texas Vehicle Storage Facility Act, Texas Civil Statutes, Article 6687-9a, which authorize the commission to prescribe rules for the licensing and operations of vehicle storage facilities.

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 June 27, 1995.

TRD-9507893 Mary Ross McDonald
Assistant Director, Legal
Division-Gas Utilities/LP
Gas
Railroad Commission of
Texas

Effective date: July 18, 1995

Proposal publication date: February 7, 1995

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

Subchapter EE. Operating Certificates, Permits, and Licenses

• 16 TAC §§5.1001-5.1005, 5.1013-5.1015, 5.1018-5.1020

The Railroad Commission of Texas adopts the repeal of §§5.1001-5.1005, 5.1013-5.1015, and 5.1018-5.1020, concerning compliance with laws and regulations, prohibition of unauthorized services, call and demand service, use of highways, pick-up and delivery service, contract carriers, duplication of operating authority, joinder of motor carrier certificates, cancellation, suspension and reinstatement of intrastate certificates or permits, address for receipt of service, and intercorporate transportation exemption, without changes to the proposed text as published in the February 7, 1995, issue of the *Texas Register* (20 TexReg 874).

The commission repeals these sections to eliminate rules that are unnecessary or that have been preempted by the enactment of Title VI of the Federal Aviation Administration Authorization Act of 1994 (Public Law 103-305), effective January 1, 1995, and to reorganize the commission's rules into concise subchapters for each category of the rules.

No comments were received regarding adoption of the repeals.

The repeals are adopted pursuant to the Texas Motor Carrier Act, Texas Civil Statutes, Article 911b and the Texas Motor Bus Act, Texas Civil Statutes, Article 911a, which authorize the commission to prescribe rules and regulations for the operations of motor carriers of property and passengers.

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 June 27, 1995.

TRD-9507894 Mary Ross McDonald
Assistant Director, Legal
Division-Gas Utilities/LP
Gas
Railroad Commission of
Texas

Effective date: July 18, 1995

Proposal publication date: February 7, 1995

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

TITLE 22. EXAMINING BOARDS

Part VI. Texas State Board of Registration for Professional Engineers

Chapter 131. Practice and Procedure

Application for Registration

• 22 TAC §131.55

The Texas State Board of Registration for Professional Engineers adopts an amendment to §131.55, concerning application for registration from nonresidents, without changes to the proposed text as published in the May 12, 1995, issue of the *Texas Register* (20 TexReg 3544).

The rule as amended requires that an applicant who is a nonresident of Texas must furnish an official verification that he or she possesses a current and valid certificate of registration or license issued by another appropriate licensing board. Applicants from foreign countries must furnish official verification that their registration or charter is current and valid.

The rule as amended provides clarification of the requirements for application for registration from nonresidents.

No comments were received regarding adoption of the amendment.

The amendment is adopted under Texas Civil Statutes, Article 3271a, §8(a), which provide the board with the authority to make and enforce all rules and regulations necessary for the performance of its duties.

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 June 27, 1995.

TRD-9507805 John R. Speed, P.E.
Executive Director
Texas State Board of
Registration for
Professional Engineers

Effective date: July 18, 1995

Proposal publication date: May 12, 1995

For further information, please call: (512) 440-7723

References

• 22 TAC §131.71

The Texas State Board of Registration for Professional Engineers adopts an amendment to §131.71, concerning reference statements, with changes to the proposed text as published in the May 12, 1995, issue of the *Texas Register* (20 TexReg 3544).

The rule is adopted with changes to the original proposal in order to cross reference the detailed explanation contained in the section pertaining to the educational requirements for registration rather than the statute. The rule as amended stipulates that reference statements must be provided for at least the last four years of engineering experience if an applicant holds a degree which is defined as an approved curriculum in accordance with the educational requirements for registration; otherwise, reference statements covering at least the last eight years of engineering experience must accompany an application for registration. If an individual is requesting an exemption from either or both engineering examinations, then reference statements covering the last twenty years of engineering experience must be provided.

The rule as amended provides for clarification and streamlining of the registration process.

No comments were received regarding adoption of the amendment.

The amendment is adopted under Texas Civil Statutes, Article 3271a, §8(a), which provide the board with the authority to make and enforce all rules and regulations necessary for the performance of its duties.

§131.71. Reference Statements.

(a) The applicant, as a part of the application for registration, shall send a copy of the board's reference statement form and a copy of the portion of the applicant's supplementary experience record (SER) that the reference is to verify to a minimum of five references of which three must be professional engineers. The reference writer should complete the reference statement, sign the copy of the SER, signifying agreement with the information written by the applicant, and place the completed reference statement and signed SER in an envelope. After sealing the envelope, the reference writer's signature and professional engineer's number, if applicable, shall be placed across the sealed flap of the envelope and covered with transparent tape. The reference writer shall return the sealed envelope to the applicant. The applicant must enclose all of the sealed reference envelopes with his application when he submits it to the office of the board. An application received without the required references, or with envelopes that have evidence of tampering, shall be considered an incomplete application and returned to the applicant. At least one reference statement should be provided concerning the work done for each employer. References shall be provided for

at least the last four years of engineering experience for applicants who hold a degree or degrees defined as an approved curriculum in accordance with §131.91(a) of this title (relating to Educational Requirements for Registration), and at least the last eight years of engineering experience for other applicants. Persons requesting exemption from either or both examinations shall provide references for the last 20 years of engineering experience. The reference should have personal knowledge of the applicant's work for which he is providing a reference statement. Accurate statements of fact from responsible sources concerning the applicant's technical abilities and performance are necessary as are frank and candid appraisals of his character, reputation, and suitability for professional registration.

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

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

Issued in Austin, Texas, on June 27, 1995.

TRD-9507806 John R. Speed, P.E.
Executive Director
Texas State Board of
Registration for
Professional Engineers

Effective date: July 18, 1995

Proposal publication date: May 12, 1995

For further information, please call: (512) 440-7723

Education

• 22 TAC §131.92

The Texas State Board of Registration for Professional Engineers adopts an amendment to §131.92, concerning foreign degrees, without changes to the proposed text as published in the May 12, 1995, issue of the *Texas Register* (20 TexReg 3545).

The rule as amended deletes the requirement that an applicant with a foreign degree must submit a certified copy or documented proof of all engineering degrees, diplomas, certificates, etc, with an application for registration. These documents are not required because official transcripts must be provided to the board in accordance with the requirements of §131.93 concerning transcripts.

The rule as amended provides clear and concise requirements pertaining to applications for registration submitted from applicants with foreign degrees.

No comments were received regarding adoption of the amendment.

The amendment is adopted under Texas Civil Statutes, Article 3271a, §8(a), which provide the board with the authority to make and enforce all rules and regulations necessary for the performance of its duties.

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 June 27, 1995.

TRD-9507807 John R. Speed, P.E.
Executive Director
Texas State Board of
Registration for
Professional Engineers

Effective date: July 18, 1995

Proposal publication date: May 12, 1995

For further information, please call: (512) 440-7723

Examinations

• 22 TAC §131.101

The Texas State Board of Registration for Professional Engineers adopts an amendment to §131.101, concerning engineering examinations required for registration as a professional engineer, with changes to the proposed text as published in the May 12, 1995, issue of the *Texas Register* (20 TexReg 3545).

The rule as amended establishes that the agency's deadline for scheduling an examination is seven weeks prior to the examination date. Although there are no changes to the original proposal in subsection (c) of the section, the agency is inserting a word to clarify that the examination schedules are prepared ten years in advance by the National Council of Examiners for Engineering and Surveying not the examinations.

The rule as amended provides clear and concise requirements for scheduling examinations.

No comments were received regarding adoption of the amendment.

The amendment is adopted under Texas Civil Statutes, Article 3271a, §8(a), which provide the board with the authority to make and enforce all rules and regulations necessary for the performance of its duties.

§131.101. Engineering Examinations Required for Registration as a Professional Engineer.

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

(c) All examinations will be in the English language. Examination schedules are prepared by the National Council of Examiners for Engineering and Surveying (NCEES) for ten years in advance and are subject to change only by NCEES. To schedule either examination, an individual may telephone, write or visit the board office to obtain the necessary forms and information. Students may obtain the scheduling forms for the fundamentals of engineering examination at their college or from the board office. Individuals who plan to take an examination must have their completed examination request form and the appropri-

ate fee in the board office or have their request and fee postmarked no later than seven weeks prior to the scheduled examination date.

(d) -(g) (No change.)

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

Issued in Austin, Texas, on June 27, 1995.

TRD-9507808

John R. Speed, P.E.
Executive Director
Texas State Board of
Registration for
Professional Engineers

Effective date: July 18, 1995

Proposal publication date: May 12, 1995

For further information, please call: (512) 440-7723

Professional Conduct and Ethics

• 22 TAC §131.156

The Texas State Board of Registration for Professional Engineers adopts an amendment to §131.156, concerning an engineer's responsibility to the engineering profession, without changes to the proposed text as published in the May 12, 1995, issue of the *Texas Register* (20 TexReg 3547).

The rule as amended stipulates that a professional engineer shall not violate federal, state and local statutes, regulations, rules or ordinances when providing engineering services.

The rule provides clarification of what constitutes a violation relative to engineering services.

No comments were received regarding adoption of the amendment.

The amendment is adopted under Texas Civil Statutes, Article 3271a, §8(a), which provide the board with the authority to make and enforce all rules and regulations necessary for the performance of its duties.

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 June 27, 1995.

TRD-9507809

John R. Speed, P.E.
Executive Director
Texas State Board of
Registration for
Professional Engineers

Effective date: July 18, 1995

Proposal publication date: May 12, 1995

For further information, please call: (512) 440-7723

TITLE 31. NATURAL RESOURCES AND CONSERVATION

Part II. Texas Parks and Wildlife Department

Chapter 57. Fisheries

Shrimp

• 31 TAC §57.661

The Texas Parks and Wildlife Commission in a regularly scheduled public hearing, June 1, 1995, adopted an amendment to §57.661, concerning shrimp management, without changes to the proposed text as published in the April 28, 1995, issue of the *Texas Register* (20 TexReg 3132).

In March 1994, the Parks and Wildlife Commission directed staff to develop a limited entry plan for the Texas bay shrimp fishery. Senate Bill 750, enacted by the 74th Texas Legislature, established the guidelines for the limited entry plan. This management initiative lays the foundation for reassessing all traditional fishing effort restrictions currently in place on the shrimp fishery, with the goal of achieving optimum yield. In light of this new management approach in the Texas trawl fishery, it is appropriate to rescind the 1 1/2-inch mesh change which was to take effect September 1, 1995, and to reassess management needs in the trawl fishery.

The amendment rescinds the 1 1/2-inch mesh size requirement scheduled to be implemented September 1, 1995, for commercial bait shrimp trawls, commercial bay shrimp trawls, and commercial gulf trawls used to catch seabobs. Mesh size requirements revert to those as authorized by Parks and Wildlife Code, Chapter 77.

The department received no comments regarding the proposed amendment.

The amendment is adopted under authority of Parks and Wildlife Code, §77.007, which authorizes the Commission to regulate the catching, possession, purchase and sale of shrimp.

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 July 23, 1995.

TRD-9507760

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

Effective date: July 17, 1995

Proposal publication date: April 28, 1995

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

TITLE 37. PUBLIC SAFETY AND CORRECTIONS

Part III. Texas Youth Commission

Chapter 91. Discipline and Control

Control

• 37 TAC §91.59, §91.63

The Texas Youth Commission (TYC) adopts amendments to §91.59, concerning use of force and §91.63, concerning mechanical restraint equipment, without changes to the proposed text as published in the May 23, 1995, issue of the *Texas Register* (20 TexReg 3825).

The justification for amending the sections is to increase safety for the driver, passengers, and the public when TYC youth are being transported.

The amendments require TYC staff to place youth in approved ankle cuffs during transportation to a high or maximum restriction program, and allow TYC staff to place youth in approved equipment to restrict movement during transportation when the behavior of the youth prior to or during transportation leads staff to believe the youth will attempt to escape or engage in violent behavior or self harm.

No comments were received regarding adoption of the amendments.

The amendments are adopted under the Human Resources Code, §61.034, which provides the Texas Youth Commission with the authority to make rules appropriate to the proper accomplishment of its functions.

The proposed rules implement the Human Resource Code, §61.034.

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 June 27, 1995.

TRD-9507786

Steve Robinson
Executive Director
Texas Youth Commission

Effective date: July 18, 1995

Proposal publication date: May 23, 1995

For further information, please call: (512) 483-5244

• 37 TAC §91.65

The Texas Youth Commission (TYC) adopts an amendment to §91.65, concerning security unit, without changes to the proposed text as published in the May 23, 1995, issue of the *Texas Register* (20 TexReg 3825).

The justification for amending the section is to have a more efficient system of admitting youth to the security unit in TYC facilities.

The amendment will clarify that a Youth Activity Supervisor III or IV position employee who has been designated by the superintendent and trained in security unit placement policy, may be responsible for admitting a youth to the security unit in a TYC training school.

No comments were received regarding adoption of the amendment.

The amendment is adopted under the Human Resources Code, §61.034, which provides the Texas Youth Commission with the authority to make rules appropriate to the proper accomplishment of its functions.

The proposed rule implements the Human Resource Code, §61.034.

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 June 27, 1995.

TRD-9507787 Steve Robinson
Executive Director
Texas Youth Commission

Effective date: July 18, 1995

Proposal publication date: May 23, 1995

For further information, please call: (512) 483-5244



TITLE 40. SOCIAL SERVICES AND ASSISTANCE

Part XIX. Texas

Department of Protective and Regulatory Services

Chapter 708. Medicaid

Targeted Case Management Program

Program Requirements

• 40 TAC §708.4, §708.5

The Texas Department of Protective and Regulatory Services (TDPRS) adopts an amendment to §708.4 and new §708.5, without changes to the proposed text as published in the May 12, 1995, issue of the *Texas Register* (20 TexReg 3567).

The justification for the amendment and new section is to clarify TDPRS's targeted case management sections and make the sections consistent with the approved Medicaid state plan amendment. The targeted case management program serves Medicaid recipients who are receiving foster care, child protective services, adoption assistance, or adult protective services. Targeted case management services include assessment, case planning, case coordination, and case plan reassessment.

The amendment and new section will function by ensuring the continued receipt of federal funds available for TDPRS programs.

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

The amendment and new section are adopted under the Human Resources Code, Title 2, Chapters 22 and 32, which provides the department with the authority to administer public and medical assistance programs; under Texas Civil Statutes, Article 4413 (503), which transferred all functions, programs, and activities related to the child protective services program from the Texas Department of Human Services to TDPRS; and under Texas Civil Statutes, Article 4413(502), §16, which provides the Health and Human Services Commission with the authority to administer federal medical assistance funds.

The amendment and new section implement TDPRS's response to the SB-5, General Appropriations Act, 73rd Legislature, Regular Session, Article V, Section 154 (Texas Performance Review Riders).

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 June 27, 1995.

