TEXAS REGISTER

IN THIS ISSUE

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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Withdrawn Rules - sections withdrawn by state agencies from consideration for adoption or automatically withdrawn by the Texas Register six months after the proposal publication date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 20 (1995) is cited as follows: 20 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 "20 TexReg 2 issue date," while on the opposite page, page 3, in the lower right-hand corner would be written "issue date 20 TexReg 3."

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

Texas Administrative Code

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

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

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

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

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

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

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

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

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

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

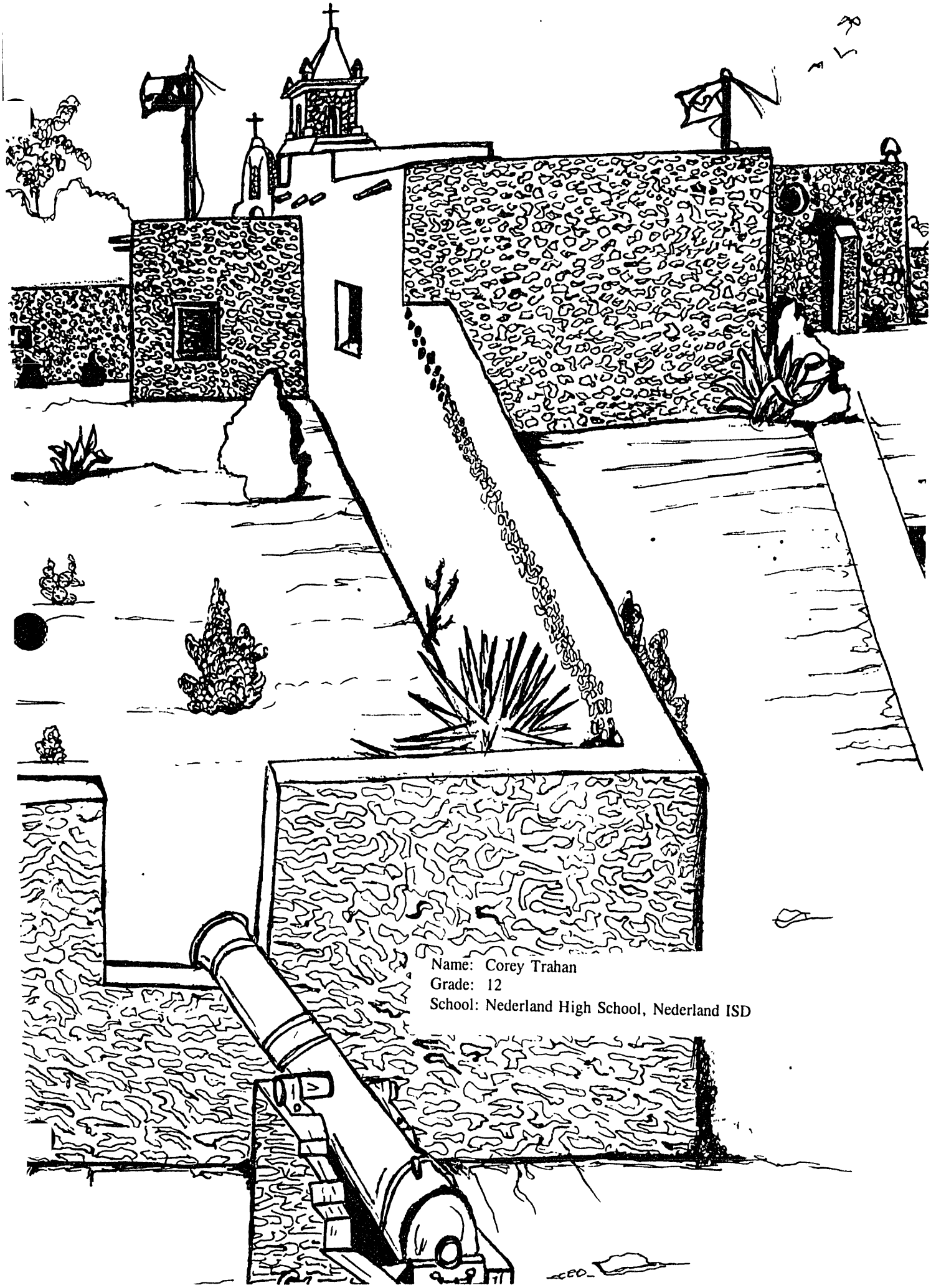
Update by FAX An up-to-date *Table of TAC Titles Affected* is available by FAX upon request. Please specify the state agency and the TAC number(s) you wish to update. This service is free to *Texas Register* subscribers. Please have your subscription number ready when you make your request. For non-subscribers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

Adopted Sections

Tables and Graphics Section

Open Meetings Sections

In Addition Sections



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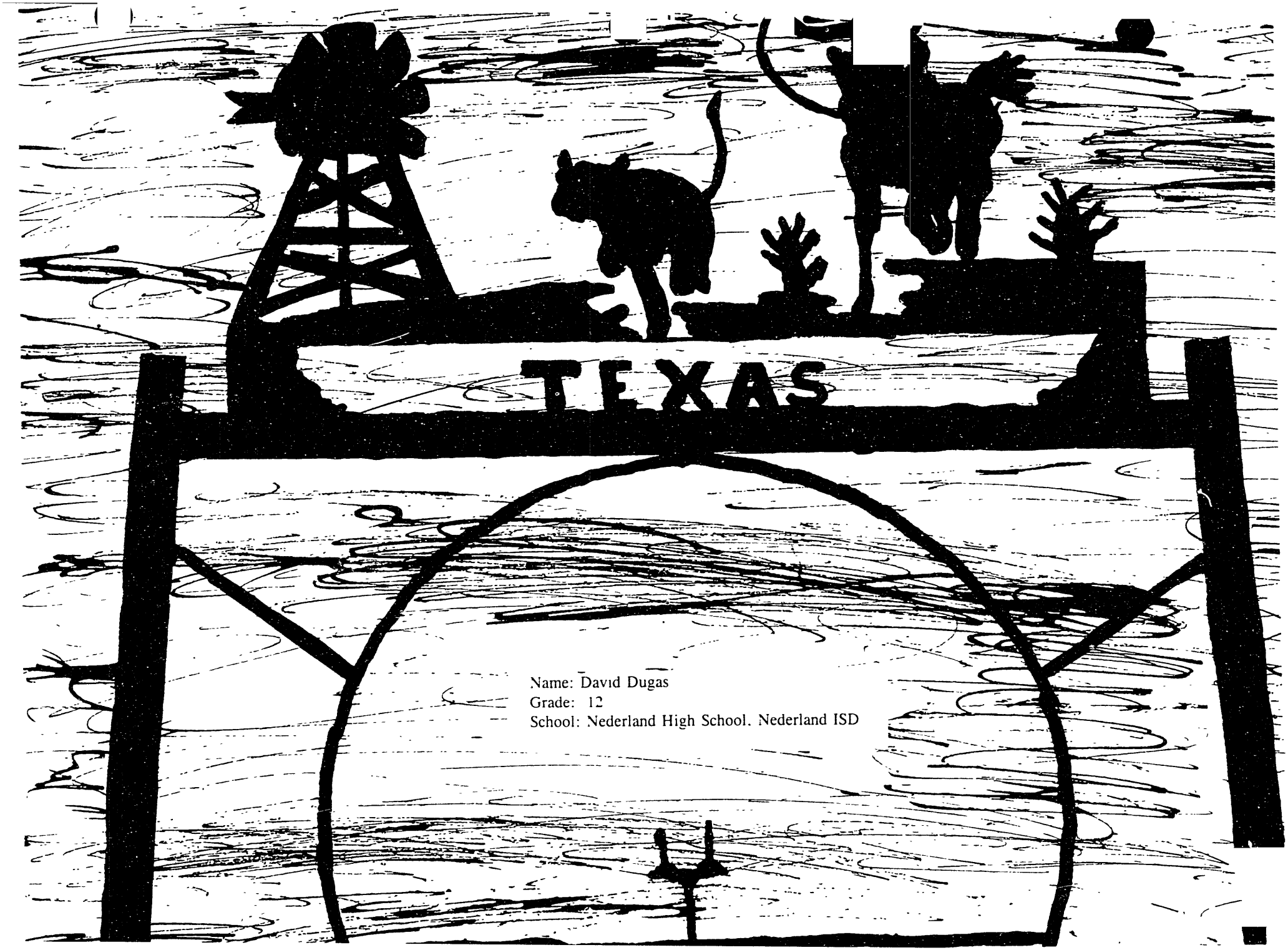

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School: Nederland High School, Nederland ISD

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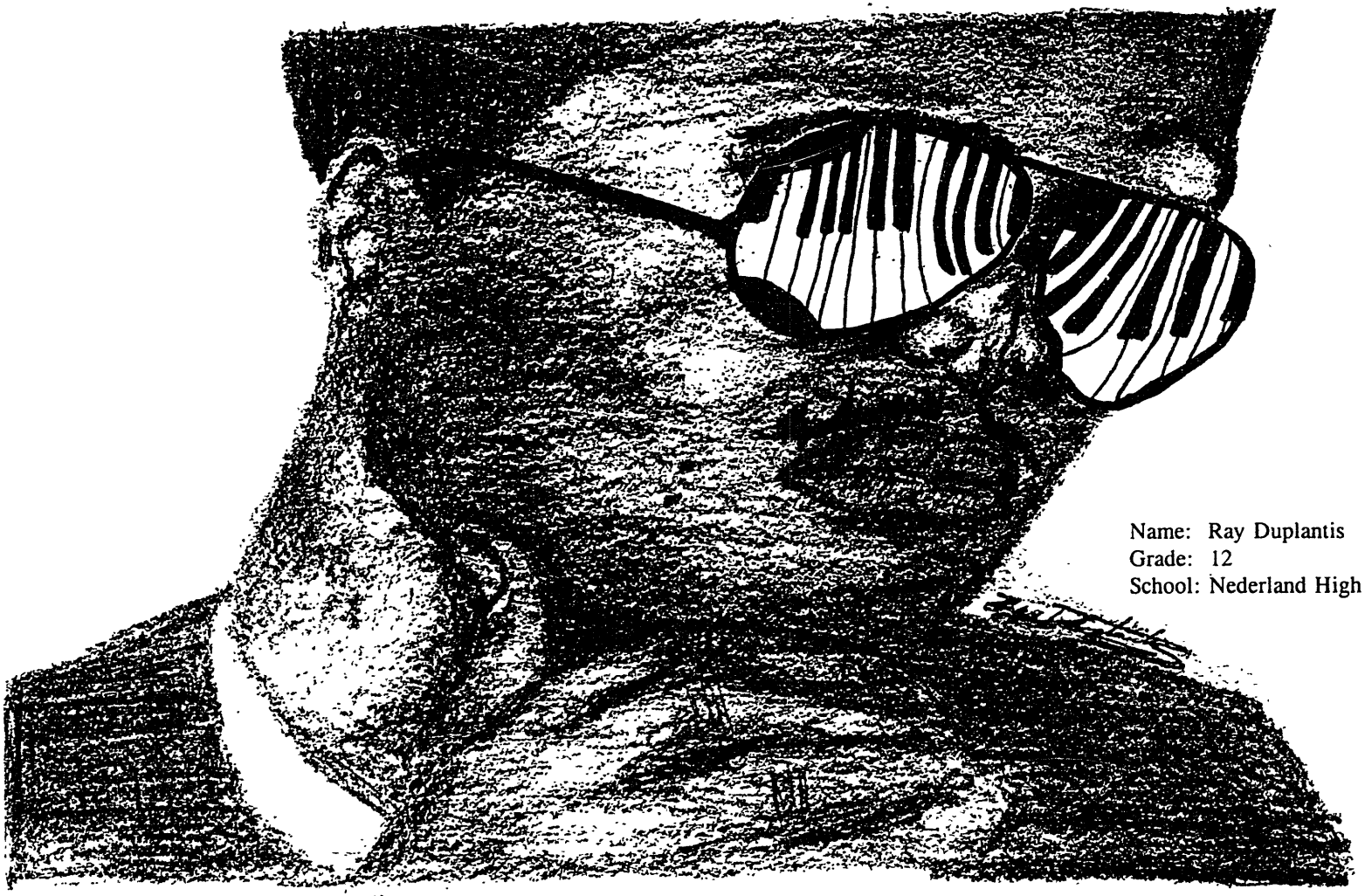

"Texas Blues Musician"

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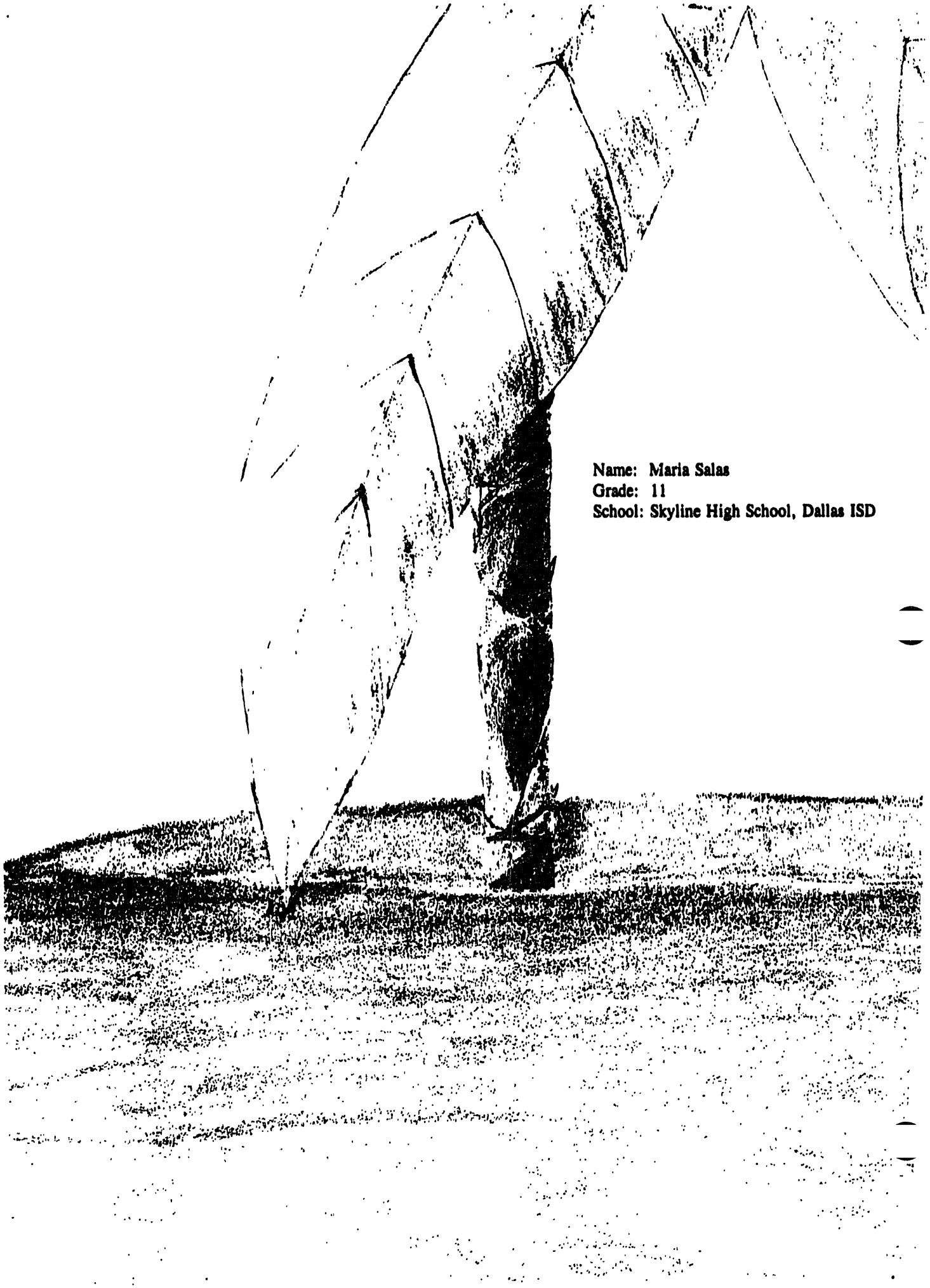

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ATTORNEY GENERAL

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.

Request for Opinion

(RQ-837). Requested from Don A. Gilbert, Commissioner, Texas Department of Mental Health and Mental Retardation, P.O. Box 12668, Austin, Texas 78711-2668, concerning whether employees of the Department of Mental Health and Mental Retardation are "at will" employees.

Issued in Austin, Texas, on August 15, 1995.

TRD-9510274

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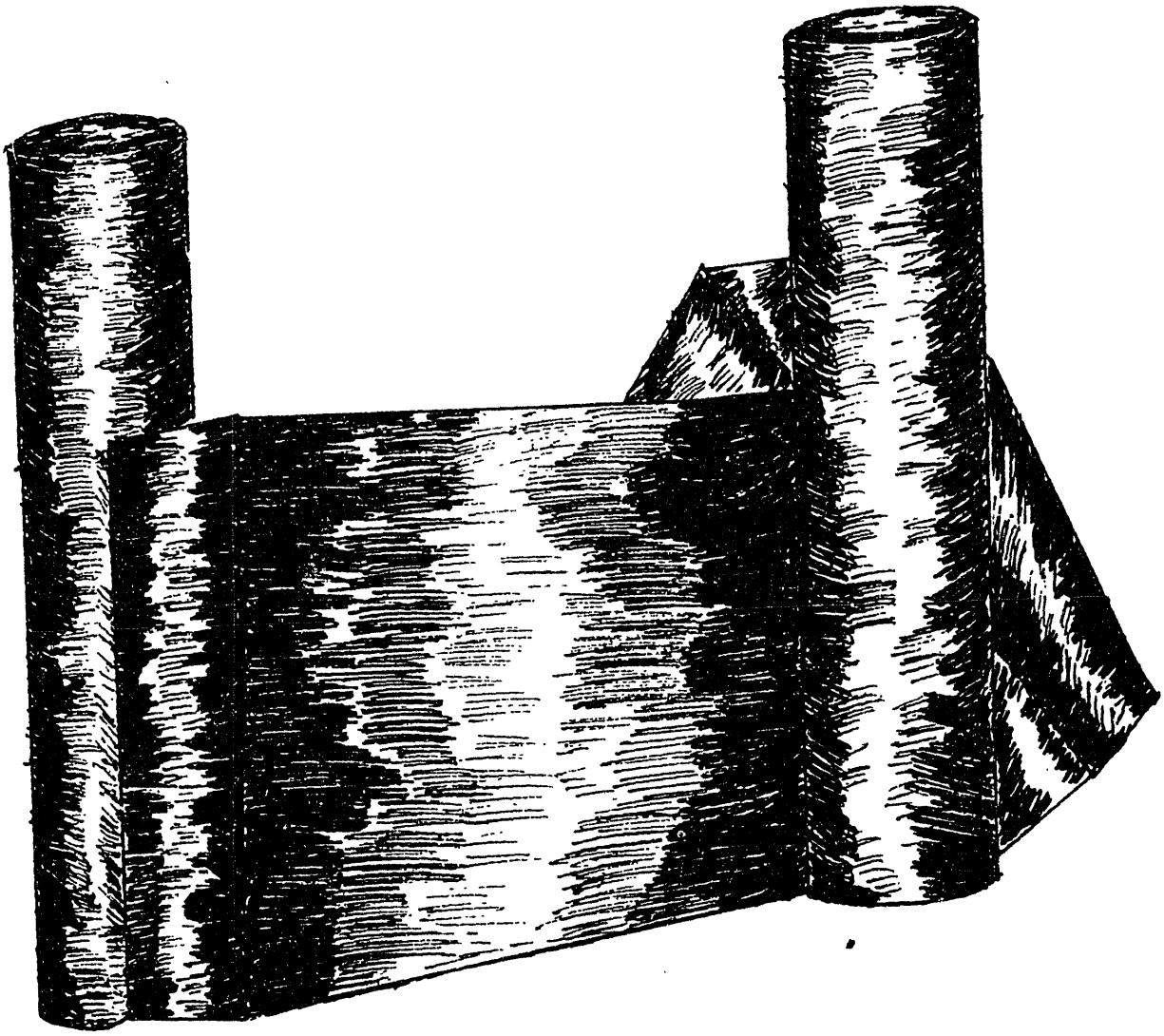

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EMERGENCY RULES

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

Symbology in amended emergency sections. New language added to an existing section is indicated by the use of **bold text.** [Brackets] indicate deletion of existing material within a section.

TITLE 25. HEALTH SERVICES

Part I. Texas Department of Health

Chapter 29. Purchased Health Services

On behalf of the State Medicaid Director, the Texas Department of Health (department) adopts on an emergency basis amendments to §§29.601, 29.1104, 29.1126, and 29.1127, concerning purchased health services. Specifically, the sections cover payment for hospital services; Texas Medicaid reimbursement methodology; reimbursement for in-home total parenteral hyperalimentation services; and reimbursement for in-home respiratory therapy services for ventilator-dependent persons.

The amendment to §29.601 states that outpatient hospital services will be reimbursed at 83.65% of cost during fiscal year 1996 and 77.6% of cost during fiscal year 1997. Based on appropriated funding, outpatient hospital rates continue to be reduced by approximately 5.0% per year which results in the compounded percentages indicated above. The amendments to §§29.1104, 29. 1126, and 29.1127 remove references to the governor's cost containment provisions which expire August 31, 1995. The existing language stipulates future cost-of-living adjustments (COLAs) and will be dependent on available funding. These amendments are required to comply with the fiscal year 1996-1997 appropriations act adopted by the 74th Legislature which did not include funding for COLAs.

The sections are being adopted on an emergency basis to comply with the fiscal year 1996-1997 appropriations act adopted by the 74th Legislature. The department is simultaneously proposing these amendments in this issue of the Texas Register for permanent adoption.

Subchapter G. Hospital Services

• 25 TAC §29.601

The amendment is adopted on an emergency basis under the Human Resources Code, §32.021, the Government Code, §2001.034, and Texas Civil Statutes, Article 4413 (502), §16, which provide the Health and Human Services Commission with the authority to adopt rules to administer the state's medical assistance program and is submitted by the Texas Department of Health under its agreement with the Health and Human Services Commission to operate the purchased health services program and authorized under Chapter 15, §1.07, Acts of the 72nd Legislature, First Called Session (1991)

§29.601. Payment for Hospital Services.

(a) The Department of Health or its designated agent **shall reimburse** [reimburses] hospitals approved for participation in the Texas Medical Assistance Program for covered Title XIX hospital services provided to eligible Medicaid recipients. The Texas Title XIX State Plan for Medical Assistance provides for reimbursement of covered hospital services to be determined as specified in paragraphs (1)-(3) of this subsection.

(1) The amount payable for inpatient hospital services **shall be** [is] determined as specified in §29.606 of this title (relating to Reimbursement Methodology for Inpatient Hospital Services).

(2) The amount payable for outpatient hospital services **shall be** [is] determined under similar methods and procedures used in the Social Security Act, Title XVIII, as amended, effective October 1, 1982, by Public Law 97-248, except as may be otherwise specified by the department. Medicaid reimbursement for fiscal year **1996** [1994] will be at **83.65%** [94.6%] of cost and for fiscal year **1997** [1995] at **77.6%** [89. 4%] of cost. Reimbursement for outpatient hospital surgery is limited to the lesser of the amount reimbursed to ambulatory surgical centers (ASCs) for similar services, the hospital's actual charge, the hospital's customary charge, or the allowable cost determined by the department or its designee.

(3) Variances **shall be** [are] accounted for in the Texas State Plan for Medical Assistance or as otherwise specified by the department.

(b) (No change.)

(c) The direct and indirect costs of caring for charity patients **shall** have no relationship to eligible recipients of the Texas Medical Assistance program and [have never been and] are not allowable costs under the Texas Title XIX Medical Assistance program. Obligations by hospitals to provide free care, under the Hill-Burton Act or any other arrangement as a condition to secure federal grants or loans, are not recognized as a cost under the Texas Medical Assistance program.

(d) (No change.)

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

TRD-9510328 Susan K. Steeg
General Counsel
Texas Department of Health

Effective date: September 1, 1995

Expiration date: December 30, 1995

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

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Subchapter L. General Administration

• 25 TAC §§29.1104, 29.1126, 29.1127

The amendments are adopted on an emergency basis under the Human Resources Code, §32.021, the Government Code, §2001.034, and Texas Civil Statutes, Article 4413 (502), §16, which provide the Health and Human Services Commission with the authority to adopt rules to administer the state's medical assistance program and is submitted by the Texas Department of Health under its agreement with the Health and Human Services Commission to operate the purchased health services program and authorized under Chapter 15, §1.07, Acts of the 72nd Legislature, First Called Session (1991).

§29.1104. Texas Medicaid Reimbursement Methodology (TMRM).

(a) Reimbursement for physicians and certain other practitioners.

(1) Introduction. Except as otherwise specified, the TMRM for covered services provided by physicians and certain other practitioners **shall employ** [employs] a prospective payment system which **shall**

be [is] based upon the Texas Department of Health's (department's) determination of adequacy of access to health care services as described in this section, or the actual resources required by an economically efficient provider to provide each individual service.

(A)-(B) (No change.)

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

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

(D) Conversion factor-The dollar amount by which the sum of the three cost component RVUs is multiplied in order to obtain a reimbursement fee for each individual service. The initial value of the conversion factor is $26.873 for fiscal years 1992 and 1993. If funding is available, the conversion factor will be updated based on the adjustments described in subparagraph (E) of this paragraph at the beginning of each state fiscal year biennium. [Unless the cost savings specified in the Appropriations Act for the 1994-1995 biennium are realized, there will be no adjustment of the conversion factor for the 1994-1995 biennium.] The department may, at its discretion, develop and apply multiple conversion factors for various classes of service such as obstetrics, pediatrics, general surgeries, and/or primary care services.

(E)-(F) (No change.)

(3) (No change.)

(b) Reimbursement for ambulance services. Ambulance services **shall be** [are] reimbursed in accordance with a reasonable charge methodology. The department or its designee **shall define** [defines] and **determine** [determines] reasonable charges and payments based on reasonable charges as follows.

(1) A reasonable charge **shall be** [is] a charge for a specific service which **shall be** [is] the lowest of:

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

(2) The department or its designee **shall use** [uses] a statistical base for making reasonable charge determinations. The statistical base is comprised of individual charges gathered from available sources, including Medicare (Title XVIII) and Medicaid (Title XIX).

(3) Determination of reasonable charges, as set forth in this section and established by the department, **shall be** [is] made in accordance with applicable federal requirements. Payments for services provided must not exceed the Medicare allowable charges.

(c) Reimbursement for clinical diagnostic laboratory services. Clinical diagnostic laboratory tests performed in a physician's office, by an independent laboratory, or by a hospital laboratory for its outpatients **shall be** [are] reimbursed on the basis of the Medicare-established fee schedule.

§29.1126. In-home Total Parenteral Hyperalimentation Services

(a) Subject to the specifications, conditions, limitations, and requirements established by the **Texas Department of Health (department)** [department], in-home total parenteral hyperalimentation services **shall be made** [are] available to eligible recipients who require long-term support because of extensive bowel resection and/or severe advanced bowel disease in which the bowel cannot support nutrition. Covered services must be reasonable, medically necessary, and prescribed by the recipient's physician (M.D. or D.O.). The physician must be licensed in the state in which the physician practices.

(b) (No change.)

(c) Covered services include, but are not necessarily limited to:

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

(4) visits by a registered nurse appropriately trained in the administration of hyperalimentation. The nurse must visit the recipient at least once per month to monitor the recipient's status and to provide ongoing education to the recipient and/or family members/support persons regarding the administration of hyperalimentation; **and**

(5) (No change.)

(d) (No change.)

(e) The **department** [Texas Department of Health (department)] or its designee **shall reimburse** [reimburses] each provider on a monthly basis. Reimbursement **shall be** [is] based on one-twelfth of the maximum yearly fee established by the department. If funding is available, the department will adjust the allowable fees or rates each state fiscal year by applying the projected rate of change of the implicit price deflator for personal consumption expenditures (IPD-PCE). The department **shall use** [uses] the lowest feasible IPD-PCE forecast consistent with the forecasts of nationally-recognized sources available to the department at the time rates are prepared. [The first adjustment will be effective January 1, 1993. Unless the cost savings specified in the Appropriations Act for the 1994-1995 biennium are realized, there will be no adjustment for the 1994 and 1995 fiscal years.] The department or its designee **shall** [does] not reimburse more than a one-week supply of solutions and additives if the solutions and additives are shipped and not used because of the recipient's loss of eligibility, change in treatment, or inpatient hospitalization. The provider must exclude from its monthly billing any days that the recipient is an inpatient in a hospital or other medical facility or institution. Payment for partial months will be prorated based upon actual days of administration. Hospital outpatient departments furnishing in-home total parenteral nutrition must be separately enrolled as a provider meeting all requirements stipulated in subsection (d) of this section. Reimbursement to hospital outpatient departments furnishing in-home total parenteral nutrition may not exceed the maximum yearly fee established by the department.

§29.1127. In-home Respiratory Therapy Services for Ventilator-Dependent Persons.

(a) Subject to the specifications, conditions, limitations, and requirements established by the department, in-home respiratory therapy services **shall be made** [are] available to eligible recipients who:

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

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

(d) Covered services include, but are not necessarily limited to the following:

(1) (No change.)

(2) supplies, including but not necessarily limited to disposable circuits, suction catheters, tracheal care kits, sterile water, non-sterile disposable gloves, and dressings/tracheal tapes that are necessary in the administration of the therapy and treatment. Supplies do not include drugs; **and**

(3) (No change.)

(e) Providers of respiratory therapy services must meet the following requirements:

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

(4) sign a written provider agreement with the department or its designee. By signing the agreement, the provider agrees to comply with the terms of the agreement and all requirements of the Texas Medical Assistance Program including regulations, rules, handbooks, standards, and guidelines published by the department or its designee; **and**

(5) (No change.)

(f) The department or its designee **shall reimburse** [reimburses] each respiratory therapy provider on a per-visit basis. Reimbursement for the visit **shall be** [is] based on the lesser of the provider's customary charge or the maximum allowable

fee or rate established by the department or its designee. Reimbursement for supplies furnished by the respiratory care practitioner shall be [is] the lesser of the provider's customary charges or the maximum allowable fees or rates established by the department or its designee. If funding is available, the department shall update [updates] its allowable fees or rates each state fiscal year by applying the implicit price deflator for personal consumption expenditures. [Unless the cost savings specified in the Appropriations Act for the 1994-1995 biennium are realized, there will be no adjustment for the 1994 and 1995 state fiscal years.]

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

TRD-9510329 Susan K. Steeg
General Counsel
Texas Department of Health

Effective date: September 1, 1995

Expiration date: December 30, 1995

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

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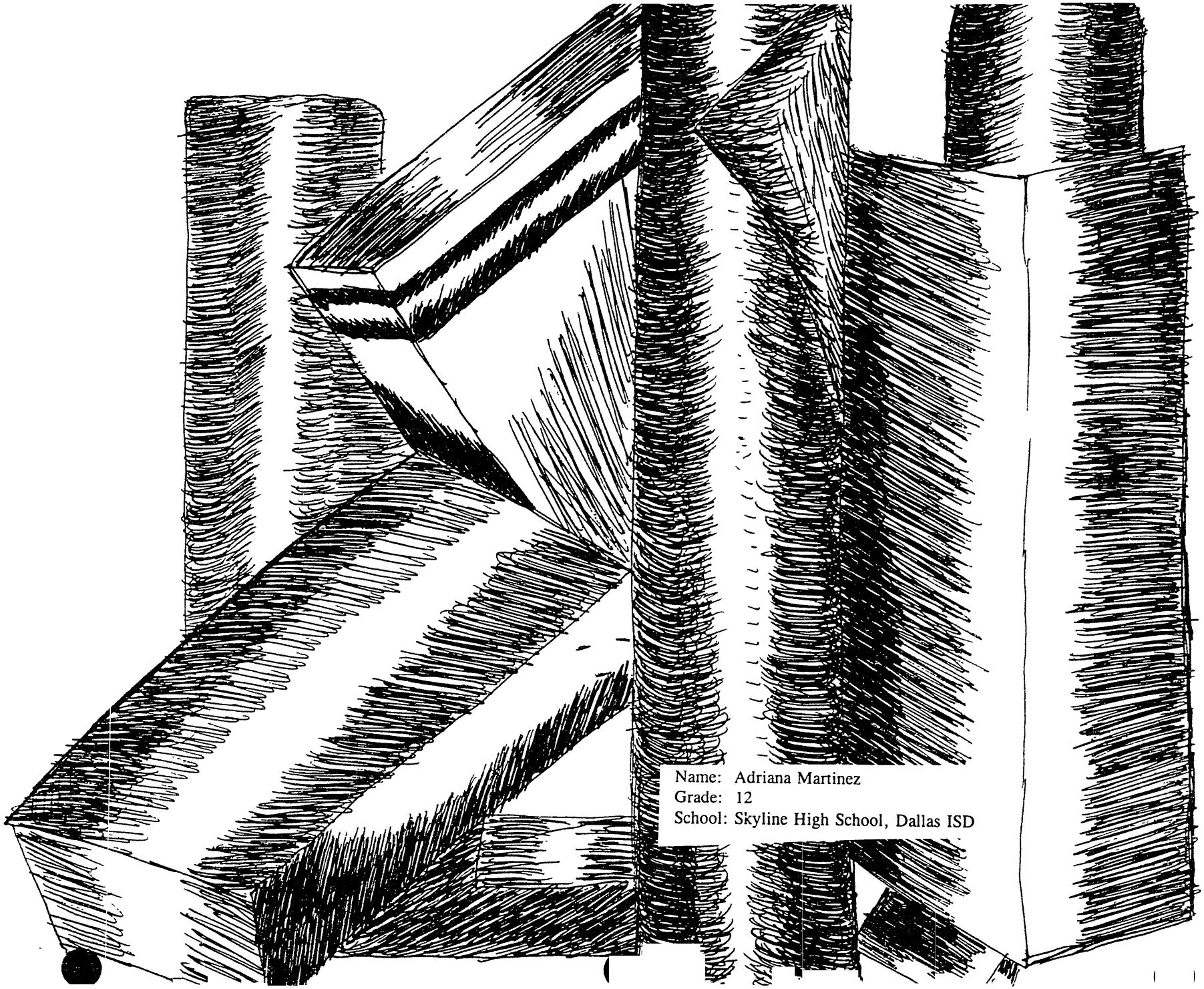

Name: Adriana Martinez
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PROPOSED RULES

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 25. HEALTH SERVICES

Part I. Texas Department of Health

Chapter 29. Purchased Health Services

(Editor's Note: The Texas Department of Health proposes for permanent adoption the new section it adopts on an emergency basis in this issue. The text of the new sections is in the Emergency Rules section of this issue.)

On behalf of the State Medicaid Director, the Texas Department of Health (department) submits proposed amendments to §§29.601, 29.1104, 29.1126, and 29.1127 concerning purchased health services. Specifically, the sections cover payment for hospital services; Texas Medicaid reimbursement methodology; reimbursement for in-home total parenteral hyperalimentation services; and reimbursement for in-home respiratory therapy services for ventilator-dependent persons. The amendments are being adopted on an emergency basis in this issue of the *Texas Register*.

The amendment to §29.601 states that outpatient hospital services will be reimbursed at 83.65% of cost during fiscal year 1996 and 77.6% of cost during fiscal year 1997. Based on appropriated funding, outpatient hospital rates continue to be reduced by approximately 5.0% per year which results in the compounded percentages indicated above. The amendments to §§29.1104, 29.1126, and 29.1127 remove references to the governor's cost containment provisions which expire August 31, 1995. The existing language stipulates future cost-of-living adjustments (COLAs) and will be dependent on available funding.

Gary Bego, director, health care financing, has determined that for the two-year period the sections are in effect there will be fiscal implications as a result of enforcing or administering the sections. The effect on state government will be an estimated reduction in cost of $12,953,221 for fiscal year 1996 and $28,949,900 for fiscal year 1997. There will be no fiscal implications for local government.

Mr. Bego also has determined that for each year of the two years the sections are in effect the public benefit anticipated as a result of enforcing the sections will be the department's compliance with state law. There is no effect on small businesses. There is no anticipated economic costs to persons who are required to comply with the proposed sections and no impact on local employment.

Comments on the proposal may be submitted to Rodger Love, Program Specialist, Health Care Financing, Texas Department of Health, 1100 West 49th Street, Austin, Texas 78756-3168, (512) 794-6892. Comments will be accepted for 30 days following publication of this proposal in the *Texas Register*. In addition, a public hearing will be held at 9:00 a.m., Wednesday, August 30, 1995, in the Board Room (M-739) of the Texas Department of Health, 1100 West 49th Street, Austin. Federal regulations require the department to have a copy of the proposed amendments available in each county for public review and comment. A copy of the proposal is being sent to all Department of Human Services offices to be available for review on request.

Subchapter G. Hospital Services

• 25 TAC §29.601

The amendment is proposed under the Human Resources Code, §32.021 and Texas Civil Statutes, Article 4413 (502), §16, which provide the Health and Human Services Commission with the authority to adopt rules to administer the state's medical assistance program and is submitted by the Texas Department of Health under its agreement with the Health and Human Services Commission to operate the purchased health services program and authorized under Chapter 15, §1.07, Acts of the 72nd Legislature, First Called Session (1991).

The amendment affects the Human Resources Code, Chapter 32.

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 August 11, 1995.

TRD-9510326 Susan K. Steeg
General Counsel
Texas Department of Health

Earliest possible date of adoption: September 22, 1995

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

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Subchapter L. General Administration

• 25 TAC §§29.1104, 29.1126, 29.1127

The amendments are proposed under the Human Resources Code, §32.021 and Texas Civil Statutes, Article 4413 (502), §16, which provide the Health and Human Services Commission with the authority to adopt rules to administer the state's medical assistance program and is submitted by the Texas Department of Health under its agreement with the Health and Human Services Commission to operate the purchased health services program and authorized under Chapter 15, §1.07, Acts of the 72nd Legislature, First Called Session (1991).

The amendments affect the Human Resources Code, Chapter 32.

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 August 11, 1995.

TRD-9510327 Susan K. Steeg
General Counsel
Texas Department of Health

Earliest possible date of adoption: September 22, 1995

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

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TITLE 30. ENVIRONMENTAL QUALITY

Part I. Texas Natural Resource Conservation Commission

Chapter 101. General Rules

• 30 TAC §101.2

The Texas Natural Resource Conservation Commission (TNRCC or commission) pro-

poses an amendment to §101 2, concerning Multiple Air Contaminant Sources or Properties The Multiple Air Contaminant Sources or Properties rule allows two or more property holders in counties with populations less than 50,000 to petition the TNRCC to have their properties designated as a single property for the purpose of controlling air emissions The rule can be applied to properties which are contiguous except for intervening roads, railroads, rights-of-way, canals, and watercourses considered to be part of the area for purposes of this provision

The proposed amendment would eliminate the 50,000 population limitation and would limit the use of the provision to properties under the control of a single entity which has been or will be divided and placed under the control of separate entities, creating a new property line configuration or for those properties operated or intended to be operated as an integrated plant or plants where individual facilities are owned by separate entities, but all facilities are under the control of a single entity The proposed amendment would further restrict contiguous properties to those separated only by roads, railroads, and rights-of-way which are considered part of the property or properties

Stephen Minick, Strategic Planning and Appropriations Division, has determined that for the first five-year period the section is in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the section

Mr Minick also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be a more efficient use of TNRCC resources for the property line modeling of air emissions in the event of sale or transfer of properties There will be no effect on small businesses There is no anticipated economic cost to persons who are required to comply with the section as proposed

A public hearing on the proposal will be held September 21, 1995, at 10 00 a m in Room 254S of TNRCC Building E, located at 12118 North IH-35, Park 35 Technology Center, Austin The hearing is structured for the receipt of oral or written comments by interested persons Individuals may present oral statements when called upon in order of registration Open discussion within the audience will not occur during the hearing, however, a TNRCC staff member will be available to discuss the proposal 30 minutes prior to the hearing and will answer questions before and after the hearing.

Written comments not presented at the hearing may be submitted to the TNRCC central office in Austin The deadline for submission of written comments will be 30 days after the date of publication of the proposal in the *Texas Register*. Material received by the TNRCC Office of Policy and Regulatory Development by 4 00 p.m on that date will be considered by the commission prior to any final action on the proposal Please mail comments to Lisa Martin, Office of Policy and Regulatory Development, MC 205, P O. Box 13087, Austin, Texas 78711-3087, and reference Rules Tracking Log #95111-101-AI Please fax comments to (512) 239-5687. Copies of the proposed rule are available at the central office of the TNRCC, Air Policy and Regulations Division, located at 12118 North IH-35, Park 35 Technology Center, Building E, Austin, and at all TNRCC regional offices For further information, contact John Gillen at (512) 239-1415

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

The amendment is proposed under the Texas Health and Safety Code, the Texas Clean Air Act (TCAA), §382 017, which provides the TNRCC with the authority to adopt rules consistent with the policy and purposes of the TCAA

The proposed amendment implements the Health and Safety Code, §382 017

§101.2 Multiple Air Contaminant Sources or Properties.

(a) (No change)

(b) Two or more property owners/operators may petition the commission to have their properties designated a single property for purposes of demonstrating compliance with TNRCC regulations and the control of air emissions. The petition shall be subject to the following criteria.

(1) The properties must be contiguous except for intervening roads, railroads, and/or rights-of-ways which are considered a part of the property.

(2) The use of this section is intended for a property under the control of a single entity that has been or will be divided and placed under the control of separate entities creating a new property line configuration or for properties operated or intended to be operated as an integrated plant or plants where individual facilities are owned by separate entities but all facilities are under the control of a single entity.

(3) The petition shall describe generally the manner in which the control of emissions and demonstration of compliance with TNRCC regulations will be administered and controlled. The petition shall name the party or parties accepting responsibility for off property impacts. The petition shall be accompanied by a copy of an executed written agreement between the property holders who consent to having their properties so designated and shall also be accompanied by a United States Geological Survey map or equivalent indicating geographical features such as roads, watercourses, and prominent landmarks, the boundaries of the petitioners' properties, the area to be included in the single property designation, and present land uses in the areas surrounding the area to be included. The written agreement must detail the mechanisms of control exercised on both properties. The commission may place such conditions on the approval of the petition as it may deem appropriate to avoid a condition of air pollution or ensure compliance with state and federal regulations.

[(b) Two or more property holders in a county having a population of less than 50,000 as determined by the most recent federal census may petition the Commission to have their properties designated a single property for purposes of controlling emissions therefrom, if the properties are contiguous except for intervening roads, railroads, rights-of-way, canals and water-courses, which are considered a part of the area for purposes of this provision The petition shall describe generally the manner in which control of emissions from the combined properties will be administered and shall name the party or parties accepting responsibility thereof The petition shall be accompanied by an executed copy of a written agreement between the property holders who consent to having their properties so designated and shall also be accompanied by a detailed map of the vicinity showing geographical features such as roads, watercourses, and well-known landmarks, the boundaries of the petitioners' properties, the area to be included in the single property designation, and present land uses in the areas surrounding the area to be included. The Commission may place such conditions on the approval of the petition as it may deem appropriate.]

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 August 15, 1995.

TRD-9510343

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

Proposed date of adoption· November 15, 1995

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

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Chapter 116. Control of Air Pollution by Permits for New Construction or Modification

Subchapter D. Permit Renewals

- **30 TAC §§116.310-116.314**

The Texas Natural Resource Conservation Commission (TNRCC or commission) proposes amendments to §116 310, concerning Notification of Permit Holder, §116 311, concerning Permit Renewal Application, §116.312, concerning Public Notification and Comment Procedures, §116.313, regarding Renewal Application Fees, and §116 314, concerning Review Schedule The TNRCC permit renewal criteria and procedures are being modified pursuant to Senate Bill 1125 (74th Legislature)

The main regulatory change is the proposal of new §116.311(b), which states that, at the time of permit renewal, the TNRCC may not impose more stringent permit conditions unless the TNRCC determines that it is necessary to avoid a condition of air pollution or to ensure compliance with otherwise applicable federal or state air quality control requirements Some minor administrative changes are proposed in other sections for consistency with new §116.311(b) or for editorial matters, such as the change of the Texas Air Control Board to the TNRCC.

Steve Minick, Strategic Planning and Appropriations Division, has determined that for the first five-year period the sections are in effect there will be no major fiscal implications for state or local government as a result of enforcing or administering the sections

Mr. Minick also has determined that for each year of the first five years the sections are in effect the public benefit anticipated as a result of enforcing the sections will be better utilization of staff resources by allowing the permits staff to allocate more time to the review of permit applications for new facilities, and to reduce the review time for permit renewals for existing facilities There will be negligible costs to the regulated community and no new economic costs to persons who are required to comply with the sections as proposed

A public hearing on the proposal will be held September 21, 1995, at 2.00 p m in Room 254S of TNRCC Building E, located at 12118 North IH-35, Park 35 Technology Center, Austin. The hearing is structured for the receipt of oral or written comments by interested persons Individuals may present oral statements when called upon in order of registration. Open discussion within the audience will not occur during the hearing; however, a TNRCC staff member will be available to discuss the proposal 30 minutes prior to the hearing and will answer questions before and after the hearing.

Written comments not presented at the hearing may be submitted to the TNRCC central office in Austin The deadline for submission of written comments will be 30 days after the date of publication of this proposal in the *Texas Register* Material received by the TNRCC Office of Policy and Regulatory Development by 4 00 p m on that date will be considered by the commission prior to any final action on the proposal Please mail comments to Lisa Martin, Office of Policy and Regulatory Development, MC 205, P.O Box 13087, Austin, Texas 78711-3087 Please fax comments to (512) 239-5687 Copies of the revision are available at the central office of the TNRCC located at 12118 North IH-35, Park 35 Technology Center, Building E, Austin, and at all TNRCC regional offices For further information, contact Sam Wells at (512) 239-1441

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

The amendments are proposed under the Texas Health and Safety Code, Texas Clean Air Act (TCAA), §382 017, which provides the TNRCC with the authority to adopt rules consistent with the policy and purposes of the TCAA

The proposed amendments implement the Texas Health and Safety Code, §382 017

§116 310 Notification of Permit Holder The Texas Natural Resource Conservation Commission (TNRCC) shall provide written notice to the holder of a permit that the permit is scheduled for review. Such notice will be provided by certified or registered United States Mail no less than 180 days prior to the expiration of the permit. The notice shall specify the procedure for filing an application for review and the information to be included in the application. The application shall be completed by the holder of the permit and returned to the TNRCC within 90 days of receipt of the notice Pursuant to **Texas Civil Statutes, Article 9027** [Chapter 691, House Bill 1393 (72nd Legislature)], the TNRCC shall exempt a holder of a permit from any increased fee or other penalty for failure to renew the permit if the individual establishes, to the satisfaction of the TNRCC, that the failure to renew in a timely manner occurred because the individual was on active duty in the United States Armed Forces serving outside the State of Texas

§116 311. Permit Renewal Application.

(a) In order to be granted a permit renewal, the owner or operator of the facility shall submit information in support of the application which demonstrates that

[(1) the emissions from the facility comply with all applicable specifications and requirements in the Texas Natural Resource Conservation Commission (TNRCC) rules and the Texas Clean Air Act (TCAA),]

(1)[(2)] the facility is being operated in accordance with all requirements and conditions of the existing permit, including **emissions related** representations in the application for permit to construct and subsequent amendments, and any previously granted renewal;

[(3) the facility has appropriate means to measure the emission of significant air contaminants as determined to be necessary by the Executive Director;

[(4) the facility uses that control technology determined by the Executive Director to be economically reasonable and technically practicable considering the age of the facility and the impact of its emissions on the surrounding area;]

(2)[(5)] the emissions from the facility meet at least the requirements of any applicable new source performance standards promulgated by the United States Environmental Protection Agency (EPA) under the authority of the Federal Clean Air Act (FCAA), §111, as amended; **and**

(3)[(6)] the emissions from the facility meet at least the requirements of any applicable emission standard for hazardous air pollutants promulgated by EPA under the authority of the FCAA, §112, as amended.

(b) In addition to the requirements in subsection (a) of this section, if the TNRCC determines it necessary to avoid a condition of air pollution or to ensure compliance with otherwise applicable federal or state air quality control requirements, then:

(1) the applicant may be required to submit additional information regarding the emissions from the facility and their impacts on the surrounding area; and

(2) the TNRCC shall impose as a condition for renewal those requirements the executive director determines to be economically reasonable and technically practicable considering the age of the facility and the impact of its emissions on the surrounding area.

(c)[(b)] The TNRCC shall review the compliance history of the facility in consideration of granting a permit renewal The compliance history review shall be conducted in accordance with **§§116.120-116.126 of this title (relating to Compliance History)** [the undesignated head in Subchapter B relating to Compliance History]. In order for the permit to be renewed, the application shall include information demonstrating that the facility is or has been in substantial compliance with the provisions of the TCAA and the terms of the existing permit. If the facility has a history which demonstrates failure to maintain substantial compliance with the provisions of

the TCAA or the terms of the existing permit, the renewal shall not be granted. If it is found that violations in the compliance history constitute a recurring pattern of egregious conduct which demonstrates a consistent disregard for the regulatory process, including failure to make a timely and substantial attempt to correct the violations, the renewal shall be denied. If a contested case hearing has not been called, then the staff must notify the applicant of the intent to recommend denial and state the basis of the findings The applicant will be given an opportunity to respond to the notice If the findings reflect a pattern of disregard for applicable regulations which do not warrant denial, additional conditions may be placed in the permit.

(d)[(c)] A permit holder that fails to submit an application for review and renewal within 90 days after receiving notification from the TNRCC pursuant to **§116.310 of this title (relating to Notification of Permit Holder)** [subsection (a) of this section], will cause the subject permit to expire, unless the time period for the submission of the application is extended by the executive director Permits are subject to the following renewal schedule:

(1) any permit issued before December 1, 1991, is subject for review 15 years after the date of issuance; or

(2) any permit issued on or after December 1, 1991, is subject for review every ten years after the date of issuance,

(3) for cause, a permit issued on or after December 1, 1991, for a facility at a nonfederal source may contain a provision requiring the permit to be renewed at a period of between five and ten years.

§116.312. Public Notification and Comment Procedures The executive director shall mail a written notification to the permit holder within 30 days of receipt of a completed application for permit review and renewal, as determined by the executive director [of the Texas Natural Resource Conservation Commission (TNRCC)]. The notification will acknowledge receipt of the application and require the applicant to provide public notice of the application for permit renewal according to §116.132 of this title (relating to Public Notice Format) and §116.133 of this title (relating to Sign Posting Requirements) All requirements pertaining to signs and public notification in §116.132 and §116.133 of this title and **§116.134 of this title (relating to Notification of Affected Agencies)** and to public comments in §116.136 of this title (relating to Public Comment Procedures), which apply to proposed construction, proposed facilities, and permit applications shall apply likewise to proposed renewals, existing facilities, and renewal applications. The sign heading required under §116 133(a)(2) of this title shall read "PROPOSED RENEWAL OF AIR QUALITY PERMIT" When newspaper notices are published in accordance with §116 132 of this title, the applicant for permit renewal shall furnish a copy of such notices and dates of publication to the TNRCC in Austin and all local air pollution control agencies with jurisdiction in the county in which the facility is located. Along with such notices furnished to the TNRCC, the applicant shall certify that the signs required by §116.133 of this title have been posted in accordance with the provisions of §116 133(a)(2)

§116 313 Renewal Application Fees.

(a) The holder of a permit to be reviewed for renewal by the Texas Natural Resource Conservation Commission (TNRCC) shall remit a fee with each renewal application, pursuant to the Texas Clean Air Act, §382.062(a)(1) (B), based on the total annual allowable emissions from the permitted facility for which the renewal is being sought, as applied to the following table.