TRD-9507862 Nancy Murphy
Section Manager, Media
and Policy Services
Texas Department of
Protective and
Regulatory Services

Effective date: August 1, 1995

Proposal publication date: May 12, 1995

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



● 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: 16 TAC §33.23 (a)

Liquor Permits

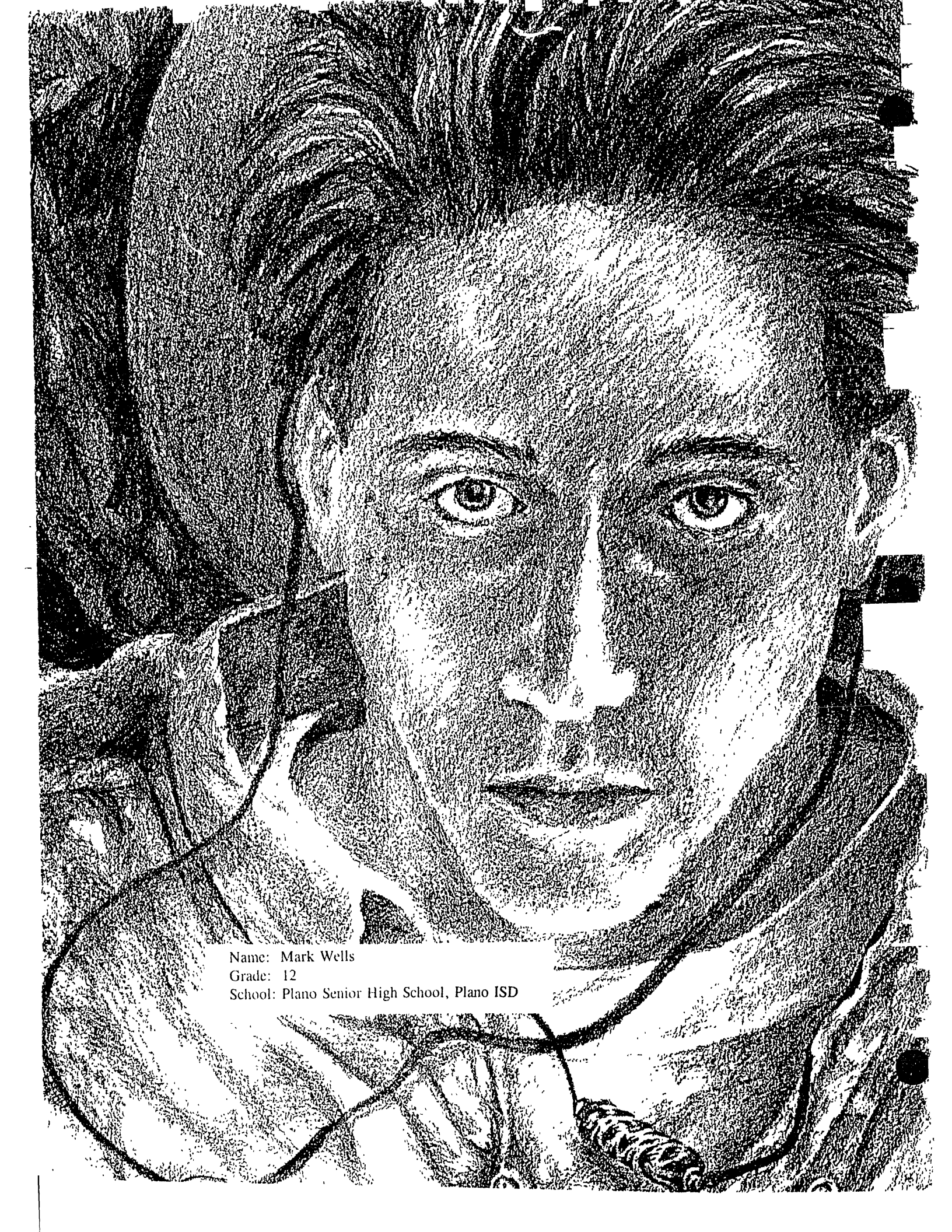
All

Agent's Permit	\$ 9.00 [\$ 7.00]
Airline Beverage Permit	\$18.00 [\$14.00]
Beverage Cartage Permit	\$14.00 [\$11.00]
Bonded Warehouse Permit	\$ 6.00 [\$ 4.00]
Bonded Warehouse Permit (Dry Area)	\$ 6.00 [\$ 4.00]
Brewer's Permit	\$37.00 [\$28.00]
Brewpub License	\$14.00 [\$11.00]
Carrier's Permit	\$13.00 [\$10.00]
Caterer's Permit	\$10.00 [\$ 8.00]
Daily Temporary Mixed Beverage Permit (Per Day)	\$14.00 [\$11.00]
Daily Temporary Private Club Registration Permit	\$14.00 [\$11.00]
Distiller's & Rectifier's Permit	\$13.00 [\$10.00]
Industrial Permit	\$22.00 [\$16.00]
Local Cartage Permit	\$ 9.00 [\$ 7.00]
Local Distributor's Permit	\$10.00 [\$ 8.00]
Local Industrial Alcohol Manufacturer's Permit	\$12.00 [\$ 9.00]
Manufacturer's Agent's Permit	\$ 9.00 [\$ 7.00]
Market Research Packager's Permit	\$ 7.00 [\$ 5.00]
Medicinal Permit	-0-
Minibar Permit	\$18.00 [\$14.00]
Mixed Beverage Permit	\$20.00 [\$15.00]
Mixed Beverage Late Hours Permit	\$16.00 [\$12.00]
Non Resident Brewer's Permit	\$ 7.00 [\$ 5.00]
Non Resident Seller's Permit	\$14.00 [\$11.00]
Package Store Permit	\$10.00 [\$ 8.00]
Package Store Tasting Permit	\$ 4.00 [\$ 3.00]
Wine Only Package Store Permit	\$10.00 [\$ 8.00]
Passenger Train Beverage Permit	\$16.00 [\$12.00]
Physician's Permit	-0-
Private Carrier's Permit	\$12.00 [\$ 9.00]
Private Club Exemption Certificate Permit	-0-
Private Club Registration Permit	\$26.00 [\$20.00]
Private Club Beer and Wine Permit	\$18.00 [\$14.00]
Private Club Late Hours Permit	\$16.00 [\$12.00]
Private Storage Permit	\$ 4.00 [\$ 3.00]
Public Storage Permit	\$ 4.00 [\$ 3.00]
Wholesaler's Permit	\$29.00 [\$22.00]
General Class B Wholesaler's Permit	\$29.00 [\$22.00]
Local Class B Wholesaler's Permit	\$29.00 [\$22.00]
Wine and Beer Retailer's Permit Railway Car	\$12.00 [\$ 9.00]
Wine and Beer Retailer's Permit Excursion Boat	\$12.00 [\$ 9.00]
Wine Bottler's Permit	\$29.00 [\$22.00]
Winery Permit	\$39.00 [\$30.00]
Winery Storage Permit	\$ 8.00 [\$ 6.00]

Figure 1: 16 TAC §33.23(a) (cont.)

Beer Licenses

Agent's Beer License	\$ 9.00 [\$ 7.00]
Branch Distributor's License	\$29.00 [\$22.00]
General Distributor's License	\$29.00 [\$22.00]
Importer's License	\$21.00 [\$16.00]
Importer's Carrier's License	\$ 8.00 [\$ 6.00]
Local Distributor's License	\$24.00 [\$18.00]
Manufacturer's License	\$37.00 [\$28.00]
Manufacturer's Warehouse License	\$26.00 [\$20.00]
Non Resident Manufacturer's License	\$14.00 [\$11.00]
Beer Retailer's Off Premise License	\$10.00 [\$ 8.00]
Beer Retailer's On Premise License	\$10.00 [\$ 8.00]
Retail Dealer's On Premise Late Hours License	\$10.00 [\$ 8.00]
Temporary License	\$ 9.00 [\$ 7.00]
Wine and Beer Retailer's Permit	\$10.00 [\$ 8.00]
Wine and Beer Retailer's Off Premise Permit	\$10.00 [\$ 8.00]



Name: Mark Wells
Grade: 12
School: Plano Senior High School, Plano ISD

OPEN MEETINGS

Agencies with statewide jurisdiction must give at least seven days notice before an impending meeting. Institutions of higher education or political subdivisions covering all or part of four or more counties (regional agencies) must post notice at least 72 hours before a scheduled meeting time. Some notices may be received too late to be published before the meeting is held, but all notices are published in the *Texas Register*.

Emergency meetings and agendas. Any of the governmental entities listed above must have notice of an emergency meeting, an emergency revision to an agenda, and the reason for such emergency posted for at least two hours before the meeting is convened. All emergency meeting notices filed by governmental agencies will be published.

Posting of open meeting notices. All notices are posted on the bulletin board at the main office of the Secretary of State in lobby of the James Earl Rudder Building, 1019 Brazos, Austin. These notices may contain a more detailed agenda than what is published in the *Texas Register*.

Meeting Accessibility. Under the Americans with Disabilities Act, an individual with a disability must have an equal opportunity for effective communication and participation in public meetings. Upon request, agencies must provide auxiliary aids and services, such as interpreters for the deaf and hearing impaired, readers, large print or braille documents. In determining type of auxiliary aid or service, agencies must give primary consideration to the individual's request. Those requesting auxiliary aids or services should notify the contact person listed on the meeting summary several days prior to the meeting by mail, telephone, or RELAY Texas (1-800-735-2989).

Texas Department of Agriculture

Thursday-Friday, July 6-7, 1995, 2:30 p.m. and 9:00 a.m., respectively.

Texas Department of Agriculture, 1700 North Congress Avenue, Room 924A
Austin

Texas Agricultural Finance Authority

AGENDA:

Thursday, July 6

Discussion on: Loan guaranty applications for South Plains Textiles, Inc., North Texas Livestock, and Agri-Gold, Inc.; rules for Farm and Ranch Finance Program, Texas Agricultural Finance Authority Loan Guaranty Program and Linked Deposit Program; Revenue Bond Program.

Friday, July 7

Discussion and action on: Minutes of last meeting; ratification of loan guaranty for Mustang Manufacturing Corporation; loan guaranty applications for South Plains Textiles, Inc., North Texas Livestock, and Agri-Gold, Inc.; publication of program rules for Texas Agricultural Finance Authority Loan Guaranty Program, Farm and Ranch Finance Program, and Linked Deposit Program; Revenue Bond Program; legislation passed by the 74th Legislature impacting the Authority; discussion on: Portfolio of Young Farmer Loan Guarantee Program and Loan Guaranty Program; budget; discussion and action on: Proposed next meeting date.

Contact: Robert Kennedy, P.O. Box 12847, Austin, Texas 78711, (512) 463-7639.

Filed: June 27, 1995, 3:57 p.m.

TRD-9507836

Tuesday, July 11, 1995, 10:30 a.m.

Board Room, Texas Sheep and Goat Raisers, 233 West Twohig

San Angelo

Texas Sheep and Goat Commodity Board

AGENDA:

Opening remarks and welcome

Swearing in of new District 1 director

Review and approval on minutes of last meeting

Review and approval of fiscal affairs

Reports of officers and directors

Discussion and action: New business-Review of telephone messages; review proposal for assistance with reprinting publication; review proposal from Gary Nunley with ADC; review "hot spots" disposals; review funds expended report; hosting event for the TS&GRA Annual Convention.

Unfinished business-Review status on various projects; Castleberry referral to Attorney General's Office; review reports from Gary Nunley on animal damage control.

Scheduling of next meeting

Discussion: Other business

Adjourn

Contact: Minnie Savage, 233 West Twohig, San Angelo, Texas 76902-3543, (915) 659-8777.

Filed: June 27, 1995, 3:11 p.m.

TRD-9507826

Thursday, August 17, 1995, 10:00 a.m.

Texas Department of Agriculture, 1700 North Congress Avenue, Room 928B

Austin

Office of Hearings

AGENDA:

Administrative hearing to review alleged violation of Texas Agriculture Code, §6.4 by Joe Pitts.

Contact: Barbara Deane, P.O. Box 12847, Austin, Texas 78711, (512) 463-7448.

Filed: June 28, 1995, 2:07 p.m.

TRD-9507940

Texas Alcoholic Beverage Commission

Monday, July 10, 1995, 9:30 a.m.

5806 Mesa Drive, Suite 180

Austin

AGENDA:

9:00 a.m.-Call to order

Convene in open meeting

Announcement of executive session

- 1. Executive session:
 - a. briefing regarding operations of the general counsel's office.

9:30 a.m.-Continue open meeting

- 2. Take action, including a vote, if appropriate on topics listed for discussion under executive session.
- 3. Approval of minutes of May 22, 1995, meeting.
- 4. Recognition of TABC employees with 20 and above years of service.
- 5. Administrator's report.
- 6. Legislative report.
- 7. Update on request for rule change to 16 TAC §45.113(h)(3) to increase promotional item cost from \$1.00 and 16 TAC §45.113(f)(7) to allow gifts to consumers under national promotions. (Relaxation of certain restrictions)
- 8. New 16 TAC §36.1 as published 20 TexReg 2189, March 24, 1995; discussion, comment and possible adoption. (Possession and sale of firearms on licensed premises)
- 9. Consider proposed rule regarding protest procedures.
- 10. Public comment.

Contact: Doyne Bailey, P.O. Box 13127, Austin, Texas 78711, (512) 206-3217.

Filed: June 29, 1995, 8:11 a.m.

TRD-9507965

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Texas Certified Self-Insurer Guaranty Association

Thursday, July 6, 1995, 10:30 a.m.

4000 South IH-35, Tippy Foster Meeting Room 910

Austin

Board

AGENDA:

- I. Call to order.
- II. Approval of minutes for the public meeting of May 3, 1995.
- III. Discussion, consideration, and possible action on the following initial application:
 - A. Champion International Corporation
- IV. Discussion, consideration, and possible action on the following renewal applications:
 - A. Poly-America, Inc.
 - B. The Evangelical Lutheran Good Samaritan Society

- C. General Motors Corporation
 - D. PPG Industries, Inc.
 - E. Thiokol Corporation
 - F. J. B. Hunt Transport, Inc.
 - G. Red Arrow Freight Lines, Inc.
 - H. Mother Frances Hospital Regional Health Care
 - I. Venture Stores, Inc.
 - J. Kiewit Construction Group, Inc.
 - K. Browning-Ferris Industries, Inc.
 - V. Other business.
- Discussion of future public meetings.
- VI. Adjournment.

Contact: Judy Roach, 1600 San Jacinto Center, 98 San Jacinto Boulevard, Austin, Texas 78701, (512) 322-2514.

Filed: June 27, 1995, 4:14 p.m.

TRD-9507839

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Comptroller of Public Accounts

Thursday, July 6, 1995, 9:00 a.m.

111 East 17th Street, LBJ Office Building, Room 114

Austin

Property Tax Timber Manual Advisory Committee

AGENDA:

Discuss (with the assistance of a mediator) the Property Tax Timberland Valuation Manual.

I. Review and update of the previous Property Tax Timber Manual Valuation Committee meeting that was held June 9, 1995

II. Mediated discussion of issues relating to content of Property Tax Timberland Valuation Manual

III. Summary and conclusion of meeting

Contact: Koren Sherrill, General Services Building, Room 415, Austin, Texas 78711, (512) 305-9841.

Filed: June 27, 1995, 3:47 p.m.

TRD-9507835

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Conservatorship Board

Tuesday, July 11, 1995, 1:30 p.m.

710 Brazos, Perry Brooks Building

Austin

AGENDA:

Call to order; approval of Multicultural Affairs Advisory Council (MAAC) members; adoption of Compliance Manual; and adjourn.

Contact: Tom Mann, 710 Brazos, Austin, Texas 78701, (512) 867-8809.

Filed: June 29, 1995, 8:45 a.m.

TRD-9507968

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Texas Cosmetology Commission

Saturday, July 8, 1995, 10:00 a.m., possibly continued Sunday, July 9, 1995, 10:00 a.m.

Texas Cosmetology Commission, Hearing Room, 5717 Balcones Drive

Austin

Commission Hearing

AGENDA:

Call to order; introductions; excuses for absent members; staff reports; Dewey Helmcamp III, explanation of recent AG opinions; Sergio Shearer, Legislative Committee Report; rule changes; Mr. Madeley, Dr. Muns, Mr. Shearer, and Mr. Strader, Re: §89.11(a)(4); Nedom Muns; discussion of manicure reciprocity; James Nickerson; Becky Stafford; Charles Oman; Nikki Schwartz; old hours resolutions; Clarissa Berry; executive session; open session; other business; and adjourn.

Contact: Alicia C. Watson, P.O. Box 26700, Austin, Texas 78755-0700, (512) 454-4674.

Filed: June 27, 1995, 3:43 p.m.

TRD-9507834

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Texas Department of Criminal Justice

Thursday, July 6, 1995, 8:30 a.m.

8100 Cameron Road, Building B, Conference Room A and B

Austin

Judicial Advisory Council-Legislative and Budget Committee

AGENDA:

Legislative update; budget review fiscal year 1996-fiscal year 1997; Ad Hoc Committee reports

Contact: Elizabeth Colvin, 209 West 14th Street, Suite 400, Austin, Texas 78701, (512) 305-8584.

Filed: June 28, 1995, 8:32 a.m.

TRD-9507914

Thursday, July 6, 1995, 8:30 a.m.

8100 Conference Road, Building B, Conference Room A and B

Austin

Judicial Advisory Council Meeting

AGENDA:

Greeting: Introduction of guests/staff; approval of minutes; Probation Advisory Committee report; section reports and updates; information management; special services; administrative services; training and staff development; field services; legal update; division director's update; next meeting; and adjournment.

Contact: Elizabeth Colvin, 209 West 14th Street, Suite 400, Austin, Texas 78701, (512) 305-8584.

Filed: June 28, 1995, 8:33 a.m.

TRD-9507919

Thursday, July 6, 1995, 10:00 a.m.

8100 Cameron Road, Building B, Conference Room A and B

Austin

Judicial Advisory Council-Special Services Committee

AGENDA:

SAFPF update

Contact: Elizabeth Colvin, 209 West 14th Street, Suite 400, Austin, Texas 78701, (512) 305-8584.

Filed: June 28, 1995, 8:32 a.m.

TRD-9507915

Thursday, July 6, 1995, 10:45 a.m.

8100 Cameron Road, Building B, Conference Room A and B

Austin

Judicial Advisory Council-Special Projects Committee

AGENDA:

Task force on recidivism report; state jails update

Contact: Elizabeth Colvin, 209 West 14th Street, Suite 400, Austin, Texas 78701, (512) 305-8584.

Filed: June 28, 1995, 8:32 a.m.

TRD-9507916

Thursday, July 6, 1995, 11:30 a.m.

8100 Cameron Road, Building B, Conference Room A and B

Austin

Judicial Advisory Council-Program Recognition Committee

AGENDA:

Program recognition

Contact: Elizabeth Colvin, 209 West 14th Street, Suite 400, Austin, Texas 78701, (512) 305-8584.

Filed: June 28, 1995, 8:32 a.m.

TRD-9507917

Thursday, July 6, 1995, 1:00 p.m.

8100 Cameron Road, Building B, Conference Room A and B

Austin

Judicial Advisory Council-Grant and Audit Committee

AGENDA:

Fiscal year 1996 diversion target programs; (grant) funding recommendations; funding substitution guidelines

Contact: Elizabeth Colvin, 209 West 14th Street, Suite 400, Austin, Texas 78701, (512) 305-8584.

Filed: June 28, 1995, 8:32 a.m.

TRD-9507918

◆ ◆ ◆
Texas Commission for the Deaf and Hearing Impaired

Thursday, July 6, 1995, Noon

Nail Technical Center, Room 138, 1300 San Pedro Avenue

San Antonio

Board for Evaluation of Interpreters (BEI)

AGENDA:

Call to order; determination of quorum; reading of minutes; reports: Officers/committees/staff: 1. Chair 2. Vice Chair 3. Secretary 4. Staff 5. TSID representative; executive session: Review of applicant and candidate testing materials; new business: 1. Certification/recertification/revocation 2. Announcements; adjournment-3:00 p.m.

Contact: Loyce Kessler, 4800 North Lamar Boulevard, #310, Austin, Texas 78756, (512) 451-8494.

Filed: June 27, 1995, 11:26 a.m.

TRD-9507801

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State Board of Dental Examiners

Thursday, July 8, 1995, 5:00 p.m.

Sheraton Bayfront Hotel, North Shoreline Boulevard

Corpus Christi

Dental Laboratory Certification Council-Committee Meeting

AGENDA:

I. Call to order II. Roll call III. Election of chairperson to the Dental Laboratory Certification Council IV. Discuss, consider and approve for presentation to the SBDE the list of registered dental laboratories V. Discuss, consider and recommend changes to the dental laboratory registration renewal form VI. Discuss and consider submitting an article for publication in the SBDE Newsletter notifying Texas dentists and laboratories of new laws recently enacted in the Dental Practice Act VII. Discuss and consider for presentation to the SBDE issues concerning prosthetic identification VIII. Discuss and consider proposing dental laboratory rules regarding fees, infection control, and renewal procedures. IX. Discuss and consider requesting the SBDE to appoint a committee comprised of three board members and the members of the Dental Laboratory Identification Council to discuss issues affecting both dentistry and dental laboratories X. Discuss and consider designing a complaint form that is specifically tailored for dental laboratories XI. Discuss and consider requesting the SBDE to direct staff to review and verify dental laboratories advertising in the telephone Yellow Pages in the Houston and San Antonio areas as registered dental laboratories XII. Discuss and consider presentation to the SBDE issues concerning printing a directory of all registered Texas Dental Laboratories to be mailed to all licensed Texas dentists and registered Texas dental laboratories XIII. Discuss and consider requesting the SBDE to consider employing an investigator specifically for dental laboratories XIV. Discuss and consider requesting that the SBDE provide the Dental Laboratory Certification Council with a quarterly enforcement report regarding the status of complaints received on dental laboratories XV. Adjourn.

Contact: Douglas A. Beran, Ph.D., 333 Guadalupe, Tower III, Suite 800, Austin, Texas 78701, (512) 463-6400.

Filed: June 27, 1995, 3:32 p.m.

TRD-9507883

◆ ◆ ◆
Texas Planning Council for Developmental Disabilities

Thursday, July 6, 1995, 9:00 a.m.

Texas Rehabilitation Commission, 4900 North Lamar Boulevard, Room 4240

Austin

Executive Committee Meeting

AGENDA:

Thursday, July 6, 1995

9:00 a.m.—Call to order

- 1. Introductions
- 2. Public comments
- 3. Approval of minutes
- 4. Review of stipends applications
- 5. Consideration of proposed fiscal year 1995 budget adjustments
- 6. Consideration of proposed fiscal year 1996 budget
- 7. Consideration of associate member
- 8. Review of council travel policy
- 9. Chair's report
 - A. Update on interim study
 - B. Council retreat
 - C. CDDC update
 - D. Other update items
- 10. Executive director's report
 - A. Administrative matters
 - B. ADD notice of proposed rules
 - C. Appointment status
- 11. Announcements

Noon—Adjourn

Persons with disabilities who plan to attend this meeting and who may need auxiliary aids or services such as interpreters for persons who are deaf or hearing impaired, readers large print or Braille, are requested to contact Rosalinda Lopez at (512) 483-4094.

Contact: Roger Webb, 4900 North Lamar Boulevard, Austin, Texas 78751, (512) 483-4080.

Filed: June 28, 1995, 10:55 a.m.

TRD-9507933

Friday, July 7, 1995, 8:30 a.m.

Texas Rehabilitation Commission, 4900 North Lamar Boulevard, Room 5501

Austin

Planning and Evaluation Committee

AGENDA:

- 8:30 a.m.—Call to order
- 8:30 a.m.—I. Introduction of council members, staff and guests
- 8:30 a.m.—II. Approval of minutes of May 4, 1995 (TAB 16)
- 9:00 a.m.—III. Public comments
- 9:05 a.m.—IV. Funding activities (TAB 17)
 - A. Results of RFIs

1. PASS

2. Permanency planning

B. Aging/DD RFI (TAB 18)

10:00 a.m.—C. Update—Ad Hoc Committee on Individuals with Mental Disabilities within the Justice System (TAB 19)

10:30 a.m.—Break

10:50 a.m.—E. Discussion—Transportation issues (TAB 21)

11:20 a.m.—V. State Plan—Committee discussion and recommendations for revision of the State Plan (TAB 22)

Noon—Lunch recess

1:00 p.m.—Reconvene—Meeting is posted until 2:00 p.m. in case addition time is needed to complete the agenda.

Persons with disabilities who plan to attend this meeting and who may need auxiliary services such as interpreters for persons who are deaf or hearing impaired, readers, large print or Braille, are requested to contact Marilyn Simpson at (512) 483-4085.

Contact: Roger Webb, 4900 North Lamar Boulevard, Austin, Texas 78751, (512) 483-4081.

Filed: June 28, 1995, 1:34 p.m.

TRD-9507937

Texas Education Agency

Wednesday, July 5, 1995, 2:00 p.m.

Room 1-109, William B. Travis Building, 1701 North Congress Avenue

Austin

State Board of Education (SBOE) Committee on the Permanent School Fund (PSF)

AGENDA:

Vendor interviews—Custodian and Securities Lending Agent—On May 24, 1995, the Committee on the PSF requested that six finalists in the search for a Master Trust Custodian and Securities Lending Agent for the Texas PSF be requested to appear before the committee on Wednesday, July 5, 1995, to make oral presentations to the committee, which will select one finalist to be recommended to the State Board of Education on July 7, 1995, for final approval. Schedule of presenters: The Chase Manhattan Bank, N.A.—2:00 p.m.; Chemical Bank—3:00 p.m.; Citibank, N.A.—4:00 p.m.; First Interstate Bank—5:00 p.m.; The Northern Trust Company—6:00 p.m.; and The Bank of New York—7:00 p.m.

Contact: Criss Cloudt, 1701 North Congress Avenue, Austin, Texas 78701, (512) 463-9701.

Filed: June 27, 1995, 1:09 p.m.

TRD-9507802

Thursday, July 6, 1995, 9:00 a.m.

Room 1-104, William B. Travis Building, 1701 North Congress Avenue

Austin

State Board of Education (SBOE) Committee of the Whole

AGENDA:

Public testimony; commissioner's overview of the July 1995 State Board of Education (SBOE) meeting; presentation by president of the National Association of State Boards of Education (NASBE); request for approval of the Academics 2000 initiatives; approval of plan for Student Assessment Program; approval of nominees to the Board of Trustees of the Teacher Retirement System of Texas; report and recommendation of the Commissioner of Education concerning instructional materials recommended for adoption by the 1995 State Textbook Environmental Science Committee; Sunset review of State Board of Education rules; Carl D. Perkins State Council on vocational education recommendations; a presentation by the Texas Council on Workforce and Economic Competitiveness; raising the esteem of the teaching profession in communities throughout Texas; and discussion of pending litigation, this discussion will be held in executive session in accordance with §551.071(1)(A), Texas Government Code, and will include a discussion of Edgewood ISD et al v. Meno and related school finance litigation, Angel G. et al v. Meno, et al, T.E.A. et al v. Gary W. Leeper et ux, et al relating to home schooling, Maxwell, et al v. Pasadena ISD relating to Texas Assessment of Academic Skills (TAAS) testing, and Casias, et al v. Moses, et al relating to accountability intervention. Note: The Committee of the Whole will meet in Room 1-103 to discuss pending litigation.

Contact: Criss Cloudt, 1701 North Congress Avenue, Austin, Texas 78701, (512) 463-9701.

Filed: June 28, 1995, 3:04 p.m.

TRD-9507948

Thursday, July 6, 1995, 1:00 p.m.

Room 1-111, William B. Travis Building, 1701 North Congress Avenue

Austin

State Board of Education (SBOE) Committee on Personnel

AGENDA:

Public testimony; proposed amendment to 19 TAC §61.61, Training for School Board Members; discussion of statutory requirements for board member training and orientation; alternative certification programs at:

Region XII Education Service Center, Lamar University, Fort Worth ISD, and Texas A&M International University; request for approval of centers for professional development and technology; discussion of charter schools, a federal grant proposal, and development of an application process for approval of open enrollment charters; request for approval of funding of centers for professional development and technology initiatives; discussion of ongoing communications activities; status report on the accreditation, interventions, and sanctions of school districts.

Contact: Criss Cloudt, 1701 North Congress Avenue, Austin, Texas 78701, (512) 463-9701.

Filed: June 28, 1995, 3:04 p.m.

TRD-9507949

Thursday, July 6, 1995, 1:00 p.m.

Room 1-100, William B. Travis Building, 1701 North Congress Avenue

Austin

State Board of Education (SBOE) Committee on Students

AGENDA:

Public testimony; proposed amendment to 19 TAC §89.113, Eligibility for a Texas Certificate of High School Equivalency; proposed process for consideration of substitutions in the SBOE recommended high school program; petitions for adoption of a rule regarding the Peer Assistance and Leadership Program; update on the clarification of essential knowledge and skills process; discussion of issues regarding credits for physical education.

Contact: Criss Cloudt, 1701 North Congress Avenue, Austin, Texas 78701, (512) 463-9701.

Filed: June 28, 1995, 3:04 p.m.

TRD-9507950

Thursday, July 6, 1995, 1:00 p.m.

Room 1-104, William B. Travis Building, 1701 North Congress Avenue

Austin

State Board of Education (SBOE) Committee on School Finance

AGENDA:

Public testimony; school finance update; request for approval of the Texas proposal for the public charter schools program; request for authorization to request funding for fiscal year 1995-1996; request for approval of funding of centers for professional development and technology initiatives; priorities for purchases of instructional materials under a six-year estimated budget projection; legislation impacting state adoption and distribution of instructional materials; review

of annual audit plan of the school financial audits division for 1995-1996; and discussion of report on fund balances of Texas public schools.

Contact: Criss Cloudt, 1701 North Congress Avenue, Austin, Texas 78701, (512) 463-9701.

Filed: June 28, 1995, 3:04 p.m.

TRD-9507951

Thursday, July 6, 1995, 4:00 p.m., or upon adjournment of the Committees on Personnel, Students, and School Finance which convene at 1:00 p. m.