Figure 30 TAC §116.313(a)

(b) This fee shall be due and payable at the time application for review and renewal is filed with the TNRCC in response to written notice from the TNRCC consistent with §116.310 of this title (relating to Notification of Permit Holder) No fee will be accepted before the permit holder has been notified by the TNRCC that the permit is scheduled for review. The basis for fees is the schedule in effect at the time the application is filed All permit review fees shall be remitted by check or money order payable to the TNRCC **and mailed to the TNRCC, P.O. Box 13087, MC 162, Austin, Texas 78711-3087** [located at 12124 Park 35 Circle, Austin, Texas 78753]. Required fees must be received before the agency will consider an application to be complete

§116.314. Review Schedule.

(a) Renewal of permit. Subsequent to review, the executive director shall renew a permit if it is determined the facility meets the requirements of §116.311 of this title (relating to Permit Renewal Applications) and §116 312 of this title (relating to Public Notification and Comment Procedures) The executive director shall notify the permit holder in writing of the decision regarding renewal. If the permit cannot be renewed, the executive director shall forward, with the notice, a report which describes the basis for the determination. If denial is based on failure to meet the requirements of §116 311(a) **or (b)** of this title, the executive director's report shall establish a schedule for compliance with the renewal requirements. The report shall be forwarded to the permit holder no later than 180 days after the Texas Natural Resource Conservation Commission (TNRCC) receives a completed application. The permit shall be renewed if the requirements are met according to the schedule specified in the report and the executive director shall notify the permit holder in writing of the permit renewal. However, if denial is based on failure to maintain substantial compliance with the provisions of the Texas Clean Air Act or the terms of the existing permit pursuant to §116.311(c) [(b)] of this title, the renewal denial shall be final, and the executive director shall notify the permit holder in writing of the denial

(b) Contested case hearing. In the event that the permit holder fails to satisfy the TNRCC requirements for corrective action by the deadline specified in the TNRCC report, the applicant shall be required to show cause in a contested case proceeding why the permit should not expire. The proceeding will be conducted pursuant to the requirements of the **Administrative Procedure Act, Chapter 2001, Texas Government Code** [Administrative Procedure and Texas Register Act, Texas Civil Statutes, Article 6252-13a].

(c) Effective date of existing permit. An existing permit shall remain effective until it is renewed, or until the deadline specified in the executive director's report to the permit holder, or until a date specified in any commission order entered following a contested case hearing held pursuant to subsection (b) of this section. An existing permit shall remain in effect during the course of a contested case hearing if the hearing proceeds beyond the permit expiration as identified in §116.311(d) [(c)] of this title.

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 August 14, 1995.

TRD-9510313

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

Proposed date of adoption: October 26, 1995

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

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Chapter 335. Industrial Solid Waste and Municipal Hazardous Waste

Subchapter Q. Pollution Prevention: Source Reduction

• 30 TAC §335.474, §335.476

The Texas Natural Resources Conservation Commission (TNRCC) proposes amendments to §335.474 and §335.476, concerning Pollution Prevention: Source Reduction and Waste Minimization, Source Reduction and Waste Minimization Plans, and Reporting and Recordkeeping. These amendments are proposed in order to clarify the current rule which does not specify what Small Quantity Generators (who are not also TRI Facilities) must submit to the TNRCC, and to ensure that what is submitted serves as a tool for preventing pollution. For purposes of this rule package, "TRI Facilities" will refer to all facilities subject to the Emergency Planning and Community Right-to-Know Act, Title III, §313. This is also known as the Superfund Amendments and Reauthorization Act (SARA) of 1986, Title III, §313. In addition, the proposed rule change will simplify the reporting requirements for Small Quantity Generators (SQGs) and utilize TNRCC resources most effectively. This change will clarify the current rule, improve compliance, demonstrate the TNRCC's commitment to streamlining reporting requirements, and minimize SQG requirements

Section 335.474(3) is amended to add new subparagraphs (J) and (K), to clarify certification and executive summary requirements for SQGs. The rules require these items for all generators, but the requirements are currently only defined for large quantity generators. Section 335.474 would also be amended by adding paragraph (4) to allow SQG facilities to provide optional information (this same information is allowed under §335.476(2)(A) to (4)(D) for LQGs) In addition, §335.476 is amended to simplify reporting requirements for SQGs, as allowed by the Texas Health and Safety Code, §361. 505(c).

These changes will clarify two points of confusion in the existing rules First, the certificate of completeness is not defined under the section describing plan requirements for SQGs, but all facilities are required to submit this certificate to the TNRCC as stated under the Reports and Recordkeeping Section. Second, an executive summary is never defined for SQGs, but is required to be submitted

The proposed rule change will allow both the regulated community (SQGs) and the TNRCC to focus limited resources on activities which produce the greatest benefit. This change will allow TNRCC staff to target technical assistance programs for SQGs rather than devote staff to managing submissions from SQGs which are redundant with data collected by other parts of the agency. SQGs generate less than 0.01% of the total hazardous waste generated in Texas Managing a detailed annual reporting system for SQGs (over 3,000 facilities) would require a great deal of TNRCC staff resources, while yielding little benefit to SQGs A simplified reporting system will still allow the TNRCC to measure pollution prevention progress made by SQGs.

Stephen Minick, Strategic Planning and Appropriations Division, has determined that for the first five-year period these sections as proposed are in effect there are fiscal implications anticipated as a result of enforcement or administration of the sections The effect on state government will be a cost savings of up to $120,000 per year No significant implications for revenues to state government are anticipated The effect on local governments will be limited to those units of local government which qualify as small quantity generators under the proposed rule Effects on these affected local governments will be similar to the effects on any small quantity generator. Adoption of these sections is anticipated to result in a reduction in potential operating costs for small quantity generators related to the simplification of or exemption from reporting and paperwork requirements It is estimated that cost savings for the more than 3,000 affected generators could average $500 annually for individual operators A significant percentage of the affected generators are small businesses.

Mr Minick also has determined that for the first five years these sections as proposed are in effect, the public benefit anticipated as a result of administration of and compliance with the sections will be more cost-effective compliance with state requirements for waste reduction and pollution prevention planning, increased incentives for waste minimization and source reduction, and improvement in the state's ability to provide technical assistance to waste generating facilities in pollution prevention efforts Fiscal implications for small businesses will vary on a case-by-case basis, but are anticipated to be similar for any generator subject to the proposed rules. There are no costs anticipated to any person required to comply with these sections as proposed not otherwise identified previously

Written comments may be submitted to the TNRCC by 5:00 p.m., 30 days from the date of publication of this proposal in the *Texas Register*. Please mail written comments to Bettie Mabry Bell, Texas Natural Resource Conservation Commission, MC-201, P O. Box 13087, Austin, Texas 78711-3087, (512) 239-6087, and reference Rule Log Number 95119-335-WS. For further information, contact Hygie Reynolds, Waste Policy and Regulations Division at (512) 239-6825

The amendments are proposed under Texas Water Code, §§5.103, 5.105, and 26.011, which provides the TNRCC the authority to adopt rules necessary to carry out its powers, duties, and policies and to protect water quality in the state. These changes are also proposed under the Health and Safety Code, §361.024, which provides the TNRCC the authority to adopt rules necessary to manage solid waste, and under §361.504(b), which provides the TNRCC the authority to establish schedules for Source Reduction and Waste Minimization reports.

This rule change does not affect any other statutes or codes.

§335 474. Source Reduction and Waste Minimization Plans. All persons identified under §335.473 of this title (relating to Applicability) shall prepare a five year (or more) source reduction and waste minimization plan which may be updated annually as appropriate according to the schedule listed in §335.475 (relating to Implementation Dates). Plans shall be updated as necessary to assure that there never exists a time period for which a plan is not in effect. Prior to completion of the plan and each succeeding plan, a new five-year (or more) plan shall be prepared. Plans prepared under paragraphs (1)-(3) of this section shall contain a separate component addressing source reduction activities and a separate component addressing waste minimization activities

(1)-(2)(No change)

(3) The plans of small quantity generators shall include, at a minimum:

(A)-(I) (No change.)

(J) certification by the owner of the facility, or, if the facility is owned by a corporation, by an officer of the corporation that owns the facility who has the authority to commit the corporation's resources to implement the plan, that the plan is complete and correct;

(K) an executive summary of the plan which shall include at a minimum:

***(i)* a description of the facility which shall include:**

(I) name of facility;

(II) address;

(III) contact;

(IV) EPA ID, TNRCC solid waste notice of registration number;

(V) primary SIC code;

***(ii)* a projection of the amount of hazardous waste that the facility will generate (based on what is reported as hazardous waste under §335.9 of this title (relating to Record Keeping and Annual Reporting Procedures Applicable to Generators)) at the end of the five-year period that the plan is in place;**

***(iii)* prioritized list of pollutants and contaminants to be reduced;**

(iv) a list of source reduction activities associated with reductions of pollutants identified under subparagraph (D) of this paragraph.

(4) The executive summary may include:

(A) a discussion of the person's previous effort at the facility to reduce hazardous waste or the release of pollutants or contaminants through source reduction or waste minimization;

(B) a discussion of the effect changes in environmental regulations have had on the achievement of the source reduction and waste minimization goals;

(C) the effect that events the person could not control have had on the achievement of the source reduction and waste minimization goals; and

(D) a discussion of the operational decisions the person has made that have affected the achievement of the source reduction and waste minimization goals.

§335.476. Reports and Recordkeeping. All persons required to develop a source reduction and waste minimization plan for a facility under this subchapter shall submit to the commission [and the board], concurrent with implementation of the plan under §335.475 of this title (relating to Implementation Dates), an initial executive summary of such plan and a copy of the certification of completeness and correctness in §335.474(1)(H) of this title (relating to Source Reduction and Waste Minimization Plans). Within 30 days of any revision of such plan, a revised executive summary including a copy of a new certificate of completeness and correctness shall be submitted. All owners and operators required to develop a plan under §335.473(1) and (3) of this title (relating to Applicability) shall also submit an annual report as defined in paragraphs (1), (2), and (3) of this section according to the schedule outlined in paragraph (4) of this section. Persons required to develop a source reduction and waste minimization plan for a facility under §335.473(2) of this title (relating to Applicability) may meet the annual reporting requirements by submitting their annual waste summary required under §335.9 of this title (relating to Recordkeeping and Annual Reporting Procedures Applicable to Generators) and by submitting their hazardous waste reduction goals as required under §335. 474(K)(ii) of this title (relating to Source Reduction and Waste Minimization Plans.)

(1)-(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 August 14, 1995.

TRD-9510362 Lydia Gonzalez-Gomatzky
Acting Director, Legal Services Division
Texas Natural Resource Conservation Commission

Earliest possible date of adoption: September 23, 1995

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

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TITLE 31. NATURAL RESOURCES AND CONSERVATION

Part I. General Land Office

Chapter 9. Exploration and Leasing of Oil and Gas

• 31 TAC §9.7

The General Land Office (GLO), with the approval of the School Land Board (SLB), proposes an amendment to §9.7, concerning royalty and reporting obligations to the state. The GLO proposes an amendment to existing §9.7(b) (2)(A) to reflect earlier statutory changes to Texas Government Code, §404. 095. To reduce the regulatory and paperwork burdens for producers of certain properties with low total annual royalty payments, the GLO also proposes an amendment to existing §9.7(b) to allow annual, rather than monthly, reporting and royalty payment. Proposed §9.7(c) provides the details of a Marginal Properties Royalty Incentive Program, which will enable oil and gas producers of certain marginally productive properties to apply for royalty rate reductions from the state, as authorized in part by Senate Bill 905, 74th Legislature, 1995, to be codified at Texas Natural Resources Code, §32.067. Various grammatical changes are also proposed throughout §9.7 to simplify and clarify the intent of the rules.

Implementation of the proposed amendments will further several key objectives. The GLO's main objective is to extend the economic life of state-owned marginal properties. By preventing hydrocarbon (oil, gas, and condensate) resource waste, the GLO will ultimately increase the royalty revenue to the Permanent School Fund (PSF) by encouraging the production of hydrocarbons that might not otherwise be economic to produce. The GLO desires to give lessees on state-owned lands meaningful incentives to maintain, rather than abandon, marginal production; to encourage activities that enhance production from marginally productive properties; and to encourage drilling of exploration wells on prospects with higher risks and/or lower potential. The GLO will further these objectives through a program that is administratively simple and streamlined for both industry and the GLO, which administers the zmineral leases granted by the SLB.

The economic viability of marginally productive properties is very sensitive both to the price received for the hydrocarbons and their daily production rate. Often, a marginally productive property reaches its economic limit and is abandoned while hydrocarbon production is still technologically feasible. The resultant waste of hydrocarbons is not in the best interest of this and future generations of Texas school children because it deprives the PSF of additional revenue. Extending the economic life of marginally productive properties probably will result in production of otherwise wasted hydrocarbons, thus increasing PSF revenue farther into the future.

The primary way to extend the economic life of marginally productive properties is to reduce production costs. The key cost over which the SLB has control is the royalty due the state. The proposed program provides for a sliding-scale royalty reduction based on oil price and production, for qualifying reservoirs with an average daily per well production of 15 barrels of oil equivalent or less, or 50 barrels of oil equivalent or less for Gulf of Mexico reservoirs. Under no circumstances will the royalty rate be greater than that provided for in the lease, or less than the lowest royalty rate provided by statute for the category of property for which application is being made. A reduced royalty under this incentive program is available only for a lease issued or approved by the state that is in effect on, or takes effect on or after, the effective date of these rule amendments.

Della Pearson, Ph.D., deputy commissioner of the Energy Resources Program Area, GLO, has determined that for each year of the first five years the section is in effect there will be fiscal implications as a result of administering the section. While the §9.7(c) amendment could result in a short-term reduction of royalty revenue to the PSF, the amendment is designed to extend the economic life of state-owned properties, thereby ultimately increasing PSF royalty revenue. It is anticipated that the amendment to §9. 7(b)(2)(B), (E)-(G) and (3)(A) will reduce the state's costs of administration for certain low-royalty properties by reducing paperwork and workload by changing from a monthly to an annual royalty payment and reporting cycle. The exact dollar amount benefit to the state cannot be determined because the extent to which producers will avail themselves of the amendments' benefits is unknown.

Dr. Pearson 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 administering the section will be to prevent waste of state hydrocarbon resources and ultimately increase the PSF royalty revenue, thus benefiting present and future generations of Texas schoolchildren. Allowing annual, rather than monthly, royalty payment and reporting will benefit state lessees and the public by reducing the paperwork and administrative workload for both the state and industry. No adverse effects on small

businesses are anticipated Because both proposals are completely voluntary, there is no anticipated economic cost to persons required to comply with the section as proposed

Comments on the proposal may be submitted to Victor Carrillo, Texas General Land Office, Legal Services Division, 1700 North Congress Avenue, Room 630, Austin, Texas 78701-1495. Fax. (512) 463-6311. Comments on the proposed amendments must be received by 5 00 p m on September 20, 1995

The amendment is proposed under Texas Natural Resources Code, §§31 051, 32.062, 32.154, and 51.201, which authorize the commissioner of the GLO and the SLB to adopt rules which are consistent with the law, Texas Natural Resources Code, §52 131, which authorizes the commissioner to adopt rules regarding the submission of royalty payments, reports, or other documents; and, in particular, Senate Bill 905, 74th Legislature, 1995, to be codified at Texas Natural Resources Code, §32.067, which authorizes the SLB to provide by rule for the reduction of royalty rates.

Texas Natural Resources Code, Chapters 32, 51 and 52 are affected by these proposed amendments

§9 7 Royalty and Reporting Obligations to the State.

(a) In-kind royalties and reports. Producers meeting their royalty obligations by delivering the state's royalty in-kind shall contact the General Land Office (GLO) for specific instructions for making and reporting in-kind royalties. Purchasers of the state's oil or gas in-kind must make the payment for this oil or gas separately from any payment of monetary royalties.

(b) Monetary royalties and reports.

(1) Basis for computing royalties.

(A) Gross proceeds **Lessees shall compute and pay oil** [Oil] and gas royalties due under each lease [must be computed] on the gross proceeds received by the seller, including amounts collected to reimburse the seller for severance taxes and production-related costs **Lessees shall not deduct** [No deduction may be made for] production or severance taxes, or[for] the cost of producing, processing, transporting, and otherwise making the oil, gas, and other products produced from the premises ready for sale or use.

(B) Volume subject to royalty.

(i) General. Royalties are due and payable **by all lessees** on 100% of each lease's gross production of oil and gas unless the lease contains language expressly exempting certain dispositions of oil and/or gas from state royalties.

(ii) Oil sales and stocks. As a matter of convenience, during periods of regular sales, GLO will permit **lessees to pay** monthly oil royalties [to be] based on the number of barrels sold (or otherwise disposed of) in a given month rather than on the gross production as may be required by the lease. Unless the lessee is otherwise notified by GLO, no royalties are payable on lease stocks until such stocks are **disposed of** either **by sale** [sold] or otherwise [disposed of] GLO reserves the right to require at any time, or from time to time, that **lessees pay** royalties [be paid] on gross production rather than on barrels sold. **GLO requires that lessees pay** [It will be GLO practice to require that] royalties [be paid] on existing stocks when there have been no sales from such stocks for several months.

(C) Plant products. **Lessees shall calculate the** [The] volume and value of plant products subject to state royalty [shall be calculated] in accordance with the lease under which the gas is produced and processed and **this volume and value** shall never be less than the minimum percentage specified in the lease. In cases where the lease does not specify the manner in which **lessees are to calculate** plant product royalties [are to be calculated], then the volume and value of plant products subject to state royalty shall be that volume and value for which settlement is being made to the producer, under a gas contract prudently negotiated between the producer and processor. When gas is processed for the recovery of liquid hydrocarbons or other products, **lessees shall pay** [the] royalties on residue gas and plant products **in an amount** [shall] not [be] less than the royalties which would have been due had the gas not been processed.

(D)-(E) (No change.)

(2) Royalty payments and reports.

(A) Mode of payment. Except as provided in subsection (a) of this section, **lessees may pay** royalties and other monies due [may be paid] by cash or check, money order, or sight draft made payable to the commissioner. **Lessees may also pay** [Payment may also be made] by electronic funds transfer or in any manner that may be lawfully made to the state treasury. Information regarding alternative payment methods may be obtained from the **GLO** Royalty Management [and Compliance] Division [of GLO]. **Texas Government Code, §404.095, may require lessees** [Payors] who have made over **$500,000** [$2 million] in payments to GLO during the preceding fiscal year, or who anticipate payments over **$500,000** [$2 million] during the current fiscal year, [may be required] to make such payments by electronic funds transfer. This provision applies only to payments from leases executed after January 1, 1990. For complete details, see Texas Government Code, §404 095.

(B) Information required with royalty payments. **Lessees shall submit all** [All] royalty payments **in a manner which identifies** [must show] the assigned GLO lease number, **the annual submission certification number, if any,** and the amount of oil and gas royalty being paid Royalty payments not identified by the lease number **and the annual submission certification number, if any,** shall be considered delinquent and shall be subject to the delinquency provisions of **subsection (b)(3)** [paragraph (3)] of this **section** [subsection]

(C) Required reports **Lessees shall provide, in the form and manner prescribed by the GLO, production/royalty** [Production/royalty] reports (Form GLO-1 for oil and condensate and Form GLO-2 for gas), other required reporting documents for gas or oil and condensate, and other supporting documents required by GLO to verify gross production, disposition, and market value of the oil and condensate, gas, and other products produced therefrom [must be completed and provided in the form and manner prescribed by GLO]. **Reporters for leases which the GLO has approved for annual royalty payments may submit such reports on an annual basis as well after receipt of an annual royalty certification number. Parties approved for annual reporting or payment shall notify the GLO in writing within ten business days of a complete release, forfeiture, termination, assignment, or change of operator or payor of a lease approved for annual reporting and payment.** Failure to comply with the statutes and the reporting requirements of this chapter may subject a lease to forfeiture, delinquency penalties, or both.

(D) Timely receipt of royalty payments and reports.

(i) For the purpose of this subsection, **the** GLO will **consider** [timely receive] a royalty payment or report **timely received** if the payment or report:

(I) **arrives** [is placed in a] postpaid **and**[,] properly addressed [wrapper]; and

(II) (No change.)

(ii) If a royalty payment or report is due on a Sunday or a legal state or federal holiday, then **lessees shall ensure**

that such payment or report is [must be] either received by the GLO on the next calendar day which is not a Sunday or a holiday, or postmarked or stamped prior to the next calendar day which is not a Sunday or a holiday.

(E) Oil and condensate royalties-due date. [All oil and condensate royalties must be timely received in GLO on or before the fifth day of the second month following the month of production.]

(i) Lessees shall ensure that all oil and condensate royalties, except royalties approved by GLO to be paid on an annual basis, are timely received by the GLO on or before the fifth day of the second month following the month of production.

(ii) Upon application to and written approval by the GLO, future royalties attributable to leases for which oil, condensate, and gas royalty due for the immediately preceding September 1 to August 31 period equaled $3,000 or less may be paid on an annual, rather than monthly, basis. A party who is both a payor and a reporter for a lease shall submit both payments and reports on a monthly or, if the GLO grants approval, an annual, basis.

(I) The applicant shall designate the payor who will submit the annual royalty payments and, if there are multiple payors for a lease, the share of royalty the designated payors will submit. Upon approval, GLO staff will assign an annual submission certification number to the designated payor and the GLO will authorize the designated payor to submit the designated share of royalty payments on an annual basis. The applicant shall notify the GLO in writing of any change in the payor designation within ten business days of its effective date.

(II) Payors, after approval, shall pay annual royalties for the following January 1 to December 31 annual production periods.

(III) Payors, after approval, shall continue to make payments on a monthly basis until the commencement of the next annual production period.

(IV) Each year, payors shall ensure that all annual oil and condensate royalties are timely received by the GLO on or before the fifth day of February following each annual production period. Each year, payors shall ensure that all annual gas royalties are timely received by the GLO on or before the 15th day of February following each annual production period.

(V) After the payor receives GLO approval for annual royalty payments, if the total annual oil, condensate, and gas royalty due under a lease exceeds $3,000 for any annual production period, payors shall resume making monthly royalty payments starting with the January production month immediately following that annual production period.

(VI) For any royalty approved to be paid on an annual basis, payors shall ensure that the total royalties that have accrued as of the date of a complete lease forfeiture, release, termination, assignment, or any change of designated payor, are timely received by the GLO on or before 75 calendar days after that date. If a change of payor occurs for a lease with multiple payors, only the changing payor shall pay the accrued royalties for which he is designated as being responsible on or before 75 calendar days after the change.

(VII) Any forfeiture, release, termination, assignment, or change of operator or payor, does not affect the approved annual royalty payment status, subject to subclause (VI) of this clause. However, as provided in §9. 8(c)(2)(G) of this title (relating to Discontinuing the Leasehold Relationship) , an assignee or successor in interest is liable for all unsatisfied royalty requirements of the assignor or predecessor in interest.

(VIII) The GLO may prescribe further specific forms and instructions applicable to this subparagraph.

(IX) The GLO has the sole discretion to approve annual royalty payments. Approval does not affect the state's right to take its royalty in-kind, nor does it constitute a finding that a lease has been maintained in force and effect or otherwise ratify or revive any lease. GLO approval does not abrogate the lessee's responsibility to submit timely royalty payments and reports to the GLO as provided in subparagraphs (L) and (M) of this paragraph.

(X) Determination of royalty due for purposes of clause (ii) of this subparagraph is not an official GLO determination of royalty due under a lease. The GLO may audit any lease to determine if royalty was properly paid and may pursue its rights and remedies through an administrative hearing or litigation.

(F) Gas royalties-due date. [All gas royalties must be timely received in GLO on or before the 15th day of the second month following the month of production.]

(i) Lessee shall ensure that all gas royalties, except royalties approved by GLO to be paid on an annual basis, are timely received by the GLO on or before the 15th day of the second month following the month of production.

(ii) The provisions of subparagraph (E)(ii)(I)-(X) of this paragraph apply to the payment of gas royalties.

(G) Required reports-due date. [Production/royalty reports (Forms GLO-1 and GLO-2) and other required reporting documents for gas or oil and condensate must be timely received in GLO on or before the day the corresponding royalty payment is due, except for reports on royalties paid by electronic funds transfer or reports filed on magnetic media. GLO-1s and GLO-2s and other required reporting documents for royalties paid by electronic funds transfer and reports filed on magnetic media must be timely received in GLO on or before five days after the corresponding royalty payment is due.]

(i) Lessees shall ensure that all required production/royalty reports and other required documents (hereafter "reports" in subparagraph (G) of this paragraph), in whatever format submitted, for gas or oil and condensate are timely received by the GLO on or before the due date of the corresponding monthly royalty payment.

(ii) Upon application to and written approval by the GLO, future reports for leases for which oil, condensate, and gas royalty due for the immediately preceding September 1 to August 31 period equaled $3,000 or less may be submitted on an annual, rather than monthly, basis. A party who is both a payor and a reporter for a lease shall submit both payments and reports on a monthly or, if the GLO grants approval, an annual, basis.

(I) The applicant shall designate the reporter who will submit the annual reports and, if there are multiple reporters for a lease, the information the designated reporter will submit. Upon approval, GLO staff will

assign an annual submission certification number to the designated reporter and the GLO will authorize the designated reporter to submit the designated reports on an annual basis. The applicant shall notify GLO in writing of any change in the reporter designation within ten business days of its effective date.

(II) Reporters, after approval, shall submit annual reports for the following January 1 to December 31 annual production periods.

(III) Reporters, after approval, shall continue to submit reports on a monthly basis until the commencement of the next annual production period. Unless the GLO expressly approves otherwise in writing, reporters shall submit unit production/royalty reports on a monthly basis regardless of the annual reporting status of individual leases within the unit.

(IV) Each year, reporters shall ensure that all annual reports concerning oil and condensate are timely received by the GLO on or before the fifth day of February following each annual production period. Each year, reporters shall ensure that all annual reports concerning gas are timely received by the GLO on or before the 15th day of February following each annual production period.

(V) After the reporter receives GLO approval for annual reporting, if the total annual oil, condensate, and gas royalty due under a lease exceeds $3,000 for any annual production period, reporters shall resume making monthly reports starting with the January production month immediately following that annual production period.

(VI) Reporters shall ensure that all reports approved by the GLO for submission on an annual basis are timely received by the GLO on or before 75 calendar days after a complete lease forfeiture, release, termination, assignment, or any change of designated reporter. If a change of reporter occurs for a lease with multiple reporters, only the changing reporter shall submit the reports for which he is designated as being responsible on or before 75 calendar days after the change.

(VII) Any forfeiture, release, termination, assignment, or change of operator or reporter does not affect the approved annual reporting status, subject to subclause (VI) of this clause. However, as provided in §9. 8(c)(2)(G) of this title (relating to Discontinuing the Leasehold Relationship) , an assignee or successor in interest is liable for all unsatisfied reporting requirements of the assignor or predecessor in interest.

(VIII) The GLO may prescribe further specific forms and instructions applicable to this subparagraph.

(IX) The GLO has the sole discretion to approve annual reporting. Approval does not affect the state's right to take its royalty in-kind, nor does it constitute a finding that a lease has been maintained in force and effect or otherwise ratify or revive any lease. GLO approval does not abrogate the lessee's responsibility to submit timely royalty payments and reports to the GLO as provided in subparagraphs (L) and (M) of this paragraph.

(X) Determination of royalty due for purposes of clause (ii) of this subparagraph is not an official GLO determination of royalty due under a lease. The GLO may audit any lease to determine if royalty was properly paid and may pursue its rights and remedies through an administrative hearing or litigation.

(iii) Lessees shall identify the relevant GLO lease numbers and annual submission certification numbers, if any, on all required reports. Reports that fail to identify these numbers shall be considered delinquent and shall be subject to the delinquency provisions of subsection (b)(3) of this section.

(H)-(I) (No change.)

(J) Settlements and judgments Lessee shall file with the GLO a copy of each settlement reached or judgment rendered in a dispute between the lessee and a purchaser regarding production from, and/or contracts relating to, state lands. Lessee shall file these [These] documents [must be filed] with the GLO within 30 days of entering into any such settlement or within 30 days of the rendering of such judgment.

(K)-(L) (No change.)

(M) Cooperation of operators, purchasers, payors, reporters, and lessees. The GLO recognizes that lessees may often delegate various lease obligations to third parties. However, such a delegation does not relieve a lessee of these obligations. Lessees must be aware that the acts and omissions of these third parties regarding these obligations may subject a lease to a delinquency penalty or forfeiture. Therefore, these parties must cooperate to responsibly discharge their obligations to each other and to the state.

(N) (No change.)

(O) Certification of sufficient royalties. The GLO will not be responsible for certifying, prior to the rental anniversary date, that sufficient royalty has been received to obviate the necessity of paying rentals or minimum royalties as may be required by lease. Lessees should maintain adequate records relating to lease royalty and rental status to determine if additional liability exists. If there is uncertainty concerning whether or not rental or minimum royalties are due, a lessee may maintain a lease [or leases may be maintained] in effect by remitting the annual amount required under each lease. The GLO will refund or grant credit to lessees for payments [Payments] received in this manner that are later found to have not been due [and thereafter found not due will be refunded or credit granted].

(P) Partial payments. The GLO will apply a lessee's partial [Partial] payment of amounts assessed (delinquent royalties, penalty, and interest) [will] first [be applied] to unpaid penalty and interest and then to delinquent royalties. Penalty and interest will continue to accrue until the delinquent royalties are fully paid.

(3) Penalties and interest.

(A) Penalties on delinquencies. Any royalty not paid when due, or any required report or document not submitted when due, is delinquent and penalties as provided in this subsection shall be added. Royalty payments or any required reports or documents that do not identify GLO lease numbers and annual submission certification numbers, if any, and any royalty payments [which are] not accompanied by any [the] required reports or documents [royalty affidavit which identifies GLO lease number] are also delinquent. The penalties on delinquent royalties specified in this subsection shall not be assessed in cases of title dispute as to the state's portion of the royalty or to that portion of the royalty in dispute as to fair market value.

(i) For royalties and reports due on or after September 1, 1985, including those for oil and gas produced since July 1, 1985, the GLO shall add:

(I) a penalty of 5.0% of the delinquent amount or $25, whichever is greater, [shall be added] to any royalty which is delinquent 30 days or less;

(II) a penalty of 10% of the delinquent amount or $25, whichever is greater, [shall be added] to any royalty which is more than 30 days delinquent,

(III) **at its discretion,** a penalty of $10 per document [may be added] for each 30-day period that each report, affidavit, or other document is delinquent. **The GLO shall impose this** [This] penalty of $10 per document [will be imposed] only after the commissioner or a designated representative has notified the lessee in writing that reports, affidavits, or documents are not being filed correctly and that the **GLO will assess the** penalty [will be assessed] on subsequent reporting errors.

(ii) For royalties and reports due before September 1, 1985, including those for oil and gas produced prior to July 1, 1985, **the GLO shall add**:

(I) a penalty of 1.0% of the delinquent amount or $5. 00, whichever is greater, [shall be added] for each 30-day period that any royalty is delinquent;

(II) a penalty of $5.00 per document [shall be added] for each 30-day period that each report, affidavit, or other document is delinquent.

(iii) For royalties and reports due before September 1, 1975, including those for oil and gas produced prior to August 1, 1975, **the GLO shall impose** [there is] no penalty for delinquent royalties or delinquent reports.

(B) (No change.)

(C) Penalties for fraud. The commissioner shall add a penalty of 25% of the delinquent amount if any part of the delinquency is due to fraud or an attempt to evade the provisions of statutes or rules governing payment of royalty. **The GLO shall apply this** [This] penalty [shall be applied] in cases of title dispute as to the state's portion of the royalty or to that portion of the royalty in dispute as to the fair market value. **The GLO shall apply this penalty** [This penalty shall be] in addition to any other penalty assessed.

(D) Forfeiture. The state's power to forfeit a lease is [shall] not [be] affected by the assessment or payment of any delinquency, penalty, or interest as provided in this subsection. Specifically, **the lessee's** failure to pay royalties and other sums of money within 30 days of the due date or the failure to file reports completed in the form and manner prescribed by this section shall subject a lease to forfeiture under §9.8 of this title (relating to Discontinuing the Lease Relationship).

(E) Reduction of penalty and/or interest. The **SLB** [School Land Board] may reduce penalties and/or interest assessed under Texas Natural Resources Code, §52.131, and/or any other penalties or interest relating to delinquent or unpaid royalties that have been assessed by the commissioner in the following circumstances:

(i) when a lessee brings a deficiency to the **GLO's** [General Land Office's] attention voluntarily; and/or

(ii) when a lessee and the **GLO** [General Land Office] have reached an agreement regarding the reduction as part of a resolution of an outstanding audit issue.

(4) Corrections and adjustments to royalty payments and reports.

(A) Nonroutine corrections and/or adjustments, as used in this subsection, **are** [shall be] defined as those corrections and adjustments **by which someone seeks** [that seek] to change, on a lease basis, the originally reported royalty due for oil or the originally reported royalty due for gas by **at least** $25,000 or 25%.

(B) **The GLO** [At least 30 days prior to the planned taking of a nonroutine correction and/or adjustment which will result in a credit, the] Royalty Management [and Compliance] Division [of GLO] must receive **at least 30 days advance** written notice of the lessee's intention to take [such] a **nonroutine correction and/or adjustment which will result in a** credit with written documentation explaining and supporting the requested credit. The credit may be taken 30 days after that **GLO** division [of GLO] receives such notice if by that date, GLO has not, in writing, denied lessee permission to take the credit. If **the GLO denies** [this] permission [is denied], **the** GLO will set forth its reasons for such denial. Any nonroutine credit improperly taken may not be used to offset royalty due on current reports. The improper application of credits will result in a current month delinquency and the assessment of associated penalties and interest.

(C) (No change.)

(5) Temporary reduction of gas royalty rates.

(A) (No change.)

(B) Amount of reduction. If the value of gas from such lands is at or below $3.00 for each 1,000 cubic feet of gas, the board may reduce the royalty rate for gas produced from such lands for any term set by SLB, such term to be set after September 1, 1987, and before September 1, 1990, as follows:

(i) for gas valued as $1.50 or less per **Mcf** [mcf] of gas, the board may reduce a royalty rate to 25%;

(ii) for gas valued from $1.51 to $2 00 per **Mcf** [mcf] of gas, the board may reduce a royalty rate to 30%,

(iii) for gas valued from $2.01 to $2.50 per **Mcf** [mcf] of gas, the board may reduce a royalty rate to 35%;

(iv) for gas valued from $2.51 to $3.00 per **Mcf** [mcf] of gas, the board may reduce a royalty rate to 40%.

(C)-(G) (No change.)

(c) Marginal Properties Royalty Incentive Program.

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

(A) Active well-Any well on the qualifying property as defined in subparagraph (H) in actual use either as a producing well or an injection well as defined in subparagraph (D) during at least six months of the qualifying period as defined in subparagraph (G).

(B) Average daily per well production-

***(i)* Un-pooled leases: For a given reservoir, the total oil, condensate, and/or natural gas production from the lease for the qualifying period, in BOE as defined in subparagraph (C), divided by the product of 365 and the number of the reservoir's active wells on the lease. Average daily per well production is calculated in BOE/day and is rounded down to the next whole number.**

***(ii)* Pooled leases: For a given reservoir, the total oil, condensate, and/or natural gas production from the unit for the qualifying period, in BOE, divided by the product of 365 and the number of the reservoir's active wells in the unit. Average daily per well production is calculated in BOE/day and is rounded down to the next whole number.**

(C) Barrel of oil equivalent (BOE) -One 42-gallon barrel of crude oil, or the greater of 6,000 cubic feet (6 Mcf) of natural gas or a volume of gas with a minimum heating value of 6,000, 000 British thermal units (6,000 MBtu).

(D) Injection well-Any well approved by the RRC for use in the injection of gas or fluids in a secondary or tertiary enhanced recovery or pressure maintenance operation, excluding disposal wells.

(E) Mcf-Thousand cubic feet.

(F) Price-The cash price of West Texas Intermediate crude oil as posted daily in the *Wall Street Journal.*

(G) Qualifying period-The 12-month period immediately preceding the most recent month of production.

(H) Qualifying property-Land subject to a State of Texas oil and gas lease issued pursuant to Texas Natural Resources Code, Chapter 32, Chapter 51, Subchapter E, or Chapter 52. Land subject to a free royalty reserved by the state under Texas Natural Resources Code, §51.054 or its predecessor statutes cannot be qualifying property.

(I) Qualifying Gulf of Mexico property-Land described in Texas Natural Resources Code, §52.011(2), that is subject to a State of Texas oil and gas lease issued pursuant to Texas Natural Resources Code, Chapter 52, Subchapter B.

(J) Qualifying reservoir-A reservoir underlying a qualifying property or a reservoir within a pooled unit that includes qualifying property, having average daily per well production during the qualifying period equal to or less than 15 BOE/day. Unless specified or unless the context clearly requires a different interpretation, the term "qualifying reservoir" includes a "qualifying Gulf of Mexico reservoir."

(K) Qualifying Gulf of Mexico (GOM) reservoir-A reservoir underlying a qualifying GOM property or a reservoir within a pooled unit that includes qualifying GOM property, having average daily per well production during the qualifying period equal to or less than 50 BOE/day.

(L) Reservoir-A "common reservoir" as defined in Texas Natural Resources Code, Chapter 86, Subchapter A, §86.002.

(2) Qualification for Royalty Reduction.

(A) The SLB may consider a lease for a royalty reduction if:

(i) the average of the daily price of oil during the qualifying period was equal to or less than $25 per barrel; and

(ii) the applicant submits a sworn application to the SLB which includes:

(I) proof that the applicant is the lease operator as shown by the most current RRC records;

(II) proof that the land is qualifying property;

(III) proof that the reservoir is a qualifying reservoir, including proof of the reservoir's volume of oil, condensate, and/or natural gas produced from, or attributable to, the lease during the qualifying period;

(IV) a representation that the lease is in force and effect; and

(V) such additional information as may be required upon written request by GLO staff.

(B) GLO staff will review the application and submit it and a recommendation to the SLB. The staff shall include in the recommendation information regarding any other royalty interests in the tract, including royalty interests held by owners of the soil (or their successors in interest) of Relinquishment Act lands, as defined in §9.1 of this chapter (relating to Definitions). Thereafter, if the SLB finds that all requirements under subparagraph (A) of this paragraph are met, the SLB may approve the application or may condition approval on specified requirements. In determining whether to grant a reduction in the royalty rate, the SLB may consider whether the qualifying property or qualifying Gulf of Mexico property is being operated efficiently, including whether the property is pooled or has reasonable potential for the application of secondary or tertiary recovery techniques. If a qualifying reservoir for which a royalty rate reduction is sought under this section is included in a unit subject to SLB authority, the SLB may modify the terms and conditions for the unit as a condition of approving the requested reduction in the royalty rate. The SLB has the sole discretion to grant final approval. SLB approval of a reduced royalty applies only to the qualifying reservoir. The effective date of the royalty rate reduction is the first day of the month following SLB approval of the application. A reduced royalty under this incentive program is available only for a lease issued or approved by the state that is in effect on, or takes effect on or after, the effective date of this subsection.

(C) The approval of an application shall not constitute a finding that a lease has been maintained in force and effect or otherwise ratify or revive any lease.

(3) Royalty Rate. After the SLB approves an application:

(A) the SLB will determine the qualifying reservoir's applicable royalty rate according to the published reduced royalty schedules.
Figures 1-8: 31 TAC §9.7(c)(3)(A).
The SLB may not set the royalty at a rate less than the lowest rate provided by statute for the category of property for which application is made.

(B) Except as provided in subparagraph (C) of this paragraph, the royalty rate may not be reduced to less than 6.25% of 100% (one-sixteenth of eight-eighths).

(C) Royalty rate under specific types of leases:

(i) The royalty rate owed to the state under a lease issued under Texas Natural Resources Code, Chapter 52, Subchapter F (Relinquishment Act leases) or §51.195(c)(2) or (d) may not be reduced under this subsection to less than 3.125% of 100% (one thirty-second of eight-eighths). The state's royalty rate may not be reduced unless all royalty under the lease is reduced in the same proportion. Only royalty payable by the lessee to the commissioner may be reduced by the SLB pursuant to this rule.

(ii) The royalty rate under a lease issued under Texas Natural Resources Code, Chapter 52, Subchapter C (riverbed leases), may not be reduced to a rate lower than the rate under a lease of land that:

(I) adjoins the land leased under Subchapter C; and

(II) is held or operated by, or is under the significant control of, the state's lessee.

(iii) The royalty rate under a lease issued under Texas Natural Resources Code, Chapter 32, Subchapter F (highway leases), may not be reduced to a rate that is lower than the rate under a lease of land that adjoins the land leased under Subchapter F.

(D) The qualifying reservoir's reduced royalty rate applies for two years from the effective date of the royalty rate reduction. The SLB may extend the reduced rate for additional periods not to exceed two years each. An operator may apply for a two-year extension by filing an affidavit that the conditions that existed at the time that the original royalty rate reduction was granted have not changed materially. The GLO or the SLB may require an operator to submit additional information in support of an application for extension. An operator may apply for further royalty reduction to a qualified reservoir during the anniversary month of the effective date of the current royalty rate reduction.

(E) Except as provided in subparagraph (F) of this paragraph, a reservoir that has not produced during the preceding 12 months and is located under, or is attributable to, a lease with a royalty reduction under this program, may be granted the lowest royalty rate currently allowed by the SLB for any other reservoir under, or attributable to, that lease. Such rate applies for two years from the month production from the newly productive reservoir commences. An operator must request and obtain written approval from the GLO for reduced royalty under this subparagraph.

(F) On leases with a royalty reduction under this program, a reservoir below the stratigraphic equivalent of any producing qualifying reservoir under, or attributable to, that lease may be granted the lowest royalty rate currently allowed by the SLB for any other reservoir under, or attributable to, that lease. To qualify for such reduced royalty, the deeper reservoir production cannot exceed 15 BOE per day per well (50 BOE for Gulf of Mexico properties), as shown by well tests and/or other appropriate data. If the deeper reservoir production exceeds 15 BOE per day per well (50 BOE for Gulf of Mexico properties), the royalty rate for such production is the rate specified in the lease. A royalty reduced under this subparagraph applies for one year from the month production from the deeper reservoir commences, after which the reduction terminates unless the operator by application seeks and obtains SLB approval for the reduction for that deeper reservoir.

(G) If the minimum annual royalty payment provided for in the lease exceeds the SLB-approved reduced royalty, the reduced royalty is the amount due from the lessee as the minimum annual royalty payment.

(H) If over a consecutive six-month period the average of the daily price of oil exceeds $25 per barrel, the SLB may terminate all previously granted royalty rate reductions upon 60 calendar days notice in writing to the operators of the leases for which royalty reduction has been granted.

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 August 15, 1995

TRD-9510349 Garry Mauro
Commissioner
General Land Office

Earliest possible date of adoption: September 22, 1995

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

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TITLE 40. SOCIAL SERVICES AND ASSISTANCE

Part I. Texas Department of Human Services

Chapter 48. Community Care for Aged and Disabled

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 §§48.6003, 48.6009, 48.6015**

The Texas Department of Human Services (DHS) proposes amendments to §48. 6003 and §48.6009 and new §48.6015, concerning 1915(c) Medicaid Home and Community-based Waiver Services for Aged and Disabled Adults Who Meet Criteria for Alternatives to Nursing Facility Care, in its Community Care for Aged and Disabled chapter. The purpose of the amendments and new section is to allow greater flexibility in the development of the care plan, to clarify that the term "level of care" criteria means "medical necessity" criteria for nursing facility care, to delete the requirements that are more stringent than nursing facility criteria, to clarify the method of copayment calculation for couples, and to specify the method of calculation of room and board amounts.

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

Mr. Raiford also has determined that for each year of the first five years the sections are in effect the public benefit anticipated as a result of enforcing the sections will be that more applicants will qualify for the program and the program will be able to serve the number of clients projected in the Appropriations Act. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the proposed sections.

Questions about the content of this proposal may be directed to Anita Anderson at (512) 450-3195 in DHS's Community Care Section. Written comments on the proposal may be submitted to Nancy Murphy, Media and Policy Services-548, Texas Department of Human Services E-205, P.O. Box 149030, Austin, Texas 78714-9030, within 30 days of publication in the *Texas Register.*

The amendments and new section are proposed under the Human Resources Code, Title 2, Chapters 22 and 32, which authorizes the department to administer public and medical assistance programs, 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 amendments and new section implement §§22.001-22.024 and §§32.001- 32.040 of the Human Resources Code.

§48.6003. Client Eligibility Criteria.

(a) To be determined eligible by the Texas Department of Human Services (DHS) for the 1915(c) Medicaid waiver program provided as an alternative to care in a nursing facility, an applicant must:

(1) (No change.)

(2) meet the level-of-care criteria **for medical necessity** for nursing facility care in accordance with §19.1609 and §19.1610 of this title (relating to General Qualifications for Medical Necessity Determinations and Criteria Specific to a Medical Necessity Determination);

(3)-(4) (No change.)

[(5) have ongoing needs for 24-hour supervision or one or more of the nursing tasks listed in subparagraphs (A)-

(F) of this paragraph that cannot be delivered adequately on an ongoing basis by friends, relatives, volunteers, other Medicaid reimbursed services, or service agencies other than DHS, and which will be met by waiver services. Current nursing facility residents who are Medicaid eligible or who are applying for Medicaid and clients being served by the adult foster care or residential care program funded by DHS meet this eligibility criteria.

[(A) medication administration,

[(B) tube feeding through permanently placed tubes,

[(C) sterile procedures, which are those procedures involving a wound or an anatomical site which could potentially become infected;

[(D) non-sterile procedures, such as dressing or cleansing penetrating wounds and deep burns already contaminated;

[(E) invasive procedures, which involve inserting tubes in a body cavity or instilling or inserting substances into an indwelling tube, such as intermittent or indwelling catheterization; or

[(F) care of broken skin other than minor abrasions or cuts generally classified as requiring only first aid treatments;]

(5) [(6)] have an individual plan of care for waiver services as specified in §48.6006 of this title (relating to Individual Plan of Care for Waiver Services) whose cost does not exceed 95% of the individual's actual Texas Index for Level of Effort payment rate;

(6)[(7)] meet the financial eligibility criteria for waiver services as specified in §48.6007 of this section (relating to Financial Eligibility Criteria); and

(7)[(8)] have ongoing needs for waiver services whose projected costs, as indicated on the Individual Plan of Care, do not exceed the maximum service ceilings set for those services as listed below:

(A) Adaptive Aids and Medical Supplies service category cannot exceed $10,000 per individual per Individual Plan of Care year **without approval by the waiver manager**;

(B) minor home modifications service category cannot exceed $7,500 per individual **without approval by the waiver manager**;

(C) respite care cannot exceed 30 days per individual per Individual Plan of Care year **without approval by the waiver manager**; and

(8)[(9)] receive waiver services within 30 days after waiver eligibility is established.

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

§48.6009. Calculation of Client Copayment.

(a) Clients who are determined to be financially eligible based on the special institutional income limit are required to share in the cost of waiver services. The method for determining the client's copayment is described in subsection (b) of this section and documented on the Texas Department of Human Services (DHS) copayment worksheet for 1915(c) waiver programs. When calculating the copayment amount for clients with incomes that exceed the **supplemental security income** (SSI) federal benefit rate (FBR), DHS staff deduct the following:

(1) (No change.)

(2) the special couple institutional income limit for waiver recipients, which for couples residing in adult foster care or personal care facility settings must be equivalent to the federal benefit rate for **an individual** [couples] living in other community living arrangements **for each member of the couple**;

(3)-(5) (No change.)

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

§48.6015. Calculation of Room and Board Amounts. To determine the room and board amounts for clients residing in adult foster care or personal care facilities, the Texas Department of Human Services (DHS) staff apply the following post eligibility calculations:

(1) for individuals, the room and board amount is the supplemental security income (SSI) federal benefit rate minus the personal needs allowance;

(2) for SSI couples, the room and board amount is the SSI federal benefit rate minus the personal needs allowance for an individual multiplied by 2; or

(3) for couples with incomes that exceed the SSI federal benefit rate for couples, the room and board amount is the couple's income minus the personal needs allowance for an individual multiplied by 2. This amount cannot exceed double the room and board amount for an individual.

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

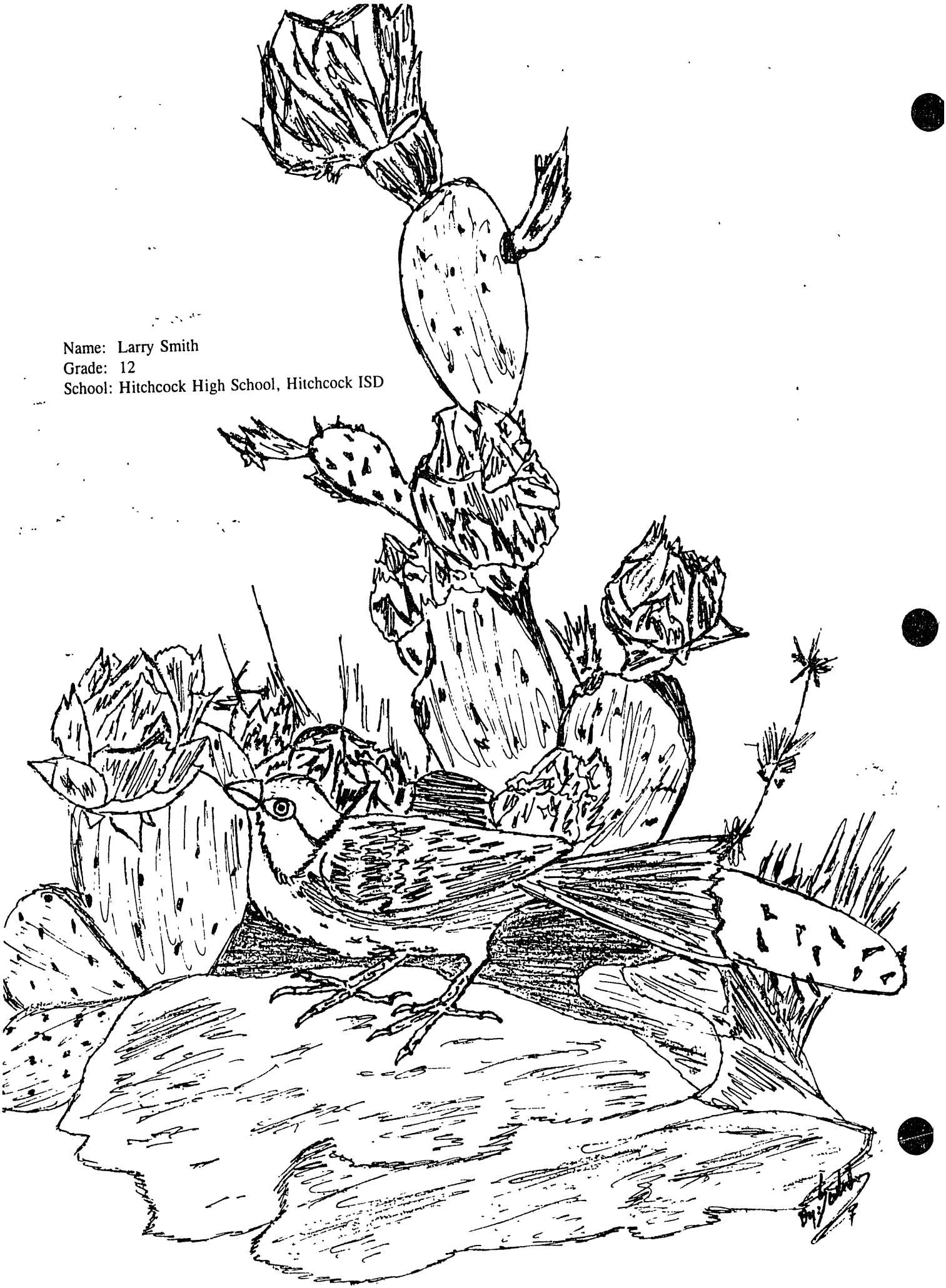
Issued in Austin, Texas, on August 15, 1995.