Room 1-104, William B. Travis Building, 1701 North Congress Avenue

Austin

State Board of Education (SBOE) Committee of the Whole

AGENDA:

A briefing will be conducted to familiarize the members of the State Board of Education on the provisions of Senate Bill 1 of the 74th Texas Legislative Session, 1995.

Contact: Criss Cloudt, 1701 North Congress Avenue, Austin, Texas 78701, (512) 463-9701.

Filed: June 28, 1995, 3:05 p.m.

TRD-9507952

Friday, July 7, 1995, 8:30 a.m.

Room 1-104, William B. Travis Building, 1701 North Congress Avenue

Austin

State Board of Education (SBOE) Committee on Long-Range Planning

AGENDA:

Public testimony; alignment of the State Board of Education Long-Range Plan for Public Education, 1995-1999, with the mission, goals, and objectives of the new Texas Education Code; discussion of Texas teacher retention, mobility, and attrition; discussion of federal governmental relations activities.

Contact: Criss Cloudt, 1701 North Congress Avenue, Austin, Texas 78701, (512) 463-9701.

Filed: June 28, 1995, 3:05 p.m.

TRD-9507953

Friday, July 7, 1995, 8:30 a.m.

Room 1-109, William B. Travis Building, 1701 North Congress Avenue

Austin

State Board of Education (SBOE) Committee on the Permanent School Fund (PSF)

AGENDA:

Public testimony; approval of the selection of custodian and securities lending agent and authorization for contract execution by the Commissioner of Education; approval of investment counsel services contract between the TEA and Crestwood Asset Management; allocation of funds to external manager(s) and approval of contract(s) for the active balanced global-core manager(s); recommended approval of the purchases and sales to the investment portfolio of the Permanent School Fund for the month of June; discussion of transition plan for the Texas Permanent School Fund; review of Permanent School Fund securities transactions and the investment portfolio; report of the Permanent School Fund (PSF) executive administrator.

Contact: Criss Cloudt, 1701 North Congress Avenue, Austin, Texas 78701, (512) 463-9701.

Filed: June 28, 1995, 3:05 p.m.

TRD-9507954

Friday, July 7, 1995, 1:00 p.m.

Room 1-104, William B. Travis Building, 1701 North Congress Avenue

Austin

State Board of Education (SBOE)

AGENDA:

Approval of June 9, 1995 SBOE minutes; public testimony; SBOE resolutions; request for approval of the Academics 2000 initiatives; approval of Plan for Student Assessment Program; approval of nominees to the Board of Trustees of the Teacher Retirement System of Texas; report and recommendations of the Commissioner of Education concerning instructional materials recommended for adoption by the 1995 State Textbook Environmental Science Committee; 19 TAC §61.61, Training for School Board Members; alternative certification programs at: Region XII Education Service Center, Lamar University, Fort Worth ISD, Texas A&M International University; request for approval of centers for professional development and technology; proposed amendment to 19 TAC §89.113, Eligibility for a Texas Certificate of High School Equivalency; proposed process for consideration of substitutions in the SBOE recommended high school program; petitions for adoption of a rule regarding the Peer Assistance and Leadership Program; request for approval of the Texas proposal for the public charter schools program; request for authorization to request funding for 1995-1996; request for approval of funding of centers for professional development and technology initiatives; priorities for purchase of instructional materials under a six-year budget projection; approval of the selection of custodian and securities lending

agent and authorization for contract execution by the Commissioner of Education; approval of investment counsel services contract between TEA and Crestwood Asset Management; allocation of funds to external manager and approval of contract for the active balanced global-core manager; recommended approval of the purchases and sales in the investment portfolio of the PSF for the month of June; information on agency administration; SBOE meeting schedule to be announced at the meeting.

Contact: Criss Cloudt, 1701 North Congress Avenue, Austin, Texas 78701, (512) 463-9701

Filed: June 28, 1995, 3:05 p.m.

TRD-9507955

◆ ◆ ◆
**Advisory Commission on
State Emergency Commu-
nications**

Friday, July 7, 1995, 11:15 a.m.

Hobby Building, Room 1250 A, 333 Guadalupe

Austin

Poison Center Coordinating Committee Meeting

AGENDA:

The committee will call the meeting to order and recognize guests; hear public comment, hear reports and discuss and take committee action, as necessary, on: Approval of May 12, 1995, meeting minutes; old business; brief status update from each poison center in the Texas Poison Center Network; report from the Texas Department of Health and the Advisory Commission on State Emergency Communications on operations of the Texas Poison Center Network; outcome study of Poison Center Network; report of the Subcommittee on Medical Management and Protocols; report of the Subcommittee on Operations; report of the Subcommittee on Education; report of Subcommittee on DUMP the Medicines Campaign; report of the Subcommittee on Telecommunications, report of the Subcommittee on Finance; new business; and adjourn

Persons requesting interpreter services for the hearing- and speech-impaired should contact Velia Williams at (512) 305-6933 at least two working days prior to the meeting.

Contact: Jim Goerke, 333 Guadalupe Street, Austin, Texas 78701, (512) 305-6911

Filed: June 27, 1995, 10:31 a.m.

TRD-9507797

**State Employee Charitable
Campaign**

Tuesday, July 11, 1995, Noon

1212 North Velasco

Angleton

Local Employee Committee-Brazoria

AGENDA:

Meeting to review drafts of local materials, employee campaign coordinator recruitment, campaign implementation in key accounts, and plans for campaign kickoff.

Contact: Stephanie Cone, P.O. Box 1959, Angleton, Texas 77516, (409) 849-9402, Fax: (409) 848-0259.

Filed: June 27, 1995, 2:51 p.m.

TRD-9507820

Tuesday, July 11, 1995, 2:00 p.m.

210 East Ninth Street

Fort Worth

Local Employee Committee-Tarrant County

AGENDA:

1. Finalize plans for kickoff event
2. Set date and plan training for Tarrant and surrounding counties
3. Develop plan for contacting all state agencies
4. Discuss strategies for promoting campaign
5. Discuss methods of distributing materials to all locations

Contact: May Mathey, 210 East Ninth Street, Fort Worth, Texas 76102, (512) 450-0840.

Filed: June 29, 1995, 9:00 a.m.

TRD-9507972

Tuesday, July 11, 1995, 3:00 p.m.

525 North Locust

Denton

Local Employee Committee-Denton

AGENDA:

- Campaign progress report
- Review plans for campaign
- Kick-off
- Timetable
- Account management

Contact: Pat Gobble, 525 North Locust, Denton, Texas 76201-4127, (817) 566-5851.

Filed: June 27, 1995, 2:51 p.m.

TRD-9507819

Wednesday, July 19, 1995, 4:00 p.m.

901 Ross Avenue

Dallas

Local Employee Committee-Dallas

AGENDA:

1995 campaign funding

Contact: Mary Mathey, 901 Ross Avenue, Dallas, Texas 75202, (512) 450-0840.

Filed: June 27, 1995, 2:52 p.m.

TRD-9507821

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

Thursday, July 20, 1995, 1:00 p.m.

Rudder Tower, Texas A&M University, Room 701

College Station

Advisory Committee

AGENDA:

The Texas Feed and Fertilizer Control Service proposes changes to the Feed Rules to implement amendments to the Texas Feed Law effective January 1, 1996. Only members of the Feed and Fertilizer Control Service Advisory Committee will be heard.

Contact: Dr. George W. Latimer, P.O. Box 3160, College Station, Texas 77841-3160, (409) 845-1121.

Filed: June 29, 1995, 10:01 a.m.

TRD-9508000

◆ ◆ ◆
**Office of the Governor-
Criminal Justice Division**

Wednesday, July 12, 1995, 1:00 p.m.

Texas A&M Agriculture Center, Administration Building, 17360 Coit Road

Dallas

AGENDA:

The Criminal Justice Division of the Office of the Governor will hold a Town Hall meeting during which Governor George W. Bush and the public will comment on the topic "Seeking Solutions: On Protecting Our Children from Violence." This meeting is intended to satisfy the federal requirement for public hearings on the Safe and Drug-Free Schools and Communities Act.

I. Opening comments by Karen J. Green, Executive Director, Criminal Justice Division, Office of the Governor.

II. Introductions by Karen J. Greene, Executive Director, Criminal Justice Division, Office of the Governor.

III. Comments by George W. Bush, Governor.

IV. Public comment.

V. Adjournment.

Contact: Pete Wassdorf, 1100 San Jacinto, Room 412, Austin, Texas 78711, (512) 463-1815.

Filed: June 29, 8:26 a.m.

TRD-9507967

Texas Department of Health

Friday, July 14, 1995, 1:30 p.m.

Room T-607, Texas Department of Health, 1100 West 49th 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: consideration of rules (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); and 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: June 28, 1995, 9:05 a.m.

TRD-9507925

Health and Human Services Commission

Thursday, July 6, 1995, 1:30 p.m.

1100 West 49th Street, Tower Building, Room T-607

Austin

Revised Agenda

Hospital Payment Advisory Subcommittee

AGENDA:

Opening comments; state Medicaid director's comments; approval of minutes; proposed rules concerning Lone Star Select I contracting process for new hospitals; emergency rules for continuation of Governor's

cost containment initiatives; Medicaid disproportionate share update; DRG reimbursement rate update; open discussion; next meeting/adjournment.

Contact: Geri Willems, 4807 Spicewood Springs Road, Building Four, Austin, Texas 78759, (512) 502-3259.

Filed: June 28, 1995, 2:28 p.m.

TRD-9507942

Texas Higher Education Coordinating Board

Thursday, July 20, 1995, 9:00 a.m.

Chevy Chase Office Complex, Building 1, Room 1.100, 7700 Chevy Chase Drive

Austin

Legislative Relations Committee

AGENDA:

Report on the 74th Legislature

Contact: Kenneth H. Ashworth, P.O. Box 12788, Capitol Station, Austin, Texas 78711, (512) 483-6101.

Filed: June 29, 1995, 9:19 a.m.

TRD-9507977

Thursday, July 20, 1995, 9:15 a.m.

Chevy Chase Office Complex, Building 1, Room 1.100, 7700 Chevy Chase Drive

Austin

Health Affairs Committee

AGENDA:

Consideration of matters relating to health affairs.

Contact: Kenneth H. Ashworth, P.O. Box 12788, Capitol Station, Austin, Texas 78711, (512) 483-6101.

Filed: June 29, 1995, 9:22 a.m.

TRD-9507979

Thursday, July 20, 1995, 10:30 a.m.

Chevy Chase Office Complex, Building 1, Room 1.100, 7700 Chevy Chase Drive

Austin

Access and Equity Committee

AGENDA:

Final report on implementation of the Texas Educational Opportunity Plan 1989-1994.

Contact: Kenneth H. Ashworth, P.O. Box 12788, Capitol Station, Austin, Texas 78711, (512) 483-6101.

Filed: June 29, 1995, 9:22 a.m.

TRD-9507980

Thursday, July 20, 1995, 10:45 a.m.

Chevy Chase Office Complex, Building 1, Room 1.100, 7700 Chevy Chase Drive

Austin

Community and Technical Colleges Committee

AGENDA:

Consideration of matters relating to community and technical colleges.

Contact: Kenneth H. Ashworth, P.O. Box 12788, Capitol Station, Austin, Texas 78711, (512) 483-6101.

Filed: June 29, 1995, 9:23 a.m.

TRD-9507981

Thursday, July 20, 1995, Noon

Chevy Chase Office Complex, Building 1, Room 1.102, 7700 Chevy Chase Drive

Austin

Committee of the Whole

AGENDA:

The Committee of the Whole will meet in executive session on litigation matters.

Contact: Kenneth H. Ashworth, P.O. Box 12788, Capitol Station, Austin, Texas 78711, (512) 483-6101.

Filed: June 29, 1995, 9:23 a.m.

TRD-9507982

Thursday, July 20, 1995, 1:00 p.m.

Chevy Chase Office Complex, Building 1, Room 1.100, 7700 Chevy Chase Drive

Austin

University Committee

AGENDA:

Consideration of matters relating to universities.

Contact: Kenneth H. Ashworth, P.O. Box 12788, Capitol Station, Austin, Texas 78711, (512) 483-6101.

Filed: June 29, 1995, 9:23 a.m.

TRD-9507983

Thursday, July 20, 1995, 2:00 p.m.

Chevy Chase Office Complex, Building 1, Room 1.100, 7700 Chevy Chase Drive

Austin

Campus Planning Committee

AGENDA:

Consideration of matters relating to campus planning.

Contact: Kenneth H. Ashworth, P.O. Box 12788, Capitol Station, Austin, Texas 78711, (512) 483-6101.

Filed: June 29, 1995, 9:23 a.m.

TRD-9507984

Thursday, July 20, 1995, 2:45 p.m.

Chevy Chase Office Complex, Building 1,
Room 1.100, 7700 Chevy Chase Drive
Austin

Student Services Committee

AGENDA:

Consideration of matters relating to student services.

Contact: Kenneth H. Ashworth, P.O. Box 12788, Capitol Station, Austin, Texas 78711, (512) 483-6101.

Filed: June 29, 1995, 9:24 a.m.

TRD-9507985

Thursday, July 20, 1995, 3:15 p.m.

Chevy Chase Office Complex, Building 1,
Room 1.100, 7700 Chevy Chase Drive
Austin

Administration and Financial Planning Committee

AGENDA:

Consideration of a plan for distributing funds trusteeed to the Texas Higher Education Coordinating Board for TASP-related non-course-based remedial instruction; report on under-sized classes in Texas public universities; consideration of Coordinating Board budget for fiscal year 1996; and consideration of approval of contracts for financial advisor services and bond counsel services for the issuance of bonds under the \$300 million bonding authority which will be considered by the voters in November 1995.

Contact: Kenneth H. Ashworth, P.O. Box 12788, Capitol Station, Austin, Texas 78711, (512) 483-6101.

Filed: June 29, 1995, 9:24 a.m.

TRD-9507986

Friday, July 21, 1995, 8:30 a.m.

Chevy Chase Office Complex, Building 1,
Room 1.100, 7700 Chevy Chase Drive
Austin

Coordinating Board Meeting

AGENDA:

Consideration of matters relating to the Committee on Legislative Relations; the Committee on Health Affairs; the Committee on Access and Equity; the Committee on Community and Technical Colleges; the Committee of the Whole; the Committee on Universities; the Committee on Campus Planning; the Committee on Student Services; the Committee on Administration and Financial Planning; and Reports to the Board.

Contact: Kenneth H. Ashworth, P.O. Box 12788, Capitol Station, Austin, Texas 78711, (512) 483-6101.

Filed: June 29, 1995, 9:24 a.m.

TRD-9507987

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Texas Incentive and Productivity Commission

Thursday, July 13, 1995, 10:00 a.m.

Clements Building, Fifth Floor, Committee Room #5, 15th and Lavaca

Austin

AGENDA:

Session on the State Employee Incentive Program and Productivity Bonus Program

I. Call to order and roll call

II. Consideration of possible changes to the administration of the State Employee Incentive Program and Productivity Bonus Program

III. Report on administrative matters

IV. Adjournment

Contact: M. Elaine Powell, P.O. Box 12482, Austin, Texas 78711, (512) 475-2393.

Filed: June 29, 1995, 9:42 a.m.

TRD-9507990

◆ ◆ ◆
Texas Department of Insurance

Monday, July 10, 1995, 9:00 a.m.

333 Guadalupe Street, Room 100, Texas Department of Insurance

Austin

AGENDA:

Notice of public meeting for the purpose of receiving testimony and recommendations regarding the implementation of the temporary rate rollback for certain lines of insurance as required by House Bill 1988. All interested parties, including members of the general public, are invited to attend and provide comments and recommendations.

Contact: Sylvia Gutierrez, 333 Guadalupe Street, Austin, Texas 78701, (512) 463-6327.

Filed: June 28, 1995, 2:59 p.m.

TRD-9507947

Legislative Oversight Committee on Workers' Compensation

Monday, July 10, 1995, 10:00 a.m.

Room E1.026, Capitol Extension

Austin

AGENDA:

1. Call to order
2. Minutes of last meeting
3. Review of workers' comp legislation from 74th Legislative Session
4. Updates and reports
 - a. Texas Workers' Compensation (TWC) Commission
 - b. Risk management and Attorney General's Workers' Comp Division
 - c. Texas Department of Insurance
 - d. TWC Insurance Facility
 - e. TWC Insurance Fund
 - f. TWC Research Center
 - g. LOC staff
5. Other reports
6. Adjournment

Contact: June Karp, Legislative Oversight Committee, (512) 475-4991.

Filed: June 22, 1995, 1:03 p.m.

TRD-9507605

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Texas Department of Licensing and Regulation

Monday, July 17, 1995, 1:00 p.m.

E. O. Thompson Building, 920 Colorado, Fourth Floor Conference Room

Austin

Architectural Barriers Advisory Committee

AGENDA:

- I. Call to order
- II. Record of attendance
- III. Review/approval of minutes of January 23, 1995 meeting
- IV. Staff reports
- V. Subcommittee reports
- VI. Public comment
- VII. Other business
- VIII. Schedule next meeting and adjournment

All facilities are accessible to persons with disabilities. Under the Americans with Disabilities Act, persons who plan to attend

this meeting and require ADA assistance are requested to contact Caroline Jackson at (512) 463-7348 two working days prior to the meeting so that appropriate arrangements can be made.

Contact: Rick Baudoin, 920 Colorado, Austin, Texas 78711, (512) 463-3519.

Filed: June 29, 1995, 9:31 a.m.

TRD-9507988

Texas Natural Resource Conservation Commission

Monday, July 10, 1995, 4:30 p.m.

Citgo Refinery, 1802 Nueces Bay Boulevard, Nueces Bay Building

Corpus Christi

Local Governments Advisory Committee and the Citizens Advisory Committee of the Corpus Christi Bay National Estuary Program

AGENDA:

I. Call to order/introduction/minutes

II. Program update

III. Presentation on City of Corpus Christi's watershed management efforts

IV. Review of CCENEP progress and timeline and discussion of public outreach options

V. Review of Bay Guidebook draft text

VI. Review of CCENEP brochure (draft)

VII. Discussion in time/day change of LGAC/CAC meetings

VIII. Additional items/adjourn

Contact: Richard Volk, 6300 Ocean Drive, Campus Box 290, Corpus Christi, Texas 78412, (512) 985-6767.

Filed: June 29, 1995, 9:05 a.m.

TRD-9507926

Tuesday, July 25, 1995, 8:00 a.m.

Building C-Room 131E, 12124 Park 35 Circle

Austin

Office of Hearings Examiners

AGENDA:

Notice of public hearing on assessment of administrative penalties and requiring certain actions of Fina Oil and Chemical Company, TNRCC Docket Number 95-1004-ISW-E.

Contact: Patricia Robards, Mail Code 102, P.O. Box 13087, Austin, Texas 78711-3087, (512) 239-4100.

Filed: June 29, 1995, 8:58 a.m.

TRD-9507971

Tuesday, July 25, 1995, 10:00 a.m.

Room 110, Building A, 12124 Park 35 Circle, TNRCC Park 35 Office Complex located off North IH-35 between Parmer Lane and Yager Lane

Austin

Office of Hearings Examiners

AGENDA:

For a hearing before a hearings examiner on Application Number 5516 submitted by the City of Richardson for a permit pursuant to §11.21 of the Texas Water Code and TNRCC rules 30 TAC §§295.1, et seq. Application Number 5516 requests authorization to construct and maintain 13 on-channel reservoirs on Duck Creek, tributary of the East Fork Trinity River, tributary of the Trinity River, Trinity River Basin, in Dallas County, Texas. The reservoirs (referred to as Lakes A-M) will range in capacity from 0.08 acre-foot to 3.75 acre-feet with a total capacity of 11.75 acre-feet and will be used for in-place recreational use in a city park approximately 15 miles northeast of the city of Dallas, Texas. TNRCC Docket Number 95-1050-WR.

Contact: Linda Sorrells, P.O. Box 13087, Austin, Texas 78711-3087, (512) 239-4100.

Filed: June 28, 1995, 3:34 p.m.

TRD-9507920

Tuesday, July 25, 1995, 10:00 a.m.

Building C-Room 308E, 12124 Park 35 Circle

Austin

Office of Hearings Examiners

AGENDA:

Notice of public hearing on executive director's petition for an order requiring certain actions of Duncan Thompson Petroleum, Inc.; Kenneth Glass; Melvin Sharry; Brooks Operating Company; Murdock Distributing Company, and Inez Arceneaux, TNRCC Docket Number 94-0192-PST-E.

Contact: Cynthia Hayes, Mail Code 102, P.O. Box 13087, Austin, Texas 78711-3087, (512) 239-4100.

Filed: June 29, 1995, 9:18 a.m.

TRD-9507976

Thursday, August 3, 1995, 10:00 a.m.

TNRCC, 12124 Park 35 Circle, IH-35 North at Yager Lane

Austin

AGENDA:

On an application by EGS Hydrocarbons, Proposed Permit Number 26041, to operate a natural gas fired engine facility. The existing facility is located on County Road 306.

1.0 mile west of Highway 72 and 1.0 mile south of Highway 99 near Tilden in McMullen County.

Contact: Andy Tomasino, P.O. Box 13087, Austin, Texas 78711, (512) 239-1593.

Filed: June 28, 1995, 2:25 p.m.

TRD-9507941

Board of Nurse Examiners

Tuesday, July 11, 1995, 4:00 p.m.

9101 Burnet Road, Suite 104

Austin

Executive Committee

AGENDA:

Call to order

Roll call

Minutes of May 9, 1995 meeting

1. Old business

1.1. August retreat

2. New business

2.1. Evaluation of executive director

2.2. Leadership transition

2.3. Proposed change in meeting agenda

2.4. Proposed meeting dates

Adjourn

Contact: Erlene Fisher, Box 140466, Austin, Texas 78714, (512) 835-8675.

Filed: June 28, 1995, 8:35 a.m.

TRD-9507921

Friday, July 14, 1995, 10:00 a.m.

9101 Burnet Road, Suite 104

Austin

Advisory Committee for Education

AGENDA:

Call to order

Approval of minutes

Review of Guidelines

Re-education

Clinical Facilities Coordinating Council

Discussion and reports of issues and priority

Unlicensed Assistive Personnel-L. Hinshaw

Faculty Qualifications and Development-M. E. Wyers, P. Adams

ADA issues-R. Keen-Payne

Preceptors/Mentoring-B. Hopkins, S. Kelb

Update of proposed rules for implementing "Essential Competencies of Texas Graduates of Education Programs in Nursing Education"

Report of Statewide Nursing Education Conference

New business

Adjournment

Contact: Donna Carlin, Box 140466, Austin, Texas 78714, (512) 835-8654.

Filed: June 29, 1995, 9:48 a.m.

TRD-9507991

Texas Parks and Wildlife Department

Wednesday, July 5, 1995, 12:30 p.m.

Parks and Wildlife HQ, 4200 Smith School Road

Austin

Parks and Wildlife Commission Public Lands Committee

AGENDA:

Approval of committee minutes of the previous meetings; action-Land donation-El Paso County; action-Pipeline easement-Lower Neches Wildlife Management Area-Jefferson County; briefing-Land Acquisition Program; briefing-Superconducting Super Collider (SSC) land holdings; other business.

Contact: Andrew Sansom, 4200 Smith School Road, Austin, Texas 78744, (512) 389-4642.

Filed: June 27, 1995, 3:17 p.m.

TRD-9507828

Wednesday, July 5, 1995, 12:30 p.m.

Parks and Wildlife HQ, 4200 Smith School Road

Austin

Parks and Wildlife Commission Regulations Committee

AGENDA:

Approval of committee minutes of the previous meetings; action-1995-1996 early season migratory game bird proclamation; action-Consistency with federal regulations in the Exclusive Economic Zone; briefing-1995-1996 late season migratory game bird proclamation; briefing-permits for trapping, transporting and transplanting of game animals and game birds; other business.

Contact: Andrew Sansom, 4200 Smith School Road, Austin, Texas 78744, (512) 389-4642.

Filed: June 27, 1995, 3:20 p.m.

TRD-9507830

Wednesday, July 5, 1995, 12:30 p.m.

Parks and Wildlife HQ, 4200 Smith School Road

Austin

Parks and Wildlife Commission Finance Committee

AGENDA:

Approval of committee minutes of the previous meetings; action-Fees and exemptions; briefing-Strategy session on long-term planning for funding needs; briefing-Fiscal 1996 operating and capital budgets; briefing-Preview of annual audit plan; other business.

Contact: Andrew Sansom, 4200 Smith School Road, Austin, Texas 78744, (512) 389-4642.

Filed: June 27, 1995, 3:18 p.m.

TRD-9507829

Wednesday, July 5, 1995, 7:00 p.m.

Ruth's Chris Steakhouse, 3010 Guadalupe Austin

Parks and Wildlife Commission

AGENDA:

Members of the Texas Parks and Wildlife Commission plan to have dinner at 7:00 p.m. on July 5, 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, July 6, 1995.

Contact: Andrew Sansom, 4200 Smith School Road, Austin, Texas 78744, (512) 389-4642.

Filed: June 27, 1995, 3:20 p.m.

TRD-9507831

Thursday, July 6, 1995, 9:00 a.m.

Parks and Wildlife HQ, 4200 Smith School Road

Austin

Parks and Wildlife Commission

AGENDA:

Approval of the commission minutes from the June 1, 1995 meeting; presentation of retirement certificates and service awards; action-1995-1996 early season migratory game bird proclamation; action-Fees and exemptions; briefing-Mountain lion research; action-Red snapper regulations; action-Regulations concerning the use of sand pumps for taking aquatic organisms; briefing-Snow geese population; action-Land donation-El Paso County; action-Pipeline easement-Lower Neches Wildlife Management Area-Jefferson County; briefing-Aquaculture.

Contact: Andrew Sansom, 4200 Smith School Road, Austin, Texas 78744, (512) 389-4642.

Filed: June 27, 1995, 3:15 p.m.

TRD-9507827

Texas Board of Physical Therapy Examiners

Friday, July 7, 1995, 9:00 a.m.

Fifth Floor, North Tower, Methodist Hospital, 7700 Floyd Curl Drive

San Antonio

Investigation Committee

AGENDA:

I. Call to order.

II. Consideration and possible action on cases 95022, 95023, 95120, 95116, 95108, 95140, 95046, 95107, 95129, 95146, 95050, 95126, 95099, 95145, 94162

III. Consideration and possible recommendation regarding felony applicants and miscellaneous correspondence

IV. Discussion of investigation procedures

V. Adjourn

Contact: Gerard Swain, 3001 South Lamar Boulevard, Suite 101, Austin, Texas 78704, (512) 443-8202.

Filed: June 28, 1995, 3:27 p.m.

TRD-9507958

Public Utility Commission of Texas

Thursday, July 13, 1995, 10:00 a.m.

7800 Shoal Creek Boulevard

Austin

Hearings Division

AGENDA:

A prehearing conference is scheduled for the above date and time in Docket Number 14271: Application of Southwestern Bell Telephone Company for waivers of the requirements of Public Utility Commission Substantive Rule 23.69 related to the deployment of ISDN-based services.

Contact: John M. Renfrow, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

Filed: June 28, 1995, 10:23 a.m.

TRD-9507932

Monday, July 17, 1995, 9:00 a.m.

7800 Shoal Creek

Austin

Hearings Division

AGENDA:

A prehearing conference will be held on the above date and time in Docket Number 14343: Application of Rio Grande Electric Cooperative, Inc., for approval of revised tariffs and for good cause exceptions to Public Utility Substantive Rule 23.24(b)(1) and (c).

Contact: John M. Renfrow, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

Filed: June 29, 1995, 3:27 p.m.

TRD-9507959

Texas Sustainable Energy Development Council

Thursday, July 7, 1995, 9:00 a.m.

1000 Red River, Teacher Retirement System Cafeteria, Meeting Room 420

Austin

AGENDA:

1. Call to order
2. Approval of minutes from last meeting
3. Review strategic planning schedule
4. Confirm goals and objectives
5. Review action plan proposals and status
6. Resolve parking lot issues
7. Administrative update
8. Public comment
9. Adjourn

Contact: Charlotte Banks, 1700 North Congress Avenue, Room 850, Austin, Texas 78701, (512) 463-1745.

Filed: June 28, 1995, 2:56 p.m.

TRD-9507946

Texas State Technical College System

Friday, June 30, 1995, 3:30 p.m.

Texas State Technical College System, 3801 Campus Drive, System Conference Room

Waco

Board of Regents

AGENDA:

Executive Committee will meet to discuss:
Lease agreement with Amarillo College
Lease agreement with Chrysler Airborne Technologies Systems

Approval of signature authorizations

Reengineering and reduction in force, effective September 1, 1995

Contact: Sandra J. Krumnow, 3801 Campus Drive, Waco, Texas 76705, (817) 867-4890.

Filed: June 27, 1995, 3:29 p.m.

TRD-9507832

Regional Meetings

Meetings Filed June 27, 1995

The Education Service Center, Region XVI (Revised Agenda.) Board of Directors met at the Region XVI Education Service Center, 1601 South Cleveland, Board Room, Amarillo, June 30, 1995, at 4:00 p.m. Information may be obtained from Darrell L. Garrison, P.O. Box 30600, Amarillo, Texas 79120, (806) 376-5521. TRD-9507837.

The Henderson County Appraisal District (Revised Agenda.) Appraisal Review Board will meet at 1751 Enterprise Street, Athens, July 5-6, 1995, at 8:30 a.m. Information may be obtained from Lori Fetterman, 1751 Enterprise Street, Athens, Texas 75751, (903) 675-9296. TRD-9507824.

The Henderson County Appraisal District Appraisal Review Board will meet at 1751 Enterprise Street, Athens, July 12, 1995, at 8:30 a.m. Information may be obtained from Lori Fetterman, 1751 Enterprise Street, Athens, Texas 75751, (903) 675-9296. TRD-9507823.

The Henderson County Appraisal District Appraisal Review Board will meet at 1751 Enterprise Street, Athens, July 19, 1995, at 8:30 a.m. Information may be obtained from Lori Fetterman, 1751 Enterprise Street, Athens, Texas 75751, (903) 675-9296. TRD-9507822.