TRD-9510297

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

Earliest possible date of adoption: September 23, 1995

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



Name: Larry Smith
Grade: 12
School: Hitchcock High School, Hitchcock ISD

WITHDRAWN RULES

An agency may withdraw a proposed action or the remaining effectiveness of an emergency action by filing a notice of withdrawal with the ***Texas Register***. The notice is effective immediately upon filling 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 22. EXAMINING BOARDS

Part I. Texas Board of Architectural Examiners

Chapter 1. Architects

Subchapter A. Scope; Definitions

• 22 TAC §§1.3, 1.5, 1.8

The Texas Board of Architectural Examiners has withdrawn from consideration for permanent adoption the proposed amendments to §§1.3, 1.5, and 1 8, which appeared in the April 28, 1995, issue of the *Texas Register* (20 TexReg 3126). The effective date of this withdrawal is August 15, 1995

Issued in Austin, Texas, on August 15, 1995.

TRD-9510303 Cathy L Hendricks
Executive Director
Texas Board of
Architectural Examiners

Effective date· August 15, 1995

For further information, please call: (512) 458-1363

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Subchapter I. Charges Against Architects: Action

• 22 TAC §1.165, §1.174

The Texas Board of Architectural Examiners has withdrawn from consideration for permanent adoption the proposed amendments to §1.165 and §1.174, which appeared in the April 28, 1995, issue of the *Texas Register* (20 TexReg 3126) The effective date of this withdrawal is August 15, 1995.

Issued in Austin, Texas, on August 15, 1995.

TRD-9510304 Cathy L Hendricks
Executive Director
Texas Board of
Architectural Examiners

Effective date. August 15, 1995

For further information, please call (512) 458-1363

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Chapter 3. Landscape Architects

Subchapter A. Scope; Definitions

• 22 TAC §§3.3, 3.5, 3.8

The Texas Board of Architectural Examiners has withdrawn from consideration for permanent adoption the proposed amendments to §§3 3, 3 5, and 3.8, which appeared in the April 28, 1995, issue of the *Texas Register* (20 TexReg 3127) The effective date of this withdrawal is August 15, 1995.

Issued in Austin, Texas, on August 15, 1995.

TRD-9510301 Cathy L Hendricks
Executive Director
Texas Board of
Architectural Examiners

Effective date: August 15, 1995

For further information, please call (512) 458-1363

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Subchapter C. Written Examinations

• 22 TAC §3.46

The Texas Board of Architectural Examiners has withdrawn from consideration for permanent adoption a proposed amendment to §3.46, which appeared in the April 28, 1995, issue of the *Texas Register* (20 TexReg 3127). The effective date of this withdrawal is August 15, 1995

Issued in Austin, Texas, on August 15, 1995

TRD-9510300 Cathy L Hendricks
Executive Director
Texas Board of
Architectural Examiners

Effective date. August 15, 1995

For further information, please call: (512) 458-1363

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Subchapter I. Charges Against Landscape Architects: Action

• 22 TAC §3.161, §3.164

The Texas Board of Architectural Examiners has withdrawn from consideration for permanent adoption the proposed amendments to §3.161 and §3.164, which appeared in the April 28, 1995, issue of the *Texas Register* (20 TexReg 3127). The effective date of this withdrawal is August 15, 1995.

Issued in Austin, Texas, on August 15, 1995.

TRD-9510302 Cathy L Hendricks
Executive Director
Texas Board of
Architectural Examiners

Effective date. August 15, 1995

For further information, please call: (512) 458-1363

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Chapter 5. Interior Designers

Subchapter A. Scope; Definitions

• 22 TAC §§5.3, 5.5, 5.8

The Texas Board of Architectural Examiners has withdrawn from consideration for permanent adoption the proposed amendments to §§5.3, 5.5, and 5 8, which appeared in the April 28, 1995, issue of the *Texas Register* (20 TexReg 3128). The effective date of this withdrawal is August 15, 1995.

Issued in Austin, Texas, on August 15, 1995.

TRD-9510305 Cathy L Hendricks
Executive Director
Texas Board of
Architectural Examiners

Effective date: August 15, 1995

For further information, please call: (512) 458-1363

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Subchapter I. Charges Against Interior Designers: Action

• 22 TAC §5.174

The Texas Board of Architectural Examiners has withdrawn from consideration for permanent adoption a proposed amendment to §5.174, which appeared in the April 28, 1995, issue of the *Texas Register* (20 TexReg 3128). The effective date of this withdrawal is August 15, 1995.

Issued in Austin, Texas, on August 15, 1995.

TRD-9510306 Cathy L Hendricks
Executive Director
Texas Board of
Architectural Examiners

Effective date: August 15, 1995

For further information, please call: (512) 458-1363

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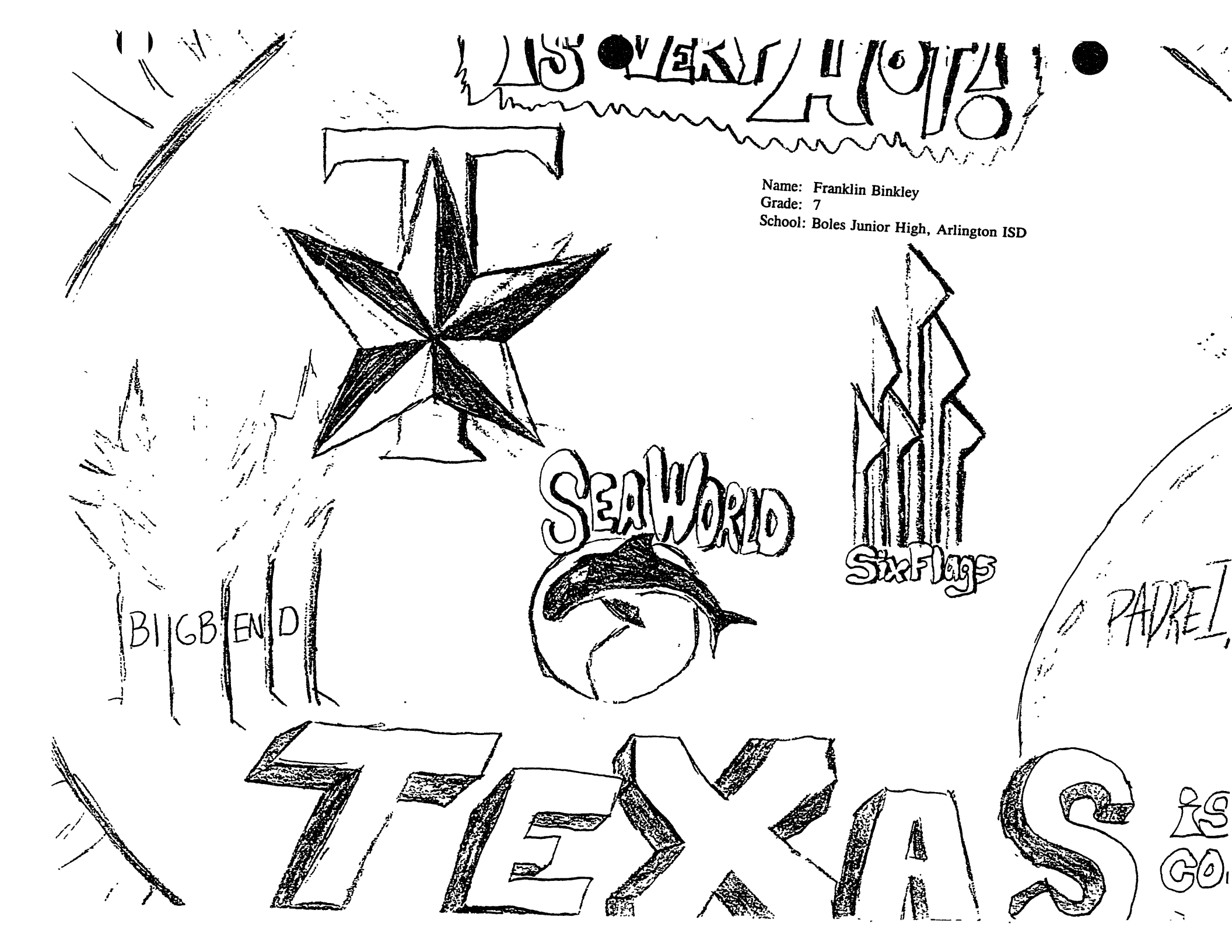

ADOPTED RULES

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 10. COMMUNITY DEVELOPMENT

Part V. Texas Department of Commerce

Chapter 186. Smart Jobs Fund Program

Subchapter A. General Provisions

- **10 TAC §§186.101-186.104, 186.106**

The Texas Department of Commerce adopts amendments to §§186 101-186 104 and new §186.106 of the Smart Jobs Fund Program rules, without changes to the proposed text as published in the June 23, 1995, issue of the *Texas Register* (20 TexReg 4525)

Section 186 101, concerning Authority, adds a reference to the Texas Government Code, Chapter 2001, Subchapter B, Rulemaking

Section 186.102, concerning Purpose, clarifies that the Smart Jobs Fund was established as a business incentive program.

Section 186.103, concerning Policy Board Monitoring, changes the monitoring of the program from a regular basis to a quarterly basis in order to be more specific about how often the Policy Board will monitor the program.

Section 186 104, concerning Definitions, adds definitions for "emerging occupation" and "manufacturing occupation" since the new §186.106 and §186 302 references these occupations. It also adds definitions for "skills" and "Smart Job" which were previously not defined and deletes the definitions for "labor market information" because it is not required in administering the program and "literacy skills" or "basic skills" because the definition is incorporated into the definition for "job-related basic skills." Changes to the definitions for "benefits", "competencies", "completed application", "contract", "existing job", "job-related basic skills", job-related occupational skills", "matching costs", "new job", "reimbursable costs", "subcontract", and "total project cost" clarifies those definitions

Section 186.106, concerning Modifications, specifies that a wage modification may be made by the executive director for small businesses and businesses with manufacturing and emerging occupations to reduce the 10% wage increase requirement for existing jobs to 5 0% within the limitations specified in the Smart Jobs Fund Act, §481.155(c). This change clarifies which businesses are eligible for a wage modification and what the modification is

No comments opposing the rule changes were received. Comments generally supportive of the rule changes in Subchapter A of the rules were received from the Bill J Priest Institute for Economic Development

The amendments and new section are adopted under the authority of Texas Government Code, Subchapter J, §481.153, which requires the Texas Department of Commerce Policy Board to adopt rules to implement the Smart Jobs Fund Program; and the Administrative Procedure Act, Chapter 2001, Subchapter B, Rulemaking, Texas Government Code, which prescribes the standards for agency rulemaking.

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 August 16, 1995.

TRD-9510353 Michael Regan
Chief Administrative Officer
Texas Department of Commerce

Effective date September 6, 1995

Proposal publication date. June 23, 1995

For further information, please call: (512) 936-0178

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Subchapter B. Methodologies for Determining Certain Variables

- **10 TAC §186.201**

The Texas Department of Commerce adopts an amendment to §186.201 of the Smart Jobs Fund Program rules, without changes to the proposed text as published in the June 23, 1995, issue of the *Texas Register* (20 TexReg 4527)

Section 186 201, concerning State Average Weekly Wage, Regional Variances, deletes the references to the Texas Employment Commission and refers instead to the Texas Workforce Commission as a result of the legislation passed in the 74th Legislative Session which abolishes the Texas Employment Commission and establishes the Texas Workforce Commission A nonsubstantive grammatical change was also made

No comments were received in opposition to the adoption of the rule. Comments generally supportive of Subchapter B of the rules were received from the Bill J. Priest Institute for Economic Development

The amendment is adopted under the authority of Texas Government Code, Subchapter J, §481.153, which requires the Texas Department of Commerce Policy Board to adopt rules to implement the Smart Jobs Fund Program, and the Administrative Procedure Act, Chapter 2001, Subchapter B, Rulemaking, Texas Government Code, which prescribes the standards for agency rulemaking.

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 August 16, 1995.

TRD-9510354 Michael Regan
Chief Administrative Officer
Texas Department of Commerce

Effective date: September 6, 1995

Proposal publication date: June 23, 1995

For further information, please call: (512) 936-0178

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Subchapter C. Application for Grants

- **10 TAC §§186.301, 186.302, 186.304-186.308**

The Texas Department of Commerce adopts amendments to §§186 301, 186. 302, and 186.304-186.308 of the Smart Jobs Fund Program rules, without changes to the proposed text as published in the June 23, 1995, issue of the *Texas Register* (20 TexReg 4527)

Section 186 301, concerning Eligibility, provides that only businesses that have been in operation for at least one year, are financially sound and have fulfilled state tax obligations are eligible. The Smart Jobs Fund Act states that this program is job-driven and this will help ensure that businesses which are awarded a grant will be able to provide full-time employment to the trainees at the end of the training project. This section also limits the amount that large businesses may receive per trainee and limits the grant amount

that a business may receive during a biennium in order to ensure statewide distribution of businesses receiving grants and availability of funds throughout the fiscal year.

Section 186.302, concerning Application Requirements, clarifies §481.155 of the Smart Jobs Fund Act which enables businesses to secure training for emerging occupations and other occupations, especially manufacturing, within the limitations specified in this section This section also clarifies that employee leasing firms are eligible to participate in an application, but are not eligible for a grant; clarifies that line item breakdown of costs needs to be included in the project budget, and that the number of hours each participant spends in training needs to be included in the business and training plan in order to ensure accountability of expenditures; enables businesses to specify up to four project periods for trainee and wage verification purposes related to the 90-day retention period; includes the geographic location of jobs in the business and training plan to ensure statewide distribution of grant awards; includes job descriptions in the business and training plan in order to assist in the classification of the occupation; clarifies the wage information that is needed for existing jobs; and clarifies that the line item breakdown of costs will become part of the contract if a grant is awarded. Section 481.155 also limits the grant amount for instructor and trainee travel and per diem in order to promote the prudent use of training resources; clarifies that administrative costs are limited to 10% of the costs related to direct training as stated in the Smart Jobs Fund Act; deletes the references to job analysis, task analysis, job development, childcare and public transportation under costs related to direct training since the majority of businesses are not requesting grant monies for these items and there is already a category for other such reasonable costs related to direct training; includes emerging and manufacturing occupations in the economic data that a business might provide since the new §186.106 references these occupations; clarifies how the matching cost is determined; clarifies that the executive director has 30 business days to act on the application after an application is complete; and makes other nonsubstantive grammatical changes.

Section 186.304, concerning Application Packet; Review, deletes reference to proprietary information since it is already stated that the application will not contain unreasonable demands for information and deletes that the application and packet will be readable and understandable since this is assured through the annual review by the executive director and customer input.

Section 186.305, concerning Funding; Contracts, now renamed "Funding; Grants" enables the executive director to award grants based on quarterly allocations of funds in order to ensure the availability of funds throughout the fiscal year.

Section 186.306, concerning Funding Priorities, includes a scoring mechanism to ensure consistent evaluation of applications for funding based only on program objectives and priorities outlined in the Smart Jobs Fund Act and General Provisions and incorporates language required by Senate Bill 1180 passed by the 74th Legislative Session.

Section 186.307, concerning Provider Eligibility, deletes the word "program" after Smart Jobs Fund as it is not necessary.

Section 186.308, concerning Contracts, now renamed "Contracts and Contract Amendments", outlines an amendment process, simplifies the contract process and attrition rate, and clarifies the retention and verification of trainees and the reimbursement of the 25% of the grant amount that is withheld by the department for 90 days after the training is complete.

Written comments were received from the Bill J. Priest Institute for Economic Development, Dallas County Community College District. Although generally supportive of the changes to the rules, they requested that the Texas Department of Commerce leave "job and task analysis" in the Smart Jobs Fund application budget page. No changes are being made to the rules as a result of this comment. Section 186.302 deletes the reference to job and task analysis since there is already a category for other such reasonable costs related to direct training to the extent that if the Department determines that job and task analysis are reasonable training costs in an application, such costs may be allowed under §186.302. "Job and task analysis" will still be included in the Smart Jobs Fund application budget page as requested by the Bill J. Priest Institute for Economic Development.

The amendments are adopted under the authority of Texas Government Code, Subchapter J, §481.153, which requires the Texas Department of Commerce Policy Board to adopt rules to implement the Smart Jobs Fund Program; and the Administrative Procedure Act, Chapter 2001, Subchapter B, Rulemaking, Texas Government Code, which prescribes the standards for agency rulemaking.

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 August 16, 1995.

TRD-9510355 Michael Regan
Chief Administrative Officer
Texas Department of Commerce

Effective date: September 6, 1995

Proposal publication date: June 23, 1995

For further information, please call: (512) 936-0178

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TITLE 22. EXAMINING BOARDS

Part XXIV. Texas Board of Veterinary Medical Examiners

Chapter 573. Rules of Professional Conduct

Responsibilities to Clients

- 22 TAC §573.67

The Texas Board of Veterinary Medical Examiners adopts the repeal of §573.67, concerning Temporary Suspensions, and simultaneously adopting a new rule with the same number entitled Temporary License Suspensions The proposed text is published in the June 27, 1995, issue of the *Texas Register* (20 TexReg 4620). The new rule provides the Board with detailed guidelines to be followed when temporarily suspending a licensee.

The repeal is necessary because the current rule does not provide the public with adequate notice of the Board's procedures when placing a licensee on temporary suspension.

No comments were received regarding adoption of the repeal.

The repeal is adopted under the authority of the Veterinary Licensing Act, §7(a), Texas Civil Statutes, Article 8890, which state "The Board may make, alter, or amend such rules and regulations as may be necessary or desirable to carry into effect the provisions of this Act."

The repeal relates to the Veterinary Licensing Act, §14C, Texas Civil Statutes, Article 8890, which provide the Board with the authority to temporarily suspend a license if continued practice by a licensee constitutes a continuing or imminent threat to the public welfare.

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 August 14, 1995.

TRD-9510357 Ron Allen
Executive Director
Texas Board of Veterinary Medical Examiners

Effective date: September 6, 1995

Proposal publication date: June 27, 1995

For further information, please call: (512) 447-1183

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The Texas Board of Veterinary Medical Examiners adopts new §573.67, concerning Temporary Suspensions, with changes to the proposed text as published in the June 27, 1995, issue of the *Texas Register* (20 TexReg 4620). Changes made to the previously published version are limited to correction of statutory cites, including reference to an amendment to the Open Meetings Act. The new rule replaces the current rule and provides for a more detailed explanation of the process to be followed by the Board when ordering a temporary suspension of a license.

The adopted amendments are necessary because the Board believes the previous rule did not provide the public with adequate notice of the procedures to be followed by the Board. It is in the public interest to establish adequate procedures to allow the Board to immediately suspend a veterinary licensee when a continuing or imminent threat to the public welfare exists.

Ellis Gilleland commented that he supports the concept of this rule but feels it will be ineffectual since it does not prohibit attorneys asking for continuances, thereby nullifying the purpose of the rule. The Board has no authority to prevent counsel from requesting continuances.

The new section is adopted under the authority of the Veterinary Licensing Act, §7(a), Texas Civil Statutes, Article 8890, which state "The Board may make, alter, or amend such rules and regulations as may be necessary or desirable to carry into effect the provisions of this Act."

The new section relates to the Veterinary Licensing Act, §14C, Texas Civil Statutes, Article 8890, which provide the Board with the authority to temporarily suspend a license if continued practice by a licensee constitutes a continuing or imminent threat to the public welfare.

§573.67. Temporary License Suspensions

(a) In accordance with the Act, §14C, the president of the board shall appoint a three-member executive disciplinary committee consisting of the president, the Board secretary and one public member, for the purpose of determining whether a person's license to practice veterinary medicine in this state should be temporarily suspended under this section.

(b) If the executive disciplinary committee determines from the evidence or information presented to it that a person licensed to practice veterinary medicine in this state would constitute a continuing or imminent threat to the public welfare by his/her continuation in practice, the executive disciplinary committee shall temporarily suspend the license of that person.

(c) A license may be suspended under this section without notice or a hearing on the complaint, provided the Board's enforcement committee (established pursuant to the Act, §18F and §575.27(c)) shall meet within 14 days of the date of suspension to determine if formal disciplinary proceedings should be initiated against the licensee. The licensee must be notified of this meeting pursuant to Administrative Procedures Act (APA), §2001.051. Determination by the enforcement committee that a violation of the Act or Board rules has occurred and a complaint should be formally docketed will result in a hearing pursuant to subsection (d) of this section. A determination by the enforcement committee that no violation of the Act or Board rules occurred will result in the suspended license being reinstated. A proposed licensee will result in the suspended license being reinstated subject to the terms of the proposed settlement.

(d) Docketing of a formal complaint by the enforcement committee will result in an administrative hearing pursuant to the APA within 60 days of the date the suspension was ordered. If this hearing is not held within the 60-day period for any reason other than the licensee's delay, the suspended license is automatically reinstated.

(e) Pursuant to the Open Meetings Act, Government Code, §551.125, the executive disciplinary committee may hold a meeting by telephone conference call if immediate action is required and the convening at one location of the executive disciplinary committee is inconvenient for any member of the executive disciplinary committee.

(f) In the event of the recusal of a executive disciplinary committee member, or the inability of a panel member to attend a temporary suspension proceeding, an alternate executive disciplinary committee member may serve on the panel if previously appointed by the president, acting president, or presiding officer of the board, and approved by the board.

(g) To the extent practicable, in the discretion of the chairman or acting chairman of the executive disciplinary committee, the sequence of events will be as follows:

(1) Call to order;

(2) Roll call;

(3) Calling of the case,

(4) Recusal statement;

(5) Introductions/appearances on the record;

(6) Presentation of the case,

(7) Deliberations,

(8) Announcement of decision; and

(9) Adjournment.

(h) Witnesses may provide sworn statements in writing or verbally or choose to provide statements which are not sworn for consideration by the executive disciplinary committee or the enforcement committee under this rule. However, whether or not a statement is sworn may be a factor to be considered by the executive disciplinary committee or the enforcement committee in evaluating the weight to be given to the statement. Questioning of witnesses by the parties or panel members shall be at the discretion of the chairman or acting chairman of the executive disciplinary committee, or the Board secretary at a meeting of the enforcement committee, with due consideration being given to the need to obtain accurate information and prevent the harassment or undue embarrassment of witnesses.

(i) Presentations by the parties may be based on evidence or information and shall not be excluded on objection of a party unless determined by the chairman or acting chairman of the executive disciplinary committee, or the Board secretary at a meeting of the enforcement committee, that the evidence or information is clearly irrelevant or unduly inflammatory in nature; however, objections by a party may be noted for the record.

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 August 14, 1995

TRD-9510358 Ron Allen
Executive Director
Texas Board of Veterinary Medical Examiners

Effective date. September 6, 1995

Proposal publication date June 27, 1995

For further information, please call (512) 447-1183

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Chapter 577. General Administration and Duties

Staff and Miscellaneous

• 22 TAC §577.15

The Texas Board of Veterinary Medical Examiners adopts an amendment to §575 15, concerning Fee Schedule, without changes to the proposed text as published in the June 27, 1995, issue of the *Texas Register* (20 TexReg 4622) The section sets out the fees charged for examinations, license renewals, open records, and mailing lists and labels.

The adopted amendment is necessary because. legislation passed during the 74th legislative session exempts examinations administered by the Board from the $200 professional fee previously charged, which lowers the cost for the State Board Examination and an increase in fees charged to the Board for the National Examinations requires increases in the fees charged for these examinations

No comments were received regarding adoption of the amendment.

The amendment is adopted under the authority of the Veterinary Licensing Act, §7(a), Texas Civil Statutes, Article 8890, which state "The Board may make, alter, or amend such rules and regulations as may be necessary or desirable to carry into effect the provisions of this Act"

The amendment relates to the Veterinary Licensing Act, §19(a), Texas Civil Statutes, Article 8890, which mandate that the Board, by rule, establish reasonable and necessary fees to produce sufficient revenue to cover the costs of administering the Act

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 August 14, 1995.

TRD-9510359 Ron Allen
Executive Director
Texas Board of Veterinary Medical Examiners

Effective date September 6, 1995

Proposal publication date· June 27, 1995

For further information, please call (512) 447-1183

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TITLE 25. HEALTH SERVICES

Part I. Texas Department of Health

Chapter 289. Radiation Control

Texas Regulations for the Control of Radiation

The Texas Department of Health (department) adopts the repeal of existing §289.121 and new §289 252, concerning licensing of radioactive material. New §289.252 is adopted with changes to the proposed text as published in the April 18, 1995, issue of the *Texas Register* (20 TexReg 2785) The repeal is adopted as proposed.

The new section incorporates language from Part 41 titled "Licensing of Radioactive Material" of the Texas Regulations for the Control of Radiation (TRCR), which was adopted by reference in §289 121 which is now being repealed.

In addition to incorporating existing language into the new section, requirements were included for licensees to report to the department incidents involving events that prevent immediate protective actions necessary to avoid exposures to or releases of radioactive materials that could exceed regulatory limits and to clarify the requirements for the amounts of financial assurance needed for decommissioning based upon the quantity of radioactive material possessed.

An option was added for required supervised clinical experience for certain medical uses of radioactive material to be obtained under an authorized physician in a medical teaching institution that also provides appropriate training programs that have been accredited by the Accreditation Council for Graduate Medical Education or the Committee on Postdoctoral Training of the American Osteopathic Association. The section was clarified to specify the classroom and laboratory training initiated before the effective date of the section and completed two years from the effective date of the section will be accepted if obtained in an accredited medical school, a federal teaching hospital, or a training program for medical use of radioactive material that has been accepted by the department, NRC, or another agreement state A provision was added to allow the department to accept alternative training if it provides an equal or greater level of training than that specified and clarifies the types of supervised clinical experience required for unspecified radiopharmaceuticals for therapeutic treatment. These additional requirements are items of compatibility with the United States Nuclear Regulatory Commission (NRC) and as an agreement state, Texas must adopt them.

The following paragraph is a summary of all changes made to the proposed new section

The language in subsection (d)(7) was deleted and replaced with the words "Each application shall be accompanied by TRC Form 12-2." to more accurately reflect the intent of the section and the contents of TRC Form 12-2 In subsections (h)(4)(A)(ii)(II) and (h)(12)(A)(ii), the words "calendar quarter" were deleted and replaced with "year" to reflect the current radiation protection standards In subsection (h)(4)(C), the words "calendar quarter" were replaced with "annual" for the same reason. The wording in subsection (u) (1), (2), and (3) was changed from "Each applicant for a specific license..." to "The applicant for each specific license..." to clarify that financial assurance is required for each licensed facility rather for each licensee The wording in subsection (v)(1) was changed to "An application for each specific license. ." for the same reason. Certification by the American Osteopathic Board of Nuclear Medicine was added to subsection (w)(5)(A)(i)(I)(-e-), (w)(5) (B)(i)(I)(-e), (w)(5)(C)(i)(I)(-e-), and (w)(5)(F)(i)(I)(-e-) because this board requires essentially the same qualifications as the American Board of Nuclear Medicine. Radiology was added to subsection (w)(5)(C)(i)(I)(-c-) to more accurately reflect the intent of the section. In subsection (w)(5)(B)(ii), the acronym ACCME was replaced by ACGME to correct an error. Diagnostic radiology was deleted from subsection (w)(5)(C)(i)(I)(-c-) to more accurately reflect the intent of the section. The term "radiation oncology" was added to subsection (w)(5)(F)(i)(I)(-a-) and (w)(5)(G)(i)(I)(-a-) to more accurately reflect the intent of the rule. The terms "Therapeutic radiology" and "radiology" were added to subsection (w)(5)(G)(i)(I)(-b-) to more accurately reflect the intent of the section. In subsection (w)(5)(H), the date of September 1, 1993 was returned to the section and the words "...and those issued by the agency before (the effective date of this section)..." were added to more accurately reflect the intent of this "grandfather" clause in the section. Throughout subsection (w)(5), the references to the Committee on Postdoctoral Training of the American Osteopathic Association (CPTAOA) were changed to the Council on Postdoctoral Training of the American Osteopathic Association (COPT-AOA). This was done because the Texas Osteopathic Medical Association clarified that the COPT-AOA approves residency programs. In subsection (w)(5)(A)(iii) and (w)(5)(B)(iv), the wording "...after providing the Medical Committee of the Texas Radiation Advisory Board with the opportunity to review and comment .." was added

The following are the comments made concerning the proposed section and the department's responses to those comments.

Comment. The commenter stated that the requirements of subsection (r) concerning notification of incidents and the requirements in 21.1202 of Texas Regulations for Control of Radiation Part 21 as adopted by reference in §289. 113 concerning notification of incidents are different. The commenter stated that to have two reporting procedures in the same chapter that are stated differently could cause confusion as to what is required and suggested that the two requirements read the same or only be referenced once (see subsection (r)).

Response. Subsection (r) and 21.1202 of TRCR Part 21 as adopted by reference in §289.113 of this title refer to different types of incidents, and therefore different reporting requirements. TRCR 21.1202 refers to incidents in which an individual receives a dose in excess of the stated limits or a release of radioactive material such that, if an individual were present, that individual could receive a dose in excess of the stated limits. The incidents referred to in subsection (r) are unplanned contamination events, equipment failures, fire, explosion, etc. and these are required to be reported under certain stated conditions. The department made no change to the section as a result of the comment.

Comment. A commenter stated that the proposed wording in subsection (w)(5) (A)(ii) opens the possibility for any physician to train on the medical uses of radioactive material. The commenter noted that most university programs are ACGME-accredited and therefore the section is not clear. For example, an ophthalmologist who is an authorized user and is working in a university in an ACGME-accredited program could train on the use of radioactive material. The commenter recommends rewording the subsection to read, "...or by an authorized nuclear physician in an ACGME-accredited medical teaching institution (see subsection (w)(5)(A)(ii))."

Response. The intent of the section is to ensure an adequate level of training in radiation safety practices by those individuals authorized to use radioactive materials. Upon recommendation of the Texas Radiation Advisory Board in 1993, the language in the section was clarified to reflect this intent. The language in the section has been further revised to provide a clearer description of this intent. The section contains language agreed upon by members of the Texas Radiation Advisory Board, the American College of Cardiology, and the Texas Radiological Society. In addition, when a user is authorized by the department on a radioactive materials license, it is for a specific use and therefore, those individuals can preceptor only for the specific use for which they are authorized. The department made no change to the section as a result of the comment.

Comment. Six commenters expressed opposition to the proposed subsection (w) (5)(B). One of the commenters stated that limiting preceptors to associations with residency programs is paramount to placing the preceptor under the control of the academic radiologist who is neither qualified or experienced in cardiology, and in fact, cannot even perform the cardiac portion of the procedure. This commenter recommends that all physicians, regardless of their board standing, be required to document their actual training and the validity of their preceptor. Another commenter stated that any cardiologist who has completed the 200 hours of didactic work currently required for radioactive licensing, and who has a preceptorship letter documenting 500 hours of clinical experience and 500 hours of work experience should be allowed to interpret their own nuclear scans. Another commenter noted that the subject matter specified for the required 200 hours of classroom and laboratory training has not changed, but the requirements in subsection (w)(5)(B)(iii) would make a program that had been previously accepted by the department not acceptable after two years from the effec-

tive date of the rule, unless approved under the provisions of subsection (w)(5)(B)(iv). This commenter suggested deleting the timeframe encompassing training that was initiated before the effective date of the section and completed by two years from the effective date of the section, so that a training program that had been previously accepted by the department will still be accepted automatically without having to be approved under the provisions of subsection (w)(5)(B)(iv). This commenter also suggested that programs accredited by the American Council of Education be accepted because this would still allow the department the assurance that training has been approved by an independent organization. One commenter recommended deleting any reference to the Accreditation Council for Continuing Medical Education (ACCME) as it approves only providers of the programs and not the continuing education programs themselves, that the Accreditation Council for Graduate Medical (ACGME) be deleted, and that the American Board of Nuclear Cardiology be added to the list of acceptable certifications. This commenter also requested that the department postpone any changes to the section until the magnitude of safety problems is evaluated by an independent investigator, and minimum training standards for all physicians can be established based upon objective criteria and established need for change based upon safety issues. In addition, this commenter requested that an investigation be conducted by the department and the NRC into the adequacy of residency training programs in radiology and provide the commenter with actual physician names for investigation. Two of the commenters in opposition to the section requested that the comment period be extended to allow additional comments, including those from physicians outside of Texas (see subsection (w)(5)(B))

Response. The intent of the section is to ensure an adequate level of training in radiation safety practices by those individuals authorized to use radioactive materials. Upon recommendation of the Texas Radiation Advisory Board in 1993, the language in the section was clarified to reflect this intent The language in the section has been further revised to provide a clear description of this intent. The section contains language agreed upon by members of the Texas Radiation Advisory Board, the American College of Cardiology, and the Texas Radiological Society, and allows for cardiologists who are authorized users to preceptor other cardiologists for clinical training in an ACGME-accredited facility. The proposed section was appropriately noticed in the Texas Register as required by the Administrative Procedures Act and the department believes that adequate time has been provided for comment on the proposed section as well as during the draft rulemaking stage, and therefore is not extending the comment period. The reference to the ACCME was a typographical error. The correct reference should be to the ACGME and the final section will reflect that correction. The Texas Radiation Advisory Board has advised the department that ACGME-accredited residency programs in radiology do provide the training outlined in the proposed section. The department made no change to the section as a result of the comments.

Comment The commenter requested that in the subparagraphs relating to physician certification in nuclear medicine, the American Osteopathic Board of Nuclear Medicine (AOBNM) also be included as a certifying body The AOBNM requires specific residency training in nuclear medicine or a residency in radiology, pathology, or internal medicine with a fellowship in nuclear medicine and includes an examination that consists of both a written and oral test of the candidate's nuclear medicine imaging skills. These training and examination requirements are very similar to those of the American Board of Nuclear Medicine (see subsection (w)(5)).

Response. The department agrees and has added the reference to the AOBNM to the appropriate subparagraphs of the section.

Comment. Eight commenters expressed support of the proposed subsection (w) (5)(B) One of the commenters stated that this section modification will ensure that qualified cardiologists will not be wrongly prevented from certifying trainees in nuclear cardiology and that it is in the best interest of the public and cardiac patients that qualified cardiologists be allowed to continue to be authorized single-organ users and also be allowed to certify the clinical training of trainees in nuclear cardiology (see subsection (w)(5) (B)).

Response. The department acknowledged the commenters' remarks.

Comment. A commenter suggested that the wording in subsection (w)(5)(B)(i) (II)(-d-) be changed to read, "...training in all topics identified in (w)(5) (B)(i)(II)(-a-), which is not a part of a residency program as in subsection (w)(5)(B)(i)(II)(-d-), shall be obtained in a teaching program that provides appropriate training that has been accredited by ACGME or CPTOA." The commenter believes that this change would allow physicians in-training the option to obtain classroom training in an ACGME or CPTOA accredited program other than at medical teaching institutions. This provides an option for physicians training in cardiovascular medicine who may be unable to attend classroom training in the medical teaching institution where they are receiving other components of their training due to the inability to accommodate them in residency training programs that are run by the radiology department (see subsection (w)(5)(B)(i)(II)(-d-)).

Response. The intent of the section is to ensure an adequate level and appropriateness of training in radiation safety practices by those individuals authorized to use radioactive materials. The department made no change to the section as a result of the comment.

Comment. A commenter requested that the words "NRC, or another agreement state..." be deleted from subsection (w)(5)(B)(iii). The commenter also recommended adding the words "...after providing the Texas Radiation Advisory Board with the opportunity to review and comment..." to subsection (w)(5)(A) (iii) and (w)(5)(B)(iv) (see subsection (w)(5)(B)(iii) and (iv)).

Response. The provisions in subsection (w)(5)(B)(iii) provide for a "grandfathering" of certain classroom and laboratory training within a specified timeframe. The department believes this should include training approved by the NRC or another agreement state. The department added the wording "...after providing the Medical Committee of the Texas Radiation Advisory Board with the opportunity to review and comment..." to subsections (w)(5)(A)(iii) and (w)(5)(B)(iv).

Representative from Ludlum Measurements, Inc. in Sweetwater; the University of Texas Medical Branch at Galveston in Galveston; the American College of Cardiology in Bethesda, Maryland; the University of Texas Houston Health Science Center in Houston; the American College of Radiology in Reston, Virginia; the American Society of Nuclear Cardiology in Bethesda, Maryland; the Texas Radiological Society in Austin; Baylor College of Medicine in Houston; Austin Cardiovascular Association in Austin; and an individual were in favor of the new section, however, they presented comments and suggestions for changes to the proposed new section as discussed in the summary of comments. Representatives from Cardiovascular Consultants of Vincennes, P.C. in Vincennes, Indiana; Pasadena Internal Medicine and Cardiology in Pasadena; the American Association of Nuclear Cardiology, Inc. in Boulder, Colorado; the Institute for Nuclear Medicine Education in Boulder, Colorado; and an individual were opposed to the new section and presented comments and suggestions for changes to the proposed new section as previously discussed.

- **25 TAC §289.121**

The repeal is adopted under the Health and Safety Code, Chapter 401, which provides the Texas Board of Health with the authority to adopt rules and guidelines relating to the control of radiation; and §12.001, 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

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

Issued in Austin, Texas, on August 9, 1995

TRD-9510251 Susan K Steeg
General Counsel
Texas Department of Health

Effective date: October 1, 1995

Proposal publication date April 18, 1995

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

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License Regulations

- **25 TAC §289.252**

The new section is adopted under the Health and Safety Code, Chapter 401, which pro-

vides the Texas Board of Health with the authority to adopt rules and guidelines relating to the control of radiation, and §12.001, 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

§289.252. Licensing of Radioactive Material.

(a) Purpose. This section and §289.115 of this title (relating to Radiation Safety, Requirements and Licensing and Registration Procedures for Industrial Radiography), §289.127 of this title (relating to Licensing of Naturally Occurring Radioactive Material (NORM)), §289.251 of this title (relating to Exemptions, General Licenses, and General License Acknowledgements), and §289.254 of this title (relating to Licensing of Radioactive Waste Processing and Storage Facilities) provide for the licensing of radioactive material. Unless otherwise exempted, no person shall receive, possess, use, transfer, own, or acquire radioactive material except as authorized in a specific license issued in accordance with this section, or as otherwise provided in this section, in a specific license issued in accordance with §§289.115, 289.127, or 289.254 of this title, or in a general license or general license acknowledgement issued in accordance with §289.251 of this title.

(b) Scope. In addition to the requirements of this section, all licensees, unless otherwise specified, are subject to the requirements of §289.112 of this title (relating to Hearing and Enforcement Procedures), §289.113 of this title (relating to Standards for Protection Against Radiation), and §289.114 of this title (relating to Notices, Instructions, and Reports to Workers), §289.126 of this title (relating to Fees for Certificates of Registration, Radioactive Material(s) Licenses, Emergency Planning and Implementation, and Other Regulatory Services), and §289.201 of this title (relating to General Provisions). Licensees engaged in industrial radiographic operations are subject to the requirements of §289.115 of this title; licensees using sealed sources in the healing arts are subject to the requirements of §289.117 of this title (relating to Use of Sealed Radioactive Sources in the Healing Arts), and licensees engaged in well logging service operations and tracer studies are subject to the requirements of §289.120 of this title (relating to Radiation Safety Requirements for Well Logging Service Operations and Tracer Studies).

(c) Types of licenses. Licenses for radioactive materials are of two types: general and specific.

(1) General licenses provided in §289.251 of this title are effective without the filing of applications with the agency or the issuance of licensing documents to the particular persons, although the filing of an application for acknowledgement with the agency may be required by the particular general license. The general licensee is subject to any other applicable portions of this chapter and any limitations of the general license.

(2) Specific licenses require the submission of an application to the agency and the issuance of a licensing document by the agency. The licensee is subject to all applicable portions of this chapter as well as any limitations specified in the licensing document.

(d) Filing application for specific licenses.

(1) Applications for specific licenses shall be filed in duplicate on a form prescribed by the agency.

(2) The agency may, at any time after the filing of the original application and before issuance of the license, require further statements in order to enable the agency to determine whether the application should be granted or denied.

(3) Each application shall be signed by the applicant or licensee, or a person duly authorized to act for and on the applicant's or licensee's behalf.

(4) An application for a license may include a request for a license authorizing one or more activities. The agency may require the issuance of separate specific licenses for those activities.

(5) Applications and documents submitted to the agency may be made available for public inspection except that the agency may withhold any document or part thereof from public inspection in accordance with §289.201(n) of this title. The agency may also request additional information after the license has been issued to enable the agency to determine whether the license should be modified or revoked.

(6) Each application for a specific license, other than a license exempted from §289.126 of this title, shall be accompanied by the fee prescribed in 12.21 of Texas Regulations for Control of Radiation (TRCR) Part 12 as adopted by reference in §289.126 of this title.

(7) Each application shall be accompanied by TRC Form 12-2.

(8) Applications for licenses shall be processed in accordance with the following time periods.

(A) The first period is the time from receipt of an application by the Division of Licensing, Registration and Standards to the date of issuance or denial of the license or a written notice outlining why the application is incomplete or unacceptable. This time period is 60 days.

(B) The second period is the time from receipt of the last item necessary to complete the application to the date of issuance or denial of the license. This time period is 30 days.

(C) These time periods are exclusive of any time period incident to hearings and post-hearing activities required by the Government Code, Chapters 2001 and 2002.

(9) Notwithstanding the provisions of 12.11(a) of TRCR Part 12 as adopted by reference in §289.126 of this title, reimbursement of application fees may be granted in the following manner.

(A) In the event the application is not processed in the time periods as stated in paragraph (8) of this subsection, the applicant has the right to request of the director of the Radiation Control Program full reimbursement of all application fees paid in that particular application process. If the director does not agree that the established periods have been violated or finds that good cause existed for exceeding the established periods, the request will be denied.

(B) Good cause for exceeding the period established is considered to exist if:

(i) the number of applications for licenses to be processed exceeds by 15% or more the number processed in the same calendar quarter the preceding year;

(ii) another public or private entity utilized in the application process caused the delay; or

(iii) other conditions existed giving good cause for exceeding the established periods.

(C) If the request for full reimbursement authorized by subparagraph (A) of this paragraph is denied, the applicant may then request a hearing by appeal to the Commissioner of Health for a resolution of the dispute. The appeal will be processed in accordance with the formal hearing procedures of the Texas Department of Health, §§1.21-1.34 of this title (relating to Formal Hearing Procedures).

(e) General requirements for the issuance of specific licenses. A license application will be approved if the agency determines that:

(1) the applicant and all personnel who will be handling the radioactive material are qualified by reason of training

and experience to use the material in question for the purpose requested in accordance with this chapter in such a manner as to minimize danger to public health and safety or the environment;

(2) the applicant's proposed equipment, facilities, and procedures are adequate to minimize danger to public health and safety or the environment;

(3) the issuance of the license will not be inimical to the health and safety of the public;

(4) the applicant satisfies any applicable special requirement in this section;

(5) the radiation safety information submitted for requested sealed source(s) or device(s) containing radioactive material is in accordance with subsection (i) of this section;

(6) qualifications of the designated radiation safety officer (RSO) as specified in subsection (g) of this section are adequate for the purpose requested in the application;

(7) the applicant submits an adequate operating, safety, and emergency procedures manual;

(8) the applicant's permanent facility is located in Texas (if the applicant's permanent facility is not located in Texas, reciprocal recognition must be sought as required by subsection (s) of this section); and

(9) all personnel who will be handling radioactive material have adequate training and experience in the handling of radioactive material.

(f) Special requirements for issuance of certain specific licenses for radioactive material by specific groups.

(1) Human use of radioactive material. In addition to the requirements set forth in subsection (e) of this section, a specific license for human use of radioactive material will be issued if:

(A) the applicant possesses adequate facilities for the clinical care of patients;

(B) the physician designated on the application as the individual user has completed the training and experience requirements in subsection (w)(5) of this section as applicable;

(C) the application is for a license authorizing unspecified forms and/or multiple types of radioactive material for medical research, diagnosis and tnerapy, (i.e., a broad medical license); and

(D) the agency determines that:

(i) the applicant's staff has substantial experience in the use of a variety of radioactive materials for a variety of human uses;

(ii) the applicant has appointed a radiation safety committee that includes adequate professional and technical representation from multiple applicable medical specialties. Representatives on this committee should include authorized users from each specialty using radioactive material (including research, diagnostic, and therapeutic uses), technical staff from each specialty, a senior administrative representative, representation from affected nursing staff, and other special services that may be affected (E.R., O.R., I.C.U., etc.) and the RSO; and

(iii) a full-time RSO and/or staff has been appointed.

(2) Specific licenses for medical uses of radioactive material.

(A) Subject to the provisions of subparagraphs (B), (C), and (D) of this paragraph, an application for a specific license in accordance with paragraph (1) of this subsection for any medical use or uses of radioactive material specified in one or more of Groups I, II, and III, defined in subsection (w)(2) of this section, will be approved for all of the medical uses within the group or groups, that include the use or uses as specified in the application, if:

(i) the applicant satisfies the requirements of paragraph (1) of this subsection and the requirements of this paragraph;

(ii) the applicant, or the physician designated in the application as the individual user, has completed the training and experience requirements in subsection (w)(5) of this section as applicable;

(iii) the applicant or the physicians and all other personnel who will be involved in the preparation and use of the radioactive material have adequate training and experience in the handling of radioactive material appropriate to their participation in the uses included in the group or groups;

(iv) the applicant's radiation detection and measuring instrumentation is appropriate for conducting the procedures involved in the uses included in the group or groups; and

(v) the applicant's radiation safety operating procedures are adequate for handling and disposal of the radioactive material involved in the uses included in the group or groups.

(B) Any licensee who is authorized to use one or more of the medical use groups of radioactive material in accordance with subparagraph (A) of this paragraph and subsection (w)(2) of this section is subject to the following conditions.

(i) For Groups I and II of subsection (w)(2) of this section, no licensee shall receive, possess, or use radioactive material except as a radiopharmaceutical manufactured in the form to be administered to the patient, labeled, packaged, and distributed in accordance with a specific license issued by the agency in accordance with subsection (h)(10) of this section or by the commission, another agreement state, or a licensing state.

(ii) For Group III of subsection (w)(2) of this section, no licensee shall receive, possess, or use generators or reagent kits containing radioactive material or shall use reagent kits that do not contain radioactive material to prepare radiopharmaceuticals containing radioactive material, except:

(I) reagent kits not containing radioactive material that are approved by the agency, the commission, an agreement state, or a licensing state for use by persons licensed in accordance with this paragraph and subsection (w)(2) of this section or equivalent regulations; and

(II) generators or reagent kits containing radioactive material that are manufactured, labeled, packaged, and distributed in accordance with a specific license issued by the agency in accordance with subsection (h)(11) of this section or a specific license issued by the commission, an agreement state, or a licensing state in accordance with equivalent regulations.

(iii) For Group III of subsection (w)(2) of this section, any licensee who uses generators or reagent kits shall:

(I) elute the generator or process radioactive material with the reagent kit in accordance with instructions that are approved by the agency, the commission, an agreement state, or a licensing state, and furnished by the manufacturer on the label attached to or in the leaflet or brochure that accompanies the generator or reagent kit;

(II) before administration to patients, cause each elution or extraction of technetium-99m from a molybdenum-99/technetium-99m generator to be tested to determine either the total molybdenum-99 activity or the concentra-

tion of molybdenum-99. This testing shall be conducted according to written procedures and by personnel who have been specifically trained to perform the test.

(III) prohibit the administration to patients of technetium-99m containing more than 0.15 microcurie of molybdenum-99 per millicurie of technetium-99m; and

(IV) maintain for three years for agency inspection records of the molybdenum-99 test conducted on each elution from the generator

(iv) Except as specified in subparagraph (G) of this paragraph, for uses of radioactive material within Groups I, II, and III of subsection (w)(2) of this section, the licensee shall comply with the product labeling (package insert) specifications and recommendations.

(v) For Groups I, II, and III of subsection (w)(2) of this section, any licensee using radioactive material for clinical procedures other than those specified in the product labeling (package insert) shall comply with the product labeling regarding:

(I) chemical and physical form;

(II) route of administration, and

(III) dosage range

(C) Any licensee who is licensed in accordance with subparagraph (A) of this paragraph for one or more of the medical use groups in subsection (w)(2) of this section is also authorized to use radioactive material in accordance with the general license in §289.251(j)(2) of this title for the specified in vitro uses without filing an application for acknowledgement with the agency as required by §289.251(j)(2)(B) of this title; provided the licensee is subject to the other provisions of §289.251(j)(2) of this title.

(D) Any licensee who is licensed in accordance with subparagraph (A) of this paragraph for one or more of the medical use groups in subsection (w)(2) of this section is also authorized, subject to the provisions of this subparagraph and subparagraph (E) of this paragraph, to receive, possess, and use for calibration and reference standards:

(i) any radioactive material listed in Group I, II, or III of subsection (w)(2) of this section with a half-life not longer than 100 days, in amounts not to exceed 15 millicuries total;

(ii) any radioactive material listed in Group I, II, or III of subsection (w)(2) of this section with half-life greater than 100 days in amounts not to exceed 200 microcuries total;

(iii) technetium-99m in amounts not to exceed 30 millicuries, and

(iv) any radioactive material, in amounts not to exceed 6 millicuries per source, contained in calibration or reference sources that have been manufactured, labeled, packaged, and distributed in accordance with a specific license issued by the agency in accordance with subsection (h)(7) of this section, a specific license issued by the commission in accordance with 10 Code of Federal Regulations (CFR) 32.74, or a specific license issued to the manufacturer by an agreement state or a licensing state in accordance with equivalent regulations

(E) Any licensee or registrant who possesses and uses calibration and reference sources in accordance with subparagraph (D)(iv) of this paragraph shall:

(i) follow the radiation safety and handling instructions approved by the agency, the commission, an agreement state, or a licensing state, and furnished by the manufacturer on the label attached to the source, or permanent container thereof, or in the leaflet or brochure that accompanies the source, and maintain such instruction in a legible and conveniently available form, and

(ii) conduct a physical inventory at intervals not to exceed six months to account for all sources received and possessed. Records of the inventories shall be maintained for inspection by the agency and shall include the quantities and kinds of radioactive material, source identification numbers, location of sources, and the date of the inventory.

(F) The use of gases, gas solutions, and aerosols shall be specifically requested in a license application

(G) In addition to the requirements set forth in subsection (e) of this section, an application for a specific license to prepare and dispense radiopharmaceuticals for human use will be approved if the nuclear pharmacist designated in the application as the individual user has completed the training and experience requirements specified in the rules of the Texas State Board of Pharmacy, contained in Title 22, Texas Administrative Code §291.52. Nuclear pharmacists identified as authorized users on a nuclear pharmacy license issued by the agency in accordance with paragraph (2) of this subsection before September 1, 1994, need not comply with the training and experience requirements specified in this section

(H) Any licensee who processes and prepares radiopharmaceuticals for human use shall do so according to:

(i) instructions that are approved by the agency, the commission, an agreement state, or a licensing state that are furnished by the manufacturer on the label attached to a generator or reagent kit, or contained in the accompanying leaflet or brochure;

(ii) procedures approved by the agency; or

(iii) the provisions of the practice of pharmacy, as recognized by the Texas State Board of Pharmacy, by an authorized nuclear pharmacist.