The Jasper County Appraisal District Appraisal Review Board will meet at 137 North Main, Jasper, July 12, 1995, at 9:00 a.m. Information may be obtained from David Luther, 137 North Main, Jasper, Texas 75951, (409) 384-2544. TRD-9507838.

The Lavaca County Central Appraisal District Appraisal Review Board will meet at 113 North Main Street, Hallettsville, July 12, 1995, at 9:00 a.m. Information may be obtained from Diane Munson, P.O. Box 386, Hallettsville, Texas 77964, (512) 798-4396. TRD-9507865.

The Panhandle Ground Water Conservation District Number 3 Board of Directors (Public Meeting) met at the District Office, 300 South Omohundro Street, White Deer, July 3, 1995, at 8:00 p.m. Information may be obtained from C. E. Williams, Box 637, White Deer, Texas 79097, (806) 883-2501. TRD-9507825.

The Tarrant County Appraisal District Tarrant Appraisal Review Board will meet at 2329 Gravel Road, Fort Worth, July

5-14, 17-20, 24-27, and 31, 1995, at 8:00 a.m. Information may be obtained from Linda G. Smith, 2329 Gravel Road, Fort Worth, Texas 76118-6984, (817) 284-8884. TRD-9507813.

Meetings Filed June 28, 1995

The Atascosa County Appraisal District Board of Directors will meet at Fourth and Avenue J, Poteet, July 6, 1995, at 1:30 p.m. Information may be obtained from Vernon A. Warren, P.O. Box 139, Poteet, Texas 78065, (210) 742-3591. TRD-9507956.

The Edwards CAD Board of Directors will meet at 408 Austin Street, Rocksprings, July 7, 1995, at 10:00 a.m. Information may be obtained from Teresa Sweeten, P.O. Box 378, Rocksprings, Texas 78880, (210) 683-4189. TRD-9507931.

The Erath County Appraisal District Board of Directors will meet at 1390 Harbin Drive, Stephenville, July 11, 1995, at 7:00 a.m. Information may be obtained from Vicky Greenough, 1390 Harbin Drive, Stephenville, Texas 76401, (817) 965-5434. TRD-9507922.

The Gregg Appraisal District Appraisal Review Board will meet at 2010 Gilmer Road, Longview, July 5, 1995, at 9:00 a.m. Information may be obtained from William T. Carroll, 2010 Gilmer Road, Longview, Texas 75604, (903) 759-0015. TRD-9507934.

The Gregg Appraisal District Appraisal Review Board will meet at 2010 Gilmer Road, Longview, July 6, 1995, at 9:00 a.m. Information may be obtained from William T. Carroll, 2010 Gilmer Road, Longview, Texas 75604, (903) 759-0015. TRD-9507935.

The Gregg Appraisal District Appraisal Review Board will meet at 2010 Gilmer Road, Longview, July 7, 1995, at 9:00 a.m. Information may be obtained from William T. Carroll, 2010 Gilmer Road, Longview, Texas 75604, (903) 759-0015. TRD-9507936.

The Appraisal District of Jones County Appraisal Review Board will meet at 1137 East Court Plaza, Anson, July 7, 1995, at 10:15 a.m. Information may be obtained from Susan Holloway, P.O. Box 348, Anson, Texas 79501, (915) 823-2422. TRD-9507938.

The Scurry County Appraisal District Board of Directors will meet at Highway 84 and 180, Snyder, July 6, 1995, at 8:00 a.m. Information may be obtained from L. R. Peveler, 2612 College Avenue, Snyder, Texas 79549, (915) 573-8549. TRD-9507943.

The Scurry County Appraisal District Board of Directors will meet at 2612 College Avenue, Snyder, July 6, 1995, at 9:00 a.m. Information may be obtained from L. R. Peveler, 2612 College Avenue, Snyder, Texas 79549, (915) 573-8549. TRD-9507944.

The Scurry County Appraisal District Board of Directors will meet at 2612 College Avenue, Snyder, July 6, 1995, at 9:30 a.m. Information may be obtained from L. R. Peveler, 2612 College Avenue, Snyder, Texas 79549, (915) 573-8549. TRD-9507945.

The Texas Association of Regional Councils Board of Directors will meet at the Austin North Hilton and Towers, Austin, July 7, 1995, at 9:30 a.m. Information may be obtained from Sheila Jennings or Jim Ray, 508 West 12th Street, Austin, Texas 78701, (512) 478-4715, Fax: (512) 478-1049. TRD-9507930.

The Wise County Appraisal District Appraisal Review Board will meet at 206 South State Street, Decatur, July 13, 1995,

at 9:00 a.m. Information may be obtained from Deidra Deaton, 206 South State Street, Decatur, Texas 76234, (817) 627-3081. TRD-9507928.

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Meetings Filed June 29, 1995

The Bastrop Central Appraisal District Appraisal Review Board will meet at 1200 Cedar Street, Bastrop, July 7, 1995, at 8:30 a.m. Information may be obtained from Dana Ripley, 1200 Cedar Street, Bastrop, Texas 78602, (512) 303-3536. TRD-9508001.

The Bell-Milam-Falls WSC Board will meet at the Office-FM485 West, Cameron, July 6, 1995, at 8:30 a.m. Information may be obtained from Dwayne Jekel, P.O. Drawer 150, Cameron, Texas 76520, (817) 697-4016. TRD-9507966.

The Bosque County Central Appraisal District Appraisal Review Board will meet at 202 South Highway 6, Meridian, July 6, 1995, at 9:00 a.m. Information may be ob-

tained from Janice Henry, P.O. Box 393, Meridian, Texas 76665-0393, (817) 435-2304. TRD-9507970.

The Brazos River Authority Joint Administrative Policy and Water Utilization Committee will meet at 4400 Cobbs Drive, Waco, July 7, 1995, at 9:00 a.m. Information may be obtained from Mike Bukala, P.O. Box 7555, Waco, Texas 76714-7555, (817) 776-1441. TRD-9507960.

The Brazos River Authority Water Utility Committee will meet at 4400 Cobbs Drive, Waco, July 11, 1995, at 10:00 a.m. Information may be obtained from Mike Bukala, P.O. Box 7555, Waco, Texas 76714-7555, (817) 776-1441. TRD-9507961.

The Dallas Central Appraisal District Board of Directors (Regular Meeting) will meet at 2949 North Stemmons Freeway, Second Floor Community Room, Dallas, July 5, 1995, at 7:30 a.m. Information may be obtained from Rick Kuehler, 2949 North Stemmons Freeway, Dallas, Texas 75247, (214) 631-0520. TRD-9507969.

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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.

Employees Retirement System of Texas Request for Proposal for Permanent Life Insurance for State of Texas and Higher Education Employees

In accordance with Chapter 659, Government Code, the Employees Retirement System of Texas (ERS) announces a Request for Proposal (RFP) for Permanent Life Insurance for State of Texas and higher education employees. Such proposal will provide permanent life insurance coverage to State of Texas and higher education employees during the next Plan Year 1996. Proposals will provide the level of coverage as required in the RFP.

The RFP is available upon request from the ERS.

The deadline for receipt of the complete proposals in response to this request will be 5:00 p.m. on August 11, 1995.

The ERS reserves the right to accept or reject any proposals submitted. The ERS is under no legal requirement to execute a resulting contract on the basis of this advertisement.

The ERS will base its choice of carrier on demonstrated capacity to provide adequate coverage, price, superior qualifications, and evidence of conformance with the RFP criteria.

This RFP does not commit the ERS to pay any costs incurred prior to execution of a contract. Issuance of this material in no way obligates the ERS to award a contract or to pay any costs incurred in the preparation of a response. The ERS specifically reserves the right to vary all provisions set forth at any time prior to execution of a contract where the ERS deems it to be in the best interest of the State of Texas and higher education employees.

For further information regarding this notice, or to obtain copies of the RFP instructions, please contact James W. Sarver, Director, Group Insurance Division, Employees Retirement System of Texas, 18th and Brazos, P.O. Box 13207, Austin, Texas 78711-3207, (512) 867-3217.

Issued in Austin, Texas, on June 23, 1995.

TRD-9507754

Charles D. Travis
Executive Director
Employees Retirement System of Texas

Filed: June 28, 1995

Texas Department of Housing and Community Affairs

Notice of Public Hearing--Multi-Family Housing Revenue Bonds, Series 1984 (allied Bank Private Placement--Summer Bend at Las Colinas)

Notice is hereby given of a public hearing to be held by the Texas Department of Housing and Community Affairs (formerly known as the Texas Housing Agency) at 811 Barton Springs Road, Suite 100, Austin, Texas, at 10:00 a.m. on Wednesday, July 19, 1995 with respect to the Texas Housing Agency Multi-Family Housing Bonds, Series 1984 (allied Bank Private Placement-Summer Bend at Las Colinas) (the "Bonds") treated to be reissued in a face amount not to exceed \$8,794,000 and originally issued in the aggregate principal amount of \$10,100,000. The project financed with the proceeds of the original issuance of the Bonds and to be treated as refinanced from the deemed proceeds of the reissuance of the Bonds is a 300-unit apartment complex located at 1301 Meadow Creek Drive, Irving, Dallas County, Texas ("Summer Bend"). The initial owner and operator of Summer Bend when the Bonds were originally issued was Summer Bend, Ltd., a Texas limited partnership. The current owner of Summer Bend is Bending Oaks Brook, Ltd., a Texas limited partnership.

All interested persons are invited to attend such public hearing to express their views with respect to Summer Bend and the treated reissuance of the Bonds. Questions or requests for additional information are to be directed to Mario Aguilar at the Texas Department of Housing and Community Affairs, 811 Barton Springs Road, Austin, Texas 78704; (512) 475-3938.

Persons who intend to appear at the hearing and express their views are invited to contact Mario Aguilar in writing in advance of the hearing. Any interested persons unable to attend the hearing may submit their views in writing to Mario Aguilar prior to the date scheduled for the hearing.

This notice is published and the above described hearing is to be held in satisfaction of the requirements of Section 147(f) of the Internal Revenue Code of 1986, as amended, regarding the public approval prerequisite to the exemption from federal income taxation of the interest on the Bonds.

Individuals who require auxiliary aids or services for this meeting should contact Aurora Carvajal, ADA Responsible Employee, at (512) 475-3822, or Relay Texas at 1-800-735-2989 at least two days before the meeting so that appropriate arrangements can be made.

Issued in Austin, Texas, on June 28, 1995.

TRD-9507912

Henry Flores
Executive Director
Texas Department of Housing and
Community Affairs

Filed: June 28, 1995

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Texas Department of Human Services
Public Notice

The Texas Department of Human Services (DHS) has published a report outlining its proposed intended use of federal block grant funds during Fiscal Year 1996 for Title XX social services programs. To obtain free copies of the report, send written requests to Nancy Murphy, Section Manager, Media and Policy Services, Mail Code E-205, Texas Department of Human Services, P.O. Box 149030, Austin, Texas 78714-9030. DHS is seeking written comments from representatives of both public and private sectors regarding the proposed use of Title XX block grant funds. Written comments will be accepted through August 3, 1995. Please mail comments to the address listed in this notice.

Issued in Austin, Texas, on June 27, 1995.

TRD-9507863

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

Filed: June 27, 1995

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Texas Department of Insurance
Notice

The Commissioner of Insurance or his designee, will consider approval of a rate filing request outside the promulgated flexibility band filed by The Phoenix Insurance Company pursuant to Texas Insurance Code, Article 5.101, §3(f). They are proposing rates of +45% above the benchmark for other than uninsured motorist for private passenger automobile.

Copies of the filing may be obtained by contacting Gifford Ensey, at the Texas Department of Insurance, Legal and Compliance, P.O. Box 149104, Austin, Texas 78714-9104, Extension (512) 475-1761.

This filing is subject to Department approval without a hearing unless an objection is filed with the Chief Economist, Birny Birnbaum, at the Texas Department of Insurance, 333 Guadalupe, P.O. Box 149104, Austin, Texas 78701 within 30 days after publication of this notice.

Issued in Austin, Texas, on June 26, 1995.

TRD-9507769

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

Filed: June 26, 1995

Texas Lottery Commission
Request for Proposals—Drawings and
Promotions Auditing Services

The purpose of this Request for Proposals ("RFP") is to obtain proposals to provide Audit Services for all Texas Lottery drawings and promotions as specified by the Texas Lottery.

The intent of the Texas Lottery is to contract with the Successful Proposer to provide Drawings & Promotions Audit services with an initial one year contract term commencing September 1, 1995.

Proposers responding to this RFP are expected to provide the Texas Lottery with information, evidence and demonstrations that will permit awarding a contract in a manner that best serves the interests of the Texas Lottery.

This RFP is issued by the Texas Lottery. The Texas Lottery is the sole point of contact with regard to all procurement and contractual matters relating to the services described herein. The Texas Lottery is the only office authorized to clarify, modify, amend, alter or withdraw the specifications, terms and conditions of this RFP and any contract awarded as a result of this RFP.

Schedule Of Events

The time schedule for awarding a contract under this RFP is listed. The Texas Lottery reserves the right to amend the schedule. If significant changes are made, all potential Proposers will be notified.

July 3, 1995—RFP Issued

July 13, 1995 (4:00 p.m. CT)—Letter Of Intent To Propose Due

(Late letters of Intent will not be considered)

July 19, 1995 (4:00 p.m. CT)—Written Questions Due

July 25, 1995—Answers To Questions Issued

August 1, 1995 (4:00 p.m. CT)—Proposal Due Date

(Late proposals will not be considered)

August 7, 1995—Texas Lottery Announcement Of Successful Proposer (or as soon as possible thereafter)

To obtain a copy of the RFP, please contact: Ridgely C. Bennett, Staff Attorney, Texas Lottery Commission, Post Office Box 16630, Austin, Texas 78761-6630, (512) 371-4935 or by Fax (512) 371-4989.

Issued in Austin, Texas, June 28, 1995.

TRD-9507929

Ridgely C. Bennett
Staff Attorney
Texas Lottery Commission

Filed: June 28, 1995

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Texas Department of Mental Health
and Mental Retardation
Notice of State Plan Amendment

The Texas Department of Mental Health and Mental Retardation (TDMHMR) is planning to submit a Medicaid state plan amendment to revise the classes of service and rate determination methodology for intermediate care facilities for persons with mental retardation (ICF/MR).

This action will first establish two classes of service for community-based ICFs/MR, a class for governmental entities and a class for private providers. The action also will replace the median based system with a system that is based on costs associated with the 75th percentile day of service.

The revised rate classes and rate determination methodology will be effective July 1, 1995. Each class of community-based ICF/MR Level I, large ICF/MR Level V, large ICF/MR Level VI, small ICF/MR Level V, and small ICF/MR Level VI will be divided into two additional classes based on type of ownership: (a) government/public facilities and (b) non-government (for-profit and not-for-profit) facilities.

For these rate classes and state schools, rate components for each cost center currently determined by the cost associated with the median day of service plus an incentive factor will be replaced. The cost associated with the provider delivering the 75th percentile day of service for each cost center will be used for setting that rate component.

The community-based ICF/MR Level VIII rate class also will be divided into two additional classes based on type of ownership: (a) government/public facilities and (b) non-government (for-profit and not-for-profit) facilities. The community-based ICF/MR Level VIII rate bases will comprise the corresponding small ICF/MR Level V government/public facilities and non-government facilities. State operated small Level V and VI facilities will be reimbursed based on the respective ICF/MR Level V or Level VI community-based government facility rates with additional adjustments for wages and benefits paid by the state. Reimbursement rates for alternate Level VI children's facilities will be based on a comparison to the corresponding community-based private large Level VI facility reimbursement provider class rather than the uniform rate stated in the current rules.

Effective January 1, 1996, the reimbursements for: (a) community-based government ICF/MR Level I, government large ICF/MR Level V, government large ICF/MR Level VI, government small ICF/MR Level V, government small ICF/MR Level VI and government ICF/MR Level VIII rate, (b) community-based non-government ICF/MR Level I, non-government large ICF/MR Level V, non-government large ICF/MR Level VI, non-government small ICF/MR Level V, non-government small ICF/MR Level VI and non-government ICF/MR Level VIII, (c) state schools and state operated small Level V and VI facilities, and (d) community-based alternate Level VI children's ICFs/MR will be calculated by applying a common inflation adjustment factor to the rates effective on December 31, 1995.

The net increase in annual aggregate expenditures above the level of current rates for fiscal years 1995, 1996, and 1997 are estimated to be \$12,531,650, \$87,275,799, and \$106,285,432 respectively.

Local field offices of the Texas Department of Human Services have copies of the ICF/MR reimbursement methodology for review. Copies also may be obtained by calling TDMHMR-Medicaid Programs Section at (512) 323-3261. Written comments concerning the state plan amendment may be submitted to the TDMHMR-Medicaid Programs Section at P.O. Box 12668, Austin, Texas 78711-2668.

Issued in Austin, Texas, on June 27, 1995.

TRD-9507790

Ann K. Utley
Chair, Texas MHMR Board
Texas Department of Mental Health and
Mental Retardation

Filed: June 27, 1995

Texas Board of Pardons and Paroles Correction of Error

The Texas Board of Pardons and Paroles adopted new §141.111, concerning the definitions used by the board in its TAC rules and regulations. The rule appeared in the April 18, 1995, *Texas Register* (20 TexReg 2861).

The definition for the term "Administrative Release" was inadvertently omitted from the document pertaining to rule 37 TAC §141.111. It should have read as follows.

"Administrative release (parole/mandatory supervision) revocation hearing, administrative release revocation hearing, revocation hearing or violation hearing—Are synonymous terms for a hearing conducted under §§145.41-145.55 of this title (relating to Revocation of Administrative Release (Parole and Mandatory Supervision)); and for hearings, §§147.1-147.7 of this title (relating to General Rules for Hearings); and §§147.21-147.28 of this title (relating to Evidence), to determine whether the board will enter an order revoking the administrative release or order some lesser sanction or recommend to the governor the revocation of the administrative release of any individual subject to executive clemency."

Texas Department of Protective and Regulatory Services

Notice of Award of Contract

In accordance with Texas Government Code, Chapter 2254, Subchapter B, the Texas Department of Protective and Regulatory Services (TDPRS) announces a consultant contract award to the American Humane Association (AHA). The invitation for consultant proposal was published in the May 9, 1995, issue of the *Texas Register* (20 TexReg 3507). This award is under the federal "Screening at Intake" grant award for innovations in Child Protective Services.

Description of Services: This project proposes to develop a methodology for using a statistical modeling process to help identify cases at intake which can be safely screened out and not investigated and cases which can be screened in for an abbreviated investigation and assessment process and more efficient delivery of services to prevent serious injury or death cases. A retrospective and prospective study, a comparison analysis, and a pilot test will be conducted to determine implementation feasibility. This project will build on a statistical modeling process that the contractor is working on with PRS to develop for the Decision Enhancement Project.

Contractor Mailing Address: American Humane Association, 63 Inverness Drive East, Englewood, Colorado 80112.

Amount: The total budget amount of this Contract shall not exceed \$36,000.

Term of Contract: The anticipated contract effective dates are from June 20, 1995, through September 30, 1996.

Issued in Austin, Texas, on June 27, 1995.

TRD-9507864 Nancy Murphy
Section Manager, Media and Policy
Services
Texas Department of Protective and
Regulatory Services

Filed: June 27, 1995

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Public Utility Commission of Texas
Notices 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 NationsBank, San Antonio, Texas.

Tariff Title and Number. Application of Southwestern Bell Telephone Company for PLEXAR-Custom Service for Nationsbank pursuant to Public Utility Commission Substantive 23.27. Tariff Control Number 14348.

The Application. Southwestern Bell Telephone Company is requesting approval of a 75-station addition to the existing PLEXAR-Custom service for NationsBank. The geographic service market for this specific service is the San Antonio, 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 June 27, 1995.

TRD-9507815 John M. Renfrow
Secretary of the Commission
Public Utility Commission of Texas

Filed: June 27, 1995

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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 Huntsville ISD, Huntsville, Texas.

Tariff Title and Number. Application of Southwestern Bell Telephone Company for PLEXAR-Custom Service for Huntsville ISD pursuant to Public Utility Commission Substantive Rule 23.27. Tariff Control Number 14361.

The Application. Southwestern Bell Telephone Company is requesting approval of a new PLEXAR-Custom service for Huntsville ISD. The geographic service market for this specific service is the Huntsville, 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 June 27, 1995.

TRD-9507817 John M. Renfrow
Secretary of the Commission
Public Utility Commission of Texas

Filed: June 27, 1995

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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 Fort Worth, Fort Worth, Texas.

Tariff Title and Number. Application of Southwestern Bell Telephone Company for PLEXAR-Custom Service for the City of Fort Worth pursuant to Public Utility Commission Substantive Rule 23.27. Tariff Control Number 14347.

The Application. Southwestern Bell Telephone Company is requesting approval of a 15-station addition to the existing PLEXAR-Custom service for the City of Fort Worth. The geographic service market for this specific service is the Fort Worth, 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 June 27, 1995.

TRD-9507814 John M. Renfrow
Secretary of the Commission
Public Utility Commission of Texas

Filed: June 27, 1995

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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 John Eagle Dealerships, Dallas, Texas.

Tariff Title and Number. Application of Southwestern Bell Telephone Company for PLEXAR-Custom Service for John Eagle Dealerships pursuant to Public Utility Commission Substantive Rule 23.27. Tariff Control Number 14349.

The Application. Southwestern Bell Telephone Company is requesting approval of a 60-station addition to the existing PLEXAR-Custom service for John Eagle Dealerships. The geographic service market for this specific service is the Dallas, 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 June 27, 1995.

TRD-9507816 John M. Renfrow
Secretary of the Commission
Public Utility Commission of Texas

These services have been previously performed by Hugh Bryant, Austin, Texas. The Authority intends to continue with and to award the contract for consulting services to Hugh Bryant for fiscal year 1996 unless a better proposal is submitted in response to this request.

Proposals received in response to this request will be evaluated according to the following criteria: prior experience in working with state and federal regulations related to the handling and disposal of low-level radioactive waste with specific emphasis on the rules and regulations of the U.S. Nuclear Regulatory Commission, the Texas Department of Health, and the Texas Natural Resource Conservation Commission; knowledge of Texas low-level radioactive waste characteristics; demonstrated competence and qualifications directly related to licensing, procedures development, and processing and storage operations of low-level radioactive waste; specific knowledge of and experience with the Authority's radiation protection and environmental monitoring programs; understanding of the work to be performed; and reasonableness of the fee for services.

The Authority reserves the right to accept or reject any or all proposals submitted. The Authority is under no legal requirement to execute a consultant contract on the basis of this notice. The Authority intends the material herein only as a general description of the services desired.

The proposal should be for a period of one year, beginning September 1, 1995.

Three copies of the proposal are requested. They should be sent by mail, or delivered in person marked "Proposal for Radiological Consulting Services" addressed to Robert V. Avant, Jr., P.E., 7701 North Lamar Boulevard, Suite 300, Austin, Texas 78752. Proposals shall be received at this address not later than 5:00 p.m. Friday, July 14, 1995. The proposal should be typed, preferably double spaced and completed on 8 1/2 by 11 inch paper with all pages sequentially numbered and either stapled or bound together.

Issued in Austin, Texas, on June 27, 1995.

TRD-9507866 Lee H. Mathews
Deputy General Manager and General
Counsel
Texas Low-Level Radioactive Waste
Disposal Authority

Filed: June 27, 1995

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The Texas Low-Level Radioactive Waste Disposal Authority is charged with the responsibility of siting and constructing a facility for the disposal of low-level radioactive waste. The Authority is required by law to cooperate with local governments and interested parties in appropriate evaluation activities. In particular, the Authority is interested in working with the community of Sierra Blanca, the community nearest the proposed disposal site, to assist them in dealing with potential local socioeconomic impacts. Included among the potential impacts, both positive and negative, is the allocation of substantial payments of money to local political subdivisions. The purpose of this contract is to assist the Authority by working with persons in the community of Sierra Blanca and with residents of Hudspeth County to develop appropriate mechanisms, rules, and procedures to handle local socioeconomic impacts, including training, education, leadership development, and infrastructure improvements.

Further information may be obtained from Lawrence R. Jacobi, Jr., P.E., General Manager, at the Texas Low-Level Radioactive Waste Disposal Authority, 7701 North Lamar Boulevard, Suite 300, Austin, Texas 78752, or by calling (512) 451-5292.

This RFP will close on July 25, 1995, at 5:00 p.m.

These services have been previously performed by Program Development Associates, San Antonio, Texas. The Authority intends to continue with and to award the contract for consulting services to Program Development Associates for fiscal year 1996 unless a better proposal is submitted in response to this request.

Proposals received in response to this request will be evaluated according to the following criteria: prior experience of the firm and staff in working with state and local governments and programs, demonstrated competence and qualifications of staff directly related to community education and development, organization, size and structure of the firm, the firm's understanding of the work to be performed, and reasonableness of the fee for services.

The Authority reserves the right to accept or reject any or all proposals submitted. The Authority is under no legal requirement to execute a consultant contract on the basis of this notice. The Authority intends the material herein only as a general description of the services desired. The proposal should be for a period of one year, but the Authority will retain the option of extending the contract for an additional year.

Three copies of the proposal are requested. They should be sent by mail, or delivered in person marked "Proposal for Community Development Services" addressed to Lawrence R. Jacobi, Jr., P.E., 7701 North Lamar Boulevard, Suite 300, Austin, Texas 78752. Proposals shall be received at this address not later than 5:00 p.m. July 25, 1995. The proposal should be typed, preferably double spaced and completed on 8 1/2 by 11 inch paper with all pages sequentially numbered and either stapled or bound together.

Issued in Austin, Texas, on June 27, 1995.

TRD-9507869 Lee H. Mathews
Deputy General Manager and General
Counsel
Texas Low-Level Radioactive Waste
Disposal Authority

Filed: June 27, 1995

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The Texas Low-Level Radioactive Waste Disposal Authority is charged with the responsibility of siting and constructing a facility for the disposal of low-level radioactive waste. In the siting process, the Authority is required to comply with requirements of the Texas Historical Commission and Antiquities Committee. Requirements include performing archaeological surveys to preserve and prevent disturbance of significant sites. The purpose of this contract is to acquire the services of an independent archaeological consultant to perform required surveys including a 100% pedestrian survey of approximately 640 acres and a partial pedestrian survey of a larger area to define quantity of work needed to develop a cultural resource management plan. Survey areas are located on the Faskin Ranch, five miles southeast of Sierra Blanca in Hudspeth County, Texas.

Further information may be obtained from Ruben A. Alvarado, P.E. at the Texas Low-Level Radioactive Waste Disposal Authority, 7701 North Lamar, suite 300, Austin, Texas 78752, or by calling (512) 451-5292.

This RFP will close on Friday, July 14, 1995, at 5:00 p.m.

These services have been previously performed by Deborah Martin, El Paso, Texas. The Authority intends to continue with and to award the contract for archaeological surveying to Deborah Martin for fiscal year 1996 unless a better proposal is submitted in response to this request.

Proposals received in response to this request will be evaluated according to the following criteria: Prior experience in and knowledge of the area of study; local or area residence for ready availability; and reasonableness of the fee for services.

The Authority reserves the right to accept or reject any or all proposals submitted. The Authority is under no legal requirements to execute a consultant contract on the basis of this notice. The Authority intends the material herein only as a general description of the services desired.

The proposal should be for a period beginning September 1, 1995.

Three copies of the proposal are requested. They should be sent by mail, or delivered in person marked "Proposal for Archaeology Surveys in Hudspeth County, Texas" addressed to Ruben A. Alvarado, P.E., Texas Low-Level Radioactive Waste Disposal Authority, 7701 North Lamar Boulevard, Suite 300, Austin, Texas 78752. Proposals shall be received at this address not later than 5:00 p.m., July 14, 1995. The proposal should be typed, preferably double spaced and completed on 8 1/2 by 11 inch paper with all pages sequentially numbered and either stapled or bound together.

Issued in Austin, Texas, on June 27, 1995.

TRD-9507868 Lee H. Mathews
Deputy General Manager and General
Counsel
Texas Low-Level Radioactive Waste
Disposal Authority

Filed: June 27, 1995

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Request for Proposals

These requests for proposal are filed under the provisions of Texas Civil Statutes, Health and Safety Code, Chapter 402, and §40, Senate Number 5 (General Appropriations Act).

The Texas Low-Level Radioactive Waste Authority seeks proposals in response to this Request for Proposal (RFP) from law firms interested in providing bond counsel services for a proposed bond issuance by the Authority. The legal services required include the usual and necessary services of a bond counsel in connection with issuance, sale, and delivery of bonds.

The Authority was created in 1981 by the Sixty-Seventh Texas Legislature to select, construct, operate, finance, and close a facility for the disposal of low-level radioactive waste (Chapter 402, Health and Safety Code). Under Health and Safety Code, Chapter 402, Subchapter K the Authority may issue, sell, and provide for the retirement of revenue bonds to pay the expenses of constructing a disposal site (the "Project").

On February 9, 1995, the Authority's Board of Directors (the Board) approved a resolution expressing the intent of the Authority to reimburse expenditures for the Project with the proceeds of obligations. The Authority reasonably expects to incur debt, in one or more series of obligations, in an aggregate maximum principal amount estimated to be equal to \$55 million for the purpose of paying the costs of the Project.

The Board intends to select bond counsel at its meeting on August 10, 1995, or at a later meeting.

The following information must be provided by each proposer. Failure to include all the information required may result in disqualification of a proposal.

1. A description of the firm's qualifications for performing the legal services, including the firm's prior experience in bond issuance matters, including the names, experience, and technical expertise of the attorneys who will be assigned to work on such matters.

2. Information regarding efforts of the firm to encourage and develop the participation of minorities and women in the provision of legal services in the firm, including completion of the grid on women and minorities attached hereto.