(I) If the authorized nuclear pharmacist elutes generators or processes radioactive material with the reagent kit in a manner that deviates from instructions furnished by the manufacturer on the label attached to the generator or reagent kit or in the accompanying leaflet or brochure, a complete description of the deviation shall be made and maintained for inspection by the agency for a period of three years.

(3) Release of patients containing radiopharmaceuticals, temporary implants, or permanent implants.

(A) Any individual to whom more than 30 millicuries of a radiopharmaceutical is administered shall be confined to an agency-approved inpatient facility and shall not be released from confinement until the activity of the administered radiopharmaceutical in the patient is less than 30 millicuries, or until the measured dose rate from the patient is less than 5 millirems per hour at a distance of 1 meter.

(B) Immediately after removing the last temporary implant source or retraction of a source(s) from a remote control brachytherapy device at the conclusion of treatment, and before the patient is released from the therapy room, the licensee shall perform a radiation survey of the patient with an appropriate survey instrument The licensee shall not release from confinement for medical care a patient treated by temporary implant or remote control brachytherapy device until all sources have been removed.

(C) Any individual containing permanent implant sources shall remain hospitalized and shall not be released from

confinement until the exposure rate from the patient is less than 6 milliroengtens per hour at a distance of 1 meter from the implant location.

(4) Records and reports of misadministrations.

(A) When a misadministration involves any therapy procedure, the licensee shall notify the agency. The licensee shall also notify the referring physician of the affected patient and the patient or a responsible relative or guardian, unless the referring physician agrees to inform the patient or believes, based on medical judgment, that telling the patient or the patient's responsible relative or guardian would be harmful to one or the other, respectively. These notifications must be made within 24 hours after the licensee discovers the misadministration. If the referring physician, patient, or the patient's responsible relative or guardian cannot be reached within 24 hours, the licensee shall notify them as soon as practicable. The licensee is not required to notify the patient or the patient's responsible relative or guardian without first consulting the referring physician; however, the licensee shall not delay medical care for the patient because of this.

(B) Within 15 days after an initial therapy misadministration report to the agency, the licensee shall report, in writing, to the agency and to the referring physician, and furnish a copy of the report to the patient or the patient's responsible relative or guardian if either was previously notified by the licensee as required by subparagraph (A) of this paragraph. The written report must include the licensee's name; the referring physician's name; a brief description of the event; the effect on the patient; the action taken to prevent recurrence; whether the licensee informed the patient or the patient's responsible relative or guardian, and if not, why not. The report to the agency must not include the patient's name or other information that could lead to identification of the patient.

(C) When a misadministration involves a diagnostic procedure, the RSO shall promptly investigate its cause, make a record for agency review, and retain the record in accordance with subparagraph (D) of this paragraph. The licensee shall also notify the referring physician and the agency in writing within 15 days if the misadministration involved the use of radioactive material not intended for medical use, administration of dosage fivefold different from the intended dosage, or misadministration of radioactive material such that the patient is likely to receive an individual organ dose greater than 50 rems dose equivalent or a whole body dose greater than 5 rems effective dose equivalent. Licensees may use dosimetry tables in package inserts, corrected only for amount of radioactivity administered, to determine whether a report is required.

(D) Each licensee shall retain a record of each misadministration for 10 years. The record must contain the name of all individuals involved in the event, including the physician, allied health personnel, the patient, and the patient's referring physician; the patient's social security number or identification number if one has been assigned; a brief description of the event; the effect on the patient; and the action taken, if any, to prevent recurrence.

(E) Aside from the notification requirement, nothing in subparagraphs (A)-(D) of this paragraph shall affect any rights or duties of licensees and physicians in relation to each other, patients, or responsible relatives, or guardians.

(5) Use of sealed sources in industrial radiography. In addition to the requirements set forth in subsection (e) of this section, a specific license for use of sealed sources in industrial radiography will be issued if the applicant submits to the agency the items in accordance with §289.115 of this title.

(6) Multiple quantities or types of radioactive material for use in research and development

(A) In addition to the requirements set forth in subsection (e) of this section, a specific license for multiple quantities or types of radioactive material for use in research and development (i.e., a broad license), not to include the internal or external administration of radiation or radioactive material to humans, will be issued only if each item below is adequately addressed:

(i) the applicant's staff has substantial experience in the use of a variety of radioisotopes for a variety of research and development uses;

(ii) the applicant has established a radiation safety committee (composed of such persons as an RSO, a representative of senior management, and one or more persons trained or experienced in the safe use of radioactive materials) that will review and approve proposals for such uses in advance of purchase of radioisotopes;

(iii) the applicant has appointed an RSO in accordance with subsection (g) of this section;

(iv) the applicant has a full-time RSO and/or staff; and

(v) the applicant submits the names and qualifications of the committee and designated RSO.

(B) Unless specifically authorized, persons licensed according to subparagraph (A) of this paragraph shall not conduct tracer studies involving direct release of radioactive material to the environment.

(C) Unless specifically authorized, in accordance with a separate license, persons licensed according to subparagraph (A) of this paragraph shall not:

(i) receive, acquire, own, possess, use, or transfer devices containing 100,000 curies or more of radioactive material in sealed sources used for irradiation of materials;

(ii) conduct activities for which a specific license issued by the agency in accordance with subsection (h) of this section and §289.115, §289.127, and §289.254 of this title is required;

(iii) add or cause the addition of radioactive material to any food, beverage, cosmetic, drug, or other product designed for ingestion or inhalation by, or application to, a human being; or

(iv) commercially distribute radioactive material.

(g) Radiation safety officer.

(1) An RSO shall be designated for every license issued by the agency.

(2) The RSO's documented qualifications shall include as a minimum:

(A) possession of a high school diploma or a certificate of high school equivalency based on the GED test;

(B) completion of the training and testing requirements specified in this chapter for the activities for which the license application is submitted; and

(C) training and experience necessary to supervise the radiation safety aspects of the licensed activity.

(3) The specific duties of the RSO include, but are not limited to, the following:

(A) to establish and oversee operating, safety, emergency, and as low as reasonably achievable (ALARA) procedures, and to review them at least annually to ensure that the procedures are current and conform with this chapter;

(B) to oversee and approve all phases of the training program for operations and/or personnel so that appropriate and effective radiation protection practices are taught;

(C) to ensure that required radiation surveys and leak tests are performed and documented in accordance with this chapter, including any corrective measures when levels of radiation exceed established limits;

(D) to ensure that personnel monitoring is used properly by occupationally-exposed personnel, that records are kept of the monitoring results, and that timely notifications are made in accordance with §289 114 of this title;

(E) to investigate and cause a report to be submitted to the agency for each known or suspected case of radiation exposure to an individual or radiation level detected in excess of limits established by this chapter and each theft or loss of source(s) of radiation, to determine the cause(s), and to take steps to prevent a recurrence;

(F) to investigate and cause a report to be submitted to the agency for each known or suspected case of release of radioactive material(s) to the environment in excess of limits established by this chapter;

(G) to have a thorough knowledge of management policies and administrative procedures of the licensee;

(H) to assume control and have the authority to institute corrective actions, including shutdown of operations when necessary in emergency situations or unsafe conditions;

(I) to ensure that records are maintained as required by this chapter;

(J) to ensure the proper storing, labeling, transport, and use of sources of radiation, storage, and/or transport containers;

(K) to ensure that inventories are performed in accordance with the activities for which the license application is submitted; and

(L) to ensure that personnel are complying with this chapter, the conditions of the license, and the operating, safety, and emergency procedures of the licensee.

(h) Special requirements for a specific license to manufacture, assemble, repair, or commercially distribute commodities, products, or devices that contain radioactive material.

(1) Introduction of radioactive material into products in exempt concentrations.

(A) In addition to the requirements set forth in subsection (e) of this section, a specific license authorizing the introduction of radioactive material into a product or material in the possession of the licensee or another to be transferred to persons exempt from this chapter in accordance with §289.251(d)(1)(A) of this title will be issued if:

(i) the applicant submits a description of the product or material into which the radioactive material will be introduced, intended use of the radioactive material and the product or material into which it is introduced, method of introduction, initial concentration of the radioactive material in the product or material, control methods to assure that no more than the specified concentration is introduced into the product or material, estimated time interval between introduction and transfer of the product or material, and estimated concentration of the radioactive material in the product or material at the time of transfer; and

(ii) the applicant provides reasonable assurance that the concentrations of radioactive material at the time of transfer will not exceed the concentrations in §289.251(q)(1) of this title, that reconcentration of the radioactive material in concentrations exceeding those in §289.251(q)(1) of this title is not likely, that the use of lower concentrations is not feasible, and that the product or material is not likely to be incorporated in any food, beverage, cosmetic, drug, or other commodity or product designed for ingestion or inhalation by, or application to, a human.

(B) Each person licensed in accordance with this paragraph shall file with the agency an annual report that identifies the type and quantity of each product or material into which radioactive material has been introduced during the reporting period; name and address of the person who owned or possessed the product or material when the radioactive material was introduced; the type and quantity of radionuclide introduced into each such product or material; and the initial concentrations of the radionuclide in the product or material at time of transfer of the radioactive material by the licensee. If no transfers of radioactive material have been made in accordance with this paragraph during the reporting period, the report shall so indicate. The report shall cover the year ending June 30, and shall be filed within 30 days thereafter.

(2) Commercial distribution of radioactive material in exempt quantities.

(A) Authority to transfer possession or control by the manufacturer, processor, or producer of any equipment, device, commodity, or other product containing source material or byproduct material whose subsequent possession, use, transfer, and disposal by all other persons are exempted from regulatory requirements may be obtained only from the United States Nuclear Regulatory Commission, Washington, DC 20555.

(B) In addition to the requirements set forth in subsection (e) of this section, an application for a specific license to distribute naturally occurring or accelerator-produced radioactive material (NARM) to persons exempt from this chapter in accordance with §289.251(d)(2) of this title will be approved if:

(i) the radioactive material is not contained in any food, beverage, cosmetic, drug, or other commodity designed for ingestion or inhalation by, or application to, a human;

(ii) the radioactive material is in the form of processed chemical elements, compounds, or mixtures, tissue samples, bioassay samples, counting standards, plated or encapsulated sources, or similar substances, identified as radioactive and to be used for its radioactive properties, but is not incorporated into any manufactured or assembled commodity, product, or device intended for commercial distribution; and

(iii) the applicant submits copies of prototype labels and brochures and the agency approves such labels and brochures.

(C) The license issued in accordance with subparagraph (B) of this paragraph is subject to the following conditions.

(i) No more than 10 exempt quantities shall be sold or commercially distributed in any single transaction. However, an exempt quantity may be composed of fractional parts of one or more of the exempt quantity provided the sum of the fractions shall not exceed unity.

(ii) Each exempt quantity shall be separately and individually packaged. No more than 10 such packaged exempt quantities shall be contained in any other package for commercial distribution to persons exempt from this chapter in ac-

cordance with §289.251(d)(2) of this title. The outer package shall be such that the dose rate at the external surface of the package does not exceed 0.5 millirem per hour

(iii) The immediate container of each quantity or separately packaged fractional quantity of radioactive material shall bear a durable, legible label that:

(I) identifies the radionuclide and the quantity of radioactivity, and

(II) bears the words "Radioactive Material"

(iv) In addition to the labeling information required by clause (iii) of this subparagraph, the label affixed to the immediate container, or an accompanying brochure, shall:

(I) state that the contents are exempt from the commission, agreement state, or licensing state requirements;

(II) bear the words "Radioactive Material-Not for Human Use-Introduction into Foods, Beverages, Cosmetics, Drugs, or Medicinals, or into Products Manufactured for Commercial Distribution is Prohibited-Exempt Quantities Should Not Be Combined"; and

(III) set forth appropriate additional radiation safety precautions and instructions relating to the handling, use, storage, and disposal of the radioactive material.

(D) Each person licensed in accordance with this paragraph shall maintain records identifying, by name and address, each person to whom radioactive material is commercially distributed for use in accordance with §289.251(d)(2) of this title or the equivalent regulations of an agreement state or a licensing state, and stating the kinds and quantities of radioactive material commercially distributed. An annual summary report stating the total quantity of each radionuclide commercially distributed in accordance with the specific license shall be filed with the agency. Each report shall cover the year ending June 30, and shall be filed within 30 days thereafter. If no commercial distributions of radioactive material have been made in accordance with this paragraph during the reporting period, the report shall so indicate.

(3) Incorporation of NARM into gas and aerosol detectors In addition to the requirements set forth in subsection (e) of this section, an application for a specific license authorizing the incorporation of NARM into gas and aerosol detectors to be distributed to persons exempt from this chapter in accordance with §289.251(d)(3)(C) of this title will be approved if the application satisfies requirements equivalent to those contained in 10 CFR 32.26. The maximum quantity of radium-226 in each device shall not exceed 0.1 microcurie

(4) Licensing the manufacture and commercial distribution of devices to persons generally licensed in accordance with §289.251(j)(1) of this title.

(A) An application for a specific license to manufacture or commercially distribute devices containing radioactive material to persons generally licensed in accordance with §289.251(g)(1)(C) and (j)(1) of this title or equivalent regulations of the commission, an agreement state, or a licensing state will be approved if:

(i) the applicant satisfies the general requirements of subsection (e) of this section;

(ii) the applicant submits sufficient information relating to the design, manufacture, prototype testing, quality control, labels, proposed uses, installation, servicing, leak testing, operating and safety instructions, and potential hazards of the device to provide reasonable assurance that:

(I) the device can be safely operated by persons not having training in radiological protection,

(II) under ordinary conditions of handling, storage, and use of the device, the radioactive material contained in the device will not be released or inadvertently removed from the device, and it is unlikely that any person will receive in any period of one year a dose in excess of 10% of the limits specified in 21.201 of TRCR Part 21 as adopted by reference in §289.113 of this title; and

(III) under accident conditions (such as fire and explosion) associated with handling, storage, and use of the device, it is unlikely that any person would receive an external radiation dose or dose commitment in excess of the following organ doses:

(-a-) 15 rems to the whole body; head and trunk; active blood-forming organs; gonads; or lens of eye;

(-b-) 200 rems to the hands and forearms; feet and ankles; localized areas of skin averaged over areas no larger than one square centimeter; or

(-c-) 50 rems to other organs;

(iii) each device bears a durable, legible, clearly visible label or labels approved by the agency, which contain in a clearly identified and separate statement:

(I) instructions and precautions necessary to assure safe installation, operation, and servicing of the device (documents such as operating and service manuals may be identified in the label and used to provide this information);

(II) the requirement, or lack of requirement, for leak testing, or for testing any "on-off" mechanism and indicator, including the maximum time interval for such testing, and the identification of radioactive material by isotope, quantity of radioactivity, and date of determination of the quantity; and

(III) the information called for in one of the following statements, as appropriate, in the same or substantially similar form:

(-a-) For radioactive materials other than NARM, the following statement is appropriate:
Figure 1: 25 TAC §289.252(h)(4)(A)(iii)(III)(-a-)

(-b-) For NARM, the following statement is appropriate:
Figure 2: 25 TAC §289.252(h)(4)(A)(iii)(III)(-b-)

(-c-) The model, serial number, and name of manufacturer or distributor may be omitted from this label provided they are elsewhere stated in labeling affixed to the device.

(B) In the event the applicant desires that the device be required to be tested at intervals longer than six months, either for proper operation of the "on-off" mechanism and indicator, if any, or for leakage of radioactive material or for both, the applicant shall include in the application sufficient information to demonstrate that such longer interval is justified by performance characteristics of the device or similar devices and by design features that have a significant bearing on the probability or consequences of radioactive material leakage from the device or failure of the "on-off" mechanism and indicator. In determining the acceptable interval for the test for radioactive material leakage, the agency will consider information that includes, but is not limited to:

(i) primary containment (source capsule);

(ii) protection of primary containment;

(iii) method of sealing containment;

(iv) containment construction materials;

(v) form of contained radioactive material;

(vi) maximum temperature withstood during prototype tests;

(vii) maximum pressure withstood during prototype tests;

(viii) maximum quantity of contained radioactive material;

(ix) radiotoxicity of contained radioactive material; and

(x) operating experience with identical devices or similarly designed and constructed devices.

(C) In the event the applicant desires that the general licensee in accordance with §289.251(g)(1)(C) and (j)(1) of this title or in accordance with equivalent regulations of the commission, an agreement state, or a licensing state be authorized to mount the device, collect the sample to be analyzed by a specific licensee for radioactive material leakage, perform maintenance of the device consisting of replacement of labels, rust and corrosion prevention, and for fixed gauges, repair and maintenance of source holder mounting brackets, test the "on-off" mechanism and indicator, device from installation, the applicant shall include in the application written instructions to be followed by the general licensee, estimated annual doses associated with such activity or activities, and bases for such estimates. The submitted information shall demonstrate that performance of such activity or activities by an individual untrained in radiological protection, in addition to other handling, storage, and use of devices in accordance with the general license, is unlikely to cause that individual to receive an annual dose in excess of 10% of the limits specified in 21.201 of TRCR Part 21 as adopted by reference in §289.113 of this title.

(D) Each person licensed in accordance with this subparagraph to commercially distribute devices to generally licensed persons shall:

(i) furnish a copy of the general license in §289.251(g)(1)(C) and (j)(1) of this title to each person to whom the licensee directly or through an intermediate person commercially distributes radioactive material in a device for use in accordance with the general license in §289.251(g)(1) (C) and (j)(1) of this title;

(ii) furnish a copy of the general license in the commission's, agreement state's, or licensing state's regulation equivalent to §289.251(g) (1)(C) and (j)(1) of this title, or alternatively, furnish a copy of the general license in §289.251 (g)(1)(C) and (j)(1) of this title to each person to whom the licensee directly or through an intermediate person commercially distributes radioactive material in a device for use in accordance with the general license of the commission, the agreement state, or the licensing state. If a copy of the general license in §289.251(g)(1)(C) and (j)(1) of this title is furnished to such a person, it shall be accompanied by an explanation that the use of the device is regulated by the commission, agreement state, or licensing state in accordance with requirements substantially the same as those in §289.251(g)(1)(C) and (j)(1) of this title;

(iii) report to the agency all commercial distributions of such devices to persons for use in accordance with the general license in §289. 251(g)(1)(C) and (j)(1) of this title, or equivalent regulations of another agreement state or licensing state. Such report shall identify each general licensee by name and address, an individual by name and/or position who may constitute a point of contact between the agency and the general licensee, the type, model, serial number of device and serial number of source commercially distributed, and the quantity and type of radioactive material contained in the device. If one or more intermediate persons will temporarily possess the device at the intended place of use prior to its possession by the user, the report shall also include identification of each intermediate person by name, address, contact, and relationship to the intended user. If no commercial distributions have been made to persons generally licensed in accordance with §289.251(g)(1)(C) and (j)(1) of this title during the reporting period, the report shall so indicate. The report shall cover each calendar quarter and shall be filed within 30 days thereafter;

(iv) report to the commission all commercial distributions of such devices to persons for use in accordance with the commission general license in 10 CFR 31.5;

(v) report to the appropriate agreement state or licensing state all transfers of devices manufactured and commercially distributed in accordance with this paragraph for use in accordance with a general license in that state's regulations equivalent to §289.251(g)(1)(C) and (j)(1) of this title;

(vi) identify in such reports each general licensee by name and address, an individual by name and/or position who may constitute a point of contact between the agency and the general licensee, the type, model, serial number of the device and serial number of source commercially distributed, and the quantity and type of radioactive material contained in the device. If one or more intermediate persons will temporarily possess the device at the intended place of use prior to its possession by the user, the report shall also include identification of each intermediate person by name, address, contact, and relationship to the intended user. The report shall be submitted within 30 days after the end of each calendar quarter in which such a device is commercially distributed to the generally licensed person;

(vii) report to the commission information indicating no commercial distributions have been made to the commission licensees during the reporting period if no such commercial distributions have been made; and

(viii) keep records showing the name, address, and the point of contact for each general licensee to whom the licensee directly or through an intermediate person commercially distributes radioactive material in devices for use in accordance with the general license provided in §289.251(g)(1)(C) and (j)(1) of this title, or equivalent regulations of the commission, an agreement state, or a licensing state. The records should show the date of each commercial distribution, the isotope and the quantity of radioactivity in each device commercially distributed, the identity of any intermediate person, and compliance with the reporting requirements of this subparagraph.

(5) Special requirements for the manufacture, assembly, or repair of luminous safety devices for use in aircraft. An application for a specific license to manufacture, assemble, or repair luminous safety devices containing tritium or promethium-147 for use in aircraft, for commercial distribution to persons generally licensed in accordance with §289.251(g)(4) of this title, will be approved subject to the following conditions:

(A) the applicant satisfies the general requirements specified in subsection (e) of this section; and

(B) the applicant satisfies the requirements of 10 CFR 32.53, 32.54, 32. 55, 32.56, and 32.101 or their equivalent.

(6) Special requirements for license to manufacture calibration sources containing americium-241, plutonium, or radium-226 for commercial distribution to persons generally licensed in accordance with §289.251(g)(6) of this title. An appli-

cation for a specific license to manufacture calibration sources containing americium-241, plutonium, or radium-226 to persons generally licensed in accordance with §289.251(g)(6) of this title will be approved subject to the following conditions:

(A) the applicant satisfies the general requirement of subsection (e) of this section; and

(B) the applicant satisfies the requirements of 10 CFR 32.57, 32.58, 32.59, and 32.102 and 10 CFR 70.39 or their equivalent.

(7) Manufacture and commercial distribution of sources or devices containing radioactive material for medical use. An application for a specific license to manufacture and commercially distribute sources and devices containing radioactive material to persons licensed for use of sealed sources in the healing arts or in accordance with subsection (f)(2) of this section for use as a calibration or reference source will be approved if:

(A) the applicant satisfies the general requirements in subsection (e) of this section;

(B) the applicant submits sufficient information regarding each type of source or device pertinent to an evaluation of its radiation safety, including:

(i) the radioactive material contained, its chemical and physical form, and amount;

(ii) details of design and construction of the source or device;

(iii) procedures for, and results of, prototype tests to demonstrate that the source or device will maintain its integrity under stresses likely to be encountered in normal use and accidents;

(iv) for devices containing radioactive material, the radiation profile of a prototype device;

(v) details of quality control procedures to assure that production sources and devices meet the standards of the design and prototype tests;

(vi) procedures and standards for calibrating sources and devices; and

(vii) instructions for handling and storing the source or device from the radiation safety standpoint. These instructions are to be included on a durable label attached to the source or device or attached to a permanent storage container for the source or device, provided that instructions that are too lengthy for such label may be summarized on the label and printed in detail on a brochure that is referenced on the label;

(C) the label affixed to the source or device, or to the permanent storage container for the source or device, contains information on the radionuclide, quantity, and date of assay, and a statement that the name of the source or device is licensed by the agency for commercial distribution to persons licensed for use of sealed sources in the healing arts or in accordance with subsection (f)(2) of this section or equivalent licenses of the commission, an agreement state, or a licensing state, provided that such labeling for sources that do not require long-term storage may be on a leaflet or brochure that accompanies the source,

(D) in the event the applicant desires that the source or device be required to be tested for radioactive material leakage at intervals longer than six months, the applicant shall include in the application sufficient information to demonstrate that such longer interval is justified by performance characteristics of the source or device or similar sources or devices and by design features that have a significant bearing on the probability or consequences of radioactive material leakage from the source; and

(E) in determining the acceptable interval for testing radioactive material leakage, the agency will consider information that includes, but is not limited to:

(i) primary containment or source capsule;

(ii) protection of primary containment;

(iii) method of sealing containment;

(iv) containment construction materials;

(v) form of contained radioactive material;

(vi) maximum temperature withstood during prototype tests;

(vii) maximum pressure withstood during prototype tests;

(viii) maximum quantity of contained radioactive material;

(ix) radiotoxicity of contained radioactive material; and

(x) operating experience with identical sources or devices or similarly designed and constructed sources or devices.

(8) Manufacture and commercial distribution of radioactive material for certain *in vitro* clinical or laboratory testing in accordance with the general license. An application for a specific license to manufacture or commercially distribute radioactive material for use in accordance with the general license in §289.251(j)(2) of this title will be approved if:

(A) the applicant satisfies the general requirements specified in subsection (e) of this section,

(B) the radioactive material is to be prepared for distribution in prepackaged units of

(i) iodine-125 in units not exceeding 10 microcuries each;

(ii) iodine-131 in units not exceeding 10 microcuries each;

(iii) carbon-14 in units not exceeding 10 microcuries each;

(iv) hydrogen-3 (tritium) in units not exceeding 50 microcuries each,

(v) iron-59 in units not exceeding 20 microcuries each,

(vi) cobalt-57 in units not exceeding 10 microcuries each,

(vii) selenium-75 in units not exceeding 10 microcuries each; or

(viii) mock iodine-125 in units not exceeding 0.05 microcurie of iodine-129 and 0.005 microcurie of americium-241 each;

(C) each prepackaged unit bears a durable, clearly visible label:

(i) identifying the radioactive contents as to chemical form and radionuclide, and indicating that the amount of radioactivity does not exceed 10 microcuries of iodine-125, iodine-131, carbon-14, cobalt-57, or selenium-75; 50 microcuries of hydrogen-3 (tritium); 20 microcuries of iron-59; or mock iodine-125 in units not exceeding 0.05 microcurie of iodine-129 and 0.005 microcurie of americium-241; and

(ii) displaying the radiation caution symbol in accordance with 21.901(a) and (b) of TRCR Part 21 as adopted by reference in §289.113 of this title and the words, "CAUTION, RADIOACTIVE MATERIAL," and "Not for Internal or External Use in Humans or Animals";

(D) one of the following statements, as appropriate, or a substantially similar statement that contains the information called for in one of the following statements, appears on a label affixed to each

prepackaged unit or appears in a leaflet or brochure that accompanies the package:

(i) option 1:
Figure 3: 25 TAC §289.252(h)(8)(D)(i)

(ii) option 2:
Figure 4: 25 TAC §289.252(h)(8)(D)(ii)

(E) the label affixed to the unit, or the leaflet or brochure that accompanies the package, contains adequate information as to the precautions to be observed in handling and storing such radioactive material. In the case of a mock iodine-125 reference or calibration source, the information accompanying the source must also contain directions to the licensee regarding the waste disposal requirements of 21.1001 of TRCR Part 21 as adopted by reference in §289.113 of this title.

(9) Licensing the manufacture and commercial distribution of ice detection devices. An application for a specific license to manufacture and commercially distribute ice detection devices to persons generally licensed in accordance with §289 251(g)(8) of this title will be approved subject to the following conditions:

(A) the applicant satisfies the general requirements of subsection (e) of this section; and

(B) the criteria of 10 CFR 32.61, 32.62, and 32.103 are met.

(10) Manufacture and commercial distribution of radiopharmaceuticals containing radioactive material for medical use in accordance with group licenses.

(A) An application for a specific license to manufacture and commercially distribute radiopharmaceuticals containing radioactive material for use by persons licensed in accordance with subsection (f)(2) of this section for the medical uses listed in Groups I and II defined in subsection (w)(2) of this section will be approved if:

(i) the applicant satisfies the general requirements specified in subsection (e) of this section;

(ii) the applicant submits evidence that:

(I) the radiopharmaceutical containing radioactive material will be manufactured, labeled, and packaged in accordance with the Federal Food, Drug, and Cosmetic Act or the Public Health Service Act, such as a new drug application (NDA) or a product license application (PLA) approved by the United States Food and Drug Administration (FDA), or a "Notice of Claimed Investigational Exemption for a New Drug" (IND) that has been accepted by the FDA; or

(II) the manufacture and commercial distribution of the radiopharmaceutical containing radioactive material is not subject to the Federal Food, Drug, and Cosmetic Act and the Public Health Service Act;

(iii) the applicant submits information on:

(I) the radionuclide, chemical and physical form;

(II) packaging including maximum activity per package; and

(III) shielding provided by the packaging of the radioactive material that is appropriate for safe handling and storage of radiopharmaceuticals by group licensees; and

(iv) the label affixed to each package of the radiopharmaceutical contains information on the radionuclide, quantity, and date of assay; and

(v) the label affixed to each package, or the leaflet or brochure that accompanies each package, contains a statement that the radiopharmaceutical is licensed by the agency for commercial distribution to persons licensed in accordance with subsection (f)(2) of this section and for medical uses listed in Groups I and II defined in subsection (w)(2) of this section, as appropriate, or in accordance with equivalent licenses of the commission, an agreement state, or a licensing state.

(B) The labels, leaflets, or brochures required by this paragraph are in addition to the labeling required by the FDA and they may be separate from or, with the approval of FDA, may be combined with the labeling required by FDA.

(11) Manufacture and commercial distribution of generators or reagent kits for preparation of radiopharmaceuticals containing radioactive material.

(A) An application for a specific license to manufacture and commercially distribute generators or reagent kits containing radioactive material for preparation of radiopharmaceuticals by persons licensed in accordance with subsection (f)(2) of this section for the medical uses listed in Group III defined in subsection (w)(2) of this section will be approved if:

(i) the applicant satisfies the general requirements specified in subsection (e) of this section;

(ii) the applicant submits evidence that:

(I) the generator or reagent kit is to be manufactured, labeled, and packaged in accordance with the Federal Food, Drug, and Cosmetic Act or the Public Health Service Act, such as a NDA or a PLA approved by the FDA, or a IND that has been accepted by the FDA; or

(II) the manufacture and commercial distribution of the generator or reagent kit are not subject to the Federal Food, Drug, and Cosmetic Act and the Public Health Service Act;

(iii) the applicant submits information on the radionuclide, chemical and physical form, packaging including maximum activity per package, and shielding provided by the packaging of the radioactive material contained in the generator or reagent kit;

(iv) the label affixed to the generator or reagent kit contains information on the radionuclide, quantity, and date of the assay; and

(v) the label affixed to the generator or reagent kit, or the leaflet or brochure that accompanies the generator or reagent kit contains:

(I) adequate information, from a radiation safety standpoint, on the procedures to be followed and the equipment and shielding to be used in eluting the generator or processing radioactive material with the reagent kit; and

(II) a statement that this generator or reagent kit (as appropriate) is approved for use by persons licensed by the agency in accordance with subsection (f)(2) of this section and for the medical uses listed in Group III defined in subsection (w)(2) of this section or in accordance with equivalent licenses of the commission, an agreement state, or a licensing state.

(B) The labels, leaflets, or brochures required by this paragraph are in addition to the labeling required by FDA and they may be separate from or, with the approval of FDA, may be combined with the labeling required by FDA.

(C) Although the agency does not regulate the manufacture and commercial distribution of reagent kits that do not contain radioactive material, it does regulate the use of such reagent kits for the preparation of radiopharmaceuticals containing radioactive material as part of its licensing and regulation of the users of ra-

dioactive material. Any manufacturer of reagent kits that do not contain radioactive material who desires to have the reagent kits approved by the agency for use by persons licensed in accordance with subsection (f)(2) of this section and for the medical uses in Group III defined in subsection (w)(2) of this section should submit the pertinent information specified in this paragraph.

(12) Manufacture and commercial distribution of products containing depleted uranium for mass-volume applications.

(A) An application for a specific license to manufacture products and devices containing depleted uranium for use in accordance with §289.251(f)(5) of this title or equivalent regulations of the commission or an agreement state, will be approved if:

(i) the applicant satisfies the general requirements specified in subsection (e) of this section;

(ii) the applicant submits sufficient information relating to the design, manufacture, prototype testing, quality control procedures, labeling or marking, proposed uses, and potential hazards of the product or device to provide reasonable assurance that possession, use, or commercial distribution of the depleted uranium in the product or device is not likely to cause any individual to receive in any period of one year a radiation dose in excess of 10% of the limits specified in 21.201 of TRCR Part 21 as adopted by reference in §289.113 of this title; and

(iii) the applicant submits sufficient information regarding the product or device and the presence of depleted uranium for a mass-volume application in the product or device to provide reasonable assurance that unique benefits will accrue to the public because of the usefulness of the product or device.

(B) In the case of a product or device whose unique benefits are questionable, the agency will approve an application for a specific license in accordance with this paragraph only if the product or device is found to combine a high degree of utility and low probability of uncontrolled disposal and dispersal of significant quantities of depleted uranium into the environment.

(C) The agency may deny any application for a specific license in accordance with this paragraph if the end use(s) of the product or device cannot be reasonably foreseen.

(D) Each person licensed in accordance with subparagraph (A) of this paragraph shall:

(i) maintain the level of quality control required by the license in the manufacture of the product or device, and in the installation of the depleted uranium into the product or device;

(ii) label or mark each unit to:

(I) identify the manufacturer of the product or device and the number of the license under which the product or device was manufactured, the fact that the product or device contains depleted uranium, and the quantity of depleted uranium in each product or device, and

(II) state that the receipt, possession, use, and commercial distribution of the product or device are subject to a general license or the equivalent and the regulations of the commission or of an agreement state;

(iii) assure that before being installed in each product or device, the depleted uranium has been impressed with the following legend clearly legible through any plating or other covering: "Depleted Uranium";

(iv) furnish a copy of the general license in:

(I) §289.251(f)(5) of this title to each person to whom the licensee commercially distributes depleted uranium in a product or device for use in accordance with the general license in §289.251(f)(5) of this title, or

(II) the commission's or agreement state's regulation equivalent to the general license in §289.251(f)(5) of this title and a copy of the commission's or agreement state's certificate, or alternatively, furnish a copy of the general license in §289.251(f)(5) of this title to each person to whom the licensee commercially distributes depleted uranium in a product or device for use in accordance with the general license of the commission or an agreement state;

(v) report to the agency all commercial distributions of products or devices to persons for use in accordance with the general license in §289. 251(f)(5) of this title. Such report shall identify each general licensee by name and address, an individual by name and/or position who may constitute a point of contact between the agency and the general licensee, the type and model number of device commercially distributed, and the quantity of depleted uranium contained in the product or device. The report shall be submitted within 30 days after the end of each calendar quarter in which such a product or device is commercially distributed to the generally licensed person. If no commercial distributions have been made to persons generally licensed in accordance with §289.251(f)(5) of this title during the reporting period, the report shall so indicate;

(vi) report to the commission and each responsible agreement state agency all commercial distributions of industrial products or devices to persons for use in accordance with the general license in the commission's or agreement state's equivalent rule to §289.251(f)(5) of this title. Such report shall meet the provisions of clause (v) of this subparagraph; and

(vii) keep records showing the name, address, and point of contact for each general licensee to whom the licensee commercially distributes depleted uranium in products or devices for use in accordance with the general license provided in §289.251(f)(5) of this title or equivalent regulations of the commission or of an agreement state. The records shall be maintained for a period of two years and shall show the date of each commercial distribution, the quantity of depleted uranium in each product or device commercially distributed, and compliance with the report requirements of this section.

(13) Processing of loose radioactive material for manufacture and commercial distribution. An application to process loose radioactive material for manufacture and commercial distribution of radioactive material to persons authorized to possess such radioactive material in accordance with this chapter will be approved if:

(A) the applicant satisfies the general requirements specified in subsection (e) of this section;

(B) the applicant submits sufficient information relating to the radionuclides to be used, including the chemical and/or physical form and the maximum activity of each radionuclide;

(C) the applicant submits sufficient information relating to the intended use of each radionuclide and the sealed sources and/or other products to be manufactured that includes:

(i) receipt of radioactive material;

(ii) chemical or physical preparations;

(iii) sealed source construction;

(iv) final assembly or processing;

(v) quality assurance testing;

(vi) quality control program;

(vii) leak testing;

(viii) American National Standard (ANSI) testing procedures;

(ix) transportation containers; and

(x) shipping procedures;

(D) the applicant submits information related to the facility(ies) scaled drawings to include, but not limited to:

(i) air filtration;

(ii) ventilation system;

(iii) plumbing; and

(iv) radioactive material handling systems and, when applicable, remote handling hot cells;

(E) the applicant submits details of the environmental monitoring program;

(F) the applicant submits documentation of training as specified in subsection (w)(1) of this section for all personnel who will be handling radioactive materials; and

(G) the applicant submits the name and qualifications of the full-time RSO as specified in subsection (g) of this section.

(14) Other manufacture and commercial distribution of radioactive material. An application to manufacture and commercially distribute radioactive material to persons authorized to possess such radioactive material in accordance with this chapter will be approved if:

(A) the applicant satisfies the general requirements specified in subsection (e) of this section;

(B) the applicant submits sufficient information relating to the radionuclides to be used, including the chemical and/or physical form and the maximum activity of each radionuclide;

(C) the applicant submits sufficient information relating to the intended use of each radionuclide and the sealed sources and/or other products to be manufactured that includes:

(i) receipt of radioactive material;

(ii) chemical or physical preparations;

(iii) sealed source construction;

(iv) final assembly or processing;

(v) quality assurance testing;

(vi) quality control program;

(vii) leak testing;

(viii) ANSI testing procedures;

(ix) transportation containers; and

(x) shipping procedures;

(D) the applicant submits scaled drawings of radioactive material handling systems;

(E) the applicant submits documentation of training as specified in subsection (w)(1) of this section for all personnel who will be handling radioactive material; and

(F) the applicant submits the name and qualifications of the full-time RSO as specified in subsection (g) of this section.

(i) Sealed source or device evaluation. No sealed source or device containing radioactive material shall be authorized on a specific license or general license until radiation safety information for that sealed source or device has been evaluated by the agency, the commission, another agreement state, or a licensing state.

(1) Any manufacturer or initial distributor of a sealed source or device containing a sealed source licensed by the agency shall submit a request to the agency for evaluation of radiation safety information about the sealed source or device containing a sealed source.

(2) The request for review shall be submitted in duplicate.

(3) The request for review shall contain sufficient information about the sealed source or device to include:

(A) the radioactive material contained, its chemical and physical form, and amount;

(B) details of design and construction;

(C) procedures for, and results of, prototype tests to demonstrate that the source or device will maintain its integrity under stresses likely to be encountered in normal use and accidents;

(D) details of quality control procedures to assure that production sources and devices meet the standards of the design and prototype tests;

(E) labeling;

(F) proposed uses; and

(G) procedures for leak testing.

(4) For a device containing radioactive material, the request shall also contain sufficient information about the device to include:

(A) the radiation profile of a prototype device;

(B) method of installation;

(C) service and maintenance requirements; and

(D) operating and safety instructions.

(5) After review of the request, the agency may issue an evaluation documenting the information in paragraph (3) of this subsection for sealed sources and paragraph (4) of this subsection for devices containing radioactive material.

(6) The manufacturer/distributor submitting the request for evaluation of the safety information about the product shall manufacture and distribute the product in accordance with:

(A) the statements and representations contained in the request;

(B) documentation required to support the request; and

(C) the provisions of the evaluation.

(j) Issuance of specific licenses.

(1) Upon a determination that an application meets the requirements of the Act and the rules of the agency, the agency will issue a specific license authorizing the proposed activity in such form and containing such conditions and limitations as it deems appropriate or necessary.

(2) The agency may incorporate in any license at the time of issuance, or thereafter by amendment, such additional requirements and conditions with respect to the licensee's receipt, possession, use, and transfer of radioactive material subject to this section as it deems appropriate or necessary in order to:

(A) minimize danger to public health and safety or the environment;

(B) require such reports and the keeping of such records, and to provide for such inspections of activities in accordance with the license as may be appropriate or necessary; and

(C) prevent loss or theft of material subject to this section.

(k) Specific terms and conditions of licenses.

(1) Each license issued in accordance with this section shall be subject to the applicable provisions of the Act, now or hereafter in effect, and to applicable rules and orders of the agency.

(2) No license issued or granted in accordance with this section and no right to possess or utilize radioactive material granted by any license issued in accordance with this section shall be transferred, assigned, or in any manner disposed of, either voluntarily or involuntarily, directly or indirectly, through transfer of control of any license to any person unless the agency shall, after securing full information, find that the transfer is in accordance with the provisions of the Act, now or hereafter in effect, and to applicable rules and orders of the agency, and shall give its consent in writing.

(3) Each person licensed by the agency in accordance with this section shall confine use and possession of the material licensed to the locations and purposes authorized in the license.

(4) Each licensee shall notify the agency, in writing, immediately following the filing of a voluntary or involuntary petition for bankruptcy in accordance with any Chapters of Title 11 (Bankruptcy) of the United States Code (11 U.S.C.) by or against:

(A) a licensee;

(B) an entity, as that term is defined in 11 U.S.C. 101(14), controlling a licensee or listing the license or licensee as property of the estate; or

(C) an affiliate, as that term is defined in 11 U.S.C. 101(2), of the licensee.

(5) The notification in paragraph (4) of this subsection must indicate:

(A) the bankruptcy court in which the petition for bankruptcy was filed; and

(B) the date of the filing of the petition.

(l) Expiration and termination of licenses.

(1) Except as provided in paragraph (6) of this subsection and subsection (m)(2) of this section, each specific license expires at the end of the day, in the month and year stated in the license.

(2) Each licensee shall notify the agency within 30 days, in writing, and request termination of the license when the licensee decides to terminate all activities involving materials authorized in accordance with the license. This notification and request for termination of the license must include a written commitment to submit reports and information specified in paragraph (4) (C) of this subsection and a plan for completion of decommissioning if required by paragraph (7)(A) of this subsection or by license condition no less than 60 days after date of decision to terminate. The licensee is subject to the provisions of paragraphs (4) and (7) of this subsection, as applicable.

(3) No less than 30 days before the expiration date indicated in a specific license, the licensee shall either:

(A) submit an application for license renewal in accordance with subsection (m) of this section; or

(B) notify the agency in writing, in accordance with paragraph (2) of this subsection, if the licensee decides to discontinue all activities involving radioactive material.

(4) If a licensee does not submit an application for license renewal in accordance with subsection (m) of this section, the licensee shall on or before the expiration date specified in the license:

(A) terminate use of radioactive material;

(B) properly dispose of radioactive material;

(C) submit a record of disposal of radioactive material and radiation survey(s) of the licensee's permanent location(s) of use and/or storage. Levels of radiation shall be reported in units as required by 21.1302 and 21. 1303 of TRCR Part 21 as adopted by reference in §289.113 of this title. The survey or measurement instrument(s) used for conducting the survey shall be specified; and

(D) pay any outstanding fees in accordance with §289.126 of this title and resolve any outstanding notices of violations of this chapter or of license conditions.

(5) If no radiation attributable to activities conducted in accordance with the license is detected, the licensee shall submit a certification that no detectable radioactive contamination of the location(s) was found. If the information submitted in accordance with this paragraph and paragraph (4)(C) of this subsection is adequate, the agency will notify the licensee in writing that the license is terminated.

(6) If radiation levels or radioactive material in excess of the limits of 21.1302 or 21.1303 of TRCR Part 21 as adopted by reference in §289.113 of this title are found, the license continues in effect beyond the expiration date, if necessary, with respect to possession of residual radioactive material until the agency notifies the licensee in writing that the license is terminated. During this time, the licensee is subject to the provisions of paragraph (13) of this subsection. In addition to the information submitted in accordance with paragraph (4)(C) of this subsection, the licensee shall submit a plan, if appropriate, for decontaminating the location(s).

(7) If the licensee does not submit an application for license renewal in accordance with subsection (m) of this section, in addition to the information required in accordance with paragraph (4)(C) of this subsection, the licensee shall submit a plan for completion of decommissioning if the procedures necessary to carry out decommissioning have not been previously approved by the agency and could increase potential health and safety impacts to workers or to the public such as in any of the following cases:

(A) procedures would involve techniques not applied routinely during cleanup or maintenance operations;

(B) workers would be entering areas not normally occupied where surface contamination and radiation levels are significantly higher than routinely encountered during operation;

(C) procedures could result in significantly greater airborne concentrations of radioactive materials than are present during operation; or

(D) procedures could result in significantly greater releases of radioactive material to the environment than those associated with operation

(3) Procedures with potential health and safety impacts may not be carried out prior to approval of the decommissioning plan by the agency

(9) The proposed decommissioning plan if required by paragraph (7) of this subsection or by license condition, must include

(A) a description of planned decommissioning activities,

(B) a description of methods used to assure protection of workers and the environment against radiation hazards during decommissioning,

(C) a description of the planned final radiation survey, and

(D) an updated, detailed cost estimate for decommissioning, comparison of that estimate with present funds set aside for decommissioning, and plan for assuring the availability of adequate funds for completion of decommissioning

(10) The proposed decommissioning plan will be approved by the agency if the information therein demonstrates that the decommissioning will be completed as soon as is reasonable and that the health and safety of workers and the public will be adequately protected

(11) Upon approval of the decommissioning plan by the agency, the licensee shall complete decommissioning in accordance with the approved plan As a final step in decommissioning, the licensee shall again submit the information required in paragraph (4)(C) of this subsection

(12) If the information submitted in accordance with paragraphs (4)(C) or (11) of this subsection does not adequately demonstrate that the premises are suitable for release for unrestricted use, the agency will inform the license of the appropriate further actions required for termination of license

(13) Each licensee who possesses residual radioactive material in accordance with paragraph (6) of this subsection following the expiration date specified in the license, shall

(A) be limited to actions, involving radioactive material, related to preparing the location(s) for release for unrestricted use, and

(B) continue to control entry to restricted areas until the location(s) are suitable for release for unrestricted use and the agency notifies the licensee in writing that the license is terminated.

(14) Each licensee shall submit to the agency all records required by 21 1103(b) of TRCR Part 21 as adopted by reference in §289.113 of this title before the license is terminated.

(m) Renewal of license.

(1) Requests for renewal of specific licenses shall be filed in accordance with subsection (d) of this section.

(2) In any case in which a licensee, not less than 30 days prior to expiration of an existing license, has filed a request in proper form for renewal or for a new license authorizing the same activities, such existing license shall not expire until the request has been finally determined by the agency.

(n) Amendment of licenses at request of licensee

(1) Requests for amendment of a license shall be filed in accordance with subsection (d) of this section and shall specify the respects in which the licensee desires a license to be amended and the grounds for such amendment

(2) Requests for amendments to delete a subsite from a license shall be filed in accordance with subsections (d), (l)(4) and (l)(7) of this section.

(o) Agency action on requests to renew or amend In considering a request by a licensee to renew or amend a license, the agency will apply the criteria set forth in subsections (e) and (f).

(p) Transfer of material.

(1) No licensee shall transfer radioactive material except as authorized in accordance with this chapter.

(2) Except as otherwise provided in a license and subject to the provisions of paragraphs (3) and (4) of this subsection, any licensee may transfer radioactive material:

(A) to the agency (A licensee may transfer material to the agency only after receiving prior approval from the agency.);

(B) to the United States Department of Energy (DOE);

(C) to any person exempt from this section to the extent permitted in accordance with such exemption;

(D) to any person authorized to receive such material in accordance with the terms of a general license or its equivalent, or a specific license or equivalent licensing document, issued by the agency, the commission, any agreement state, or any licensing state, or to any person otherwise authorized to receive such material by the Federal government or any agency thereof, the agency, any agreement state, or any licensing state; or

(E) as otherwise authorized by the agency in writing.

(3) Before transferring radioactive material to a specific licensee of the agency, the commission, an agreement state, or a licensing state, or to a general licensee who is required to register with the agency, the commission, an agreement state, or a licensing state prior to receipt of the radioactive material, the licensee transferring the material shall verify that the transferee's license authorizes the receipt of the type, form, and quantity of radioactive material to be transferred.

(4) The following methods for the verification required by paragraph (3) of this subsection are acceptable.

(A) The transferor may possess and have read a current copy of the transferee's specific license or certificate of registration

(B) The transferor may possess a written certification by the transferee that the transferee is authorized by the license or certificate of registration to receive the type, form, and quantity of radioactive material to be transferred, specifying the license or certificate of registration number, issuing agency, and expiration date.

(C) For emergency shipments, the transferor may accept oral certification by the transferee that the transferee is authorized by license or certificate of registration to receive the type, form, and quantity of radioactive material to be transferred, specifying the license or certificate of registration number, issuing agency, and expiration date, provided that the oral certification is confirmed in writing within 10 days.

(D) The transferor may obtain other sources of information compiled by a reporting service from official records of the agency, the commission, or the licensing agency of an agreement state or a licensing state as to the identity of licensees and the scope and expiration dates of licenses and registrations.

(E) When none of the methods of verification described in subparagraphs (A)-(D) of this paragraph are readily available or when a transferor desires to verify that information received by one of such methods is correct or up-to-date, the transferor may obtain and record confirmation from the agency, the commission, or the licensing agency of an agreement state or a licensing state that the transferee is licensed to receive the radioactive material.

(5) Preparation for shipment and transport of radioactive material shall be in accordance with the provisions of subsection (t) of this section.

(q) Modification and revocation of licenses.

(1) The terms and conditions of all licenses shall be subject to amendment, revision, or modification. A license may be suspended or revoked by reason of amendments to the Act, or by reason of rules and orders issued by the agency.

(2) Any license may be revoked, suspended, or modified, in whole or in part, for any material false statement in the application or any statement of fact required in accordance with provisions of the Act, or because of conditions revealed by such application or statement of fact or any report, record, or inspection, or other means that would warrant the agency to refuse to grant a license on an original application, or for violation of, or failure to observe applicable terms and conditions of the Act, or of the license, or of any rule or order of the agency.

(3) Except in cases of willfulness or those in which the public health, interest or safety requires otherwise, no license shall be modified, suspended, or revoked unless, prior to the institution of proceedings therefore, facts or conduct that may warrant such action shall have been called to the attention of the licensee in writing and the licensee shall have been accorded an opportunity to demonstrate or achieve compliance with all lawful requirements.

(r) Notification of incidents.

(1) Immediate report. Each licensee shall notify the agency as soon as possible but not later than four hours after the discovery of an event that prevents immediate protective actions necessary to avoid exposures to radioactive materials that could exceed regulatory limits or releases of radioactive materials that could exceed regulatory limits (events may include fires, explosions, toxic gas releases, etc.).

(2) Twenty-four hour report. Each licensee shall notify the agency within 24 hours after the discovery of any of the following events involving radioactive material:

(A) an unplanned contamination event that:

(i) requires access to the contaminated area, by workers or the public, to be restricted for more than 24 hours by imposing additional radiological controls or by prohibiting entry into the area;

(ii) involves a quantity of material greater than five times the lowest annual limit on intake specified in Appendix 21-B of TRCR Part 21 as adopted by reference in §289.113 of this title for the material; and

(iii) has access to the area restricted for a reason other than to allow isotopes with a half-life of less than 24 hours to decay prior to decontamination.

(B) an event in which equipment is disabled or fails to function as designed when:

(i) the equipment is required by rule or license condition to prevent releases exceeding regulatory limits, to prevent exposures to radioactive materials exceeding regulatory limits, or to mitigate the consequences of an accident;

(ii) the equipment is required to be available and operable when it is disabled or fails to function; and

(iii) no redundant equipment is available and operable to perform the required safety function.

(C) an event that requires unplanned medical treatment at a medical facility of an individual with spreadable radioactive contamination on the individual's clothing or body; or

(D) an unplanned fire or explosion damaging any radioactive material or any device, container, or equipment containing radioactive material when:

(i) the quantity of material involved is greater than five times the lowest annual limit on intake specified in Appendix 21-B of TRCR Part 21 as adopted by reference in §289.113 of this title for the material; and

(ii) the damage affects the integrity of the radioactive material or its container.

(3) Preparation and submission of reports. Reports made by licensees in response to the requirements of paragraphs (1) and (2) of this subsection shall be made as follows.

(A) Licensees shall make reports required by paragraphs (1) and (2) of this subsection by telephone to the agency. To the extent that the information is available at the time of notification, the information provided in these reports shall include:

(i) the caller's name and call back telephone number;

(ii) a description of the event, including date and time;

(iii) the exact location of the event;

(iv) the isotopes, quantities, and chemical and physical form of the radioactive material involved; and

(v) any personnel radiation exposure data available.

(B) Each licensee who makes a report required by paragraphs (1) and (2) of this subsection shall submit to the agency a written follow-up report within 30 days of the initial report. Written reports prepared in accordance with other requirements of this chapter submitted to fulfill this requirement if the reports contain all of the necessary information and the appropriate distribution is made. The reports must include the following:

(i) a description of the event, including the probable cause and the manufacturer and model number (if applicable) of any equipment that failed or malfunctioned;

(ii) the exact location of the event;

(iii) the isotopes, quantities, and chemical and physical form of the radioactive material involved;

(iv) date and time of the event;

(v) corrective actions taken or planned and the results of any evaluations or assessments; and

(vi) the extent of exposure of individuals to radioactive materials without identification of individuals by name.

(s) Reciprocal recognition of licenses.

(1) Subject to this section, any person who holds a specific license from the commission, any agreement state, or any licensing state, and issued by the agency having jurisdiction where the licensee maintains an office for directing the licensed activity and at which radiation safety records are normally maintained, is

hereby granted a general license to conduct the activities authorized in such licensing document within the state of Texas provided that:

(A) the licensing document does not limit the activity authorized by such document to specified installations or locations;

(B) the out-of-state licensee notifies the agency in writing at least three working days prior to engaging in such activity. If, for a specific case, the three working-day period would impose an undue hardship on the out-of-state licensee, the licensee may, upon application to the agency, obtain permission to proceed sooner The agency may waive the requirement for filing additional written notifications during the remainder of the calendar year following the receipt of the initial notification from a person engaging in activities in accordance with the general license provided in this subsection. Such notification shall include.

(i) the exact location, start date, duration, and type activity to be conducted,

(ii) the identification of the sources of radiation to be used;

(iii) the name(s) and in-state address(es) of the individual(s) performing the activity,

(iv) a copy of the pertinent license;

(v) a copy of the licensee's operating, safety, and emergency procedures, and

(vi) an annual fee as specified in 12 11(c) of TRCR Part 12 as adopted by reference in §289 126 of this title.

(C) the out-of-state licensee complies with all applicable rules of the agency and with all the terms and conditions of the licensee's licensing document, except any such terms and conditions that may be inconsistent with applicable rules of the agency;

(D) the out-of-state licensee supplies such other information as the agency may request, and

(E) the out-of-state licensee shall not transfer or dispose of radioactive material possessed or used in accordance with the general license provided in this section except by transfer to a person.

(i) specifically licensed by the agency, the commission, another agreement state, or another licensing state to receive such material, or

(ii) exempt from the requirements for a license for such material in accordance with §289.251(d)(1) of this title.

(2) In addition to the provisions of paragraph (1) of this subsection, any person who holds a specific license issued by the commission, an agreement state, or a licensing state authorizing the holder to manufacture, transfer, install, or service a device described in §289.251(g)(1)(C) and (j)(1) of this title, within areas subject to the jurisdiction of the licensing body, is hereby granted a general license to install, transfer, demonstrate, or service such a device in the state of Texas provided that:

(A) such person shall file a report with the agency within 30 days after the end of each calendar quarter in which any device is transferred to or installed in the state of Texas. Each such report shall identify each general licensee to whom such device is transferred by name and address, the type of device transferred by manufacture's name, model number, serial number of the device and serial number of the sealed source, and the quantity and type of radioactive material contained in the device;

(B) the device has been manufactured, labeled, installed, and serviced in accordance with applicable provisions of the specific license issued to such person by the commission, an agreement state, or a licensing state;

(C) such person shall assure that any labels required to be affixed to the device in accordance with regulations of the authority that licensed manufacture of the device bear a statement that "Removal of this label is prohibited"; and

(D) the holder of the specific license shall furnish to each general licensee to whom the holder of the specific license transfers such device or on whose premises the holder of the specific license installs such device a copy of the general license contained in §289.251(g)(1)(C) and (j)(1) of this title.

(3) The agency may withdraw, limit, or qualify its acceptance of any specific license or equivalent licensing document issued by another agency, or any product distributed in accordance with such licensing document, upon determining that such action is necessary in order to prevent undue hazard to public health and safety or the environment.

(t) Preparation of radioactive material for transport.

(1) No licensee shall deliver any radioactive material to a carrier for transport, unless·

(A) the licensee complies with the applicable requirements of the regulations, appropriate to the mode of transport, of the United States Department of Transportation (DOT) insofar as such regulations relate to the packing of radioactive material, and to the monitoring, marking, and labeling of those packages;

(B) the licensee has established procedures for opening and closing packages in which radioactive material is transported to provide safety and to assure that, prior to the delivery to a carrier for transport, each package is properly closed for transport; and

(C) prior to delivery of a package to a carrier for transport, the licensee shall assure that any special instructions needed to safely open the package are sent to, or have been made available to, the consignee.

(2) For the purpose of this subsection, licensees who transport their own licensed material as private carriers are considered to have delivered such material to a carrier for transport

(u) Financial assurance and record keeping for decommissioning.

(1) The applicant for each specific license authorizing the possession and use of unsealed radioactive material with a half-life greater than 120 days and in quantities exceeding 10^4 times the applicable quantities set forth in subsection (w)(6) of this section shall submit a decommissioning funding plan as described in paragraph (5) of this subsection. The decommissioning funding plan must also be submitted when a combination of isotopes is involved if R divided by 10^4 is greater than 1 (unity rule), where R is defined as the sum of the ratios of the quantity of each isotope to the applicable value in subsection (w)(6) of this section

(2) The applicant for each specific license authorizing possession and use of radioactive material of half-life greater than 120 days and in quantities specified in paragraph (4) of this subsection shall either:

(A) submit a decommissioning funding plan as described in paragraph (5) of this subsection; or

(B) submit a certification that financial assurance for decommissioning has been provided in the amount in accordance with paragraph (4) of this sub-

section using one of the methods described in paragraph (6) of this subsection. For an applicant, this certification may state that the appropriate assurance will be obtained after the application has been approved and the license issued, but prior to the receipt of licensed material. As part of the certification, a copy of the financial instrument obtained to satisfy the requirements of paragraph (6) of this subsection is to be submitted to the agency.

(3) The holder of each specific license issued:

(A) on or after January 1, 1995, which is of a type described in paragraph (2) of this subsection, shall provide financial assurance for decommissioning in accordance with the criteria set forth in this section;

(B) before January 1, 1995, and of a type described in paragraph (1) of this subsection shall submit, on or before January 1, 1995, a decommissioning funding plan or a certification of financial assurance for decommissioning in an amount at least equal to $750,000, in accordance with the criteria set forth in this section. If the licensee submits the certification of financial assurance rather than a decommissioning funding plan at this time, the licensee shall include a decommissioning funding plan in any application for license renewal;

(C) before January 1, 1995, and of a type described in paragraph (2) of this subsection shall submit, on or before January 1, 1995, a certification of financial assurance for decommissioning or a decommissioning funding plan in accordance with the criteria set forth in this section.

(4) The required amounts of financial assurance for decommissioning are determined by quantity of material and are as follows:

(A) $750,000 for quantities of material greater than 10^4 but less than or equal to 10^5 times the applicable quantities in subsection (w)(6) of this section in unsealed form. (For a combination of isotopes, if R, as defined in paragraph (1) of this subsection, divided by 10^4 is greater than 1 but R divided by 10^5 is less than or equal to 1.);

(B) $150,000 for quantities of material greater than 10^3 but less than or equal to 10^4 times the applicable quantities in subsection (w)(6) of this section in unsealed form. (For a combination of isotopes, if R, as defined in paragraph (1) of this subsection, divided by 10^3 is greater than 1 but R divided by 10^4 if less than or equal to 1.); or

(C) $75,000 for quantities of material greater than 10^{10} times the applicable quantities in subsection (w)(6) of this section in sealed sources or plated foils. (For a combination of isotopes, if R, as defined in paragraph (1) of this subsection, divided by 10^{10} is greater than 1.)

(5) Each decommissioning funding plan must contain a cost estimate for decommissioning and a description of the method of assuring funds for decommissioning from paragraph (6) of this subsection, including means of adjusting cost estimates and associated funding levels periodically over the life of the facility.

(6) Financial assurance for decommissioning must be provided by one or more of the following methods.

(A) Prepayment. Prepayment is the deposit prior to the start of operation into an account segregated from licensee assets and outside the licensee's administrative control of cash or liquid assets such that the amount of funds would be sufficient to pay decommissioning costs. Prepayment may be in the form of a trust, escrow account, government fund, certificate of deposit, or deposit of government securities.

(B) A surety method, insurance, or other guarantee method. These methods guarantee that decommissioning costs will be paid should the licensee default. A surety method may be in the form of a surety bond, letter of credit, or line of credit. A parent company guarantee of funds for decommissioning costs based on a financial test may be used if the guarantee and test are as contained in subsection (w)(3) of this section. A parent company guarantee may not be used in combination with other financial methods to satisfy the requirements of this section. Any surety method or insurance used to provide financial assurance for decommissioning must contain the following conditions.

(i) The surety method or insurance must be open-ended or, if written for a specified term, such as five years, must be renewed automatically unless 90 days or more prior to the renewal date, the issuer notifies the agency, the beneficiary, and the licensee of its intention not to renew. The surety method or insurance must also provide that the full face amount be paid to the beneficiary automatically prior to the expiration without proof of forfeiture if the licensee fails to provide a replacement acceptable to the agency within 30 days after receipt of notification of cancellation.

(ii) The surety method or insurance must be payable to a trust established for decommissioning costs. The trustee and trust must be acceptable to the agency. An acceptable trustee includes an appropriate state or federal government agency or an entity that has the authority to act as a trustee and whose trust operations are regulated and examined by a federal or state agency.

(iii) The surety method or insurance must remain in effect until the agency has terminated the license.

(C) An external sinking fund in which deposits are made at least annually, coupled with a surety method or insurance, the value of which may decrease by the amount being accumulated in the sinking fund. An external sinking fund is a fund established and maintained by setting aside funds periodically in an account segregated from licensee assets and outside the licensee's administrative control in which the total amount of funds would be sufficient to pay decommissioning costs at the time termination of operation is expected. An external sinking fund may be in the form of a trust, escrow account, government fund, certificate of deposit, or deposit of government securities. The surety or insurance provisions must be in accordance with subparagraph (B) of this paragraph.

(D) In the case of federal, state, or local government licensees, a statement of intent containing a cost estimate for decommissioning or an amount in accordance with paragraph (4) of this subsection, and indicating that funds for decommissioning will be obtained when necessary.

(7) Each person licensed in accordance with this section shall keep records of information important to the safe and effective decommissioning of the facility in an identified location until the license is terminated by the agency. If records of relevant information are kept for other purposes, reference to these records and their locations may be used. Information the agency considers important to decommissioning consists of:

(A) records of spills or other unusual occurrences involving the spread of contamination in and around the facility, equipment, or site. These records may be limited to instances when contamination remains after any cleanup procedures or when there is reasonable likelihood that contaminants may have spread to inaccessible areas, as in the case of possible seepage into porous materials such as concrete. These records must include any known information on identification of involved nuclides, quantities, forms, and concentrations;

(B) as-built drawings and modifications of structures and equipment

in restricted areas where radioactive materials are used and/or stored, and of locations of possible inaccessible contamination such as buried pipes that may be subject to contamination. If required drawings are referenced, each relevant document need not be indexed individually. If drawings are not available, the licensee shall substitute appropriate records of available information concerning these areas and locations; and

(C) records of the cost estimate performed for the decommissioning funding plan or of the amount certified for decommissioning, and records of the funding method used for assuring funds if either a funding plan or certification is used.

(v) Emergency plan for responding to a release.

(1) An application for each specific license to possess radioactive materials in unsealed form, on foils or plated sources, or sealed in glass in excess of the quantities in subsection (w)(4) of this section must contain either:

(A) an evaluation showing that the maximum dose to a person offsite due to a release of radioactive materials would not exceed 1 rem effective dose equivalent or 5 rems to the thyroid; or

(B) an emergency plan for responding to a release of radioactive material.

(2) One or more of the following factors may be used to support an evaluation submitted in accordance with paragraph (1)(A) of this subsection:

(A) the radioactive material is physically separated so that only a portion could be involved in an accident;

(B) all or part of the radioactive material is not subject to release during an accident because of the way it is stored or packaged;

(C) the release fraction in the respirable size range would be lower than the release fraction in subsection (w)(4) of this section due to the chemical or physical form of the material;

(D) the solubility of the radioactive material would reduce the dose received;

(E) facility design or engineered safety features in the facility would cause the release fraction to be lower than that in subsection (w)(4) of this section;

(F) operating restrictions or procedures would prevent a release fraction as large as that in subsection (w)(4) of this section; or

(G) other factors appropriate for the specific facility.

(3) An emergency plan for responding to a release of radioactive material submitted in accordance with paragraph (1)(B) of this subsection must include the following information.

(A) Facility description. A brief description of the licensee's facility and area near the site.

(B) Types of accidents. An identification of each type of radioactive materials accident for which protective actions may be needed.

(C) Classification of accidents. A classification system for classifying accidents as alerts or site area emergencies.

(D) Detection of accidents. Identification of the means of detecting each type of accident in a timely manner.

(E) Mitigation of consequences. A brief description of the means and equipment for mitigating the consequences of each type of accident, including those provided to protect workers onsite, and a description of the program for maintaining the equipment.

(F) Assessment of releases. A brief description of the methods and equipment to assess releases of radioactive materials.

(G) Responsibilities. A brief description of the responsibilities of licensee personnel should an accident occur, including identification of personnel responsible for promptly notifying offsite response organizations and the agency; also, responsibilities for developing, maintaining, and updating the plan.

(H) Notification and coordination. A commitment to and a brief description of the means to promptly notify offsite response organizations and request offsite assistance, including medical assistance for the treatment of contaminated injured onsite workers when appropriate. A control point must be established. The notification and coordination must be planned so that unavailability of some personnel, parts of the facility, and some equipment will not prevent the notification and coordination. The licensee shall also commit to notify the agency immediately after notification of the appropriate offsite response organizations and not later than one hour after the licensee declares an emergency. These reporting requirements do not supersede or release licensees of complying with the requirements in accordance with the Emergency Planning and Community Right-to-Know-Act of 1986, Title III, Publication L. 99-499 or other state or federal reporting requirements.

(I) Information to be communicated. A brief description of the types of information on facility status, radioactive releases, and recommended protective actions, if necessary, to be given to offsite response organizations and to the agency.

(J) Training. A brief description of the frequency, performance objectives, and plans for the training that the licensee will provide workers on how to respond to an emergency, including any special instructions and orientation tours the licensee would offer to fire, police, medical, and other emergency personnel. The training shall familiarize personnel with site-specific emergency procedures. Also, the training shall thoroughly prepare site personnel for their responsibilities in the event of accident scenarios postulated as most probable for the specific site, including the use of team training for such scenarios

(K) Safe shutdown. A brief description of the means of restoring the facility to a safe condition after an accident.

(L) Exercises. Provisions for conducting quarterly communications checks with offsite response organizations and biennial onsite exercises to test response to simulated emergencies. Quarterly communications checks with offsite response organizations must include the check and update of all necessary telephone numbers. The licensee shall invite offsite response organizations to participate in the biennial exercises. Participation of offsite response organizations in biennial exercises, although recommended, is not required. Exercises must use accident scenarios postulated as most probable for the specific site and the scenarios shall not be known to most exercise participants. The licensee shall critique each exercise using individuals not having direct implementation responsibility for the plan. Critiques of exercises must evaluate the appropriateness of the plan, emergency procedures, facilities, equipment, training of personnel, and overall effectiveness of the response. Defi-

ciencies found by the critiques must be corrected.

(M) Hazardous chemicals. A certification that the applicant has met its responsibilities in accordance with the Emergency Planning and Community Right-to-Know Act of 1986, Title III, Publication L. 99-499, if applicable to the applicant's activities at the proposed place of use of the byproduct material.

(4) The licensee shall allow the offsite response organizations expected to respond in case of an accident 60 days to comment on the licensee's emergency plan before submitting it to the agency. The licensee shall provide any comments received within the 60 days to the agency with the emergency plan.

(w) Appendices.

(1) Subjects to be included in training courses:

(A) fundamentals of radiation safety:

(i) characteristics of radiation;

(ii) units of radiation dose (rem) and activity of radioactivity (curie);

(iii) significance of radiation dose;

(I) radiation protection standards; and

(II) biological effects of radiation;

(iv) levels of radiation from sources of radiation;

(v) methods of controlling radiation dose;

(I) time;

(II) distance; and

(III) shielding;

(vi) radiation safety practices, including prevention of contamination and methods of decontamination; and

(vii) discussion of internal exposure pathways;

(B) radiation detection instrumentation to be used:

(i) radiation survey instruments:

(I) operation;

(II) calibration; and

(III) limitations;

(ii) survey techniques;

(iii) personnel monitoring equipment:

(I) film badges;

(II) thermoluminescent dosimeters (TLDs); and

(III) pocket dosimeters;

(C) equipment to be used:

(i) handling equipment and remote handling tools;

(ii) sources of radiation;

(iii) storage, control, disposal, and transport of equipment and sources of radiation;

(iv) operation and control of equipment; and

(v) maintenance of equipment;

(D) the requirements of pertinent federal and state regulations;

(E) the licensee's written operating, safety, and emergency procedures; and

(F) the licensee's record keeping procedures.

(2) Groups of medical uses of radioactive material.

(A) Group I.

(i) Medical uses under Group I include the use of prepared radiopharmaceuticals for certain diagnostic studies involving measurements of uptake, dilution, and excretion as follows:

(I) iodine-123, iodine-125, and iodine-131, as sodium iodide (NaI) for measurement of thyroid uptake;

(II) iodine-125 and iodine-131 as iodinated human serum albumin (IHSA) for determinations of blood and blood plasma volume and for studies of cardiovascular function and protein turnover;

(III) iodine-131 as labeled rose bengal for liver function studies;

(IV) iodine-125 and iodine-131 as labeled fats or fatty acids for fat absorption studies;

(V) iodine-125 as labeled sodium iothalamate for kidney function studies;

(VI) iodine-123 and iodine-131 as labeled sodium iodohippurate for kidney function studies;

(VII) cobalt-57, cobalt-58, and cobalt-60 as labeled cyanocobalamin for intestinal absorption studies;

(VIII) chromium-51 as sodium chromate for determination of red blood cell volume and studies of red blood cell survival time and gastrointestinal blood loss;

(IX) chromium-51 as labeled human serum albumin for gastrointestinal protein loss studies;

(X) iron-59 as citrate for iron turnover studies;

(XI) potassium-42 as chloride for potassium space determinations;

(XII) sodium-24 as chloride for sodium space determinations;

(XIII) technetium-99m as pertechnetate for blood flow studies; or

(XIV) any radioactive material contained in a pharmaceutical used for diagnostic purpose involving the measurement of uptake, dilution, or excretion for which a NDA or PLA has been approved by the FDA when the product is used in accordance with the manufacturer's product package insert for the purposes specified therein.

(ii) This group does not include uses involving imaging and tumor localizations.

(B) Group II. Medical uses under Group II include the use of prepared radiopharmaceuticals for diagnostic studies involving imaging and tumor localizations as follows:

(i) fluorine-18 in solution for bone imaging;

(ii) indium-111 as disodium pentetate for cisternography;

(iii) indium-111 as oxyquinoline (oxine) for preparation of labeled autologous leukocytes for focal inflammatory lesion imaging;

(iv) indium-113m as indium chloride for placenta localization and blood pool imaging;

(v) iodine-123, I-125, and I-131 as sodium iodide (NaI) for thyroid imaging;

(vi) iodine-125 as labeled fibrinogen (human) for use as an aid in the diagnosis of deep-vein thrombosis of the legs;

(vii) iodine-131 as iodinated human serum albumin (IHSA) for brain tumor localizations, cardiac imaging, and placenta localization;

(viii) iodine-131 as macroaggregated IHSA for lung imaging;

(ix) iodine-131 as colloidal (microaggregated) IHSA for liver imaging;

(x) iodine-131 as labeled rose bengal for liver imaging;

(xi) iodine-131 as sodium iodohippurate for kidney imaging;

(xii) chromium-51 as labeled human serum albumin for placenta localization;

(xiii) gallium-67 as citrate for tumor imaging and diagnosis of acute inflammatory lesions;

(xiv) gold-198 in colloidial form for liver imaging;

(xv) mercury-197 as labeled chlormerodrin for kidney and brain imaging;

(xvi) selenium-75 as labeled selenomethionine for pancreas imaging;

(xvii) strontium-85 as nitrate for bone imaging;

(xviii) technetium-99m as pertechnetate for brain, thyroid, salivary gland, blood pool, placenta localization, cystography, and dacryocystography;

(xix) technetium-99m as labeled sulfur colloid for liver, spleen, esophageal, and bone marrow imaging;

(xx) technetium-99m as labeled macroaggregated human serum albumin for lung imaging;

(xxi) ytterbium-169 as pentetate calcium trisodium for cisternography;

(xxii) thallium-201 as chloride for myocardial and myocardial perfusion imaging;

(xxiii) any radioactive material in a radiopharmaceutical prepared from a reagent kit listed in subparagraph (C)(iii) of this paragraph; or

(xxiv) any radioactive material contained in a pharmaceutical for diagnostic purposes involving imaging for which a NDA or PLA has been approved by the FDA when the product is used in accordance with the manufacturer's product package insert for the purposes specified therein.

(C) Group III. Medical uses under Group III include the use of generators and reagent kits for the preparation and use of radiopharmaceuticals containing radioactive material for certain diagnostic uses as follows:

(i) molybdenum-99/technetium-99m generators for the elution of technetium-99m as pertechnetate for:

(I) brain imaging;

(II) thyroid imaging;

(III) salivary gland imaging;

(IV) blood pool imaging including placenta localization;

(V) blood flow studies;

(VI) cystography,

(VII) dacryocystography; or

(VIII) use with reagent kits for preparation and use of radiopharmaceuticals containing technetium-99m as provided in clauses (iii) and (iv) of this subparagraph;

(ii) tin-113/indium-113m generators for the elution of indium-113m as chloride for:

(I) blood pool imaging;

(II) placenta localization; or

(III) use with reagent kits for preparation and use of radiopharmaceuticals containing indium-113m as provided in clause (iv) of this subparagraph;

(iii) reagent kits for preparation of technetium-99m labeled:

(I) sulfur colloid for liver, spleen, gastroesophageal, and bone marrow imaging;

(II) pentetate sodium for brain and kidney imaging and kidney function studies;

(III) human serum albumin microspheres for lung imaging and diagnosis of deep vein thrombosis of the legs;

(IV) polyphosphates for bone imaging;

(V) macroaggregated human serum albumin for lung imaging;

(VI) etidronate sodium for bone imaging;

(VII) stannous pyrophosphate for bone and cardiac imaging;

(VIII) human serum albumin for heart blood pool and pericardial imaging;

(IX) medronate sodium for bone imaging;

(X) gluceptate sodium for brain and renal perfusion imaging;

(XI) oxidronate sodium for bone imaging;

(XII) disofenin for hepatobiliary imaging;

(XIII) succimer for renal imaging, or

(XIV) albumin colloid for liver, spleen, and bone marrow imaging; or

(iv) any generator or reagent kit used for the preparation of radiopharmaceuticals for which the FDA has approved a NDA or PLA when used in accordance with the manufacturer's product package insert for the purposes specified therein.

(3) Criteria relating to use of financial tests and parent company guarantees for providing reasonable assurance of funds for decommissioning.

(A) Introduction. An applicant or licensee may provide reasonable assurance of the availability of funds for decommissioning based on obtaining a parent company guarantee that funds will be available for decommissioning costs and on a demonstration that the parent company passes a financial test. This paragraph establishes criteria for passing the financial test and for obtaining the parent company guarantee.

(B) Financial test.

(i) To pass the financial test, the parent company must meet the criteria of either subclause (I) or (II) of this clause.

(I) The parent company must have:

(-a-) two of the following three ratios:

(-1-) a ratio of total liabilities to net worth less than 2.0;

(-2-) a ratio of the sum of net income plus depreciation, depletion, and amortization to total liabilities greater than 0.1; and

(-3-) a ratio of current assets to current liabilities greater than 1 5;

(-b-) net working capital and tangible net worth each at least six times the current decommissioning cost estimates (or prescribed amount if a certification is used);

(-c-) tangible net worth of at least $10 million; and

(-d-) assets located in the United States amounting to at least 90 percent of total assets or at least six times the current decommissioning cost estimates (or prescribed amount if a certification is used.)

(II) The parent company must have:

(-a-) a current rating for its most recent bond issuance of AAA, AA, A, or BBB as issued by Standard and Poor's or Aaa, Aa, A, or Baa as issued by Moody's;

(-b-) tangible net worth at least six times the current decommissioning cost estimate (or prescribed amount if a certification is used);

(-c-) tangible net worth of at least $10 million; and

(-d-) assets located in the United States amounting to at least 90 percent of total assets or at least six times the current decommissioning cost estimates (or prescribed amount if certification is used).

(ii) The parent company's independent certified public accountant must have compared the data used by the parent company in the financial test, which is derived from the independently audited, year-end financial statements for the latest fiscal year, with the amounts in such financial statement. In connection with that procedure, the licensee shall inform the agency within 90 days of any matters coming to the auditor's attention that cause the auditor to believe that the data specified in the financial test should be adjusted and that the company no longer passes the test.

(iii) After the initial financial test, the parent company must repeat the passage of the test within 90 days after the close of each succeeding fiscal year.

(iv) If the parent company no longer meets the requirements of clause (i) of this subparagraph, the licensee must send notice to the agency of intent to establish alternate financial assurance as specified in the commission's regulations. The notice must be sent by certified mail within 90 days after the end of the fiscal year for which the year end financial data show that the parent company no longer meets the financial test requirements. The licensee must provide alternate financial assurance within 120 days after the end of such fiscal year.

(C) Parent company guarantee. The terms of a parent company guarantee that an applicant or licensee obtains must provide that:

(i) the parent company guarantee will remain in force unless the guarantor sends notice of cancellation by certified mail to the licensee and the agency. Cancellation may not occur, however, during the 120 days beginning on the date of receipt of the notice of cancellation by both the licensee and the agency, as evidenced by the return receipts;

(ii) if the licensee fails to provide alternate financial assurance as specified in the agency's regulations within 90 days after receipt by the licensee and the agency of a notice of cancellation of the parent company guarantee from the guarantor, the guarantor will provide such alternative financial assurance in the name of the licensee;

(iii) the parent company guarantee and financial test provisions must remain in effect until the agency has terminated the license; and

(iv) if a trust is established for decommissioning costs, the trustee and trust must be acceptable to the agency. An acceptable trustee includes an appropriate state or federal government agency or an entity that has the authority to act as a trustee and whose trust operations are regulated and examined by a federal or state agency.

(4) Quantities of radioactive materials requiring consideration of the need for an emergency plan for responding to a release.

Figure 5: 25 TAC §289.252(w)(4)

(5) Acceptable training and experience for medical uses of radioactive material.

(A) Training for uptake, dilution, and excretion studies.

(i) The licensee shall require the authorized user of a radiopharmaceutical listed in Group I of subsection (w)(2) of this section, to be a physician who:

(I) is certified in:

(-a-) nuclear medicine by the American Board of Nuclear Medicine (ABNM);

(-b-) diagnostic radiology or radiology by the American Board of Radiology (ABR);

(-c-) diagnostic radiology or radiology by the American Osteopathic Board of Radiology (AOBR);

(-d-) nuclear medicine by the Royal College of Physicians and Surgeons of Canada (RCPSC); or

(-e) nuclear medicine by the American Osteopathic Board of Nuclear Medicine (AOBNM); or

(II) has successfully completed classroom and laboratory training in basic radioisotope handling techniques applicable to the use of prepared radiopharmaceuticals and supervised clinical experience as follows:

(-a-) 40 hours of classroom and laboratory training that includes:

(-1-) radiation physics and instrumentation;

(-2-) radiation protection,

(-3-) mathematics pertaining to the use and measurement of radioactivity;

(-4-) radiation biology; and

(-5-) radiopharmaceutical chemistry, and

(-b-) 20 hours of supervised clinical experience under the supervision of an authorized user and that includes:

(-1-) examining patients and reviewing their case histories to determine their suitability for radioisotope diagnosis, limitations, or contraindications;

(-2-) selecting the suitable radiopharmaceuticals and calculating and measuring the dosages;

(-3-) administering dosages to patients and using syringe radiation shields;

(-4-) collaborating with the authorized user in the interpretation of radioisotope test results; and

(-5-) patient follow-up, or

(-c-) has successfully completed a six-month training program in nuclear medicine as part of a residency program that has been accredited by the Accreditation Council for Graduate Medical Education (ACGME) or the Council on Postdoctoral Training of the American Osteopathic Association (COPT-AOA) and that included classroom and laboratory training, work experience, and supervised clinical experience in all the topics identified in this subclause.

(ii) Training in all the topics identified in clause (i)(II)(-a-) of this subparagraph, which is not a part of a residency program as in clause (i)(II)(-c-) of this subparagraph, shall be obtained in an ACGME- or COPT-AOA-accredited medical teaching institution. The clinical experience described in clause (i)(II)(-b-) of this subparagraph shall be supervised by a physician licensed for the full scope of diagnostic nuclear medicine procedures or by an authorized physician in an ACGME-accredited medical teaching institution.

(iii) Notwithstanding the requirements of clauses (i) and (ii) of this subparagraph, proof of alternative training that includes the topics and hours listed in subparagraph (B)(i)(II) of this paragraph may be accepted on a case-by-case basis if the agency, after providing the Medical Committee of the Texas Radiation Advisory Board with the opportunity to review and comment, determines that the alternative training would give an equal or greater level of training to the standards in clauses (i) and (ii) of this subparagraph.

(B) Training for imaging and localization studies.

(i) The licensee shall require the authorized user of a radiopharmaceutical, generator, or reagent kit listed in Groups II and III of paragraph (2)(B) and (C) of this subsection, to be a physician who:

(I) is certified in:

(-a-) nuclear medicine by the ABNM;

(-b-) diagnostic radiology or radiology by the ABR;

(-c-) diagnostic radiology or radiology by the AOBR;

(-d-) nuclear medicine by the RCPSC; or

(-e-) nuclear medicine by the AOBNM; or

(II) has successfully completed classroom and laboratory training in basic radioisotope handling techniques applicable to the use of prepared radiopharmaceuticals, generators, and reagent kits, supervised work experience, and supervised clinical experience as follows:

(-a-) 200 hours of classroom and laboratory training that includes:

(-1-) radiation physics and instrumentation;

(-2-) radiation protection,

(-3-) mathematics pertaining to the use and measurement of radioactivity;

(-4-) radiopharmaceutical chemistry; and

(-5-) radiation biology; and

(-b-) 500 hours of supervised work experience under the supervision of an authorized user that includes:

(-1-) ordering, receiving, and unpacking radioactive materials safely and performing the related radiation surveys;

(-2-) calibrating dose calibrators and diagnostic instruments and performing checks for proper operation of survey meters;

(-3-) calculating and safely preparing patient dosages;

(-4-) using administrative controls to prevent the misadministration of byproduct material;

(-5-) using procedures to contain spilled byproduct material safely and using proper decontamination procedures; and

(-6-) eluting technetium-99m from generator systems, measuring and testing the eluate for molybdenum-99 and alumina contamination, and processing the eluate with reagent kits to prepare technetium-99m labeled radiopharmaceuticals; and

(-c-) 500 hours of supervised clinical experience under the supervision of an authorized user that includes:

(-1-) examining patients and reviewing their case histories to determine their suitability for radioisotope diagnosis, limitations, or contraindications;

(-2-) selecting the suitable radiopharmaceuticals and calculating and measuring the dosages;

(-3-) administering dosages to patients and using syringe radiation shields;

(-4-) collaborating with the authorized user in the interpretation of radioisotope test results; and

(-5-) patient follow-up; or

(-d-) has successfully completed a six-month training program in nuclear medicine as part of a

residency program that has been accredited by the ACGME or the COPT-AOA and that included classroom and laboratory training, work experience, and supervised clinical experience in all the topics identified in this subclause.

(ii) Training in all the topics identified in clause (i)(II)(-a-) of this subparagraph, which is not a part of a residency program as in clause (i)(II)(-d-) of this subparagraph, shall be obtained in a medical teaching institution that provides appropriate training programs that have been accredited by the ACGME or the COPT-AOA. The work and clinical experience described in clause (i)(II)(-b-) and (-c-) of this subparagraph shall be supervised by a physician licensed for the full scope of diagnostic nuclear medicine procedures or by a licensed authorized physician in a medical institution that also provides appropriate training programs that have been accredited by the ACGME or the COPT-AOA. The experience in clause (i)(II)(-b-) and (-c-) of this subparagraph may be obtained concurrently.

(iii) Classroom and laboratory training identified in clause (i)(II) (-a-) of this subparagraph that was initiated before (the effective date of this rule) and completed by (two years from the effective date of the rule) will be accepted if it is obtained in an accredited medical school, a federal teaching hospital, or a training program for medical use of radioactive material that has been accepted by the agency, the commission, or another agreement state.

(iv) Notwithstanding the requirements of clauses (i) and (ii) of this subparagraph, proof of alternative training that includes the topics and hours listed in clause (i)(II) of this subparagraph may be accepted on a case-by-case basis if the agency, after providing the Medical Committee of the Texas Radiation Advisory Board with the opportunity to review and comment, determines that the alternative training would give an equal or greater level of training to the standards in clauses (i) and (ii) of this subparagraph.

(C) Training for the therapeutic use of radiopharmaceuticals

(i) The licensee shall require the authorized user of radiopharmaceuticals for therapeutic use to be a physician who:

(I) is certified in:

(-a-) nuclear medicine by the ABNM;

(-b-) radiology or therapeutic radiology by the ABR;

(-c-) therapeutic radiology or radiology by the AOBR;

(-d-) nuclear medicine by the RCPSC; or

(-e-) nuclear medicine by the AOBNM; or

(II) has classroom and laboratory training in basic radioisotope handling techniques applicable to the use of therapeutic radiopharmaceuticals and supervised clinical experience as follows:

(-a-) 80 hours of classroom and laboratory training that includes.

(-1-) radiation physics and instrumentation;

(-2-) radiation protection;

(-3-) mathematics pertaining to the use and measurement of radioactivity; and

(-4-) radiation biology; and

(-b-) supervised clinical experience under the supervision of an authorized physician user for the type of therapy authorization requested from the following list:

(-1-) use of iodine-131 for diagnosis of thyroid function and the treatment of hyperthyroidism in 10 individuals;

(-2-) use of iodine-131 for treatment of thyroid carcinoma in three individuals;

(-3-) use of colloidal phosphorus-32 for intracavitary treatment in three patients;

(-4-) use of phosphorus-32 for treatment of polycythemia vera, leukemia and/or bone metastasis in three patients;

(-5-) use of colloidal gold-198 for intracavitary treatment in three patients; or

(-6-) use of radiopharmaceuticals not listed in subitems (-1-) through (-5-) of this item for therapeutic treatment in three patients; or

(-7-) has successfully completed a six-month training program in nuclear medicine as part of a residency program that has been accredited by the ACGME or the COPT-AOA and that included classroom and laboratory training, work experience and supervised clinical experience in all the topics identified in this subclause.

(ii) Training in all the topics identified in clause (i)(II) of this subparagraph, which is not a part of a residency program as in clause (i) (II)(-b-) of this subparagraph, shall be obtained in a medical teaching institution accredited by the ACCME or the COPT-AOA.

(D) Training for use of brachytherapy sources (except for beta applicators-See subparagraph (E) of this paragraph).

(i) The licensee shall require the authorized user of a brachytherapy source to be a physician who.

(I) is certified in

(-a-) therapeutic radiology, radiation oncology, or radiology by the ABR; or

(-b-) therapeutic radiology, radiation oncology, or radiology by the AOBR; or

(-c-) radiology with specialization in radiotherapy, as a British "Fellow of the Faculty of Radiology" or "Fellow of the Royal College of Radiology"; or

(-d-) therapeutic radiology by the Canadian Royal College of Physicians and Surgeons; or

(II) is in the active practice of therapeutic radiology, has had classroom training in radioisotope handling techniques applicable to the therapeutic use of brachytherapy sources, and supervised clinical experience as follows:

(-a-) 200 hours of classroom and laboratory training that includes:

(-1-) radiation physics and instrumentation;

(-2-) radiation protection;

(-3-) mathematics pertaining to the use and measurement of radioactivity; and

(-4-) radiation biology; and

(-b-) 500 hours of supervised work experience under the supervision of an authorized user at a medical institution that includes:

(-1-) ordering, receiving, and unpacking radioactive materials safely and performing the related radiation surveys;

(-2-) checking survey meters for proper operation;

(-3-) preparing, implanting, and removing sealed sources;

(-4) maintaining running inventories of material on hand;

(-5-) using administrative controls to prevent the misadministration of byproduct material; and

(-6-) using emergency procedures to control byproduct material; and

(-c-) three years of supervised clinical experience that includes one year in a formal training program approved by the Residency Review Committee for Radiology of the ACGME or the COPT-AOA, and an additional two years of clinical experience in therapeutic radiology under the supervision of an authorized user at a medical institution that includes:

(-1-) examining individuals and reviewing their case histories to determine their suitability for brachytherapy treatment, and any limitations or contraindications;

(-2-) selecting the proper brachytherapy sources and dose and method of administration;

(-3-) calculating the dose; and

(-4-) post-administration follow-up and review of case histories in collaboration with the authorized user.

(ii) Training in all the topics identified in clause (i)(II)(-a-) this subparagraph shall be accredited by the ACGME or the COPT-AOA. The clinical experience described in clause (i)(II)(-b-) and (-c-) of this subparagraph should be supervised by a physician licensed to use brachytherapy sources. The experience in clause (i)(II)(-b-) and (-c-) of this subparagraph may be obtained concurrently.

(E) Training for ophthalmic use of strontium-90.

(i) The licensee shall require the authorized user of only strontium-90 for ophthalmic radiotherapy to be a physician who:

(I) is certified in:

(-a-) therapeutic radiology, radiation oncology, or radiology by the ABR;

(-b-) therapeutic radiology, radiation oncology, or radiology by the AOBR;

(-c-) radiology with specialization in radiotherapy, as a British "Fellow of the Faculty of Radiology" or "Fellow of the Royal College of Radiology"; or

(-d-) therapeutic radiology by the Canadian Royal College of Physicians and Surgeons; or

(II) is in the active practice of therapeutic radiology or ophthalmology, and has had classroom and laboratory training in basic radioisotope handling techniques applicable to the use of strontium-90 for ophthalmic radiotherapy, and a period of supervised clinical training in ophthalmic radiotherapy as follows:

(-a-) 24 hours of classroom and laboratory training that includes:

(-1-) radiation physics and instrumentation;

(-2-) radiation protection;

(-3) mathematics pertaining to the use and measurement of radioactivity; and

(-4-) radiation biology; and

(-b-) supervised clinical training in ophthalmic radiotherapy under the supervision of an authorized user at a medical institution that includes the use of strontium-90 for the ophthalmic treatment of five individuals that includes:

(-1) examination of each individual to be treated;

(-2-) calculation of the dose to be administered;

(-3) administration of the dose; and

(-4-) follow-up and review of each individual's case history.

(ii) Training in all the topics identified in clause (i)(II)(-a-) of this subparagraph shall be obtained in a medical teaching institution or shall be accredited by the ACGME or the COPT-AOA. The clinical experience described in clause (i)(II)(-b-) of this subparagraph shall be supervised by a physician licensed for the use of sealed sources in therapy.

(F) Training for use of sealed sources for diagnosis.

(i) The licensee shall require the authorized user of a sealed source in the devices listed in clause (ii) of this subparagraph, to be a physician, dentist, or podiatrist who:

(I) is certified in:

(-a-) therapeutic radiology, diagnostic radiology, radiation oncology, or radiology by the ABR;

(-b-) nuclear medicine by the ABNM;

(-c-) diagnostic radiology or radiology by the AOBR;

(-d-) nuclear medicine by the RCPSC; or

(-e-) nuclear medicine by the AOBNM; or

(II) has had eight hours of classroom and laboratory training in radioisotope handling techniques specifically applicable to the use of the device that includes:

(-a-) radiation physics, mathematics pertaining to the use and measurement of radioactivity, and instrumentation;

(-b-) radiation biology;

(-c-) radiation protection; and

(-d-) training in the use of the device for the uses requested.

(ii) The following sealed sources shall be used in accordance with the

manufacturer's radiation safety and handling instructions:

(I) iodine-125, americium-241, or gadolinium-153 as a sealed source in a device for bone mineral analysis, and

(II) iodine-125 as a sealed source in a portable imaging device

(iii) Training in all the topics identified in clause (i)(II) of this subparagraph shall be obtained in a medical teaching institution or shall be accredited by the ACGME or the COPT-AOA The clinical experience shall be supervised by a physician, dentist, or podiatrist licensed to use the devices

(G) Training for teletherapy

(i) The licensee shall require the authorized user of a sealed source in a teletherapy unit to be a physician who

(I) is certified in

(-a-) therapeutic radiology, radiation oncology, or radiology by the ABR;

(-b-) therapeutic radiology, radiation oncology, or radiology by the AOBR;

(-c-) radiology with specialization in radiotherapy, as a British "Fellow of the Faculty of Radiology" or "Fellow of the Royal College of Radiology"; or

(-d-) therapeutic radiology by the Canadian Royal College of Physicians and Surgeons, or

(II) is in the active practice of therapeutic radiology, and has had classroom and laboratory training in basic radioisotope techniques applicable to the use of a sealed source in a teletherapy unit, supervised work experience, and supervised clinical experience as follows

(-a-) 200 hours of classroom and laboratory training that includes:

(-1-) radiation physics and instrumentation,

(-2-) radiation protection,

(-3-) mathematics pertaining to the use and measurement of radioactivity; and

(-4-) radiation biology; and

(-b-) 500 hours of supervised work experience under the supervision of an authorized user at a medical institution that includes

(-1-) review of the full calibration measurements and periodic spot checks,

(-2-) preparing treatment plans and calculating treatment times,

(-3-) using administrative controls to prevent misadministration,

(-4-) implementing emergency procedures to be followed in the event of the abnormal operation of a teletherapy unit or console; and

(-5-) checking and using survey meters, and

(-c-) three years of supervised clinical experience that includes one year in a formal training program accredited by the ACGME or the COPT-AOA and an additional two years of clinical experience in therapeutic radiology under the supervision of an authorized user at a medical institution that includes:

(-1-) examining individuals and reviewing their case histories to determine their suitability for teletherapy treatment, and any limitations or contraindications;

(-2-) selecting the proper dose and how it is to be administered;

(-3-) calculating the therapy doses and collaborating with the authorized user in the review of patients' progress and consideration of the need to modify originally prescribed doses as warranted by patients' reaction to radiation, and

(-4-) post-administration follow-up and review of case histories

(ii) Training in all the topics identified in clause (i)(II)(-a-) of this subparagraph shall be accredited by the ACGME or the COPT-AOA. The clinical experience described in clause (i)(II)(-b-) and (-c-) of this subparagraph shall be supervised by a physician licensed for teletherapy procedures The experience in clause (i)(II)(-b-) and (-c-) of this subparagraph may be obtained concurrently

(II) Training for experienced authorized users Physicians, dentists, or podiatrists identified as authorized users for the medical, dental, or podiatric use of radioactive material on a commission or agreement state license issued before September 1, 1993 and those issued by the agency before (the effective date of this section) who perform only those methods of use for which they were authorized on that date need not comply with the training requirements in this paragraph

(I) Recentness of training

(i) The training and experience specified in this paragraph must have been obtained within the five years preceding the date of application or the individual must have had related continuing education and experience since the required training and experience was completed

(ii) If active board certification required by this paragraph does not include continuing education and experience, the individual must have had related continuing education and experience since the board certification was obtained

(6) Isotope quantities (For use in subsection (u) of this section)
Figure 6: 25 TAC §289.252(w)(6)

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

Issued in Austin, Texas, on August 9, 1995

TRD-9510250 Susan K. Steeg
General Counsel
Texas Department of Health

Effective date October 1, 1995

Proposal publication date April 18, 1995

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

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The Texas Department of Health (department) adopts the repeal of existing §289.128 and the new §289.251, concerning exemptions, general licenses, and general license acknowledgements. New §289.251 is adopted with changes to the proposed text as published in the April 21, 1995, issue of the *Texas Register* (20 TexReg 2983) The repeal is adopted as proposed

The new section incorporates language from Part 40 titled "Exemptions, General Licenses, and General License Acknowledgements," of the Texas Regulations of Radiation Control (TRCR) which was adopted by reference in §189.128 and which is now being repealed

In addition to incorporating existing language into the new section, requirements were added to include requirements for general licensees and general license acknowledgement holders to report to the department incidents involving events that prevent immediate protective actions necessary to avoid exposures to or releases of radioactive materials that could exceed regulatory limits (events may include fires, explosions, toxic gas releases, etc.). The section was clarified to indicate which manufacturers of generally-licensed devices must be specifically licensed by the United States Nuclear Regulatory Commission (NRC) and which may be specifically licensed by the NRC, an agreement state, or a licensing state; and it also specifies the type of licensee to which a generally-licensed device may be transferred Also, the section was further clarified to require that tests for leakage of radioactive material and proper operation of the "on-off" mechanism and indicator must be performed in accordance with instructions provided by the labels or by a person specifically licensed to perform such test. These additional requirements are items of compatibility with the NRC, and as an agreement state, Texas must adopt them

The following is a summary of all changes made tothe proposed rules.

In subsection (e), a reference to "21.1201(d) of Texas Regulations for Control of Radiation (TRCR) as adopted by reference in §289.113 of this title (relating to Standards for Protection Against Radiation)" was added because this requirement is also applicable to general licenses. The references to "21.902 through 21 906 of TRCR Part 21 as adopted by reference in §289 113 of this title" and "subsection (j)" were deleted in subsection (i). In subsection (g)(1)(C)(iii), wording was added to clarify that the tests required by subsection (g)(1)(C)(ii) may also be performed "in accordance with written instructions provided by the manufacturer as specified in new §289. 252(h)(4)(C)." A new clause was added to subsection (g)(1)(C) to ensure that the written instructions provided for in the new subsection (g)(1)(C)(iii)(II) are to be followed and maintained for inspection by the department The footnote to Figure 1 in subsection (g)(4)(C)(ii)(I) was inadvertently omitted from the published version of the proposed section and is included in the final section with no changes The word "specific" was deleted from subsection (g)(4)(C)(iii) as it was used to describe "person" because it was inaccurate. In subsection (i), references to "21.1201(d) and 21.1202(c) and (d) of TRCR Part 21 as adopted by reference in §289.113 of this title" were added because these requirements are also applicable to general license acknowledgement holders. Wording was parenthetically added to subsection (j)(1) (E)(iii) to clarify that installation means the removal of the manufacturer's lock and initial alignment of the radiation beam. Language in subsection (j)(1) (D) was deleted and replaced with the words, "Each application shall be accompanied by TRC Form 12-2." to more accurately reflect the intent of the section and the contents of TRC Form 12-2. In subsection (j)(1)(E)(iii), wording was added to clarify that the tests required by subsection (j)(1)(E) (ii) may also be performed in accordance with written instructions provided by the manufacturer as specified in new §289.252(h)(4)(C) Wording was added to subsection (j)(1)(E)(x) to clarify that devices containing radioactive material are to be transferred or disposed of by transfer to a person holding a specific license issued by the commission, an agreement state, or a licensing state that is equivalent to the specific license issued by the department pursuant to new §289.252(h)(4)(C). Wording was also added to subsection (j)(1)(E)(x) to clarify that when the device is temporarily transferred to the specific licensee for repair, the referenced report is not required. A new subsection (j)(1)(G) was added to ensure that the written instructions provided for in the new subsection (j)(1)(E)(iii) are to be followed and maintained for inspection by the department. Language in subsection (j)(2)(B)(v) was deleted and replaced with ".. TRC Form 12-2." to more accurately reflect the intent of the section and the contents of the TRC Form 12-2. In subsection (m)(2), the wording was changed from "...authorized under the general license acknowledgement " to "...specified in the general license acknowledgement." to more accurately reflect the intent of the rule. In subsection (o)(2), the wording "...and the grounds for such amendment." was deleted because it was redundant.

The following is a comment made concerning the proposed section and the department's response to that comment.

Comment. A commenter stated that subsections (e) and (i) state that general licensees and general license acknowledgement holders are subject to the requirements of new §289.252(r) concerning notification of incidents and noted that these requirements are different than what is required in 21.1202 of TRCR Part 21 as adopted by reference in §289.113 concerning notification of incidents. The commenter stated that to have two reporting procedures in the same chapter that are stated differently could cause confusion as to what is required and suggested that the two requirements read the same or only be referenced once (see subsections (e) and (i)).

Response. New §289.252(r) and §21.1202 of TRCR Part 21 as adopted by reference in §289.113 refer to different types of incidents, and therefore have different reporting requirements. TRCR 21.1202 refers to incidents in which an individual receives a dose in excess of the stated limits or a release of radioactive material such that, if an individual were present, that individual could receive a dose in excess of the stated limits. The incidents referred to in new §289.252(r) are unplanned contamination events, equipment failures, fire, explosion, etc. and these are required to be reported under certain stated conditions. The department made no change to the section as a result of the comment.

The commenter was a representative from Ludlum Measurements, Inc. in Sweetwater. The commenter was in favor of the amendments, however, he presented a comment and suggestion for changes to the proposed amendments as discussed in the summary of comments.

• 25 TAC §289.128

The repeal is adopted under the Health and Safety Code, Chapter 401, which provides the Texas Board of Health with authority to adopt rules and guidelines relating to the control of radiation; and §12 001, 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.

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

Issued in Austin, Texas, on August 9, 1995.

TRD-9510249 Susan K. Steeg
General Counsel
Texas Department of Health

Effective date: October 1, 1995

Proposal publication date: April 21, 1995

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

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• 25 TAC §289.251

The new section is adopted under the Health and Safety Code, Chapter 401, which provides the Texas Board of Health with authority to adopt rules and guidelines relating to the control of radiation; and §12 001, 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.

§289.251. Exemptions, General Licenses, and General License Acknowledgements.

(a) Scope and purpose. This section provides for exemptions to licensing requirements, general licensing of radioactive material, and acknowledgement of general licenses. Except as otherwise authorized, no person shall receive, possess, use, transfer, own, or acquire radioactive material except as authorized in a general license or general license acknowledgement issued in accordance with this section, or in a specific license issued in accordance with §289.115 of this title (relating to Radiation Safety Requirements and Licensing and Registration Procedures for Industrial Radiography), §289.127 of this title (relating to Licensing of Naturally Occurring Radioactive Material (NORM)), §289.252 of this title (relating to Licensing of Radioactive Material), or §289.254 of this title (relating to Licensing of Radioactive Waste Processing and Storage Facilities).

(b) Definitions. The following terms when used in this chapter shall have the following meanings, unless the text clearly indicates otherwise.

(1) General license–An authorization granted in accordance with this section. General licenses provided in this section are effective without the filing of applications with the agency or the issuance of licensing documents to the particular per-

sons. The general licensee is subject to all other applicable portions of this chapter and any limitations of the general license.

(2) General license acknowledgement–A written recognition of a general license issued in accordance with this section. General license acknowledgements require the submission of an application to the agency and the issuance of a written acknowledgement of a general license granted in accordance with this section. The holder of a general license acknowledgement is subject to all other applicable portions of this chapter as well as any limitations specified in the acknowledgement document.