MINORITY REPRESENTATION

	TOTAL NO.	NO. OF WOMEN	% WOMEN	NO. OF MINORITIES	% MINORITIES
PARTNERS/SHAREHOLDERS					
ASSOCIATES					
STAFF ATTORNEYS					
PARALEGALS					
CLERICAL/OTHER SUPPORT					

3. Fee information, either in the form of hourly rates for each attorney who may be assigned to perform services in relation to the Authority's bond matters, flat fees, or other fee arrangements directly related to the achievement of specific goals and cost controls, and billable expenses. If a flat fee is proposed, the proposal should state that in no event will the fee exceed the quoted amount.

4. Disclosure of any conflict of interest, by identifying any manner in which the firm has, within the past calendar year, represented any entity or individual with an interest adverse to the Authority or to the State of Texas, or any of its agencies.

5. A statement of willingness to comply with policies, directives, and guidelines of the Authority and the Attorney General of the State of Texas.

The Authority retains the right to negotiate all elements of the contract for legal services. The contract for legal services may be terminated for any reason, subject to thirty days prior written notice, and upon payment of earned fees and expenses accrued as of the date of the notice of termination. The Authority may in its sole discretion reject any and all responses to this RFP or may cancel the RFP if it is deemed in the best interests of the Authority to do so. Issuance of this RFP does not constitute a commitment by the Authority to award a contract, nor to pay for any legal services incurred either in the preparation of a response to this RFP or the production of any contract for legal services. All legal expenses and fees, if any, for legal services under the terms of this engagement shall be paid only out of the costs of issuance, and are therefore contingent upon issuance of the bonds.

Any proposal may be modified or withdrawn, even after received by the Authority, any time prior to the proposal due date. No material changes will be allowed after the expiration of the proposed due date; however, non substantive corrections or deletions may be made with the approval of the Authority.

All proposals must be received in the offices of the Authority by no later than 1:00 p.m. on Monday, July 24, 1995. Proposals received after that time and date will not be considered.

The submitted proposal must be executed by a duly authorized representative of the proposer. An unsigned proposal will be rejected.

Proposers should submit one original and two copies of their proposal to: Lee H. Mathews, General Counsel, Texas Low-Level Radioactive Waste Disposal Authority, 7701 North Lamar Boulevard, Suite 300, Austin, Texas 78752.

Please mark the envelopes containing proposals with the following note in the lower left hand corner: "IN RESPONSE TO PROPOSAL REQUEST: BOND COUNSEL SERVICES"

All proposals become the property of the Authority. Proposals must set forth accurate and complete information as required by this RFP. Oral instructions or offers will not be considered.

The criteria for selection shall be based on responses to the requirements of this RFP. The Board intends to select the proposal that demonstrates the highest degree of competency and the necessary qualifications and experience in providing the requested legal services at fair and reason-

able prices. The acceptance of a proposal will not be made solely on the basis of lowest cost, although cost will be an important consideration in the evaluation process.

Issued in Austin, Texas, on June 27, 1995.

TRD-9507867

Lee H. Mathews
Deputy General Manager and General
Counsel
Texas Low-Level Radioactive Waste
Disposal Authority

Filed: June 27, 1995

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**Texas Guaranteed Student Loan
Corporation**
Request for Proposal

Description of Service. Provide legal services in support of the corporation's collection activities pursuant to the requirements of the Higher Education Act of 1965 ("HEA"), as amended, and its associated rules and regulations, as well as the Texas Education Code, Chapter 57.

Bid Submission. All bids will be accepted until 5:00 p.m. August 16, 1995.

Additional Information. Successful bidder(s) must be licensed to practice law in the State of Texas. To receive a full text of the Request for Proposal contact Justina Leung at (512) 219-4515 or email at justina.leung@tgsllc.org.

Issued in Austin, Texas, on June 27, 1995.

TRD-9507771

Pat Boulton
Administrative Assistant
Texas Guaranteed Student Loan
Corporation

Filed: June 27, 1995

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**Texas Tech University and Texas Tech
University Health Sciences Center**
Notice of Public Hearing

Texas Tech University and Texas Tech University Health Sciences Center will hold a public meeting as prescribed by House Bill 815, 74th Legislature on fee increases effective the Fall Semester of 1995 and subsequent semesters. The meeting will be held July 12, 1995, at 8:00 a.m. in the Board of Regents Meeting Room on the Second Floor of the Administration Building, Campus, Lubbock, Texas

Issued in Austin, Texas on June 26, 1995.

TRD-9507752

Donna Davidson Kittrell
Assistant Secretary of the Board
Texas Tech University and Texas Tech
University Health Sciences Center

Filed: June 26, 1995

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Texas Department of Transportation
Notice of Awards

In accordance with the Government Code, Chapter 2254, Subchapter A, the Texas Department of Transportation, Aviation Division publishes this notice of a consultant

contract award for providing professional engineering services.

The request for qualifications for professional engineering services was published in the September 23, 1994, issue of the *Texas Register* (19 TexReg 7560).

The consultant will provide professional engineering services for the design and construction administration phases for a terminal building:

TxDOT Project: 95-38-043, City of Alpine. The engineering firm for these services is: Charles Willis & Associates, Inc. The total value of the contract is \$29,480.00 and the contract period started on June 9, 1995, and will continue until the completion of the project.

Issued in Austin, Texas, on June 26, 1995.

TRD-9507780 Robert E. Shaddock
 General Counsel
 Texas Department of Transportation

Filed: June 27, 1995



In accordance with the Government Code, Chapter 2254, Subchapter A, the Texas Department of Transportation publishes this notice of a consultant contract award for providing professional engineering services.

The request for qualifications for professional engineering services was published in the September 6, 1995, issue of the *Texas Register* (19 TexReg 7157).

The consultant will provide professional engineering services for the design and construction administration phases for the following:

TxDOT Project: 96-03-021, Hutchinson County. The engineering firm for these services is: Brandt Engineers, Inc. The total value of the contract is \$101,196.00 and the contract period started on May 9, 1995, and will continue until the completion of the project.

Issued in Austin, Texas, on June 26, 1995.

TRD-9507781 Robert E. Shaddock
 General Counsel
 Texas Department of Transportation

Filed: June 27, 1995



In accordance with the Government Code, Chapter 2254, Subchapter A, the Texas Department of Transportation, Aviation Division publishes this notice of a consultant contract award for providing professional engineering services.

The request for qualifications for professional engineering services was published in the September 23, 1994, issue of the *Texas Register* (19 TexReg 7561).

The consultant will provide professional engineering services for the Airport Master Plan for the following:

TxDOT Project: 95-45-013, County of Leon. The engineering firm for these services is: KSA Engineers, Inc. The total value of the contract is \$15,000.00 and the contract period started on April 24, 1995, and will continue until the completion of the project.

TxDOT Project: 95-46-013, City of Golthwaite. The engineering firm for these services is: Bucher, Willis & Ratliff, Inc. The total value of the contract is \$66,000.00 and the

contract period started on May 5, 1995, and will continue until the completion of the project.

Issued in Austin, Texas, on June 26, 1995.

TRD-9507784
Robert E.
Shaddock
General Counsel
Texas Department
of Transportation

Filed: June 27, 1995



In accordance with the Government Code, Chapter 2254, Subchapter A, the Texas Department of Transportation, Aviation Division publishes this notice of a consultant contract award for providing professional engineering services.

The request for qualifications for professional engineering services was published in the September 13, 1994, issue of the *Texas Register* (19 TexReg 7212).

The consultant will provide professional engineering services for the design and construction administration phases for the following:

TxDOT Project: 95-41-013, City of Palacios. The engineering firm for these services is: Huitt-Zollars, Inc. The total value of the contract is \$19,642.00 and the contract period started on April 24, 1995, and will continue until the completion of the project.

TxDOT Project: 95-41-013, City of Caldwell. The engineering firm for these services is: Klotz Associates, Inc. The total value of the contract is \$34,725.00 and the contract period started on May 25, 1995, and will continue until the completion of the project.

Issued in Austin, Texas, on June 26, 1995.

TRD-9507782 Robert E. Shaddock
 General Counsel
 Texas Department of Transportation

Filed: June 27, 1995



In accordance with the Government Code, Chapter 2254, Subchapter A, Government Code, the Texas Department of Transportation publishes this notice of a consultant contract award for providing professional engineering services.

The request for qualifications for professional engineering services was published in the November 8, 1994, issue of the *Texas Register* (19 TexReg 8890).

The consultant will provide professional engineering services for the Action Plan for the following individual projects:

Airport Sponsor: City of Alpine. The engineering firm for these services is: Charles Willis & Associates. The total value of the contract is \$25,000.00 and the contract period started on May 10, 1995, and will continue until the completion of the project.

Airport Sponsor: City of Bowie. The engineering firm for these services is: Bucher, Willis & Ratliff, Inc. The total value of the contract is \$25,000.00 and the contract period started on April 18, 1995, and will continue until the completion of the project.

Airport Sponsor: City of Gladewater. The engineering firm for these services is: KSA Engineers, Inc. The total value of the contract is \$25,000.00 and the contract period started on March 29, 1995, and will continue until the completion of the project.

Airport Sponsor: City of Hallettsville. The engineering firm for these services is: Bucher, Willis & Ratliff, Inc. The total value of the contract is \$25,000.00 and the contract period started on April 11, 1995, and will continue until the completion of the project.

Airport Sponsor: City of Hondo. The engineering firm for these services is: Proctor, Davis & Ray, Inc. The total value of the contract is \$25,000.00 and the contract period started on April 17, 1995, and will continue until the completion of the project.

Airport Sponsor: City of Limestone. The engineering firm for these services is: Bucher, Willis & Ratliff, Inc. The total value of the contract is \$25,000.00 and the contract period started on April 18, 1995, and will continue until the completion of the project.

Airport Sponsor: City of Lampasas. The engineering firm for these services is: Aviation Alliance. The total value of the contract is \$25,000.00 and the contract period started on May 8, 1995, and will continue until the completion of the project.

Issued in Austin, Texas, on June 26, 1995.

TRD-9507783 Robert E. Shaddock
General Counsel
Texas Department of Transportation

Filed: June 27, 1995

Request for Proposals

Notice of Invitation. The Texas Department of Transportation (TxDOT) intends to engage an engineer, pursuant to Texas Government Code, Chapter 2254, Subchapter A, to provide the following services. The engineer selected must perform a minimum of 30% of the actual contract work to qualify for contract award.

Contract Numbers 10-5XXP5005, 10-5XXP5006, 10-5XXP5007—to perform routine BRINSAP safety inspections and PONTIS elemental data collection in eight counties within the Tyler District. The providers will be evaluated and selected based on their knowledge and experience in routine bridge inspection. The selected provider(s) will be expected to attend PONTIS elemental data inspection training conducted by TxDOT prior to executing a contract.

Deadline. A letter of interest notifying TxDOT of the provider's intent to submit a proposal shall be either hand-delivered to TxDOT, Tyler District Office, Attention: George Grantham, 2709 West Front Street, Tyler, Texas or mailed to P.O. Box 2031, Tyler, Texas 75710-2031. Letters of interest will be received until 5:00 p.m. on Wednesday, July 14, 1995. The letter of interest must include the engineer's name, address, telephone number, name of engineer's contact person and number of TxDOT contract. Upon receipt of the letter of interest a Request for Proposal packet will be issued.

Proposal Submittal Deadline. Proposals for contract Numbers 10-5XXP5005, 10-5XXP5006, 10-5XXP5007 will be accepted until 5:00 p.m. on Wednesday, July 26, 1995 at the Tyler District Office.

Agency Contact. Requests for additional information regarding this notice of invitation should be addressed to George Grantham at (903) 510-9288 or Fax (903) 510-9254.

Contract Numbers 01-545P5002, 01-545P5003, 01-545P5004, 01-545P5005, 01-545P5006—to perform routine BRINSAP safety inspection and PONTIS elemental data collection in five counties in the Paris District. The providers will be evaluated and selected based on their knowledge and experience in routine bridge inspection. The selected provider(s) will be expected to attend PONTIS elemental data inspection training conducted by TxDOT prior to executing a contract.

Deadline. A letter of interest notifying TxDOT of the provider's intent to submit a proposal shall be either hand-delivered to TxDOT, Paris District Office, Attention: John Yant, 1365 North Main, Paris, Texas or mailed to P.O. Box 250, Paris, Texas 75461-0250. Letters of interest will be received until 5:00 p.m. on Friday, July 14, 1995. The letter of interest must include the engineer's name, address, telephone number, name of engineer's contact person and number of TxDOT contract. Upon receipt of the letter of interest a Request for Proposal packet will be issued.

Proposal Submittal Deadline. Proposals for contract Numbers 01-545P5002, 01-545P5003, 01-545P5004, 01-545P5005, 01-545P5006 will be accepted until 5:00 p.m. on Friday, August 4, 1995 at the Paris District Office.

Agency Contact. Requests for additional information regarding this notice of invitation should be addressed to John Yant, P.E. at (903) 737-9281 or Fax (903) 737-9363.

Contract Numbers 11-645P5001 and 11-645P5002—to perform routine BRINSAP safety inspection and PONTIS elemental data collection in nine different counties within the Lufkin District. The providers will be evaluated and selected based on their knowledge and experience in routine bridge inspection. The selected provider(s) will be expected to attend PONTIS elemental data inspection training conducted by TxDOT prior to executing a contract.

Deadline. A letter of interest notifying TxDOT of the provider's intent to submit a proposal shall be either hand-delivered to TxDOT, Lufkin District Office, Attn: Scott Franks, 1805 North Timberland, Lufkin, Texas 75902 or mailed to P.O. Box 280, Lufkin, Texas 75902-0280. Letters of interest will be received until 5:00 p.m. on Thursday, July 20, 1995. The letter of interest must include the engineer's name, address, telephone number, name of engineer's contact person and number of TxDOT contract. Upon receipt of the letter of interest a Request for Proposal packet will be issued.

Pre-proposal Meeting. A pre-proposal meeting will be held on Thursday, July 27, 1995, at the Angelina County Chamber of Commerce in Lufkin located at the intersection of Loop 287 South and Chestnut (FM 58). (TxDOT will not accept a proposal from an engineer who has failed for any reason to attend the mandatory pre-proposal meeting.)

Persons with disabilities who plan to attend this meeting and who may need auxiliary aids or services such as interpreters for persons who are deaf or hearing impaired, readers, large print or braille, are requested to contact

Scott A. Franks at (409) 634-4433 at least two work days prior to the meeting so that appropriate arrangements can be made.

Proposal Submittal Deadline. Proposals for contract Numbers 11-645P5001 and 11-645P5002 will be accepted until 5:00 p.m. on Friday, August 18, 1995 at the Lufkin District Office.

Agency Contact. Requests for additional information regarding this notice of invitation should be addressed to Scott A. Franks, P.E. at (409) 634-4433 or Fax (409) 633-4378.

Issued in Austin, Texas, on June 26, 1995.

TRD-9507779

Robert E. Shaddock
General Counsel
Texas Department of Transportation

Filed: June 27, 1995

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Due to an editorial error, in the June 23, 1995, issue the Texas Register omitted the final page of the Table of Contents. The first page of the Table of Contents was repeated. Please remove this page and insert it into the Table of Contents for the issue of June 23, 1995.

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