(c) Exemptions for source material.

(1) Any person is exempt from this section and §289.252 of this title if that person receives, possesses, uses, or transfers source material in any chemical mixture, compound, solution, or alloy in which the source material is by weight less than 1/20 of 1.0% (0.05%) of the mixture, compound, solution, or alloy.

(2) Any person is exempt from this section and §289.252 of this title if that person receives, possesses, uses, or transfers unrefined and unprocessed ore containing source material; provided that, except as authorized in a specific license, such person shall not refine or process such ore. This exemption does not apply to the mining of ore containing source material.

(3) Any person is exempt from this section and §289.252 of this title if that person receives, possesses, uses, or transfers:

(A) any quantities of thorium contained in:

(i) incandescent gas mantles;

(ii) vacuum tubes;

(iii) welding rods;

(iv) electric lamps for illuminating purposes provided that each lamp does not contain more than 50 milligrams of thorium;

(v) germicidal lamps, sunlamps, and lamps for outdoor or industrial lighting provided that each lamp does not contain more than two grams of thorium;

(vi) rare earth metals and compounds, mixtures, and products containing not more than 0.25% by weight thorium, uranium, or any combination of these; or

(vii) personnel neutron dosimeters, provided that each dosimeter does not contain more than 50 milligrams of thorium;

(B) source material contained in the following products:

(i) glazed ceramic tableware, provided that the glaze contains not more than 20% by weight source material;

(ii) glassware containing not more than 10% by weight source material, but not including commercially manufactured glass brick, pane glass, ceramic tile, or other glass or ceramic used in construction;

(iii) glass enamel or glass enamel frit containing not more than 10% by weight source material imported or ordered for importation into the United States, or initially distributed by manufacturers in the United States, before July 25, 1983; or

(iv) piezoelectric ceramic containing not more than 2.0% by weight source material;

(C) photographic film, negatives, and prints containing uranium or thorium;

(D) any finished product or part fabricated of, or containing, metal-thorium alloys, provided that the thorium content of the alloy does not exceed 4.0% by weight and that the exemption contained in this subparagraph shall not be deemed to authorize the chemical, physical, or metallurgical treatment or processing of any such product or part;

(E) depleted uranium contained in counterweights installed in aircraft, rockets, projectiles, and missiles, or stored or handled in connection with installation or removal of such counterweights, provided that:

(i) the counterweights are manufactured in accordance with a specific license issued by the commission authorizing distribution by the licensee in accordance with 10 Code of Federal Regulations (CFR) Part 40;

(ii) each counterweight has been impressed with the following legend clearly legible through any plating or other covering: "DEPLETED URANIUM." (The requirements specified in this clause need not be met by counterweights manufactured prior to December 31, 1969, provided that such counterweights are impressed with the legend, "CAUTION-RADIOACTIVE MATERIAL-URANIUM," as previously required by this chapter);

(iii) each counterweight is durably and legibly labeled or marked with the identification of the manufacturer and the statement: "UNAUTHORIZED ALTERATIONS PROHIBITED." (The requirements specified in this clause need not be met by counterweights manufactured prior to December 31, 1969, provided that such counterweights are impressed with the legend, "CAUTION-RADIOACTIVE MATERIAL-URANIUM," as previously required by this chapter); and

(iv) the exemption contained in this subparagraph shall not be deemed to authorize the chemical, physical, or metallurgical treatment or processing of any such counterweights other than repair or restoration of any plating, covering, or labeling;

(F) depleted uranium used as shielding constituting part of any shipping container, provided that:

(i) the shipping container is conspicuously and legibly impressed with the legend "CAUTION-RADIOACTIVE SHIELDING-URANIUM;" and

(ii) the uranium metal is encased in a one-eighth inch minimum wall thickness of mild steel or equally fire resistant material;

(G) thorium contained in finished optical lenses, provided that each lens does not contain more than 30% by weight of thorium, and that the exemption contained in this subparagraph shall not be deemed to authorize either:

(i) the shaping, grinding, or polishing of such lens or manufacturing processes other than the assembly of such lens into optical systems and devices without any alteration of the lens; or

(ii) the receipt, possession, use, or transfer of thorium contained in contact lenses, or in spectacles, or in eyepieces in binoculars or in other optical instruments;

(H) uranium contained in detector heads for use in fire detection units, provided that each detector head contains not more than 0.005 microcurie of uranium; or

(I) thorium contained in any finished aircraft engine part containing nickel-thoria alloy, provided that:

(i) the thorium is dispersed in the nickel-thoria alloy in the form of finely divided thoria (thorium dioxide); and

(ii) the thorium content in the nickel-thoria alloy does not exceed 4.0% by weight.

(4) The exemptions in paragraph (3) of this subsection do not authorize the manufacture of any of the products described.

(d) Exemptions for radioactive material other than source material.

(1) Exempt concentrations.

(A) Except as provided in subparagraph (B) of this paragraph, any person is exempt from this section and §289.252 of this title if that person receives, possesses, uses, transfers, or acquires products or materials containing radioactive material, and the concentration of that material does not exceed the applicable value specified in subsection (q)(1) of this section.

(B) No person may introduce radioactive material into a product or material, including waste, knowing or having reason to believe that it will be transferred to persons exempt in accordance with subparagraph (A) of this paragraph or equivalent regulations of the commission, any agreement state, or any licensing state, except in accordance with a specific license issued in accordance with §289.252(h)(1) of this title or the general license provided in §289.252(s) of this title.

(2) Exempt quantities.

(A) Except as provided in subparagraph (C) of this paragraph, any person is exempt from these rules if that person receives, possesses, uses, transfers, or acquires radioactive material in individual quantities, each of which does not exceed the applicable quantity set forth in subsection (q)(2) of this section.

(B) Any person who possesses radioactive material received or acquired in accordance with the general license provided in subsection (g)(1)(B) of this section is exempt from the requirements for a license set forth in §289.252 of this title if that person possesses, uses, or transfers such radioactive material.

(C) This paragraph does not authorize the production, packaging, or repackaging of radioactive material for purposes of commercial distribution, or the incorporation of radioactive material into products intended for commercial distribution.

(D) No person may, for purposes of commercial distribution, transfer radioactive material in quantities greater than the individual quantities set forth in subsection (q)(2) of this section, knowing or having reason to believe that such quantities of radioactive material will be transferred to persons exempt in accordance with this paragraph or equivalent regulations of the commission, any agreement state, or any licensing state, except in accordance with a specific license issued by the commission in accordance with 10 CFR 32.18 or by the agency in accordance with §289.252(h)(2) of this title, which states that the radioactive material may be transferred by the licensee to persons exempt in accordance with this paragraph or the equivalent regulations of the commission, any agreement state, or any licensing state.

(E) The schedule of quantities set forth in subsection (q)(2) of this section applies only to radioactive materials distributed as exempt quantities in accordance with a specific license issued by the agency, another licensing state, or the commission. Subsection (q)(2) of this section does not apply to radioactive materials that have decayed from quantities not originally exempt and does not make such material, or the sources or devices in which the material is contained, exempt from the licensing requirements in this section or §289.252 of this title.

(3) Exempt items.

(A) Certain items containing radioactive material.

(i) Except for persons who apply radioactive material to, or persons who incorporate radioactive material into the following products, any person is exempt from this chapter if that person receives, possesses, uses, transfers, or acquires the following products.

(I) timepieces, hands, or dials containing not more than the following specified quantities of radioactive material and not exceeding the following specified levels of radiation:

(-a-) 25 millicuries of tritium per timepiece;

(-b-) five millicuries of tritium per hand;

(-c-) 15 millicuries of tritium per dial (bezels when used shall be considered as part of the dial);

(-d-) 100 microcuries of promethium-147 per watch or 200 microcuries of promethium-147 per any other timepiece;

(-e-) 20 microcuries of promethium-147 per watch hand or 40 microcuries of promethium-147 per other timepiece hand;

(-f-) 60 microcuries of promethium-147 per watch dial or 120 microcuries of promethium-147 per other timepiece dial (bezels when used shall be considered as part of the dial);

(-g-) the levels of radiation from hands and dials containing promethium-147 will not exceed, when measured through 50 milligrams per square centimeter of absorber:

(-1-) for wrist watches, 0.1 millirad per hour at ten centimeters from any surface,

(-2-) for pocket watches, 0.1 millirad per hour at one centimeter from any surface, and

(-3-) for any other timepiece, 0.2 millirad per hour at ten centimeters from any surface, or

(-h-) one microcurie of radium-226 per timepiece in timepieces, hands, or dials manufactured or initially distributed prior to January 1, 1986;

(II) lock illuminators containing not more than 15 millicuries of tritium or not more than 2 millicuries of promethium-147 installed in automobile locks. The levels of radiation from each lock illuminator containing promethium-147 will not exceed one millirad per hour at one centimeter from any surface when measured through 50 milligrams per square centimeter of absorber,

(III) balances of precision containing not more than one millicurie of tritium per balance or not more than 0.5 millicurie of tritium per balance part;

(IV) automobile shift quadrants containing not more than 25 millicuries of tritium;

(V) marine compasses containing not more than 750 millicuries of tritium gas and other marine navigational instruments containing not more than 250 millicuries of tritium gas;

(VI) thermostat dials and pointers containing not more than 25 millicuries of tritium per thermostat;

(VII) electron tubes, provided that each tube does not contain more than one of the following specified quantities of radioactive material and that the levels of radiation from each electron tube containing byproduct material do not exceed one millirad per hour at one centimeter from any surface when measured

through seven milligrams per square centimeter of absorber: (For purposes of this clause, "electron tubes" include spark gap tubes, power tubes, gas tubes including glow lamps, receiving tubes, microwave tubes, indicator tubes, pick-up tubes, radiation detection tubes, and any other completely sealed tube designed to control electrical currents):

(-a-) 150 millicuries of tritium per microwave receiver protector tube or ten millicuries of tritium per any other electron tube;

(-b-) one microcurie of cobalt-60;

(-c-) five microcuries of nickel-63;

(-d-) 30 microcuries of krypton-85;

(-e-) five microcuries of cesium-137; or

(-f-) 30 microcuries of promethium-147;

(VIII) ionizing radiation measuring instruments containing, for purposes of internal calibration or standardization, a source of radioactive material not exceeding the applicable quantity set forth in subsection (q)(2) of this section or 0.05 microcurie of americium-241; or

(IX) spark gap irradiators containing not more than one microcurie of cobalt-60 per spark gap irradiator for use in electrically ignited fuel oil burners having a firing rate of at least three gallons per hour.

(ii) Authority to transfer possession or control by the manufacturer, processor, or producer of any equipment, device, commodity, or other product containing source material or byproduct material whose subsequent possession, use, transfer, and disposal by all other persons are exempted from regulatory requirements may be obtained only from the United States Nuclear Regulatory Commission, Washington, DC 20555.)

(B) Self-luminous products containing tritium, krypton-85, promethium-147, or radium-226.

(i) Except for persons who manufacture, process, or produce self-luminous products containing tritium, krypton-85, or promethium-147, any person is exempt from this chapter if that person receives, possesses, uses, transfers, owns, or acquires tritium, krypton-85, or promethium-147 in self-luminous products manufactured, processed, produced, imported, or transferred in accordance with a specific license issued by the commission in accordance with 10 CFR 32.22, which authorizes the transfer of the product to persons who are exempt from regulatory requirements. The exemption in this subparagraph does not apply to tritium, krypton-85, or promethium-147 used in products for frivolous purposes or in toys or adornments.

(ii) Any person is exempt from this chapter if that person receives, possesses, uses, transfers, or owns articles acquired prior to January 1, 1986, each of which contains less than 0.1 microcurie of radium-226.

(C) Gas and aerosol detectors containing radioactive material.

(i) Except for persons who manufacture, process, or produce gas and aerosol detectors containing radioactive material, any person is exempt from this chapter if that person receives, possesses, uses, transfers, owns, or acquires radioactive material in gas and aerosol detectors designed to protect life or property from fires and airborne hazards provided that:

(I) detectors containing radioactive material shall have been manufactured, imported, or transferred in accordance with a specific license issued by the commission in accordance with 10 CFR 32.26, or an agreement state or a licensing state in accordance with §289.252(h)(3) of this title; and

(II) the specific license issued in accordance with §289.252 of this title authorizes the transfer of the detectors to persons who are exempt from regulatory requirements.

(ii) Authority to transfer possession or control by the manufacturer, processor, or producer of any equipment, device, commodity, or other product containing source material or byproduct material whose subsequent possession, use, transfer, and disposal by all other persons are exempted from regulatory requirements may be obtained only from the United States Nuclear Regulatory Commission, Washington, DC 20555.

(iii) Gas and aerosol detectors previously manufactured and distributed to general licensees in accordance with a specific license issued by an agreement state or a licensing state shall be considered exempt in accordance with clause (i) of this subparagraph, provided that the devices are labeled in accordance with the specific license authorizing distribution of the generally licensed device, and provided further that they meet the requirements of §289.252 of this title.

(D) Resins containing scandium-46 and designed for sand consolidation in oil wells. Any person is exempt from this chapter if that person receives, possesses, uses, transfers, or acquires synthetic plastic resins containing scandium-46, which are designed for sand consolidation in oil wells. Such resins shall have been manufactured or imported in accordance with a specific license issued by the commission, or shall have been manufactured in accordance with the specifications contained in a specific license issued by the agency or any agreement state to the manufacturer of such resins in accordance with licensing requirements equivalent to those in 10 CFR 32.16 and 32.17. This exemption does not authorize the manufacture of any resins containing scandium-46.

(e) General licenses. In addition to the requirements of this section, all general licenses, unless otherwise specified, are subject to the requirements of §289.112 of this title (relating to Hearing and Enforcement Procedures), §289.126 of this title (relating to Fees for Certificates of Registration, Radioactive Material(s) Licenses, Emergency Planning and Implementation, and Other Regulatory Services), and §289.201 of this title (relating to General Provisions), 21.1201(a), (b), (c), and (d) of Texas Regulations for Control of Radiation (TRCR) as adopted by reference in §289.113 of this title (relating to Standards for Protection Against Radiation), and §289.252(r) of this title.

(f) General licenses for source material.

(1) A general license is hereby issued authorizing commercial and industrial firms, research, educational and medical institutions, and state and local government agencies to use and transfer not more than 15 pounds of source material at any one time for research, development, educational, commercial, or operational purposes. A person authorized to use or transfer source material, in accordance with this general license, may not possess more than a total of 150 pounds of source material in any one calendar year.

(2) Persons who receive, possess, use, or transfer source material in accordance with the general license in paragraph (1) of this subsection are prohibited from administering source material, or the radiation therefrom, either externally or internally, to humans except as may be authorized by the agency in a specific license.

(3) A general license is hereby issued to own source material without regard to quantity. This general license does not authorize any person to receive, possess, use, or transfer source material.

(4) A general license is hereby issued to mine, transport, and transfer ores containing source material without regard to quantity. Notwithstanding the provisions of subsection (e) of this section, persons who mine, transport, and transfer ores containing source material in accordance with this part shall also comply with the provisions of 21.301, 12 1001, and 21.1003 of TRCR Part 21 as adopted by reference in §289.113 of this title

(5) A general license is hereby issued to receive, acquire, possess, use, or transfer depleted uranium contained in products or devices for the purpose of providing shielding, including beam shaping and collimation, in accordance with the provisions of subparagraphs (A), (B), (C), and (D) of this paragraph

(A) The general license in this paragraph applies only to products or devices that have been manufactured either in accordance with a specific license issued by the agency to the manufacturer of the products or devices in accordance with §289 252(h)(12) of this title or in accordance with a specific license issued to the manufacturer by another agreement state or the commission that authorizes manufacture of the products or devices for distribution to persons generally licensed by another agreement state or the commission.

(B) Persons who receive, acquire, possess, or use depleted uranium in accordance with the general license in this paragraph shall notify the agency within 30 days after the first receipt of acquisition of such depleted uranium. The general licensee shall furnish the following information and such other information as may be required by the agency·

(i) name and address of the general licensee;

(ii) a statement that the general licensee has developed and will maintain procedures designed to establish physical control over the depleted uranium in accordance with this paragraph and designed to prevent transfer of such depleted uranium in any form, including metal scrap, to persons not authorized to receive the depleted uranium; and

(iii) name and/or title, address, and telephone number of the individual duly authorized to act for and on behalf of the general licensee in supervising the procedures identified in clause (ii) of this subparagraph.

(C) The general licensee possessing or using depleted uranium in accordance with the general license in this paragraph shall report in writing to the agency any changes in information furnished by the general licensee. The report shall be submitted within 30 days after the effective date of such change.

(D) A person who receives, acquires, possesses, or uses depleted uranium in accordance with the general license in this paragraph·

(i) shall not introduce such depleted uranium, in any form, into a chemical, physical, or metallurgical treatment or process, except a treatment or process for repair or restoration of any plating or other covering of the depleted uranium;

(ii) shall not abandon such depleted uranium;

(iii) shall transfer or dispose of such depleted uranium only in accordance with the provisions of §289.252(p) of this title. In the case where the transferee receives the depleted uranium in accordance with the general license in this paragraph or equivalent rule of the commission or an agreement state, the transferor shall furnish the transferee a copy of this paragraph;

(iv) in each calendar quarter, shall report in writing to the agency the name and address of the person receiving the depleted uranium in accordance with such transfer; and

(v) shall not export such depleted uranium except in accordance with a license issued by the commission in accordance with 10 CFR Part 110.

(E) Any person receiving, acquiring, possessing, using, or transferring depleted uranium in accordance with the general license in this paragraph is exempt from the requirements of §289.113 of this title (relating to Standards for Protection Against Radiation) and §289.114 of this title with respect to the depleted uranium covered by that general license.

(g) General licenses for radioactive material other than source material.

(1) Certain devices and equipment. A general license is hereby issued to transfer, receive, acquire, possess, and use radioactive material incorporated in the devices or equipment specified in subparagraphs (A) and (B) of this paragraph that have been manufactured, tested, and labeled by the manufacturer in accordance with a specific license issued to the manufacturer by the commission authorizing distribution in accordance with this general license or its equivalent. A general license is hereby issued to transfer, receive, acquire, possess, and use radioactive material incorporated in the devices or equipment specified in subparagraph (C) of this paragraph that have been manufactured, tested, and labeled by the manufacturer in accordance with a specific license issued to the manufacturer by the commission, an agreement state, or a licensing state authorizing distribution in accordance with this general license or its equivalent. Notwithstanding the provisions of subsection (e) of this section, this general license is subject to the provisions of subsection (d)(1)(B) of this section, and §289.252(p) and (t) of this title.

(A) Static elimination devices designed for use as static eliminators that contain, as a sealed source or sources, radioactive material totaling not more than 500 microcuries of polonium-210 per device. The general license in this subparagraph (A) of this paragraph does not authorize the manufacture of devices containing radioactive material.

(B) Ion generating tubes designed for ionization of air that contain, as a sealed source or sources, radioactive material totaling not more than 500 microcuries of polonium-210 per device or a total of not more than 50 millicuries of tritium per device.

(C) Other devices designed and manufactured for the purpose of producing light or an ionized atmosphere. Any person who receives, possesses, uses, or transfers radioactive material in a device in accordance with the general license in this subparagraph:

(i) shall assure that all labels affixed to the device at the time of receipt, and bearing a statement that removal of the label is prohibited, are maintained thereon, are clearly visible and legible, and shall comply with all instructions and precautions provided by such labels;

(ii) shall assure that the device is tested for leakage of radioactive material and proper operation of the "on-off" mechanism and indicator, if any, at no longer than six-month intervals or at such other intervals as specified in the label; however:

(I) devices containing only krypton need not be tested for leakage of radioactive material; and

(II) devices containing only tritium or not more than 100 microcuries of other beta and/or gamma emitting material or ten microcuries of alpha emitting material and devices held in storage in the original shipping container prior to initial installation need not be tested for any purpose; provided that each source is tested for leakage within six months prior to being used or transferred;

(iii) shall assure that the tests required by clause (ii) of this subparagraph and other testing, installation, servicing, and removal from location of installation involving the radioactive materials, shielding or containment, are performed:

(I) in accordance with the instructions provided by the labels;

(II) in accordance with written instructions provided by the manufacturer as specified in §289.252(h)(4)(C) of this title; or

(III) by a person holding a specific license from the agency, the commission, an agreement state, or a licensing state to perform such activities;

(iv) shall maintain records showing compliance with the requirements of clauses (ii) and (iii) of this subparagraph. The records shall show the test results. The records also shall identify the device tested by manufacturer, model number, serial number of the device and serial number of the sealed source, show the dates of performance and the names of persons performing testing, installation, servicing, and removal from location of installation, of the radioactive material, its shielding or containment;

(v) upon the occurrence of failure or damage to, or any indication of a possible failure or damage to, the radioactive material shielding or the "on-off" mechanism, or upon the detection of 0.005 microcuries or more of removable radioactive contamination, shall immediately suspend operation of the device until it has been repaired by the manufacturer or other person holding a specific license from the agency, the commission, an agreement state, or a licensing state to repair such devices, or disposed of by transfer to a person authorized by a specific license to receive the radioactive material contained in the device and, within 30 days, furnish the agency with a report containing a brief description of the event and the remedial action taken;

(vi) shall not abandon the device containing radioactive material;

(vii) except as provided in clause (viii) of this subparagraph, shall transfer or dispose of the device containing radioactive material only by transfer to a specific licensee of the agency, the commission, an agreement state, or a licensing state, whose specific license authorizes the receipt of the device, and within 30 days after transfer of a device to a specific licensee, shall furnish the agency with a report containing identification of the device by manufacturer's name, model number, serial number of the device and serial number of the sealed source, and address of the person receiving the device;

(viii) shall transfer the device to another general license(e) only:

(I) where the device remains in use at a particular location. In such case, the transferor shall give the transferee a copy of this rule and any safety documents identified in the label on the device and, within 30 days of the transfer, report to the agency the manufacturer's name and model number of device transferred, the serial number of the sealed source transferred, the name and address of the transferee, and the name and/or position of an individual who may constitute a point of contact between the agency and the transferee; or

(II) where the device is stored in the original shipping container at its intended location of use prior to initial use by the holder of a general license acknowledgement; and

(ix) shall submit the written instructions specified in subparagraph (C)(iii)(II) of this paragraph which shall be followed while performing the testing and shall be maintained for inspection by the agency.

(2) Luminous safety devices for aircraft.

(A) A general license is hereby issued to receive, acquire, possess, and use tritium or promethium-147 contained in luminous safety devices for use in aircraft, provided:

(i) each device contains not more than ten curies of tritium or 300 millicuries of promethium-147; and

(ii) each device has been manufactured, assembled, or imported in accordance with a specific license issued by the commission, or each device has been manufactured or assembled in accordance with the specifications contained in a specific license issued by the agency or any agreement state to the manufacturer or assembler of such device in accordance with licensing requirements equivalent to those in 10 CFR 32.53.

(B) The general license in subparagraph (A) of this paragraph does not authorize the manufacture, assembly, or repair of luminous safety devices containing tritium or promethium-147.

(C) The general license in subparagraph (A) of this paragraph does not authorize the receipt, acquisition, possession, or use of tritium or promethium-147 contained in instrument dials

(D) Notwithstanding the provisions of subsection (e) of this section, the general license in subparagraph (A) of this paragraph is subject to the provisions of §289.252(t) of this title.

(3) Ownership of radioactive material. A general license is hereby issued to own radioactive material without regard to quantity. Notwithstanding any other provisions of this section, this general license does not authorize the manufacture, production, transfer, receipt, possession, or use of radioactive material.

(4) Calibration, stabilization, and reference sources.

(A) A general license is hereby issued to those persons listed below to receive, acquire, possess, use, and transfer, in accordance with the provisions of subparagraphs (B) and (C) of this paragraph, americium-241, plutonium, and/or radium-226, in the form of calibration, stabilization, or reference sources:

(i) any person who holds a specific license issued by the agency that authorizes that person to receive, possess, use, and transfer radioactive material; and

(ii) any person who holds a specific license issued by the Commission that authorizes that person to receive, possess, use, and transfer radioactive material.

(B) The general license in subparagraph (A) of this paragraph applies only to calibration, stabilization, or reference sources that have been manufactured in accordance with the specifications contained in a specific license issued to the manufacturer or importer of the sources by the commission in accordance with 10 CFR 32.57 or 10 CFR 70.39 or that have been manufactured in accordance with the authorizations contained in a specific license issued to the manufacturer by the agency, any agreement state, or any licensing state, in accordance with licensing requirements equivalent to those contained in 10 CFR 32.57 or 10 CFR 70.39.

(C) Notwithstanding the provisions of subsection (e) of this section, the general license provided in subparagraph (A) of this paragraph is subject to the provisions of §289.252(t) of this title. In addition, persons who receive, acquire, possess, use, or transfer one or more calibration or reference sources in accordance with these general licenses:

(i) shall not possess at any one time, at any one location of storage or use, more than 5 microcuries each of americium-241, plutonium-238, plutonium-239, and radium-226 in such sources;

(ii) shall not receive, possess, use, or transfer such source unless the source or the storage container bears a label that includes the following statements, or a substantially similar statement that contains the information in the following statements:

(I) option 1, as appropriate:
Figure 1: 25 TAC §289.251(g)(4)(C)(ii)(I)

(II) option 2, as appropriate:
Figure 2: 25 TAC §289.251(g)(4)(C)(ii)(II)

(iii) shall not transfer, abandon, or dispose of such source except by transfer to a person authorized by a specific license from the agency, the commission, an agreement state, or a licensing state to receive the source;

(iv) shall store such source, except when the source is being used, in a closed container designed and constructed to contain americium-241, plutonium-238, plutonium-239, or radium-226; and

(v) shall not use such source for any purpose other than the calibration of radiation detectors or the standardization of other sources.

(D) The general license in subparagraph (A) of this paragraph does not authorize the manufacture of calibration or reference sources containing americium-241, plutonium-238, plutonium-239, or radium-226.

(5) Ice detection devices.

(A) A general license is hereby issued to receive, acquire, possess, use, and transfer strontium-90 contained in ice detection devices, provided each device contains not more than 50 microcuries of strontium-90 and each device has been manufactured or imported in accordance with a specific license issued by the commission or each device has been manufactured in accordance with the authorizations contained in a specific license issued by the agency or any agreement state to the manufacturer of such device in accordance with licensing requirements equivalent to those in 10 CFR 32.61.

(B) Persons who receive, acquire, possess, use, or transfer strontium-90 contained in ice detection devices in accordance with the general license in subparagraph (A) of this paragraph:

(i) shall, upon occurrence of visually observable damage, such as bend or crack or discoloration from overheating to the device, discontinue use of the device until it has been inspected, tested for leakage, and repaired by a person holding a specific license from the commission or an agreement state to manufacture or service such devices; or shall dispose of the device by transfer to a person authorized by a specific license from the agency, the commission, or an agreement state; and

(ii) shall assure that all labels affixed to the device at the time of receipt, and which bear a statement prohibiting removal of the labels, are maintained thereon.

(C) The general license in subparagraph (A) of this paragraph does not authorize the manufacture, assembly, disassembly, or repair of strontium-90 in ice detection devices.

(D) Notwithstanding the provisions of subsection (e) of this section, the general license in subparagraph (A) of this paragraph is subject to the provisions of §289.252(t) of this title.

(h) Intrastate transportation of radioactive material.

(1) A general license is hereby issued to any common or contract carrier to transport and store radioactive material in the regular course of their carriage for another or storage incident thereto, provided the transportation and storage is in accordance with the applicable requirements of the regulations, appropriate to the mode of transport, of the United States Department of Transportation (DOT) insofar as such regulations relate to the loading and storage of packages, placarding of the transporting vehicle, and incident reporting. Any notification of incidents referred to in those requirements shall be filed with the agency and the DOT. Persons who transport and store radioactive material in accordance with the general license in this paragraph are exempt from the requirements of §289.113 of this title and 289. 114 of this title (relating to Notices, Instructions, and Reports to Workers; Inspections).

(2) A general license is hereby issued to any private carrier to transport radioactive material, provided the transportation is in accordance with the applicable requirements of the regulations, appropriate to the mode of transport, of the DOT insofar as such regulations relate to the loading and storage of packages, placarding of the transporting vehicle, and incident reporting. Any notification of incidents referred to in those requirements shall be filed with the agency and the DOT.

(i) General license acknowledgements. In addition to the requirements of this section, all general license acknowledgement holders, unless otherwise specified, are subject to the requirements of §§289.112, 289.126, and 289. 201 of this title, and 21.1201(a), (b), (c), and (d), 21.1202(a), (b), (c), and (d) of TRCR Part 21 as adopted by reference in §289.113 of this title, and §289.252(r) of this title.

(j) General license acknowledgements for radioactive material other than source material.

(1) Certain measuring, gauging, and controlling devices.

(A) A general license is hereby issued to commercial and industrial firms and to research, educational, and medical institutions, individuals in the conduct of their business, and state or local government agencies to receive, acquire, possess, use, or transfer in accordance with the provisions of subparagraphs (B), (C), (D), and (E) of this paragraph, radioactive material, excluding special nuclear material, contained in devices designed and manufactured for the purpose of detecting, measuring, gauging or controlling thickness, density, level, interface location, radiation, leakage, or qualitative or quantitative chemical composition.

(B) The general license in subparagraph (A) of this paragraph applies only to radioactive material contained in devices that have been manufactured and labeled in accordance with the authorizations contained in a specific license issued by the agency in accordance with §289.252(h)(4) of this title or in accordance with the authorizations contained in a specific license issued by the commission, an agreement state, or a licensing state, which authorizes distribution of devices to persons generally licensed by the commission, an agreement state, or a licensing state.

(C) Within 30 days following the receipt, acquisition, or possession of radioactive material in a device, except for calibration, stabilization, and reference sources, issued in accordance with the general license in subparagraph (A) of this paragraph, the general licensee shall file an application for an acknowledgement on a form prescribed by the agency. The application shall be signed by the individual duly authorized to act for or on behalf of the general licensee.

(D) Each application shall be accompanied by TRC Form 12-2.

(E) Any person who receives, acquires, possesses, uses, or transfers radioactive material in a device in accordance with the general license in subparagraph (A) of this paragraph:

(i) shall assure that all labels affixed to the device at the time of receipt, and bearing a statement that removal of the label is prohibited, are maintained thereon, are clearly visible and legible, and shall comply with all instructions and precautions provided by such labels;

(ii) shall assure that the device is tested for leakage of radioactive material and proper operation of the "on-off" mechanism and indicator, if any, at no longer than six-month intervals or at such other intervals as specified in the label; however:

(I) devices containing only krypton need not be tested for leakage of radioactive material; and

(II) devices containing only tritium or not more than 100 microcuries of other beta and/or gamma emitting material or ten microcuries of alpha emitting material and devices held in storage in the original shipping container prior to initial installation need not be tested for any purpose, provided that each source is tested for leakage within six months prior to being used or transferred;

(iii) shall assure that the tests required by clause (ii) of this subparagraph and other testing, installation (removal of the manufacturer's lock and initial alignment of the radiation beam), servicing, and removal from location of installation involving the radioactive materials, shielding or containment, are performed:

(I) in accordance with the instructions provided by the labels;

(II) in accordance with written instructions provided by the manufacturer as specified in §289.252(h)(4)(C) of this title; or

(III) by a person holding a specific license from the agency, the commission, an agreement state, or a licensing state to perform such activities;

(iv) shall maintain records showing compliance with the requirements of clauses (ii) and (iii) of this subparagraph. The records shall show the test results. The records also shall identify the device tested by manufacturer, model number, serial number of the device and serial number of the sealed source, and show the dates of performance of and the names of persons performing testing, installation, servicing, and removal from location of installation, of the radioactive material, its shielding or containment;

(v) shall maintain assignment records for portable or mobile devices for inspection by the agency at the location listed in the general license acknowledgement. These records shall include:

(I) a unique identification (e.g. serial number) of each portable or mobile device;

(II) the location(s) where each portable or mobile device is assigned; and

(III) the date(s) each portable or mobile device is assigned to the location(s) in accordance with subclause (II) of this clause.

(vi) shall maintain utilization records for each portable or mobile device used at the location(s) in accordance with clause (v)(II) of this subparagraph for inspection by the agency at that location(s);

(vii) shall have a copy of the appropriate operating and instruction manual at each temporary site for agency inspection;

(viii) upon the occurrence of failure or damage to, or any indication of a possible failure or damage to, the radioactive material shielding or the "on-off" mechanism, or upon the detection of 0.005 microcuries or more of removable radioactive contamination, shall immediately suspend operation of the device until it has been repaired by the manufacturer or other person holding a specific license from the agency, the commission, an agreement state, or a licensing state to repair such devices, or disposed of by transfer to a person authorized by a specific license to receive the radioactive material contained in the device and, within 30 days, furnish the agency with a report containing a brief description of the event and the remedial action taken;

(ix) shall not abandon the device containing radioactive material;

(x) except as provided in clause (xi) of this subparagraph, shall transfer or dispose of the device containing radioactive material only by transfer to a person holding a specific license issued by the agency in accordance with §289.252(h)(4) of this title, or an equivalent specific license issued by the commission, an agreement state, or a licensing state, whose specific license authorizes the receipt of the device, or as otherwise authorized by the agency in writing, and within 30 days after transfer of a device to a specific licensee, shall furnish the agency with a report containing identification of the device by manufacturer's name, model number, serial number of the device and serial number of the sealed source, and address of the person receiving the device (except when the device is temporarily transferred to the specific licensee for repair of the device); and

(xi) shall transfer the device to another general license(e) only:

(I) where the device remains in use at a particular location. In such case, the transferor shall give the transferee a copy of this rule and any safety documents identified in the label on the device and, within 30 days of the transfer, report to the agency the manufacturer's name and model number of device transferred, the serial number of the sealed source transferred, the name and address of the transferee, and the name and/or position of an individual who may constitute a point of contact between the agency and the transferee, or

(II) where the device is stored in the original shipping container at its intended location of use prior to initial use by the holder of a general license acknowledgement.

(F) The general license in subparagraph (A) of this paragraph does not authorize the manufacture of devices containing radioactive material.

(G) The written instructions specified in subparagraph (E)(iii)(II) of this paragraph shall be followed while performing the testing and shall be maintained for inspection by the agency.

(2) General license acknowledgements for use of radioactive material for certain *in vitro* clinical or laboratory testing. (The New Drug provisions of the Federal Food, Drug, and Cosmetic Act also govern the availability and use of any specific diagnostic drugs in interstate commerce.)

(A) A general license is hereby issued to any physician, veterinarian, clinical laboratory, or hospital to receive, acquire, possess, transfer, or use, for any of the following stated tests, in accordance with the provisions of subparagraphs (B), (C), and (D) of this paragraph, the following radioactive materials in prepackaged units:

(i) iodine-125, in units not exceeding ten microcuries each for use

in *in vitro* clinical or laboratory tests not involving internal or external administration of radioactive material, or the radiation therefrom, to humans or animals;

(ii) iodine-131, in units not exceeding ten microcuries each for use in *in vitro* clinical or laboratory tests not involving internal or external administration of radioactive material, or the radiation therefrom, to humans or animals;

(iii) carbon-14, in units not exceeding ten microcuries each for use in *in vitro* clinical or laboratory tests not involving internal or external administration of radioactive material, or the radiation therefrom, to humans or animals;

(iv) hydrogen-3 (tritium), in units not exceeding 50 microcuries each for use in *in vitro* clinical or laboratory tests not involving internal or external administration of radioactive material, or the radiation therefrom, to humans or animals;

(v) iron-59, in units not exceeding 20 microcuries each for use in *in vitro* clinical or laboratory tests not involving internal or external administration of radioactive material, or the radiation therefrom, to humans or animals;

(vi) selenium-75, in units not to exceed ten microcuries each for use in *in vitro* clinical or laboratory tests not involving internal or external administration of radioactive material, or the radiation therefrom, to humans or animals;

(vii) mock iodine-125 reference or calibration sources, in units not exceeding 0.05 microcurie of iodine-129 and 0.005 microcurie of americium-241 each for use in *in vitro* clinical or laboratory tests not involving internal or external administration of radioactive material, or the radiation therefrom, to humans or animals; or

(viii) cobalt-57, in units not exceeding ten microcuries each for use in *in vitro* clinical or laboratory tests not involving internal or external administration of radioactive material, or the radiation therefrom, to humans or animals.

(B) No person shall receive, acquire, possess, use, or transfer radioactive material in accordance with the general license in subparagraph (A) of this paragraph until that person has filed an application for an acknowledgement on a form prescribed by the agency and has received from the agency an acknowledgement with an assigned number The applicant shall furnish the following information and such other information as may be required by the agency:

(i) name and address of the physician, veterinarian, clinical laboratory, or hospital;

(ii) the location of use;

(iii) a statement that the physician, veterinarian, clinical laboratory, or hospital has appropriate radiation measuring instruments to carry out in vitro clinical or laboratory tests with radioactive material as authorized in accordance with the general license in subparagraph (A) of this paragraph, and that such tests will be performed only by personnel trained specifically in the use of such instruments and in the handling of the radioactive material;

(iv) name, title, address, and telephone number of the individual duly authorized to act for and on behalf of the general licensee supervising the use of radioactive material authorized by subparagraph (A) of this paragraph; and

(v) TRC Form 12-2.

(C) A person who receives, acquires, possesses, or uses radioactive material in accordance with the general license in subparagraph (A) of this paragraph shall comply with the following.

(i) The holder of the general license acknowledgement shall not possess at any one time, at any one location of storage or use, a total amount of iodine-125, iodine-131, selenium-75, iron-59, and/or cobalt-57 in excess of 200 microcuries.

(ii) The holder of the general license acknowledgement shall store the radioactive material in the original shipping container or in a container providing equivalent radiation protection and meeting the requirements of 21. 904 of TRCR Part 21 as adopted by reference in §289.113 of this title until used.

(iii) The holder of the general license acknowledgement shall use the radioactive material only for the uses authorized by subparagraph (A) of this paragraph.

(iv) The holder of the general license acknowledgement shall not transfer the radioactive material to a person who is not authorized to receive it in accordance with a specific license issued by the agency, the commission, any agreement state, or any licensing state, nor transfer the radioactive material in any manner other than in the unopened, labeled shipping container as received from the supplier.

(v) The holder of the general license acknowledgement shall dispose of the mock iodine-125 reference or calibration sources described in subparagraph (A)(vii) of this paragraph as required by 21.1001 of TRCR Part 21 as adopted by reference in §289.113 of this title.

(D) The holder of the general license acknowledgement in accordance with the general license in subparagraph (A) of this paragraph shall not receive, acquire, possess, or use radioactive material:

(i) except as prepackaged units that are labeled in accordance with the provisions of an applicable specific license issued in accordance with §289.252(h)(8) of this title or in accordance with the provisions of a specific license issued by the commission, any agreement state, or any licensing state that authorizes the manufacture and distribution of iodine-125, iodine-131, carbon-14, hydrogen-3 (tritium), iron-59, selenium-75, cobalt-57, or mock iodine-125 to persons holding general license acknowledgements in accordance with this paragraph or its equivalent; and

(ii) unless one of the statements in the following figures, as appropriate, or a substantially similar statement that contains the information called for in one of the following statements, appears on a label affixed to each prepackaged unit or appears in a leaflet or brochure that accompanies the package:

(I) option 1, as appropriate:
Figure 3: 25 TAC §289.251(j)(2)(D)(ii)(I)

(II) option 2, as appropriate:
Figure 4: 25 TAC §289.251(j)(2)(D)(ii)(II)

(k) Issuance of general license acknowledgements.

(1) Upon a determination that the information submitted by the applicant meets the requirements of the Texas Radiation Control Act (Act) and the rules of the agency, the agency will issue a general license acknowledgement recognizing the proposed activity in such form and containing such conditions and limitations as it deems appropriate or necessary.

(2) The agency may incorporate in any general license acknowledgement at the time of issuance, or thereafter by amendment, additional requirements and conditions governing the receipt, possession, use, transfer, and disposal of radioactive material subject to this section as it deems appropriate or necessary in order to:

(A) minimize danger to public health and safety or the environment;

(B) require such reports and the keeping of such records, and to provide for such inspections of activities in accordance with the license as may be appropriate or necessary; and

(C) prevent loss or theft of material subject to this section.

(l) Specific terms and conditions.

(1) Each general license acknowledgement issued in accordance with this section shall be subject to the applicable provisions of the Act, now or hereafter in effect, and to the applicable rules and orders of the agency.

(2) Each person holding a general license acknowledgement issued by the agency in accordance with this section shall confine use and possession of the material licensed to the locations and purpose authorized in the general license acknowledgement.

(3) Each holder of a general license acknowledgement shall notify the agency, in writing, immediately following the filing of a voluntary or involuntary petition for bankruptcy in accordance with any Chapters of Title 11 (Bankruptcy) of the United States Code (11 U.S.C.) by or against:

(A) a holder of a general license acknowledgement;

(B) an entity, (as that term is defined in 11 U.S.C. 101(14)) controlling the holder of a general license acknowledgement or listing the general license acknowledgement or the holder of the general license acknowledgement as property of the estate; or

(C) an affiliate, (as that term is defined in 11 U.S.C. 101(2)) of the holder of a general license acknowledgement.

(4) The notification in paragraph (3) of this subsection must indicate:

(A) the bankruptcy court in which the petition for bankruptcy was filed; and

(B) the date of the filing of the petition.

(5) A copy of the "Petition for Bankruptcy" shall be submitted to the agency with the written notification.

(m) Expiration and termination of general license acknowledgements.

(1) Each general license acknowledgement expires at the end of the day, in the month and year stated in the general license acknowledgement.

(2) Each holder of a general license acknowledgement shall notify the agency immediately, in writing, and request termination of the general license acknowledgement when the holder of the general license acknowledgement decides to terminate all activities involving materials specified in the general license acknowledgement.

(3) No less than 30 days before the expiration date specified in a general license acknowledgement, the holder of the general license acknowledgement shall submit an application for general license acknowledgement renewal in accordance with subsection (n) of this section.

(4) Each holder of a general license acknowledgement shall, no less than 30 days before vacating or relinquishing possession of control of premises that have been used as a place of storage or use of radioactive material as a result of general licensed activities, notify the agency in writing of intent to vacate.

(5) If a holder of a general license acknowledgement does not submit an application for renewal in accordance with subsection (n) of this section, such person shall on or before the expiration date specified in the general license acknowledgement:

(A) terminate use of radioactive material; and

(B) dispose of radioactive material in accordance with this section and/or 21.1001 of TRC? Part 21 as adopted by reference in §289.113 of this title.

(n) Renewal of general license acknowledgements.

(1) Applications for renewal of general license acknowledgements shall be filed in accordance with subsection (j)(1)(C) or (2)(B) of this section, as applicable.

(2) If a holder of a general license acknowledgement has properly filed a renewal application for the same activities at least 30 days before the expiration of the existing general license acknowledgement in accordance with this section, such existing general license acknowledgement shall not expire until the application has been finally determined by the agency.

(o) Amendment of general license acknowledgements.

(1) The holder of the general license acknowledgement in accordance with the general license in subsections (j)(1)(A) and (2)(A) of this section shall report in writing to the agency any changes in information furnished by the holder of the general license acknowledgement. The report shall be submitted within 30 days after the effective date of such change.

(2) Applications for amendments of a general license acknowledgement shall be filed in accordance with subsection (j)(1)(C) or (2)(B) of this section, as applicable, and shall specify the respects in which the holder of a general license acknowledgement desires a general license acknowledgement to be amended.

(p) Modification and revocation of general licenses and general license acknowledgements.

(1) The terms and conditions of all general license acknowledgements shall be subject to amendment, revision, or modification.

(2) A general license acknowledgement may be suspended or revoked by reason of amendments to the Act, or by reason of rules and orders issued by the agency. The agency may incorporate in the general license acknowledgement at the time of issuance or thereafter by appropriate rule, regulation, or order, such additional requirements and conditions with respect to the general license acknowledgement holder's possession, use, and transfer of radioactive material as it deems appropriate or necessary.

(3) Any general license acknowledgement may be revoked, suspended, or modified, in whole or in part:

(A) for any material false statement in the application or any statement of fact required in accordance with provisions of the Act;

(B) because of the Act;

(C) because of conditions revealed by such application or statement of fact or any report, record, or inspection, or other means that would warrant the agency to refuse to grant a general license acknowledgement on an original application;

(D) for violation of, or failure to observe, any of the terms and conditions of the Act or of the general license acknowledgement; or

(E) of any rule or order of the agency.

(4) Except in cases of willfulness or those in which the public health, interest, or safety requires otherwise, no general license acknowledgement shall be modified, suspended, or revoked unless, prior to the institution of proceedings therefore, facts or conduct that may warrant such action shall have been called to the attention of the holder of the general license acknowledgement in accordance with §289.112 of this title and the holder of the general license acknowledgement has an opportunity to demonstrate or achieve compliance with all lawful requirements.

(q) Appendices.

(1) Exempt concentrations.
Figure 5: 25 TAC §289.251(q)(1)

(2) Exempt quantities.
Figure 6: 25 TAC §289.251(q)(2)

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

Issued in Austin, Texas, on August 9, 1995.

TRD-9510248 Susan K. Steeg
General Counsel
Texas Department of Health

Effective date: October 1, 1995

Proposal publication date: April 21, 1995

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

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The Texas Department of Health (department) adopts the repeal of existing §289.124 and new §289.254, concerning the licensing requirements of radioactive waste processing and storage facilities; requirements for emergency plans, financial assurance and recordkeeping for decommissioning, and criteria for determining acceptable financial security for radioactive waste and processing facilities. The new §289.254 is adopted with changes to the proposed text as published in the March 28, 1995, issue of the *Texas Register* (20 TexReg 2268). The repeal is adopted as proposed.

The section incorporates language from Part 44, titled "Licensing Requirements of Radioactive Waste Processing and Storage Facilities" of the Texas Regulation for Control of Radiation (TRCR), which was adopted by reference in §289.124 which is now being repealed. In addition to incorporating existing language into the new section, definitions were added and existing definitions were clarified; and new requirements concerning a decommissioning were included. These requirements are designated items of compatibility by the United States Nuclear Regulatory Commission (NCR), and in accordance with the agreement between Texas and the NRC, the department must adopt a similar rule.

The repeal and new section are part of the first phase to convert existing section that adopt by reference the various parts of the TRCR to *Texas Register* format.

The following changes were made in response to staff comments.

Definitions of "commission" and "person" were deleted because these definitions are already defined in §289.201 of this title (relating to General Provisions). In subsection (d)(1) the word "four" was deleted to more accurately reflect the definition of "transport group." In subsections (h) and (i), language was added to clarify that, when required, financial assurance is to be provided for each specific license held by a licensee. In addition, references to repealed §289.111 have been changed to reflect the new §289. 201.

The following is a comment made on the proposed section and the department's response to that comment.

Comment. A commenter expressed concern that when the department refers to "persons who receive, possess, or process sealed sources of radioactive materials...," this reference does not refer to scrap recyclers who may accidentally receive radioactive materials. The commenter suggested that the section be changed to read "persons who intentionally receive, possess or process sealed sources" (See subsection (e) paragraphs (1), (2)(A) and (B), and (3).)

Response. A scrap dealer who unintentionally receives improperly discarded radioactive material does not fall under the purpose and scope of the section as stated under subsection (a). The department made no change to the section as a result of the comment.

The commenter was a representative from the Institute of Scrap Recycling Industries, Inc. in Washington, D.C.. The commenter was generally in favor of the rule, but presented comments and suggestions for changes to the proposed section as previously discussed.

• 25 TAC §289.124

The repeal is adopted under the Health and Safety Code, Chapter 401, which provides the Texas Board of Health with the authority to adopt rules and guidelines relating to the control of radiation; and §12.001, 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.

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

Issued in Austin, Texas, on August 9, 1995.

TRD-9510247 Susan K. Steeg
General Counsel
Texas Department of Health

Effective date: October 1, 1995

Proposal publication date: March 28, 1995

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

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• 25 TAC §289.254

The new section is adopted under the Health and Safety Code, Chapter 401, which provides the Texas Board of Health with the authority to adopt rules and guidelines relating to the control of radiation; and §12.001, 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.

§289.254. Licensing of Radioactive Waste Processing and Storage Facilities.

(a) Purpose and scope.

(1) This section establishes the requirements for management of commercial radioactive waste processing and storage facilities, the procedures and criteria for the issuance of licenses to receive, possess, transport, store, and process radioactive waste from other persons, and the terms and conditions upon which the agency will issue such licenses.

(2) Except as otherwise provided, this section applies to all persons who transport, receive, possess, store, or process radioactive waste from other persons. In addition to the requirements of this section, all licensees, unless otherwise specified, are subject to the requirements of §289.112 of this title (relating to Hearing and Enforcement Procedures), §289.113 of this title (relating to Standards for Protection Against Radiation), §289. 114 of this title (relating to Notices, Instructions, and Reports to Workers; Inspections), §289.126 of this title (relating to Fees for Certificates of Registration, Radioactive Material(s) Licenses, Emergency Planning and Implementation, and Other Regulatory Services), §289.201 of this title (relating to General Provisions), and §289.252 of this title (relating to Licensing of Radioactive Material).

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

(1) Commencement of major construction-Any major structural erection or major alterations to existing structures, or other substantial action that would change the facility design or site for the purpose of establishing a radioactive waste processing or storage facility. The term does not mean the acquisition of existing structures or minor changes thereto.

(2) Decommissioning-The final activities carried out at a radioactive waste processing or storage site after completion of processing operations to remove safely from service and reduce residual radioactivity to a level that permits release of the property for unrestricted use and/or termination of the license. Such activities shall include:

(A) disposing of all radioactive waste at a licensed radioactive waste disposal site;

(B) dismantling or decontaminating site structures;

(C) decontaminating site surfaces and remaining equipment; and

(D) conducting final closure surveys, decontamination, and reclamation of the site.

(3) Disposal-Isolation or removal of radioactive wastes from mankind and his environment The term does not include emissions and discharges under rules of the agency.

(4) Engineered barriers-Man-made devices to contain or limit the potential movement of radioactive material, which might result from spills or other accidents.

(5) Floodplain-The lowland and relatively flat areas adjoining inland and coastal waters, including flood prone areas of off-shore islands.

(6) Local government-A county, an incorporated city or town, a special district, or other political subdivision of the state

(7) Major aquifer-An aquifer which yields large quantities of water in a comparatively large area of the state. Major aquifers are located in the following formations: Ogallala, Alluvium and Bolsom Deposits, Edwards-Trinity (Plateau), Edwards (Balcones Fault Zone-San Antonio Region), Edwards (Balcones Fault Zone-Austin Region), Trinity Group, Carrizo-Wilcox, and Gulf Coast.

(8) Natural barriers-The natural characteristics of a site or surface and subsurface composition that serves to impede the movement of radioactive material. Natural barriers may include, for example, the location of a facility remote from an aquifer, or the sorptive capability of the soil surrounding a facility.

(9) Person affected-A person:

(A) who is a resident of a county, or a county adjacent to the county, in which radioactive materials subject to the Texas Radiation Control Act (Act) are/or will be located, including any person who is doing business or who has a legal interest in land in the county or adjacent county, and any local government in the county; and

(B) who shall demonstrate that he has suffered or will suffer actual injury or economic damage.

(10) Processing-The storage, extraction of materials, transfer, volume reduction, compaction, incineration, solidification, or other separation and preparation of radioactive waste from other persons for reuse or disposal, including any treatment or activity that renders the waste less hazardous, safer for transport, or amenable to recovery, storage, or disposal.

(11) Radioactive waste-Any discarded or unwanted radioactive material unless exempted by agency section or any radioactive material that would require processing before it could be put to a beneficial reuse. The term does not include byproduct material as defined in §289.201(b) of this title, uranium ore, naturally occurring radioactive material (NORM) waste, or oil and gas NORM waste.

(12) Radioactive waste processing facility-A facility where radioactive waste received from other persons is processed and repackaged according to United States Department of Transportation (DOT) regulations.

(13) Radioactive waste storage facility-A facility where radioactive waste received from other persons and packaged according to DOT regulations is stored while awaiting shipment to a licensed radioactive waste processing or disposal facility.

(14) Reconnaissance level information-Any information or analysis that can be retrieved or generated without the performance of new comprehensive site-specific investigations. Reconnaissance level information includes, but is not limited to, relevant published scientific literature; drilling records required by state agencies, such as the Railroad Commission of Texas, the Texas Department of Water Resources, and the Texas Natural Resources Information System; and reports of governmental agencies.

(15) Site-The real property, including the buffer zone, on which a radioactive waste processing or storage facility may be located

(16) Site monitoring-The procedures for the monitoring of the site and environment to assess quality of site operations and performance and to detect and quantify levels and types of radioactivity and chemicals in the environment It includes preoperational, operational, and license termination phases.

(17) Site operations-The routine day-to-day activities carried out at the site for the receipt, processing, and storage of radioactive waste.

(18) Site suitability-The capability of the various characteristics of a processing or storage facility or site to safely contain the radioactive waste expected to be present at the site.

(19) Sole source aquifer-The aquifer which is the sole or principal source of drinking water for an area designated under the Safe Drinking Water Act of 1974, 42 United States Codes Annotated 300f, et seq.

(20) Transport group-Transport group is defined as:

(A) Any one of seven groups into which radionuclides in normal form are classified, according to their toxicity and their relative potential hazard in transport, in §289.201(q)(1) of this title

(B) Any radionuclide not specifically listed in one of the groups in §289.201(q)(1) this title shall be assigned to one of the groups in accordance with the following table:
Figure 1: 25 TAC §289.254(b)(20)(B)

(21) Wetlands-Areas that are inundated or saturated by surface or groundwater at a frequency and duration sufficient to support and that, under normal circumstances, do support a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include playa lakes, swamps, marshes, bogs, and similar areas.

(c) Activities requiring license. Except for persons exempted by this section, no person shall receive, possess, and store or process radioactive waste from another person except as authorized in a specific license issued pursuant to this section.

(d) Radioactive waste processing and storage facility classification.

(1) Classification of radioactive waste processing and storage facilities. Radioactive waste processing and storage facilities are classified according to the radionuclides, other than sealed sources, received, possessed, or processed in each of the transport groups, as defined in §289.201(b) of this title with all applicable provisions, except that, for the purposes of this section which apply to processing and storage of radioactive waste, Group IV shall include total possession limit of each group of unsealed (dispersible) radionuclides for each category of facility is as follows:
Figure 2: 25 TAC §289.254(d)(1)

(A) Class C storage facilities are those in which the applicable possession limit of radioactive waste exceeds any limit of class B storage facilities.

(B) Class C processing facilities are those in which the applicable possession limit of radioactive waste exceeds any limit of class B processing facilities.

(2) For mixtures of radionuclides, the following shall apply.

(A) If the identity and respective activity of each radionuclide are known, the permissible activity of each radionuclide shall be such that the sum, for all groups present, of the ratio between the total activity for each group to the permissible activity for each group will not be greater than unity.

(B) If the groups of the radionuclides are known but the amount in each group cannot be reasonably determined, the mixture shall be assigned to the most restrictive group present.

(C) If the identity of all or some of the radionuclides cannot be reasonably determined, each of those unidentified radionuclides shall be considered as belonging to the most restrictive group which cannot be positively excluded.

(D) Mixtures consisting of a single radioactive decay chain where the radionuclides are in the naturally occurring proportions shall be considered as consisting of a single radionuclide. The group and activity shall be that of the first member present in the chain, except that if a radionuclide "X" has a half-life longer than that of that first member and an activity greater than that of any other member, including the first, at any time during processing, the transport group shall be that of the nuclide "X" and the activity of the mixture shall be the maximum activity of that nuclide "X" during processing.

(e) Exemptions.

(1) Sealed sources. Persons who receive, possess, or process sealed sources of radioactive material as radioactive waste from other persons are exempt from this section, provided that:

(A) encapsulated sources are tested upon receipt and determined to have less than 0.005 microcurie of removable contamination; and

(B) sealed sources of radioactive material remain in sealed form after receipt.

(2) Unsealed sources.

(A) Persons who receive, possess, or process sources of radioactive material in unsealed form as radioactive waste from other persons are exempt from this section, provided that:

(i) the total radioactivity of all radioactive waste possessed at any one time does not exceed the applicable limits for class A processing or storage facilities as described in subsection (d) of this section; and

(ii) the total volume of radioactive waste processed in any one year does not exceed 50 cubic feet.

(B) Persons who receive, possess, and store radioactive material in unsealed form as radioactive waste from other persons are exempt from this section provided that:

(i) the radioactive waste consists only of radiopharmaceutical residues resulting from radiopharmaceuticals manufactured, compounded, and supplied by those persons receiving the radiopharmaceutical residues as radioactive waste;

(ii) the radioactive waste is held in storage for decay to background radiation levels; and

(iii) the radioactive waste is not shipped to a radioactive waste processing or disposal facility.

(3) Radioactive material. A person who receives, possesses, and stores radioactive material as radioactive waste from sites owned and controlled by that same person is not considered to have received waste from other persons.

(f) Filing application for specific license.

(1) The applicant for a license to receive, possess, or process radioactive waste from other persons shall submit, on a form supplied by the agency, 10 copies of each license application or application for amendment and any supporting documents. Applications for issuance of licenses shall include all general and specific technical requirements, financial information, and environmental requirements, if applicable, described in this section.

(2) The agency may at any time after the submission of the original application, and before the expiration of the license, require further statements or data to enable the agency to determine whether the application should be denied or whether a license should be granted, modified, or revoked.

(3) The applicant or licensee or a person legally authorized to act for and on his behalf shall sign each application.

(4) An application for a license may include a request for one or more of the activities specified in paragraph (1) of this subsection.

(5) The applicant shall submit any applicable fees prescribed in this chapter.

(6) In the application, the applicant may incorporate by reference information contained in previous applications, statements, or reports filed with the agency provided such references are clear and specific.

(7) Applications or documents submitted to the agency in connection with licensing actions shall be made available for public inspection in accordance with provisions of the Texas Open Records Act, Government Code, Chapter 552. If the application contains information of the type described in the Texas Open Records Act which, the applicant wishes withheld from public disclosure, such information shall be submitted with the application under separate cover, along with a justification for withholding the information.

(8) Each application must clearly demonstrate how the requirements of this subsection and subsections (g), (h), (i), (j), (t), and (u) of this section have been addressed.

(9) If the applicant is a corporation under the Texas Business Corporation Act, written verification (either affidavit or tax receipt) shall be submitted with application to confirm that no tax owed the state is delinquent under Tax Code, Chapter 171.

(10) Applications for licenses shall be processed in accordance with the following time periods.

(A) The first period is a time from receipt of an application by the Division of Licensing, Registration and Standards to the date of issuance or denial of the license or a written notice outlining why the application is incomplete or unacceptable. This time period is 90 days.

(B) The second period is a time from receipt of the last item necessary to complete the application to the date of issuance or denial of the license. This time period is 90 days.

(C) These time periods are exclusive of any time period incident to hearings and post-hearing activities required by Government Code, Chapters 2001 and 2002.

(11) Notwithstanding the provisions of 12.11(a) of TRCR Part 12 as adopted by reference in §289.126 of this title, reimbursement of application fees may be granted in the following manner.

(A) In the event the application is not processed in the time periods as stated in paragraph (10) of this subsection, the applicant has the right to request of the director of the Radiation Control Program full reimbursement of all application fees paid in that particular application process. If the director does not agree that the established periods have been violated or finds that good cause existed for exceeding the established periods, the request will be denied.

(B) Good cause for exceeding the period established is considered to exist if:

(i) the number of applications for licenses to be processed exceeds by 15% or more the number processed in the same calendar quarter the preceding year;

(ii) another public or private entity utilized in the application process caused the delay; or

(iii) other conditions existed giving good cause for exceeding the established periods.

(C) If the request for full reimbursement authorized by subparagraph (A) of this paragraph is denied, the applicant may then request a hearing by appeal to the Commissioner of Health for a resolution of the dispute. The appeal will be processed in accordance with the formal hearing procedures of the Texas Department of Health, §§1.21-1.34 of this title (relating to Formal Hearing Procedures).

(g) Application requirements. An applicant for a license under this section shall include the following information in the application to the agency:

(1) identity of the applicant including the full name, address, telephone number, and description of the business(es) or occupation(s) of the applicant;

(2) the organizational structure of the applicant, both off-site and on-site, including a description of lines of authority and assignments of responsibilities, whether in the form of administrative directives, contract provisions, or otherwise;

(3) a description of past operations that the applicant has been involved in including any license limitations, suspensions or revocations of such licenses, and any other information that will allow the agency to assess the applicant's past operating history;

(4) the technical qualifications, including training and experience, of the applicant and members of the applicant's staff to engage in the proposed activities; and minimum training and experience requirements for personnel;

(5) a description of the personnel training and retraining program;

(6) a statement of need and a description of the proposed activities identifying:

(A) the location of the proposed site;

(B) the character of the proposed activities;

(C) the types, chemical and/or physical forms and quantities of radioactive waste to be received, possessed, and processed; and

(D) the plans for use of the facility for purposes other than processing of radioactive waste;

(7) proposed time schedules for construction and receipt and processing of radioactive waste at the proposed facility;

(8) description of the site and accurate drawings of the facility including, but not limited to:

(A) construction;

(B) foundation details;

(C) ventilation;

(D) plumbing and fire suppression systems;

(E) physical security system;

(F) storage areas;

(G) radioactive waste handling or processing areas;

(H) proximity to creeks or culverts; and

(I) soil types under facility with respect to compatibility with foundation and structural design;

(9) a flow diagram of radioactive waste processing operations;

(10) a description and accurate drawings of processing equipment and any required special handling techniques to be employed;

(11) a description of personnel monitoring methods, training, and procedures to be followed to keep employees from ingesting and inhaling radioactive materials, including a description of methods to keep the radiation exposure to levels as low as reasonably achievable;

(12) a description of the site monitoring program to include prelicense data and proposed operational and postlicense monitoring programs for direct gamma radiation measurements and radioactive and chemical characteristics of the soils, groundwater, surface waters, and vegetation, as applicable;

(A) for radioactive waste storage facilities, the applicant shall address on-site air quality; and

(B) for radioactive waste processing facilities, the applicant shall address on-site and off-site air quality.

(13) spill detection and cleanup plans for the licensed site and for associated transportation of radioactive material;

(14) an Operating, Safety, and Emergency procedures manual that shall provide detailed procedures for receiving, handling, storing, processing, and shipping radioactive waste;

(15) for radioactive waste processing facilities, a description of the equipment to be installed to maintain control over maximum concentrations of radioactive materials in gaseous and liquid effluents produced during normal operations and the means to be employed for keeping levels of radioactive material in effluents to unrestricted areas as low as reasonably achievable and within the limits listed in §289.113 of this title; and

(16) methods of ultimate disposal and decommissioning, and the system for maintaining inventory of receipt, storage, and transfer of radioactive waste.

(h) Financial assurance and record keeping for decommissioning

(1) The applicant for each specific license authorizing the receipt, possession, transport, storage, and processing of radioactive waste from other persons with a half-life greater than 120 days and in quantities exceeding 10^4 times the applicable quantities set forth in §289.252(w) (6) of this title shall submit a decommissioning funding plan as described in paragraph (5) of this subsection. The decommissioning funding plan must also be submitted when a combination of isotopes is involved if R divided by 10^4 is greater than 1 (unity rule), where R is defined as the sum of the ratios of the quantity of each isotope to the applicable value in §289.252(w)(6) of this title

(2) The applicant for each specific license authorizing receipt, possession, transport, storage, and processing of radioactive waste from other persons with a half-life greater than 120 days and in quantities specified in paragraph (4) of this subsection shall either:

(A) submit a decommissioning funding plan as described in paragraph (5) of this subsection, or

(B) submit a certification that financial assurance for decommissioning has been provided in the amount prescribed by paragraph (4) of this subsection

using one of the methods described in paragraph (6) of this subsection. For an applicant, this certification may state that the appropriate assurance will be obtained after the application has been approved and the license issued, but prior to the receipt of radioactive waste. As part of the certification, a copy of the financial instrument obtained to satisfy the requirements of paragraph (6) of this subsection is to be submitted to the agency.

(3) The holder of each specific license issued:

(A) on or after March 1, 1995, which is of a type described in paragraph (1) or (2) of this subsection, shall provide financial assurance for decommissioning in accordance with the criteria set forth in this section;

(B) before March 1, 1995, and of a type described in paragraph (1) of this subsection shall submit, on or before March 1, 1996, a decommissioning funding plan or a certification of financial assurance for decommissioning in an amount at least equal to $750,000, in accordance with the criteria set forth in this section. If the licensee submits the certification of financial assurance rather than a decommissioning funding plan at this time, the licensee shall include a decommissioning funding plan in any application for license renewal; or

(C) before March 1, 1995, and of a type described in paragraph (2) of this subsection shall submit, on or before March 1, 1996, a certification of financial assurance for decommissioning or a decommissioning funding plan in accordance with the criteria set forth in this section.

(4) The required amounts of financial assurance for decommissioning are determined by quantity of material and are as follows:

(A) $750,000 for quantities of material greater than 10^4 but less than or equal to 10^5 times the applicable quantities in §289.252(w)(6) of this title in unsealed form. (For a combination of isotopes, if R, as defined in paragraph (1) of this subsection, divided by 10^4 is greater than 1 but R divided by 10^5 is less than or equal to 1.);

(B) $150,000 for quantities of material greater than 10^3 but less than or equal to 10^4 times the applicable quantities in §289.252(w)(6) of this title in unsealed form. (For a combination of isotopes, if R, as defined in paragraph (1) of this subsection, divided by 10^3 is greater than 1 but R divided by 10^4 is less than or equal to 1.); or

(C) $75,000 for quantities of material greater than 10^{10} times the applicable quantities in §289.252(w)(6) of this title in sealed sources or plated foils. (For a combination of isotopes, if R, as defined in paragraph (1) of this subsection, divided by 10^{10} is greater than 1.)

(5) Each decommissioning funding plan must contain a cost estimate for decommissioning and a description of the method of assuring funds for decommissioning from paragraph (6) of this subsection, including means of adjusting cost estimates and associated funding levels periodically over the life of the facility.

(6) Financial assurance for decommissioning must be provided by one or more of the following methods.

(A) Prepayment. Prepayment is the deposit prior to the start of operation into an account segregated from licensee assets and outside the licensee's administrative control of cash or liquid assets such that the amount of funds would be sufficient to pay decommissioning costs. Prepayment may be in the form of a trust, escrow account, government fund, certificate of deposit, or deposit of government securities.

(B) A surety method, insurance, or other guarantee method. These methods guarantee that decommissioning costs will be paid should the licensee default. A surety method may be in the form of a surety bond, letter of credit, or line of credit. A parent company guarantee of funds for decommissioning costs based on a financial test may be used if the guarantee and test are as contained in §289.252(w)(3) of this title. A parent company guarantee may not be used in combination with other financial methods to satisfy the requirements of this section. Any surety method or insurance used to provide financial assurance for decommissioning must contain the following conditions.

(i) The surety method or insurance must be open-ended or, if written for a specified term, such as five years, must be renewed automatically unless 90 days or more prior to the renewal date, the issuer notifies the agency, the beneficiary, and the licensee of its intention not to renew. The surety method or insurance must also provide that the full face amount be paid to the beneficiary automatically prior to the expiration without proof of forfeiture if the licensee fails to provide a replacement acceptable to the agency within 30 days after receipt of notification of cancellation.

(ii) The surety method or insurance must be payable to a trust established for decommissioning costs. The trustee and trust must be acceptable to the agency. An acceptable trustee includes an appropriate state or federal government agency or an entity that has the authority to act as a trustee and whose trust operations are regulated and examined by a federal or state agency.

(iii) The surety method or insurance must remain in effect until the agency has terminated the license.

(C) External sinking fund. An external sinking fund in which deposits are made at least annually, coupled with a surety method or insurance, the value of which may decrease by the amount being accumulated in the sinking fund. An external sinking fund is a fund established and maintained by setting aside funds periodically in an account segregated from licensee assets and outside the licensee's administrative control in which the total amount of funds would be sufficient to pay decommissioning costs at the time termination of operation is expected. An external sinking fund may be in the form of a trust, escrow account, government fund, certificate of deposit, or deposit of government securities. The surety or insurance provisions must be as stated in subparagraph (B) of this paragraph.

(D) Statement of intent. In the case of federal, state, or local government licensees, a statement of intent containing a cost estimate for decommissioning or an amount pursuant to paragraph (4) of this subsection, and indicating that funds for decommissioning will be obtained when necessary.

(7) Each person licensed under this part shall keep records of information important to the safe and effective decommissioning of the facility in an identified location until the license is terminated by the agency. If records of relevant information are kept for other purposes, reference to these records and their locations may be used. Information the agency considers important to decommissioning consists of:

(A) Records of spills or other unusual occurrences involving the spread of contamination in and around the facility, equipment, or site. These records may be limited to instances when contamination remains after any cleanup procedures or when there is reasonable likelihood that contaminants may have spread to inaccessible areas, as in the case of possible seepage into porous materials such as concrete. These records must include any known information on identification of involved nuclides, quantities, forms, and concentrations.

(B) As-built drawings and modifications of structures and equipment in restricted areas where radioactive waste

is processed and/or stored, and of locations of possible inaccessible contamination such as buried pipes that may be subject to contamination. If required drawings are referenced, each relevant document need not be indexed individually. If drawings are not available, the licensee shall substitute appropriate records of available information concerning these areas and locations.

(C) Records of the cost estimate performed for the decommissioning funding plan or of the amount certified for decommissioning, and records of the funding method used for assuring funds if either a funding plan or certification is used.

(i) Emergency plan for responding to a release.

(1) An application for each specific license authorizing the receipt, possession, transport, storage, and processing of radioactive waste from other persons in excess of the quantities in §289.252(w)(4) of this title must contain either:

(A) an evaluation showing that the maximum dose to a person offsite due to a release of radioactive materials would not exceed 1 rem effective dose equivalent or 5 rems to the thyroid; or

(B) an emergency plan for responding to a release of radioactive waste.

(2) One or more of the following factors may be used to support an evaluation submitted pursuant to paragraph (1)(A) of this subsection:

(A) the radioactive waste is physically separated so that only a portion could be involved in an accident;

(B) all or part of the radioactive waste is not subject to release during an accident because of the way it is stored or packaged;

(C) the release fraction in the respirable size range would be lower than the release fraction shown in §289.252(w)(4) of this title due to the chemical or physical form of the waste;

(D) the solubility of the radioactive waste would reduce the dose received;

(E) facility design or engineered safety features in the facility would cause the release fraction to be lower than shown in §289.252(w)(4) of this title;

(F) operating restrictions or procedures would prevent a release fraction as large as that shown in §289.252(w)(4) of this title; or

(G) other factors appropriate for the specific facility.

(3) An emergency plan for responding to a release of radioactive waste submitted pursuant to paragraph (1)(B) of this subsection must include the following information:

(A) a brief description of the licensee's facility and area near the site;

(B) an identification of each type of radioactive waste accident for which protective actions may be needed;

(C) a classification system for classifying accidents as alerts or site area emergencies;

(D) identification of the means of detecting each type of accident in a timely manner;

(E) a brief description of the means and equipment for mitigating the consequences of each type of accident, including those provided to protect workers onsite, and a description of the program for maintaining the equipment;

(F) a brief description of the methods and equipment to assess releases of radioactive waste;

(G) a brief description of the responsibilities of licensee personnel should an accident occur, including identification of personnel responsible for promptly notifying offsite response organizations and the agency; also, responsibilities for developing, maintaining, and updating the plan;

(H) a commitment to and a brief description of the means to promptly notify offsite response organizations and request offsite assistance, including medical assistance for the treatment of contaminated injured onsite workers when appropriate. A control point must be established. The notification and coordination must be planned so that unavailability of some personnel, parts of the facility, and some equipment will not prevent the notification and coordination. The licensee shall also commit to notify the agency immediately after notification of the appropriate offsite response organizations and not later than one hour after the licensee declares an emergency. These reporting requirements do not supersede or release licensees of complying with the requirements under the Emergency Planning and Community Right-to-Know Act of 1986, Title III, Publication L. 99-499 or other state or federal reporting requirements;

(I) a brief description of the types of information on facility status, radioactive releases, and recommended protective actions, if necessary, to be given to offsite response organizations and to the agency;

(J) a brief description of the frequency, performance objectives, and plans for the training that the licensee will provide workers on how to respond to an emergency, including any special instructions and orientation tours the licensee would offer to fire, police, medical, and other emergency personnel. The training shall familiarize personnel with site-specific emergency procedures. Also, the training shall thoroughly prepare site personnel for their responsibilities in the event of accident scenarios postulated as most probable for the specific site, including the use of team training for such scenarios;

(K) a brief description of the means of restoring the facility to a safe condition after an accident;

(L) provisions for conducting quarterly communications checks with offsite response organizations and biennial onsite exercises to test response to simulated emergencies. Quarterly communications checks with offsite response organizations must include the check and update of all necessary telephone numbers. The licensee shall invite offsite response organizations to participate in the biennial exercises. Participation of offsite response organizations in biennial exercises, although recommended, is not required. Exercises must use accident scenarios postulated as most probable for the specific site and the scenarios shall not be known to most exercise participants. The licensee shall critique each exercise using individuals not having direct implementation responsibility for the plan. Critiques of exercises must evaluate the appropriateness of the plan, emergency procedures, facilities, equipment, training of personnel, and overall effectiveness of the response. Deficiencies found by the critiques must be corrected; and

(M) a certification that the applicant has met its responsibilities under the Emergency Planning and Community Right-to-Know Act of 1986, Title III, Publication L. 99-499, if applicable to the applicant's activities at the proposed place of

processing and/or storage of radioactive waste.

(4) The licensee shall allow the offsite response organizations expected to respond in case of an accident 60 days to comment on the licensee's emergency plan before submitting it to the agency. The licensee shall provide any comments received within the 60 days to the agency with the emergency plan.

(j) Additional environmental requirements for class C facilities. An application for a license for a class C processing or storage facility shall include environmental information which may be based on reconnaissance level information when appropriate and addresses the following:

(1) description of present land uses and population distribution in the vicinity of the site:

(A) for radioactive waste storage facilities, the description shall address properties adjacent to the site; and

(B) for radioactive waste processing facilities, the description shall address properties adjacent to the site and shall include population distribution within a one-mile radius of the site;

(2) area/site suitability including geology, hydrology, and natural hazards. For radioactive waste processing facilities, area meteorology also shall be addressed;

(3) site and project alternatives including alternative siting analysis;

(4) socioeconomic effects on surrounding communities of operation of the licensed activity and of associated transportation of radioactive material; and

(5) environmental effects of postulated accidents.

(k) Issuance of license. A license for a radioactive waste processing or storage facility will be issued if the agency finds reasonable assurance that:

(1) the proposed radioactive waste facility will be sited, designed, operated, decommissioned, and closed in accordance with this section; and

(2) the issuance of the license will not be inimical to the health and safety of the public or the environment.

(l) Commencement of major construction. Commencement of major construction is prohibited until 30 days after the agency has given notice that a license is to be granted or renewed, and the environmental analysis is available. If a hearing is requested, the commencement of major construction is prohibited until notice of the contested case hearing is noticed in accordance with the Act. Commencement of major construction subsequent to issuance of the notices is at the economic risk of the applicant.

(m) Commencement of operations. No licensee issued a license under this section may commence operations until the licensee has obtained licenses or permits from other agencies as required by law.

(n) Specific terms and conditions to license.

(1) Each license issued pursuant to this section shall be subject to all the provisions of the Act, now or hereafter in effect, and to all rules, regulations, and orders of the agency.

(2) No license issued or granted under this section and no right to possess or utilize radioactive material granted by any license issued pursuant to this section shall be transferred, assigned, or in any manner disposed of, either voluntarily or involuntarily, directly or indirectly, through transfer of control of any license to any person unless the agency shall, after securing full information, find that the transfer is in accordance with the provisions of the Act, and shall give its consent in writing.

(3) Each person licensed by the agency pursuant to this section shall confine his use and possession of the material licensed to the locations and purposes authorized in the license.

(4) A license issued under this section shall include license conditions derived from the evaluations of the application and analyses performed by the agency, including amendments and changes made before a license is issued. License conditions may include but are not limited to items in the following categories:

(A) restrictions as to the total radioactive inventory of radioactive waste to be received;

(B) restrictions as to size, shape, and materials and methods of construction of radioactive waste packaging and maximum number of package units stored, at any one time;

(C) restrictions as to the physical and chemical form and radioisotopic content and concentration of radioactive waste;

(D) controls to be applied to restrict access to the site;

(E) controls to be applied to maintain and protect the health and safety of the public and site employees and the environment;

(F) administrative controls, which are the provisions relating to organization, management, and operating procedures; record-keeping, review and audit; and reporting necessary to assure that activities at the facility are conducted in a safe manner and in conformity with agency rules and license conditions; and

(G) maximum retention time for radioactive waste received at the facility.

(5) Each licensee shall notify the agency, in writing, immediately following the filing of a voluntary or involuntary petition for bankruptcy under any Chapters of Title 11 (Bankruptcy) of the United States Code (11 U.S. C.) by or against:

(A) a licensee;

(B) an entity (as that term is defined in 11 U.S.C. 101(14)) controlling a licensee or listing the license or licensee as property of the estate; or

(C) an affiliate (as that term is defined in 11 U.S.C. 101(2)) of the licensee.

(6) The notification required in paragraph (5) of this subsection must indicate:

(A) the bankruptcy court in which the petition for bankruptcy was filed; and

(B) the date of the filing of the petition.

(o) Expiration of license. Except as provided in subsection (p)(2) of this section, each specific license shall expire at the end of the day, in the month and year stated on the license.

(p) Renewal of license.

(1) Application for renewal of specific licenses shall be filed in accordance with subsection (f) of this section.

(2) In any case in which a licensee, not less than 90 days prior to expiration of his existing license, has filed an application in proper form for renewal or for a new license authorizing the same activities, such existing license shall not expire until the agency has made a final determination on the application.

(3) The licensee is responsible for decommissioning the facility and continued safe storage of any radioactive waste whether an application for continued receipt of wastes is filed or not.

(q) Amendment of license at request of licensee. Applications for amendment of a license shall be filed in accordance with subsection (f) of this section, except that the requirements of subsection (f)(5) of this section may be waived at the discretion of the agency. Such applications shall also specify how the licensee desires his license to be amended and the basis for such amendment.

(r) Agency action on application to renew or amend. In considering an application by a licensee to renew or amend his license, the agency will apply the criteria set forth in subsection (k) of this section.

(s) Modification, revocation, and termination of licenses.

(1) The terms and conditions of all licenses shall be subject to amendment, revision, or modification, or the license may be suspended or revoked by reason of amendments to the Act, or by reason of rules, regulations, and orders issued by the agency.

(2) Any license may be revoked, suspended, or modified, in whole or in part, for any material false statement in the application or any statement of fact required under provisions of the Act, or because of conditions revealed by such application or statement of fact or any report, record, or inspection, or other means which would warrant the agency to refuse to grant a license on an original application, or for violation of, or failure to observe any of the terms and conditions of the Act, or the license, or of any rule, regulation, or order of the agency.

(3) Except in cases of willfulness or an agency determination that an emergency exists in which the public health, interest, or safety requires otherwise, no license shall be modified, suspended, or revoked unless, prior to the institution of proceedings therefor, facts or conduct which may warrant such action shall have been called to the attention of the licensee in writing and the licensee shall have been afforded an opportunity to demonstrate or achieve compliance with all lawful requirements.

(4) The agency may terminate a specific license upon request submitted by the licensee to the agency in writing.

(t) Site suitability criteria. The following requirements specify the characteristics which a new site must have to be acceptable for licensure.

(1) The overall hydrogeologic environment of the site, in combination with engineering design, shall act to minimize and control potential radioactive waste migration into surface water and groundwaters.

(2) No new site shall be located in a 100-year floodplain as designated by the Texas Natural Resource Conservation Commission or wetland.

(3) No new site shall be located in the recharge area of a sole source aquifer or a major aquifer unless it can be demonstrated with reasonable assurance that the new site will be designed, constructed, operated, and closed without an unreasonable risk to the aquifer.

(u) Minimum criteria for facility design and operation.

(1) The building used for processing radioactive wastes shall have a minimum classification of Type II (111) in accordance with National Fire Protection Association 220 titled Standards Types of Building Construction.

(A) Buildings used for processing or storage of radioactive wastes shall have ventilation and fire protection systems to minimize the release of radioactive materials into the soils, waters, and the atmosphere.

(B) Facilities and equipment for repackaging leaking and/or damaged containers shall be provided.

(2) The design and operation of the radioactive waste processing or storage facility shall be such that:

(A) releases of nonradiological noxious materials from the facility are minimized; and

(B) radiation levels, concentrations, and potential exposures off-site due to airborne releases during operations are within the limits established in §289.113 of this title and are maintained as low as reasonably achievable.

(3) The design and operation of the radioactive waste processing or storage facility shall be compatible with the objectives of the site closure and decommissioning funding plan.

(4) The facility shall be designed to confine spills. Independent and diverse engineered barriers shall be provided, as necessary, to complement natural barriers in minimizing potential releases from the facility and in complying with this section.

(5) The location and construction of any new radioactive waste processing facility shall have a buffer zone adequate to permit emergency measures to be implemented following accidents and to address airborne plume dispersions and, as a minimum, shall be such that:

(A) the active components of a class B facility are located at least 30 meters from the nearest residence as of the date of the license application; and

(B) the active components of a class C facility are located at least 30 meters from the nearest property not owned or occupied by the licensee.

(v) Waste processing and packaging requirements. All processed radioactive waste offered for transport or disposal must meet.

(1) all applicable transportation requirements of the agency, the Commission and of the DOT; and

(2) all applicable disposal facility license conditions.

(w) Environmental assessment. A written analysis of the impact on the human environment will be prepared or secured by the agency for any license for a class C processing or storage facility and shall be available to the public for written comment at least 30 days prior to the beginning of a hearing, if any, on the issuance or renewal of the license.

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

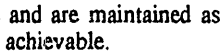
Issued in Austin, Texas, on August 9, 1995

TRD-9510246 Susan K. Steeg
General Counsel
Texas Department of Health

Effective date: October 1, 1995

Proposal publication date: March 28, 1995

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



The Texas Department of Health (department) adopts the repeal of §289.111 and new §289.201, concerning general provisions and requirements for persons who inspect medical, podiatric medical, dental, veterinary, and chiropractic electronic products to have specialized training in the design and use of the product, without changes to the proposed text as published in the April 18, 1995, issue of the *Texas Register* (20 TexReg 2775). However, the proposed text contained two errors in subsection (b)(22) and (b) (31) for which a correction of error was published in the May 9, 1995, issue of the *Texas Register* (20 TexReg 3495). Unfortunately the correction of error notice contained errors as well and had to be republished in the July 11, 1995, issue of the *Texas Register* (20 TexReg 5082).

The repealed section adopted by reference Part 11, titled "General Provisions" of the Texas Regulations for Control of Radiation (TRCR). The adopted new section incorporates language from Part 11 that has been

rewritten in *Texas Register* format and covers general provisions and adds requirements for persons who inspect medical, podiatric medical, dental, veterinary, and chiropractic electronic products to have specialized training in the design and use of the products. The Burea of Radiation Control (BRC) has developed a training curriculum education/training curriculum for current x-ray inspectors. Also, a paragraph was added to specify the subjects covered in the curriculum These requirements are added in order to implement House Bill 781, which states that the Board of Health, by regulation, shall require this training for inspectors of electronic devices

The repeal and new section are part of the first phase in the process for converting existing sections that adopt by reference the various parts of the TRCR to *Texas Register* format

The following is a comment made on the proposed section and the department's response to that comment

Comment. A commenter expressed concerns in the training of inspectors for electronic devices by department personnel. The commenter believes that House Bill 781 was necessary to correct a problem it observed in the training of inspectors and that resulted in an apparent technical weakness of the inspectors after being trained by department personnel The commenter suggested that the department contract with one of the state universities for conducting the training courses (see subsection (e)(6)).

Response The department believes the current department training program for x-ray inspectors meets the intent of House Bill 781. The current training is a revision of previous training provided and represents a formalization of the curriculum, the process, the evaluation tools, and the continuing training component. No additional funding was provided to the department to cover the cost of training specified in House Bill 781 Therefore, obtaining this type of training outside of the department is not economically feasible. The department made no change to the section as a result of the comment.

The commenter was a representative from Richmond Imaging Associates in Houston The commenter expressed opposition to a provisions in the section and presented suggestions for changes to the proposed amendment as previously discussed

• 25 TAC §289.111

The repeal is adopted under the Health and Safety Code, Chapter 401, which provides the Texas Board of Health with the authority to adopt rules and guidelines relating to the control of radiation; and §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 agency hereby certifies that the rule as adopted has been reviewed by legal counsel and found to be a valid exercise of the agency's authority.

Issued in Austin, Texas, on August 9, 1995.

TRD-9510245 Susan K. Steeg
General Counsel
Texas Department of Health

Effective date. October 1, 1995

Proposal publication date: April 18, 1995

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

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• 25 TAC §289.201

The new section is adopted under the Health and Safety Code, Chapter 401, which provides the Texas Board of Health with the authority to adopt rules and guidelines relating to the control of radiation; and §12.001, 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.

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

Issued in Austin, Texas, on August 9, 1995.

TRD-9510244 Susan K. Steeg
General Counsel
Texas Department of Health

Effective date: October 1, 1995

Proposal publication date: April 18, 1995

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

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TITLE 34. PUBLIC FINANCE

Part I. Comptroller of Public Accounts

Chapter 3. Tax Administration

Subchapter GG. Insurance Tax

• 34 TAC §3.809

The Comptroller of Public Accounts adopts an amendment to §3.809, concerning the overpayment of premium tax liability, without changes to the proposed text as published in the April 18, 1995, issue of the *Texas Register* (20 TexReg 2811)

The amendment revises the method the taxpayer uses to have an overpayment applied to future prepayments. The amendment also eliminates the requirement that the taxpayer indicate that either all or a portion of a particular prepayment premium tax liability will be exhausted or reduced by the existing overpayment carried forward from the previous tax year.

No comments were received regarding adoption of the amendment.

The amendment is adopted under the Tax Code, §111.002, which provides the comptroller with the authority to prescribe, adopt, and enforce rules relating to the administration and enforcement of the provisions of the Tax Code, Title 2.

The amendment implements the Insurance Code, Article 4.10, §6(b); Article 4.11, §13; and Article 9.59, §3(b).

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 August 15, 1995.

TRD-9510368 Martin Cherry
Chief, General Law
Comptroller of Public Accounts

Effective date: September 6, 1995

Proposal publication date: April 18, 1995

For further information, please call: (512) 463-4028

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• 34 TAC §3.810

The Comptroller of Public Accounts adopts the repeal of §3.810, concerning use of reproduction or facsimile copies of tax forms, without changes to the proposed text as published in the April 18, 1995, issue of the *Texas Register* (20 TexReg 2811).

House Bill 1461, 73rd Legislature, 1993, transferred tax collection to the Comptroller of Public Accounts and created the Insurance Code, Article 1.04D, which gives the comptroller the authority to prescribe appropriate report forms This section is obsolete and is not consistent with policies of the comptroller that allow taxpayers to file using copies of report forms. There are no restrictions regarding color, size, weight, or margins in order to file tax reports.

No comments were received regarding adoption of the repeal.

The repeal is adopted under the Tax Code, §111.002, which provides the comptroller with the authority to prescribe, adopt, and enforce rules relating to the administration and enforcement of the provisions of the Tax Code, Title 2.

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 August 15, 1995.

TRD-9510367 Martin Cherry
Chief, General Law
Comptroller of Public Accounts

Effective date: September 6, 1995

Proposal publication date: April 18, 1995

For further information, please call. (512) 463-4028

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TITLE 40. SOCIAL SERVICES AND ASSISTANCE

Part I. Texas Department of Human Services

Chapter 72. Memoranda of Understanding with Other State Agencies

Memorandum of Understanding with the Texas Department of Criminal Justice

• **40 TAC §72.4001**

The Texas Department of Human Services (DHS) adopts new §72.4001, without changes to the proposed text as published in the July 11, 1995, issue of the *Texas Register* (20 TexReg 5051). The new §72.4001 adopts by reference Texas Administrative Code Title 37, Public Safety and Corrections, Part VI, Texas Department of Criminal Justice, Chapter 15, Special Programs; §159.5 and §159.7 which was proposed in the April 4, 1995, issue of the *Texas Register* (20 TexReg 2523) and was adopted without changes in the May 16, 1995, issue of the *Texas Register* (20 TexReg 3673).

The justification for the new section is to implement the requirement in Senate Bill 252, enacted by the 73rd Legislature, that DHS enter into two memoranda of understanding with the Texas Department of Criminal Justice (TDCJ) and other health and human service agencies in order to develop and implement a continuity of care system for offenders with physical disabilities and elderly offenders.

The new section will function by ensuring that communication and coordination between the various health and human services agencies and the TDCJ system will be improved.

The department received no comments regarding adoption of this new section.

The new section is adopted under the Human Resources Code, Title 2, Chapter 22, which provides the department with the authority to administer public assistance programs.

The new section implements the Human Resources Code §§22.001-22.024.

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 August 15, 1995.

TRD-9510296

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

Effective date: September 5, 1995

Proposal publication date: July 11, 1995

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

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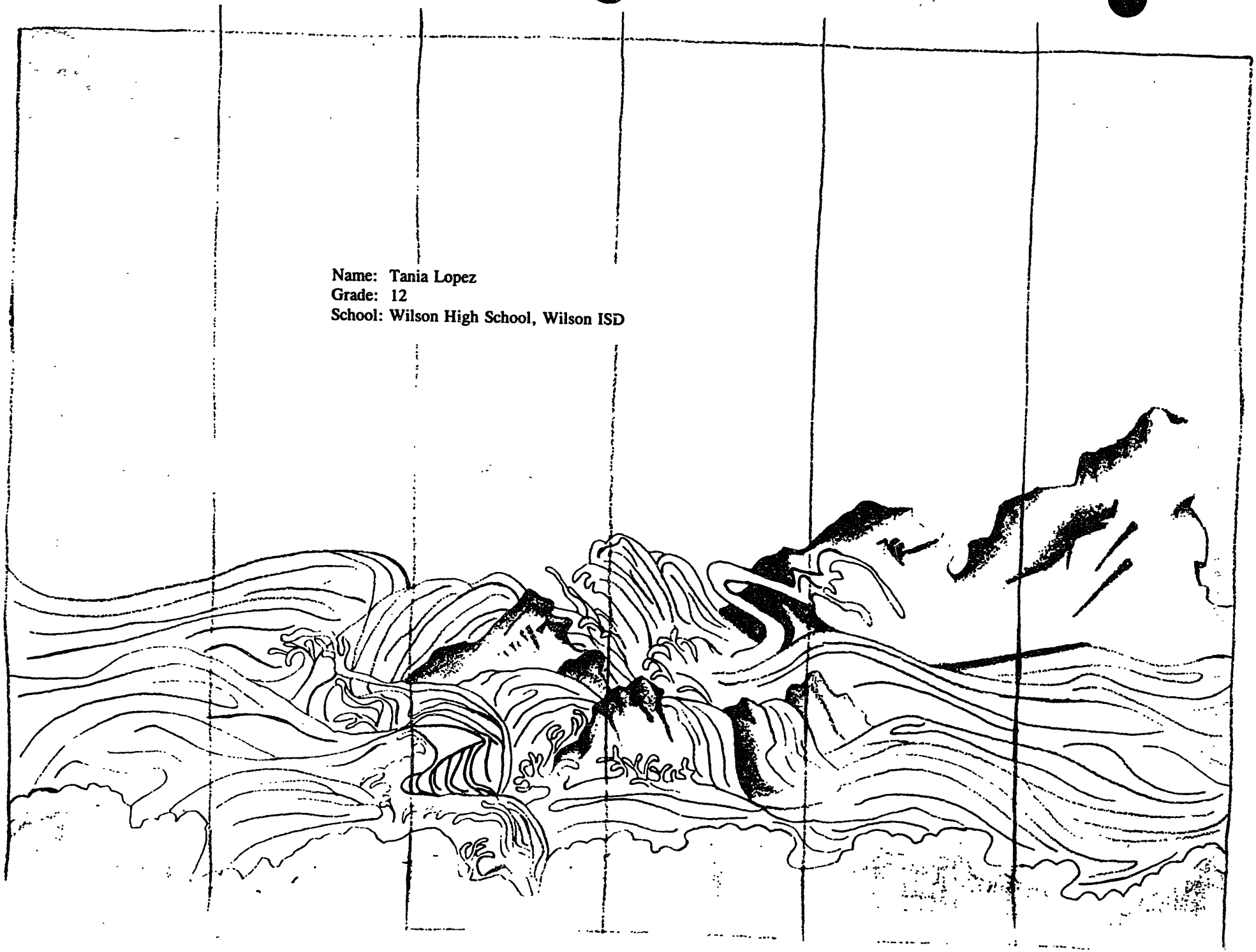
Name: Tania Lopez
Grade: 12
School: Wilson High School, Wilson ISD



TABLES AND GRAPHICS

Graphic material from the emergency, proposed, and adopted sections is published separately in this tables and graphics section. Graphic material is arranged in this section in the following order: Title Number, Part Number, Chapter Number and Section Number.

Graphic material is indicated in the text of the emergency, proposed, and adopted rules by the following tag: the word "Figure" followed by the TAC citation, rule number, and the appropriate subsection, paragraph, subparagraph and so on. Multiple graphics in a rule are designated as "Figure 1" followed by the TAC citation, "Figure 2" followed by the TAC citation.

Figure 1: 25 TAC, §289.251(g)(4)(C)(ii)(I)

The receipt, possession, use, and transfer of this source, Model _____, Serial No. _____, are subject to a general license and the regulations of the commission or of a state with which the commission has entered into an agreement for the exercise of regulatory authority. Do not remove this label.

CAUTION - RADIOACTIVE MATERIAL - THIS SOURCE CONTAINS (AMERICIUM-241) (PLUTONIUM-238) (PLUTONIUM-239)*. DO NOT TOUCH RADIOACTIVE PORTION OF THIS SOURCE.

_____ ; or
Name of Manufacturer or Importer

---

* Showing only the name of the appropriate material.

Figure 2: 25 TAC, §289.251(g)(4)(C)(ii)(II)

The receipt, possession, use, and transfer of this source, Model _____, Serial No._____, are subject to a general license and the regulations of any licensing state. Do not remove this label.

CAUTION - RADIOACTIVE MATERIAL - THIS SOURCE CONTAINS RADIUM-226. DO NOT TOUCH RADIOACTIVE PORTION OF THIS SOURCE.

_____

Name of Manufacturer or Importer

Figure 3: 25 TAC, §289.251(j)(2)(D)(ii)(I)

This radioactive material shall be received, acquired, possessed, and used only by physicians, veterinarians, clinical laboratories, or hospitals and only for in vitro clinical or laboratory tests not involving internal or external administration of the material, or the radiation therefrom, to human beings or animals. Its receipt, acquisition, possession, use, and transfer are subject to the regulations and a general license of the commission or of a state with which the commission has entered into an agreement for the exercise of regulatory authority.

_____ ; or
Name of Manufacturer

Figure 4: 25 TAC, §289.251(j)(2)(D)(ii)(II)

This radioactive material shall be received, acquired, possessed, and used only by physicians, veterinarians, clinical laboratories, or hospitals and only for in vitro clinical or laboratory tests not involving internal or external administration of the material, or the radiation therefrom, to human beings or animals. Its receipt, acquisition, possession, use, and transfer are subject to the rules and a general license of a licensing state.

_____

Name of Manufacturer

Element (atomic number)	Isotope	Column I Gas Concentration μCi/ml*	Column II Liquid and Solid Concentration μCi/ml**
Antimony (51)	Sb-122		3×10^{-4}
	Sb-124		2×10^{-4}
	Sb-125		1×10^{-3}
Argon (18)	Ar-37	1×10^{-3}	
	Ar-41	4×10^{-7}	
Arsenic (33)	As-73		5×10^{-3}
	As-74		5×10^{-4}
	As-76		2×10^{-4}
	As-77		8×10^{-4}
Barium (56)	Ba-131		2×10^{-3}
	Ba-140		3×10^{-4}
Beryllium (4)	Be-7		2×10^{-2}
Bismuth (83)	Bi-206		4×10^{-4}
Bromine (35)	Br-82	4×10^{-7}	3×10^{-3}
Cadmium (48)	Cd-109		2×10^{-3}
	Cd-115m		3×10^{-4}
	Cd-115		3×10^{-4}
Calcium (20)	Ca-45		9×10^{-5}
	Ca-47		5×10^{-4}
Carbon (6)	C-14	1×10^{-6}	8×10^{-3}
Cerium (58)	Ce-141		9×10^{-4}
	Ce-143		4×10^{-4}
	Ce-144		1×10^{-4}
Cesium (55)	Cs-131		2×10^{-2}
	Cs-134m		6×10^{-2}
	Cs-134		9×10^{-5}
Chlorine (17)	Cl-38	9×10^{-7}	4×10^{-3}
Chromium (24)	Cr-51		2×10^{-2}
Cobalt (27)	Co-57		5×10^{-3}
	Co-58		1×10^{-3}
	Co-60		5×10^{-4}
Copper (29)	Cu-64		3×10^{-3}
Dysprosium (66)	Dy-165		4×10^{-3}
	Dy-166		4×10^{-4}
Erbium (68)	Er-169		9×10^{-4}
	Er-171		1×10^{-3}

Figure 5: 25 TAC, §289.251(q)(1) - Page 2 of 5

Europium (63)	Eu-152 (T/2 = 9.2 h)		6×10^{-4}
	Eu-155		2×10^{-3}
Fluorine (9)	F-18	2×10^{-6}	8×10^{-3}
Gadolinium (64)	Gd-153		2×10^{-3}
	Gd-159		8×10^{-4}
Gallium (31)	Ga-72		4×10^{-4}
Germanium (32)	Ge-71		2×10^{-2}
Gold (79)	Au-196		2×10^{-3}
	Au-198		5×10^{-4}
	Au-199		2×10^{-3}
Hafnium (72)	Hf-181		7×10^{-4}
Hydrogen (1)	H-3	5×10^{-6}	3×10^{-2}
Indium (49)	In-113m		1×10^{-2}
	In-114m		2×10^{-4}
Iodine (53)	I-126	3×10^{-9}	2×10^{-5}
	I-131	3×10^{-9}	2×10^{-5}
	I-132	8×10^{-8}	6×10^{-4}
	I-133	1×10^{-8}	7×10^{-5}
	I-134	2×10^{-7}	1×10^{-3}
Iridium (77)	Ir-190		2×10^{-3}
	Ir-192		4×10^{-4}
	Ir-194		3×10^{-4}
Iron (26)	Fe-55		8×10^{-3}
	Fe-59		6×10^{-4}
Krypton (36)	Kr-85m	1×10^{-6}	
	Kr-85	3×10^{-6}	
Lanthanum (57)	La-140		2×10^{-4}
Lead (82)	Pb-203		4×10^{-3}
Lutetium (71)	Lu-177		1×10^{-3}
Manganese (25)	Mn-52		3×10^{-4}
	Mn-54		1×10^{-3}
	Mn-56		1×10^{-3}
Mercury (80)	Hg-197m		2×10^{-3}
	Hg-197		3×10^{-3}
	Hg-203		2×10^{-4}
Molybdenum (42)	Mo-99		2×10^{-3}
Neodymium (60)	Nd-147		6×10^{-4}
	Nd-149		3×10^{-3}
Nickel (28)	Ni-65		1×10^{-3}
Niobium (Columbium) (41)	Nb-95		1×10^{-3}
	Nb-97		9×10^{-3}
Osmium (76)	Os-185		7×10^{-4}

	Os-191m		3×10^{-2}
	Os-191		2×10^{-3}
	Os-193		6×10^{-4}
Palladium (46)	Pd-103		3×10^{-3}
	Pd-109		9×10^{-4}
Phosphorus (15)	P-32		2×10^{-4}
Platinum (78)	Pt-191		1×10^{-3}
	Pt-193m		1×10^{-2}
	Pt-197m		1×10^{-2}
	Pt-197		1×10^{-3}
Polonium (84)	Po-210		7×10^{-6}
Potassium (19)	K-42		3×10^{-3}
Praseodymium (59)	Pr-142		3×10^{-4}
	Pr-143		5×10^{-4}
Promethium (61)	Pm-147		2×10^{-3}
	Pm-149		4×10^{-4}
Radium (88)	Ra-226		1×10^{-7}
	Ra-228		3×10^{-7}
Rhenium (75)	Re-183		6×10^{-3}
	Re-186		9×10^{-4}
	Re-188		6×10^{-4}
Rhodium (45)	Rh-103m		1×10^{-1}
	Rh-105		1×10^{-3}
Rubidium (37)	Rb-86		7×10^{-4}
Ruthenium (44)	Ru-97		4×10^{-3}
	Ru-103		8×10^{-4}
	Ru-105		1×10^{-3}
	Ru-106		1×10^{-4}
Samarium (62)	Sm-153		8×10^{-4}
Scandium (21)	Sc-46		4×10^{-4}
	Sc-47		9×10^{-4}
	Sc-48		3×10^{-4}
Selenium (34)	Se-75		3×10^{-3}
Silicon (14)	Si-31		9×10^{-3}
Silver (47)	Ag-105		1×10^{-3}
	Ag-110m		3×10^{-4}
	Ag-111		4×10^{-4}
Sodium (11)	Na-24		2×10^{-3}
Strontium (38)	Sr-85		1×10^{-3}
	Sr-89		1×10^{-4}
	Sr-91		7×10^{-4}
	Sr-92		7×10^{-4}
Sulfur (16)	S-35	9×10^{-8}	6×10^{-4}
Tantalum (73)	Ta-182		4×10^{-4}

Figure 5: 25 TAC, §289.251(q)(1) - Page 4 of 5

Technetium (43)	Tc-96m		1×10^{-1}
	Tc-96		1×10^{-3}
Tellurium (52)	Te-125m		2×10^{-3}
	Te-127m		6×10^{-4}
	Te-127		3×10^{-3}
	Te-129m		3×10^{-4}
	Te-131m		6×10^{-4}
	Te-132		3×10^{-4}
Terbium (65)	Tb-160		4×10^{-4}
Thallium (81)	Tl-200		4×10^{-3}
	Tl-201		3×10^{-3}
	Tl-202		1×10^{-3}
	Tl-204		1×10^{-3}
Thulium (69)	Tm-170		5×10^{-4}
	Tm-171		5×10^{-3}
Tin (50)	Sn-113		9×10^{-4}
	Sn-125		2×10^{-4}
Tungsten (Wolfram) (74)	W-181		4×10^{-3}
W-1877 x 10^{-4}			
Vanadium (23)	V-48		3×10^{-4}
Xenon (54)	Xe-131m	4×10^{-6}	
	Xe-133	3×10^{-6}	
	Xe-135	1×10^{-6}	
Ytterbium (70)	Yb-175		1×10^{-3}
Yttrium (39)	Y-90		2×10^{-4}
	Y-91m		3×10^{-2}
	Y-91		3×10^{-4}
	Y-92		6×10^{-4}
	Y-93		3×10^{-4}
Zinc (30)	Zn-65		1×10^{-3}
	Zn-69m		7×10^{-4}
	Zn-69		2×10^{-2}
Zirconium (40)	Zr-95		6×10^{-4}
	Zr-97		2×10^{-4}
Beta and/or gamma emitting radioactive material not listed above with half-life less than 3 years		1×10^{-10}	1×10^{-6}

NOTE 1: Many radioisotopes disintegrate into isotopes that are also radioactive. In expressing the concentrations in this paragraph, the activity stated is that of the parent isotope and takes into account the daughters.

NOTE 2: For purposes of subsection (d) of this section where there is involved a combination of isotopes, the limit for the combination should be derived as follows: Determine for each isotope in the product the ratio between the concentration present in the product and the exempt concentration established in this paragraph for the specific isotope when not in combination. The sum of such ratios may not exceed "1" (i.e., unity).

EXAMPLE:

$$\frac{\text{Concentration of Isotope A in Product}}{\text{Exempt Concentration of Isotope A}} + \frac{\text{Concentration of Isotope B in Product}}{\text{Exempt Concentration of Isotope B}} \leq 1$$

* Values are given in Column I only for those materials normally used as gases.

** μCi/gm for solids.

Figure 6: 25 TAC, §289.251(q)(2) - Page 1 of 5

Radioactive Material	Microcuries
Antimony-122 (Sb-122)	100
Antimony-124 (Sb-124)	10
Antimony-125 (Sb-125)	10
Arsenic-73 (As-73)	100
Arsenic-74 (As-74)	10
Arsenic-76 (As-76)	10
Arsenic-77 (As-77)	100
Barium-131 (Ba-131)	10
Barium-133 (Ba-133)	10
Barium-140 (Ba-140)	10
Beryllium-7 (Be-7)	100
Bismuth-210 (Bi-210)	1
Bromine-82 (Br-82)	10
Cadmium-109 (Cd-109)	10
Cadmium-115m (Cd-115m)	10
Cadmium-115 (Cd-115)	100
Calcium-45 (Ca-45)	10
Calcium-47 (Ca-47)	10
Carbon-14 (C-14)	100
Cerium-141 (Ce-141)	100
Cerium-143 (Ce-143)	100
Cerium-144 (Ce-144)	1
Cesium-129 (Cs-129)	100
Cesium-131 (Cs-131)	1,000
Cesium-134m (Cs-134m)	100
Cesium-134 (Cs-134)	1
Cesium-135 (Cs-135)	10
Cesium-136 (Cs-136)	10
Cesium-137 (Cs-137)	10
Chlorine-36 (Cl-36)	10
Chlorine-38 (Cl-38)	10
Chromium-51 (Cr-51)	1,000
Cobalt-57 (Co-57)	100
Cobalt-58m (Co-58m)	10
Cobalt-58 (Co-58)	10
Cobalt-60 (Co-60)	1
Copper-64 (Cu-64)	100
Dysprosium-165 (Dy-165)	10
Dysprosium-166 (Dy-166)	100
Erbium-169 (Er-169)	100
Erbium-171 (Er-171)	100
Europium-152 (Eu-152)9.2h	100

Europium-152 (Eu-152)13 yr	1
Europium-154 (Eu-154)	1
Europium-155 (Eu-155)	10
Fluorine-18 (F-18)	1,000
Gadolinium-153 (Gd-153)	10
Gadolinium-159 (Gd-159)	100
Gallium-67 (Ga-67)	100
Gallium-72 (Ga-72)	10
Germanium-68 (Ge-68)	10
Germanium-71 (Ge-71)	100
Gold-195 (Au-195)	10
Gold-198 (Au-198)	100
Gold-199 (Au-199)	100
Hafnium-181 (Hf-181)	10
Holmium-166 (Ho-166)	100
Hydrogen-3 (H-3)	1,000
Indium-111 (In-111)	100
Indium-113m (In-113m)	100
Indium-114m (In-114m)	10
Indium-115m (In-115m)	100
Indium-115 (In-115)	10
Iodine-123 (I-123)	100
Iodine-125 (I-125)	1
Iodine-126 (I-126)	1
Iodine-129 (I-129)	0.1
Iodine-131 (I-131)	1
Iodine-132 (I-132)	10
Iodine-133 (I-133)	1
Iodine-134 (I-134)	10
Iodine-135 (I-135)	10
Iridium-192 (Ir-192)	10
Iridium-194 (Ir-194)	100
Iron-52 (Fe-52)	10
Iron-55 (Fe-55)	100
Iron-59 (Fe-59)	10
Krypton-85 (Kr-85)	100
Krypton-87 (Kr-87)	10
Lanthanum-140 (La-140)	10
Lutetium-177 (Lu-177)	100
Manganese-52 (Mn-52)	10
Manganese-54 (Mn-54)	10
Manganese-56 (Mn-56)	10
Mercury-197m (Hg-197m)	100
Mercury-197 (Hg-197)	100

Mercury-203 (Hg-203)	10
Molybdenum-99 (Mo-99)	100
Neodymium-147 (Nd-147)	100
Neodymium-149 (Nd-149)	100
Nickel-59 (Ni-59)	100
Nickel-63 (Ni-63)	10
Nickel-65 (Ni-65)	100
Niobium-93m (Nb-93m)	10
Niobium-95 (Nb-95)	10
Niobium-97 (Nb-97)	10
Osmium-185 (Os-185)	10
Osmium-191m (Os-191m)	100
Osmium-191 (Os-191)	100
Osmium-193 (Os-193)	100
Palladium-103 (Pd-103)	100
Palladium-109 (Pd-109)	100
Phosphorus-32 (P-32)	10
Platinum-191 (Pt-191)	100
Platinum-193m (Pt-193m)	100
Platinum-193 (Pt-193)	100
Platinum-197m (Pt-197m)	100
Platinum-197 (Pt-197)	100
Polonium-210 (Po-210)	0.1
Potassium-42 (K-42)	10
Potassium-43 (K-43)	10
Praseodymium-142 (Pr-142)	100
Praseodymium-143 (Pr-143)	100
Promethium-147 (Pm-147)	10
Promethium-149 (Pm-149)	10
Radon-222 (Rn-222)	100
Rhenium-186 (Re-186)	100
Rhenium-188 (Re-188)	100
Rhodium-103m (Rh-103m)	100
Rhodium-105 (Rh-105)	100
Rubidium-81 (Rb-81)	10
Rubidium-86 (Rb-86)	10
Rubidium-87 (Rb-87)	10
Ruthenium-97 (Ru-97)	100
Ruthenium-103 (Ru-103)	10
Ruthenium-105 (Ru-105)	10
Ruthenium-106 (Ru-106)	1
Samarium-151 (Sm-151)	10
Samarium-153 (Sm-153)	100
Scandium-46 (Sc-46)	10

Figure 6: 25 TAC, §289.251(q)(2) - Page 4 of 5

Scandium-47 (Sc-47)	100
Scandium-48 (Sc-48)	10
Selenium-75 (Se-75)	10
Silicon-31 (Si-31)	100
Silver-105 (Ag-105)	10
Silver-110m (Ag-110m)	1
Silver-111 (Ag-111)	100
Sodium-22 (Na-22)	10
Sodium-24 (Na-24)	10
Strontium-85 (Sr-85)	10
Strontium-87m (Sr-87m)	10
Strontium-89 (Sr-89)	1
Strontium-90 (Sr-90)	0.1
Strontium-91 (Sr-91)	10
Strontium-92 (Sr-92)	10
Sulphur-35 (S-35)	100
Tantalum-182 (Ta-182)	10
Technetium-96 (Tc-96)	10
Technetium-97m (Tc-97m)	100
Technetium-97 (Tc-97)	100
Technetium-99m (Tc-99m)	100
Technetium-99 (Tc-99)	10
Tellurium-125m (Te-125m)	10
Tellurium-127m (Te-127m)	10
Tellurium-127 (Te-127)	100
Tellurium-129m (Te-129m)	10
Tellurium-129 (Te-129)	100
Tellurium-131m (Te-131m)	10
Tellurium-132 (Te-132)	10
Terbium-160 (Tb-160)	10
Thallium-200 (Tl-200)	100
Thallium-201 (Tl-201)	100
Thallium-202 (Tl-202)	100
Thallium-204 (Tl-204)	10
Thulium-170 (Tm-170)	10
Thulium-171 (Tm-171)	10
Tin-113 (Sn-113)	10
Tin-125 (Sn-125)	10
Tungsten-181 (W-181)	10
Tungsten-185 (W-185)	10
Tungsten-187 (W-187)	100
Vanadium-48 (V-48)	10
Xenon-131m (Xe-131m)	1,000
Xenon-133 (Xe-133)	100

Figure 6: 25 TAC, §289.251(q)(2) - Page 5 of 5

Xenon-135 (Xe-135)	100
Ytterbium-175 (Yb-175)	100
Yttrium-87 (Y-87)	10
Yttrium-88 (Y-88)	10
Yttrium-90 (Y-90)	10
Yttrium-91 (Y-91)	10
Yttrium-92 (Y-92)	100
Yttrium-93 (Y-93)	100
Zinc-65 (Zn-65)	10
Zinc-69m (Zn-69m)	100
Zinc-69 (Zn-69)	1,000
Zirconium-93 (Zr-93)	10
Zirconium-95 (Zr-95)	10
Zirconium-97 (Zr-97)	10
Any radioactive material not listed above other than alpha emitting radioactive material	0.1

Figure 1: 25 TAC, §289.252(h)(4)(A)(iii)(III)(-a-)

The receipt, possession, use, and transfer of this device, Model _____, Serial No. _____, are subject to a general license or the equivalent and the regulations of the commission or a state with which the commission has entered into an agreement for the exercise of regulatory authority. This label shall be maintained on the device in a legible condition. Removal of this label is prohibited.

CAUTION-RADIOACTIVE MATERIAL

_____

(Name of Manufacturer or Distributor);

Figure 2: 25 TAC, §289.252(h)(4)(A)(iii)(III)(-b-)

The receipt, possession, use, and transfer of this device, Model _____, Serial No. _____, are subject to a general license or the equivalent and the regulations of a licensing state. This label shall be maintained on the device in a legible condition. Removal of this label is prohibited.

CAUTION-RADIOACTIVE MATERIAL

_____

(Name of Manufacturer or Distributor)

Figure 3: 25 TAC, §289.252(h)(8)(D)(i)

This radioactive material may be received, acquired, possessed, and used only by physicians, veterinarians, clinical laboratories, or hospitals, and only for in vitro clinical or laboratory tests not involving internal or external administration of the material, or the radiation therefrom, to human beings or animals. Its receipt, acquisition, possession, use, and transfer are subject to the regulations and a general license of the commission or of a state with which the commission has entered into an agreement for the exercise of regulatory authority.

_____ ; or
Name of Manufacturer

Figure 4: 25 TAC, §289.252(h)(8)(D)(ii)

This radioactive material may be received, acquired, possessed, and used only by physicians, veterinarians, clinical laboratories, or hospitals and only for in vitro clinical or laboratory tests not involving internal or external administration of the material, or the radiation therefrom, to human beings or animals. Its receipt, acquisition, possession, use, and transfer are subject to the regulations and a general license of a licensing state.

_____ ; and
Name of Manufacturer

Figure 5: 25 TAC, §289.252(w)(4) - Page 1 of 3

Radioactive Material**	Release Fraction	Quantity (curies)
Actinium-228	0.001	4,000
Americium-241	.001	2
Americium-242	.001	2
Americium-243	.001	2
Antimony-124	.01	4,000
Antimony-126	.01	6,000
Barium-133	.01	10,000
Barium-140	.01	30,000
Bismuth-207	.01	5,000
Bismuth-210	.01	600
Cadmium-109	.01	1,000
Cadmium-113	.01	80
Calcium-45	.01	20,000
Californium-252	.001	9 (20 mg)
Carbon-14	.01	50,000
	Non CO	
Cerium-141	.01	10,000
Cerium-144	.01	300
Cesium-134	.01	2,000
Cesium-137	.01	2,000
Chlorine-36	.5	100
Chromium-51	.01	300,000
Cobalt-60	.001	5,000
Copper-64	.01	200,000
Curium-242	.001	60
Curium-243	.001	3
Curium-244	.001	4
Curium-245	.001	2
Europium-152	.01	500
Europium-154	.01	400
Europium-155	.01	3,000
Germanium-68	.01	2,000
Gadolinium-153	.01	5,000
Gold-198	.01	30,000
Hafnium-172	.01	400
Hafnium-181	.01	7,000
Holmium-166m	.01	100
Hydrogen-3	.5	20,000
Iodine-125	.5	10

Iodine-131	.5	10
Indium-114m	.01	1,000
Iridium-192	.001	40,000
Iron-55	.01	40,000
Iron-59	.01	7,000
Krypton-85	1.0	6,000,000
Lead-210 .01 8		
Manganese-56	.01	60,000
Mercury-203	.01	10,000
Molybdenum-99	.01	30,000
Neptunium-237	.001	2
Nickel-63	.01	20,000
Niobium-94	.01	300
Phosphorus-32	.5	100
Phosphorus-33	.5	1,000
Polonium-210	.01	10
Potassium-42	.01	9,000
Promethium-145	.01	4,000
Promethium-1	.01	4,000
Ruthenium-1	.01	200
Samarium	.01	4,000
Scandi o	.01	3,000
Sele 75	.01	10,000
S 10m	.01	1,000
Sodium-22	.01	9,000
Sodium-24	.01	10,000
Strontium-89	.01	3,000
Strontium-90	.01	90
Sulfur-35	.5	900
Technitium-99	.01	10,000
Technitium-99m	.01	400,000
Tellurium-127m	.01	5,000
Tellurium-129m	.01	5,000
Terbium-160	.01	4,000
Thulium-170	.01	4,000
Tin-113	.01	10,000
Tin-123	.01	3,000
Tin-126	.01	1,000
Titanium-44	.01	100
Vanadium-48	.01	7,000
Xenon-133	1.0	900,000
Yttrium-91	.01	2,000
Zinc-65	.01	5,000
Zirconium-93	.01	400

Zirconium-95	.01	5,000
Any other beta-gamma emitter	.01	10,000
Mixed fission products	.01	1,000
Mixed corrosion products	.01	10,000
Contaminated equipment beta-gamma	.001	10,000
Irradiated material, any form other than solid noncombustible	.01	1,000
Irradiated material, solid noncombustible	.001	10,000
Mixed radioactive waste, beta-gamma	.01	1,000
Packaged mixed waste, beta-gamma*	.001	10,000
Any other alpha emitter	.001	2
Contaminated equipment, alpha	.0001	20
Packaged waste, alpha*	.0001	20
Combinations of radioactive materials listed above**	-----	-----

* Waste packaged in Type B containers does not require an emergency plan.

** For combinations of radioactive materials, consideration of the need for an emergency plan is required if the sum of the ratios of the quantity of each radioactive material authorized to the quantity listed for that material in this paragraph exceeds one.

Figure 6: 25 TAC, §289.252(w)(6) - Page 1 of 5

Radioactive Material	Microcuries
Americium-241	0.01
Antimony-122	100
Antimony-124	10
Antimony-125	10
Arsenic-73	100
Arsenic-74	10
Arsenic-76	10
Arsenic-77	100
Barium-131	10
Barium-133	10
Barium-140	10
Beryllium-7	100
Bismuth-210	1
Bromine-82	10
Cadmium-109	10
Cadmium-115m	10
Cadmium-115	100
Calcium-45	10
Calcium-47	10
Carbon-14	100
Cerium-141	100
Cerium-143	100
Cerium-144	1
Cesium-131	1,000
Cesium-134m	100
Cesium-134	1
Cesium-135	10
Cesium-136	10
Cesium-137	10
Chlorine-36	10
Chlorine-38	10
Chromium-51	1,000
Cobalt-57	100
Cobalt-58m	10
Cobalt-58	10
Cobalt-60	1
Copper-64	100
Dysprosium-165	10
Dysprosium-166	100
Erbium-169	100
Erbium-171	100

Europium-152 (9.2h)	100
Europium-152 (13 yr)	1
Europium-154	1
Europium-155	10
Fluorine-18	1,000
Gadolinium-153	10
Gadolinium-159	100
Gallium-72	10
Germanium-71	100
Gold-198	100
Gold-199	100
Hafnium-181	10
Holmium-166	100
Hydrogen-3	1,000
Indium-113m	100
Indium-114m	10
Indium-115m	100
Indium-115	10
Iodine-125	1
Iodine-126	1
Iodine-129	0.1
Iodine-131	1
Iodine-132	10
Iodine-133	1
Iodine-134	10
Iodine-135	10
Iridium-192	10
Iridium-194	100
Iron-55	100
Iron-59	10
Krypton-85	100
Krypton-87	10
Lanthanum-140	10
Lutetium-177	100
Manganese-52	10
Manganese-54	10
Manganese-56	10
Mercury-197m	100
Mercury-197	100
Mercury-203	10
Molybdenum-99	100
Neodymium-147	100
Neodymium-149	100
Nickel-59	100

Nickel-63	10
Nickel-65	100
Niobium-93m	10
Niobium-95	10
Niobium-97	10
Osmium-185	10
Osmium-191m	100
Osmium-191	100
Osmium-193	100
Palladium-103	100
Palladium-109	100
Phosphorus-32	10
Platinum-191	100
Platinum-193m	100
Platinum-193	100
Platinum-197m	100
Platinum-197	100
Plutonium-239	0.01
Polonium-210	0.01
Potassium-42	10
Praseodymium-142	100
Praseodymium-143	100
Promethium-147	10
Promethium-149	10
Radium-226	0.01
Radon-222	10
Rhenium-186	100
Rhenium-188	100
Rhodium-103m	100
Rhodium-105	100
Rubidium-86	10
Rubidium-87	10
Ruthenium-97	100
Ruthenium-103	10
Ruthenium-105	10
Ruthenium-106	1
Samarium-151	10
Samarium-153	100
Scandium-46	10
Scandium-47	100
Scandium-48	10
Selenium-75	10
Silicon-31	100
Silver-105	10

Silver-110m	1
Silver-111	100
Sodium-22	1
Sodium-24	10
Strontium-85	10
Strontium-87m	10
Strontium-89	1
Strontium-90	0.1
Strontium-91	10
Strontium-92	10
Sulphur-35	100
Tantalum-182	10
Technetium-96	10
Technetium-97m	100
Technetium-97	100
Technetium-99m	100
Technetium-99	10
Tellurium-125m	10
Tellurium-127m	10
Tellurium-127	100
Tellurium-129m	10
Tellurium-129	100
Tellurium-131m	10
Tellurium-132	10
Terbium-160	10
Thallium-200	100
Thallium-201	100
Thallium-202	100
Thallium-204	10
Thorium (natural)*	100
Thulium-170	10
Thulium-171	10
Tin-113	10
Tin-125	10
Tungsten-181	10
Tungsten-185	10
Tungsten-187	100
Uranium (natural)**	100
Uranium-233	0.01
Uranium-234-Uranium-235	0.01
Vanadium-48	10
Xenon-131m	1,000
Xenon-133	100
Xenon-135	100

Ytterbium-175	100
Yttrium-90	10
Yttrium-91	10
Yttrium-92	100
Yttrium-93	100
Zinc-65	10
Zinc-69m	100
Zinc-69	1,000
Zirconium-93	10
Zirconium-95	10
Zirconium-97	10
Any alpha-emitting radionuclide not listed above or mixtures of alpha emitters of unknown composition	0.01
Any radionuclide other than alpha-emitting radionuclides, not listed above or mixtures of beta emitters of unknown composition	0.1

* Based on alpha disintegration rate of Th-232, Th-230, and the products.

** Based on alpha disintegration rate of U-238, U-234, and U-235.

Figure 1: 25 TAC, §289.254(b)(20)(B)

Radionuclide	RADIOACTIVE HALF-LIFE		
	0 to 1000 days	1000 days to 10^6 years	Over 10^6 years
Atomic No. 1-81	Group III	Group II	Group III
Atomic No. 82 and over	Group I	Group I	Group III

Figure 2: 25 TAC, §289.254(d)(1)

	Group I	Group II	Group III	Group IV
Class A Storage or Processing Facility	10 mCi	100 mCi	1 Ci	10 Ci
Class B Storage Facility	2 Ci	20 Ci	200 Ci	2000 Ci
Class B Processing Facility	1 Ci	10 Ci	100 Ci	1000 Ci

Figure: 30 TAC §116.313(a)

RENEWAL FEE TABLE*

X = TOTAL ALLOWABLE (TONS/YEAR)	**BASE FEE**	**INCREMENTAL FEE**
X ≤ 5	$ 300	-
5 < X ≤ 24	$ 300	$35/ton
24< X ≤ 99	$ 965	$25/ton
99< X ≤ 994	$ 2,840	$ 8/ton
X > 994	$10,000	-

Minimum fee: $300

Maximum fee: $10,000

* To calculate the fee, multiply the number of tons in excess of the lower limit of the appropriate category by the incremental fee, then add this amount to the base fee. For example, if total emissions of all air contaminants are 50 tons per year, the total fee would be $1,615 (base fee of $965, plus incremental fee of $25 x 26 tons or $650).

FIGURE 1: 31 TAC 9.7(c)(3)(A)

REDUCED ROYALTY SCHEDULE FOR QUALIFYING RESERVOIRS
BASE ROYALTY RATE = 25 00%

AVG. DAILY PER WELL PRODUCTION (BOE/DAY)	AVERAGE OF THE DAILY PRICE OF OIL DURING THE QUALIFYING PERIOD									
	$15.00 – $15 99/BBL	$16.00 – $16 99/BBL	$17 00 – $17.99/BBL	$18.00 – $18.99/BBL	$19 00 – $19 99/BBL	$20.00 – $20 99/BBL	$21 00 – $21 99/BBL	$22.00 – $22.99/BBL	$23 00 – $23.99/BBL	$24 00 – $25 00/BBL
15	11.00%	16.50%	21.50%	25.00%	25 00%	25.00%	25.00%	25 00%	25.00%	25 00%
14	10.75%	16.25%	21.25%	25.00%	25 00%	25.00%	25 00%	25.00%	25.00%	25 00%
13	10.50%	16 00%	21.00%	25.00%	25 00%	25.00%	25 00%	25.00%	25.00%	25 00%
12	10.00%	15.75%	20.75%	25.00%	25 00%	25 00%	25.00%	25 00%	25.00%	25 00%
11	9.50%	15 25%	20.25%	24.50%	25.00%	25.00%	25 00%	25.00%	25.00%	25 00%
10	9.00%	14.75%	19.75%	24.25%	25 00%	25.00%	25.00%	25.00%	25.00%	25 00%
9	8.25%	14.00%	19.00%	23.75%	25.00%	25.00%	25.00%	25.00%	25.00%	25 00%
8	7.50%	13.25%	18.25%	23.00%	25.00%	25.00%	25.00%	25.00%	25.00%	25.00%
7	6.25%	12.25%	17.50%	22.00%	25.00%	25.00%	25.00%	25.00%	25.00%	25.00%
6	6.25%	11.00%	16.00%	20.75%	25.00%	25.00%	25.00%	25.00%	25.00%	25.00%
5	6.25%	9.00%	14.25%	19.00%	23.25%	25.00%	25.00%	25.00%	25.00%	25.00%
4	6.25%	6.25%	11.75%	16.50%	21.00%	24.75%	25.00%	25.00%	25.00%	25.00%
3	6.25%	6.25%	7.00%	12.25%	17.00%	21.00%	24.75%	25.00%	25.00%	25.00%
2	6.25%	6.25%	6.25%	6.25%	8.75%	13.25%	17.50%	21.25%	24.75%	25.00%
1 OR LESS	6.25%	6.25%	6.25%	6.25%	6.25%	6.25%	6.25%	6.25%	6.25%	8.50%

FIGURE 2: 31 TAC 9.7(c)(3)(A)

REDUCED ROYALTY SCHEDULE FOR QUALIFYING RESERVOIRS
BASE ROYALTY RATE = 20 00%

AVG DAILY PER WELL PRODUCTION (BOE/DAY)	AVERAGE OF THE DAILY PRICE OF OIL DURING THE QUALIFYING PERIOD									
	$15.00 – $15.99/BBL	$16 00 – $16 99/BBL	$17 00 – $17.99/BBL	$18 00 – $18 99/BBL	$19 00 – $19 99/BBL	$20 00 – $20 99/BBL	$21 00 – $21 99/BBL	$22 00 – $22 99/BBL	$23 00 – $23 99/BBL	$24 00 – $25 00/BBL
15	11.00%	16 50%	20 00%	20 00%	20 00%	20 00%	20 00%	20.00%	20 00%	20 00%
14	10 75%	16 25%	20 00%	20 00%	20 00%	20 00%	20 00%	20 00%	20 00%	20 00%
13	10.50%	16 00%	20.00%	20 00%	20 00%	20 00%	20 00%	20 00%	20 00%	20 00%
12	10.00%	15 75%	20.00%	20 00%	20 00%	20 00%	20 00%	20 00%	20.00%	20 00%
11	9.50%	15.25%	20.00%	20 00%	20 00%	20 00%	20 00%	20 00%	20 00%	20 00%
10	9 00%	14 75%	19 75%	20 00%	20 00%	20 00%	20 00%	20 00%	20 00%	20.00%
9	8.25%	14 00%	19 00%	20 00%	20 00%	20.00%	20 00%	20 00%	20 00%	20 00%
8	7.50%	13.25%	18.25%	20.00%	20.00%	20.00%	20.00%	20.00%	20.00%	20.00%
7	6.25%	12.25%	17 50%	20 00%	20 00%	20 00%	20.00%	20 00%	20 00%	20.00%
6	6.25%	11.00%	16.00%	20.00%	20.00%	20.00%	20.00%	20.00%	20.00%	20.00%
5	6.25%	9.00%	14 25%	19 00%	20 00%	20 00%	20 00%	20 00%	20.00%	20 00%
4	6.25%	6.25%	11.75%	16.50%	20.00%	20.00%	20.00%	20.00%	20.00%	20 00%
3	6.25%	6.25%	7.00%	12.25%	17.00%	20.00%	20.00%	20 00%	20.00%	20.00%
2	6.25%	6.25%	6.25%	6.25%	8.75%	13.25%	17.50%	20.00%	20.00%	20 00%
1 OR LESS	6.25%	6.25%	6.25%	6.25%	6.25%	6.25%	6.25%	6 25%	6.25%	8.50%

FIGURE 3: 31 TAC 9.7(c)(3)(A)

REDUCED ROYALTY SCHEDULE FOR QUALIFYING RESERVOIRS
BASE ROYALTY RATE = 18.75%

AVG DAILY PER WELL PRODUCTION (BOE/DAY)	AVERAGE OF THE DAILY PRICE OF OIL DURING THE QUALIFYING PERIOD									
	$15.00 – $15.99/BBL	$16.00 – $16.99/BBL	$17.00 – $17.99/BBL	$18.00 – $18.99/BBL	$19.00 – $19.99/BBL	$20.00 – $20.99/BBL	$21.00 – $21.99/BBL	$22.00 – $22.99/BBL	$23.00 – $23.99/BBL	$24.00 – $25.00/BBL
15	11.00%	16.50%	18.75%	18.75%	18.75%	18.75%	18.75%	18.75%	18.75%	18.75%
14	10.75%	16.25%	18.75%	18.75%	18.75%	18.75%	18.75%	18.75%	18.75%	18.75%
13	10.50%	16.00%	18.75%	18.75%	18.75%	18.75%	18.75%	18.75%	18.75%	18.75%
12	10.00%	15.75%	18.75%	18.75%	18.75%	18.75%	18.75%	18.75%	18.75%	18.75%
11	9.50%	15.25%	18.75%	18.75%	18.75%	18.75%	18.75%	18.75%	18.75%	18.75%
10	9.00%	14.75%	18.75%	18.75%	18.75%	18.75%	18.75%	18.75%	18.75%	18.75%
9	8.25%	14.00%	18.75%	18.75%	18.75%	18.75%	18.75%	18.75%	18.75%	18.75%
8	7.50%	13.25%	18.25%	18.75%	18.75%	18.75%	18.75%	18.75%	18.75%	18.75%
7	6.25%	12.25%	17.50%	18.75%	18.75%	18.75%	18.75%	18.75%	18.75%	18.75%
6	6.25%	11.00%	16.00%	18.75%	18.75%	18.75%	18.75%	18.75%	18.75%	18.75%
5	6.25%	9.00%	14.25%	18.75%	18.75%	18.75%	18.75%	18.75%	18.75%	18.75%
4	6.25%	6.25%	11.75%	16.50%	18.75%	18.75%	18.75%	18.75%	18.75%	18.75%
3	6.25%	6.25%	7.00%	12.25%	17.00%	18.75%	18.75%	18.75%	18.75%	18.75%
2	6.25%	6.25%	6.25%	6.25%	8.75%	13.25%	17.50%	18.75%	18.75%	18.75%
1 OR LESS	6.25%	6.25%	6.25%	6.25%	6.25%	6.25%	6.25%	6.25%	6.25%	8.50%

FIGURE 4: 31 TAC 9.7(c)(3)(A)

REDUCED ROYALTY SCHEDULE FOR QUALIFYING RESERVOIRS
BASE ROYALTY RATE = 12 50%

AVG. DAILY PER WELL PRODUCTION	AVERAGE OF THE DAILY PRICE OF OIL DURING THE QUALIFYING PERIOD									
	$15.00 – $15 99/BBL	$16.00 – $16.99/BBL	$17.00 – $17.99/BBL	$18 00 – $18.99/BBL	$19.00 – $19.99/BBL	$20 00 – $20 99/BBL	$21.00 – $21.99/BBL	$22.00 – $22.99/BBL	$23 00 – $23.99/BBL	$24.00 – $25.00/BBL
15	11.00%	12.50%	12 50%	12.50%	12.50%	12 50%	12.50%	12.50%	12 50%	12 50%
14	10.75%	12.50%	12.50%	12 50%	12 50%	12 50%	12.50%	12.50%	12 50%	12 50%
13	10.50%	12.50%	12.50%	12.50%	12.50%	12 50%	12.50%	12.50%	12 50%	12.50%
12	10.00%	12.50%	12 50%	12.50%	12.50%	12 50%	12.50%	12.50%	12 50%	12.50%
11	9.50%	12.50%	12.50%	12 50%	12.50%	12 50%	12.50%	12.50%	12 50%	12.50%
10	9.00%	12.50%	12.50%	12.50%	12.50%	12 50%	12.50%	12.50%	12 50%	12 50%
9	8.25%	12.50%	12.50%	12.50%	12.50%	12 50%	12.50%	12.50%	12 50%	12.50%
8	7.50%	12.50%	12.50%	12.50%	12.50%	12 50%	12.50%	12.50%	12 50%	12.50%
7	6.25%	12.25%	12.50%	12.50%	12.50%	12.50%	12.50%	12.50%	12.50%	12.50%
6	6.25%	11.00%	12.50%	12.50%	12.50%	12.50%	12.50%	12.50%	12.50%	12.50%
5	6.25%	9.00%	12.50%	12.50%	12.50%	12.50%	12.50%	12.50%	12.50%	12.50%
4	6.25%	6.25%	11.75%	12.50%	12.50%	12 50%	12.50%	12.50%	12.50%	12.50%
3	6.25%	6.25%	7.00%	12.25%	12.50%	12.50%	12.50%	12.50%	12.50%	12.50%
2	6.25%	6.25%	6.25%	6.25%	8.75%	12.50%	12.50%	12.50%	12.50%	12.50%
1 OR LESS	6.25%	6.25%	6.25%	6.25%	6.25%	6 25%	6.25%	6.25%	6.25%	8.50%

FIGURE 5: 31 TAC 9.7(c)(3)(A)

REDUCED ROYALTY SCHEDULE FOR QUALIFYING GULF OF MEXICO RESERVOIRS
BASE ROYALTY RATE = 25.00%

AVG DAILY PER WELL PRODUCTION (BOE/DAY)	AVERAGE OF THE DAILY PRICE OF OIL DURING THE QUALIFYING PERIOD									
	$15.00 – $15.99/BBL	$16.00 – $16.99/BBL	$17.00 – $17.99/BBL	$18.00 – $18.99/BBL	$19.00 – $19.99/BBL	$20.00 – $20.99/BBL	$21.00 – $21.99/BBL	$22.00 – $22.99/BBL	$23.00 – $23.99/BBL	$24.00 – $25.00/BBL
50.0	25.00%	25.00%	25.00%	25.00%	25.00%	25.00%	25.00%	25.00%	25.00%	25.00%
47.5	25.00%	25.00%	25.00%	25.00%	25.00%	25.00%	25.00%	25.00%	25.00%	25.00%
45.0	25.00%	25.00%	25.00%	25.00%	25.00%	25.00%	25.00%	25.00%	25.00%	25.00%
42.5	25.00%	25.00%	25.00%	25.00%	25.00%	25.00%	25.00%	25.00%	25.00%	25.00%
40.0	24.25%	25.00%	25.00%	25.00%	25.00%	25.00%	25.00%	25.00%	25.00%	25.00%
37.5	19.25%	24.25%	25.00%	25.00%	25.00%	25.00%	25.00%	25.00%	25.00%	25.00%
35.0	13.50%	18.75%	23.50%	25.00%	25.00%	25.00%	25.00%	25.00%	25.00%	25.00%
32.5	6.25%	12.50%	17.75%	22.25%	25.00%	25.00%	25.00%	25.00%	25.00%	25.00%
30.0	6.25%	6.25%	10.75%	15.75%	20.25%	24.25%	25.00%	25.00%	25.00%	25.00%
27.5	6.25%	6.25%	6.25%	8.00%	13.00%	17.25%	21.25%	24.75%	25.00%	25.00%
25.0	6.25%	6.25%	6.25%	6.25%	6.25%	9.00%	13.50%	17.25%	21.00%	24.25%
22.5	6.25%	6.25%	6.25%	6.25%	6.25%	6.25%	6.25%	8.00%	12.00%	15.75%
20.0 OR LESS	6.25%	6.25%	6.25%	6.25%	6.25%	6.25%	6.25%	6.25%	6.25%	6.25%

FIGURE 6: 31 TAC 9.7(c)(3)(A)

REDUCED ROYALTY SCHEDULE FOR QUALIFYING GULF OF MEXICO RESERVOIRS
BASE ROYALTY RATE = 20.00%

AVG DAILY PER WELL PRODUCTION	AVERAGE OF THE DAILY PRICE OF OIL DURING THE QUALIFYING PERIOD									
	$15.00 – $15.99/BBL	$16.00 – $16 99/BBL	$17.00 – $17.99/BBL	$18.00 – $18.99/BBL	$19.00 – $19 99/BBL	$20.00 – $20.99/BBL	$21 00 – $21.99/BBL	$22.00 – $22 99/BBL	$23.00 – $23.99/BBL	$24.00 – $25.00/BBL
50.0	20.00%	20.00%	20.00%	20 00%	20.00%	20.00%	20 00%	20.00%	20.00%	20.00%
47.5	20.00%	20 00%	20.00%	20.00%	20.00%	20.00%	20 00%	20 00%	20.00%	20.00%
45.0	20.00%	20.00%	20.00%	20.00%	20.00%	20.00%	20.00%	20.00%	20.00%	20.00%
42.5	20.00%	20.00%	20.00%	20 00%	20.00%	20.00%	20.00%	20 00%	20.00%	20.00%
40.0	20.00%	20.00%	20.00%	20.00%	20.00%	20.00%	20 00%	20 00%	20.00%	20.00%
37.5	19.25%	20.00%	20.00%	20.00%	20.00%	20.00%	20 00%	20.00%	20.00%	20.00%
35.0	13.50%	18.75%	20.00%	20.00%	20.00%	20.00%	20.00%	20.00%	20.00%	20.00%
32.5	6.25%	12.50%	17.75%	20.00%	20.00%	20.00%	20.00%	20.00%	20.00%	20.00%
30.0	6.25%	6.25%	10.75%	15.75%	20.00%	20.00%	20.00%	20.00%	20.00%	20.00%
27.5	6.25%	6.25%	6.25%	8.00%	13.00%	17.25%	20.00%	20.00%	20.00%	20.00%
25.0	6.25%	6.25%	6.25%	6.25%	6.25%	9.00%	13.50%	17.25%	20.00%	20.00%
22.5	6.25%	6.25%	6.25%	6.25%	6.25%	6.25%	6.25%	8.00%	12.00%	15.75%
20.0 OR LESS	6.25%	6.25%	6.25%	6.25%	6.25%	6.25%	6.25%	6.25%	6.25%	6.25%

FIGURE 7: 31 TAC 9.7(c)(3)(A)

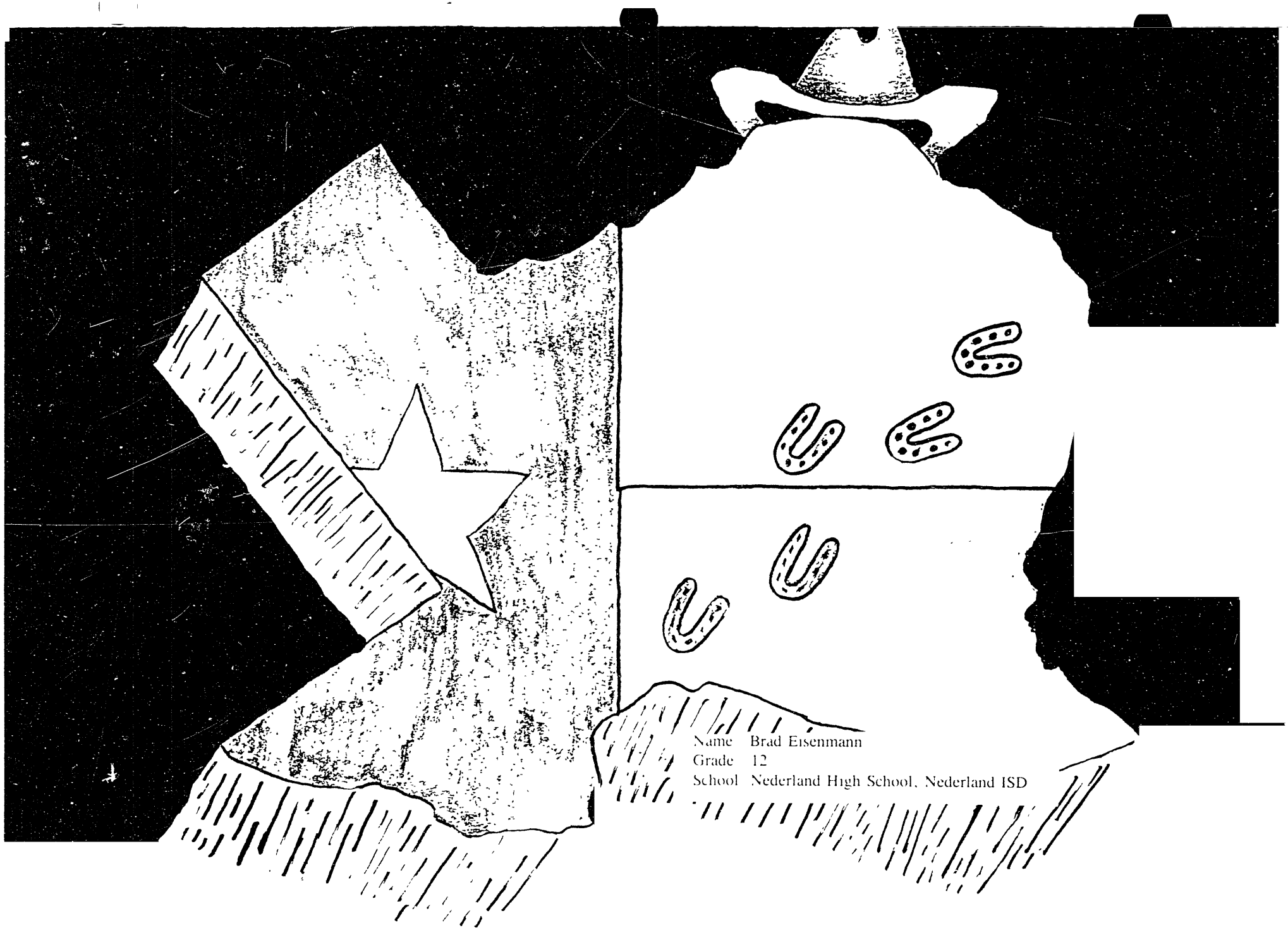
REDUCED ROYALTY SCHEDULE FOR QUALIFYING GULF OF MEXICO RESERVOIRS
BASE ROYALTY RATE = 18.75%

AVG DAILY PER WELL PRODUCTION	AVERAGE OF THE DAILY PRICE OF OIL DURING THE QUALIFYING PERIOD									
	$15 00 – $15 99/BBL	$16 00 – $16 99/BBL	$17.00 – $17.99/BBL	$18 00 – $18 99/BBL	$19 00 – $19 99/BBL	$20 00 – $20.99/BBL	$21 00 – $21 99/BBL	$22 00 – $22 99/BBL	$23.00 – $23.99/BBL	$24.00 – $25.00/BBL
50.0	18 75%	18.75%	18.75%	18 75%	18.75%	18.75%	18.75%	18.75%	18 75%	18 75%
47 5	18 75%	18.75%	18 75%	18.75%	18 75%	18.75%	18.75%	18 75%	18 75%	18 75%
45.0	18.75%	18 75%	18.75%	18.75%	18.75%	18 75%	18 75%	18.75%	18.75%	18 75%
42.5	18 75%	18.75%	18.75%	18.75%	18.75%	18 75%	18 75%	18.75%	18 75%	18 75%
40.0	18.75%	18 75%	18.75%	18.75%	18.75%	18.75%	18.75%	18.75%	18.75%	18 75%
37.5	18.75%	18.75%	18.75%	18.75%	18 75%	18 75%	18.75%	18.75%	18 75%	18.75%
35.0	13.50%	18.75%	18.75%	18.75%	18.75%	18.75%	18.75%	18.75%	18.75%	18.75%
32.5	6.25%	12.50%	17.75%	18.75%	18.75%	18.75%	18.75%	18.75%	18 75%	18.75%
30.0	6.25%	6.25%	10.75%	15.75%	18.75%	18.75%	18 75%	18.75%	18.75%	18.75%
27.5	6.25%	6.25%	6.25%	8.00%	13.00%	17.25%	18.75%	18.75%	18.75%	18.75%
25.0	6.25%	6.25%	6.25%	6.25%	6.25%	9.00%	13.50%	17.25%	18.75%	18.75%
22.5	6.25%	6.25%	6.25%	6.25%	6.25%	6.25%	6.25%	8.00%	12.00%	15.75%
20.0 OR LESS	6.25%	6.25%	6.25%	6.25%	6 25%	6.25%	6.25%	6.25%	6.25%	6.25%

FIGURE 8: 31 TAC 9.7(c)(3)(A)

REDUCED ROYALTY SCHEDULE FOR QUALIFYING GULF OF MEXICO RESERVOIRS
BASE ROYALTY RATE = 12.50%

AVG. DAILY PER WELL PRODUCTION	AVERAGE OF THE DAILY PRICE OF OIL DURING THE QUALIFYING PERIOD									
	$15.00 – $15.99/BBL	$16.00 – $16 99/BBL	$17.00 – $17.99/BBL	$18.00 – $18.99/BBL	$19.00 – $19.99/BBL	$20.00 – $20.99/BBL	$21.00 – $21.99/BBL	$22.00 – $22.99/BBL	$23.00 – $23 99/BBL	$24.00 – $25.00/BBL
50.0	12.50%	12.50%	12.50%	12.50%	12 50%	12 50%	12.50%	12 50%	12 50%	12.50%
47.5	12.50%	12.50%	12.50%	12.50%	12.50%	12 50%	12.50%	12.50%	12 50%	12.50%
45.0	12.50%	12.50%	12.50%	12.50%	12.50%	12 50%	12.50%	12 50%	12 50%	12.50%
42.5	12.50%	12.50%	12.50%	12.50%	12.50%	12 50%	12.50%	12 50%	12 50%	12.50%
40.0	12.50%	12.50%	12.50%	12.50%	12.50%	12.50%	12.50%	12.50%	12 50%	12.50%
37.5	12.50%	12.50%	12.50%	12.50%	12.50%	12.50%	12.50%	12.50%	12.50%	12.50%
35.0	12.50%	12.50%	12.50%	12.50%	12.50%	12.50%	12.50%	12.50%	12.50%	12.50%
32.5	6.25%	12.50%	12.50%	12.50%	12.50%	12.50%	12.50%	12.50%	12.50%	12.50%
30.0	6.25%	6.25%	10.75%	12.50%	12.50%	12.50%	12.50%	12.50%	12.50%	12.50%
27.5	6.25%	6.25%	6.25%	8.00%	12.50%	12.50%	12.50%	12.50%	12.50%	12.50%
25.0	6.25%	6.25%	6.25%	6.25%	6 25%	9.00%	12.50%	12.50%	12.50%	12.50%
22.5	6.25%	6.25%	6.25%	6.25%	6.25%	6.25%	6.25%	8.00%	12.00%	12.50%
20.0 OR LESS	6.25%	6.25%	6.25%	6.25%	6.25%	6.25%	6.25%	6.25%	6.25%	6.25%



Name Brad Eisenmann
Grade 12
School Nederland High School, Nederland 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, August 24, 1995, 1:00 p.m.

Schleicher County Agent's Office, Schleicher County Courthouse Annex

Eldorado

Schleicher County Cotton Producers Board

AGENDA:

Action: Minutes of previous meeting; determine method to disperse remaining board funds; take steps necessary to close out and end Schleicher County Cotton Producers Board.

Discussion: Other Business and comments

Adjourn

Contact: Mitch Jurecek, Route 1, Eldorado, Texas 76936, (915) 853-2231

Filed: August 15, 1995, 3:43 p.m.

TRD-9510323

Thursday-Friday, August 24-25, 1995, 2:30 p.m. and 9:00 a.m. respectively.

Texas Department of Agriculture, 1700 North Congress, Room 924A

Austin

Texas Agricultural Finance Authority

AGENDA:

Thursday, August 24

Discussion on: Loan guaranty application for Three Toe Hill Emu Farm, approval of Agri Gold, Incorporated, potential sale of United Bean Marketing Co-op's facility; The Living Christmas Tree, Incorporated, budget for fiscal year 1996, contract for outside legal counsel, rules for Farm and Ranch Finance Program, rules for Texas Agricultural Finance Authority Loan Guaranty Program, rules for Linked Deposit Program, Proposition 3 (Constitutional Amendment) Revenue Bond Program

Friday, August 25

Discussion and Action on. Minutes of last meeting; loan guaranty application for Three Toe Hill Emu Farm, Loan guaranty approval for Agri Gold, Incorporated, potential sale of United Bean Marketing Co-op's facility, The Living Christmas Tree, Incorporated, budget for fiscal year 1996, contract for utside legal counsel, adoption of program rules for Texas Agricultural Finance Authority Loan Guaranty Program, adoption of program rules for Farm and Ranch Finance Program, adoption of program rules for Linked Deposit Program, Proposition 3 (Constitutional Amendment), Revenue Bond Program, next meeting date

Discussion on: Portfolio of Loan Guaranty Program.

Contact: Robert Kennedy, P.O. Box 12847, Austin, Texas 78711, (512) 463-7639.

Filed: August 16, 1995, 11:41 a.m.

TRD-9510375

Friday, August 25, 1995, 10:15 a.m.

Executive Hotel, Oleander Room, 3232 West Mockingbird

Dallas

Texas Soybean Producers Board

AGENDA:

Call to order

Discussion and action: Minutes of previous meeting

Financial Report

Status of Texas Soybean Producers Board

Revision of Texas Soybean Producers Board Budget

Status of Texas Soybean Board

Adjourn

Contact: Trent Roberts, 1501 North Pierce, Suite 100, Little Rock, Arkansas 72207, 1-800-247-8691.

Filed: August 15, 1995, 3:43 p.m.

TRD-9510324

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Texas Department of Criminal Justice

Monday, August 28, 1995, 10:00 a.m.

1076 Calder Avenue

Beaumont

Facilities Committee, Subcommittee on Construction and Repair

AGENDA:

1. Authorization for construction/remodeling

a. Construct Western Region Medical Facility, $1,238,600

Lubbock, Texas-change order (increase)

Persons with disabilities who plan to attend this meeting and who need auxiliary aids or services as interpreters for persons who are deaf or hearing impaired, readers, large print or Braille, are required to contact Amanda Ogden (512) 463-9472 at least two work days prior to the meeting so that appropriate arrangements can be made

Contact: Meredith Johnson, P O Box 13084, Austin, Texas 78711, (512) 475-3250.

Filed: August 15, 1995, 3 02 p m

TRD-9510319

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Texas Interagency Council on Early Childhood Intervention

Thursday, August 24, 1995, 9:00 a.m.

Texas Department of MH/MR, Auditorium, 909 West 45th Street

Austin

Interagency Council on Early Childhood Intervention

AGENDA·

Public comment. Discussion and approval of minutes from July 26, 1995, meeting. Discussion and approval of ECI advisory committee and director's forum report. Discussion and approval of internal audit report and staff recommendations to approve a proposal for internal audit services for FY 1996 Discussion and approval of staff recommendation for annual review of financial disclosure reports of the executive director and council members Discussion and approval of staff recommendations to fund intervention and milestones programs in FY 1996. Discussion and approval of policy revisions which direct ECI programs to obtain criminal record and child abuse history for applicants for employment. Discussion and approval of revisions to administrative/operating procedures. Discussion and update on administrative co-location and coordination activities. Discussion and approval of contract with DHS to provide administrative services in FY 1996. Discussion and approval of contract with TDH to provide administrative services (mailroom) in FY 1996 Review and approval of FY 1996 operating budget including merit system plan for FY 1996. Executive session: Evaluation of executive director. FYI 1. Update on 1-800 number. 2 Update on Medicaid administrative claim project. 3. Presentation of "Full Disclosure" handout developed for families per advisory committee request.

Contact: Linda Hill, 1100 West 49th Street, Austin, Texas 78756-3199, (512) 502-4900.

Filed: August 15, 1995, 11.57 a m.

TRD-9510299

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Texas Education Agency (TEA)

Thursday, August 24, 1995, 1:00 p.m.

Rooms B & C, Region 20, Education Service Center, 1314 Hines Avenue

San Antonio

Investment Advisory Committee on the Permanent School Fund (PSF)

AGENDA·

The Investment Advisory Committee on the PSF will meet to discuss the provisions of the newly enacted §43 006 of the Texas Education Code and its application to the Texas Permanent School Fund and the State Board of Education

Contact: Criss Cloudt, 1701 North Congress Avenue, Austin, Texas 78701, (512) 463-9701.

Filed: August 16, 1995, 9.30 a.m.

TRD-9510360

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State Employee Charitable Campaign

Thursday, August 24, 1995, 3:00 p.m.

128 East Second

Odessa

Local Employee Committee-Odessa

AGENDA.

Develop strategy for campaign

Deliver materials to outlying counties

Contact: Jill Nelson, 128 East Second, Odessa, Texas 79761, (915) 332-0941, Fax (915) 332-5245.

Filed: August 15, 1995, 2:28 p.m.

TRD-9510315

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Office of the Governor-Criminal Justice Division

Friday, August 25, 1995, 10:00 a.m.

Criminal Justice Division, 221 East 11th Street, First Floor Conference Room

Austin

Governor's Planning Council for STOP Violence Against Women

AGENDA:

I Call to order; II. Introduction of members; III. Review of previous meeting; IV. Strategy planning and development; V. Assignments; VI. Adjourn.

Contact: Carol Funderburgh, P.O. Box 12428, Austin, Texas 78711, (512) 463-1929.

Filed: August 16, 1995, 8:15 a m.

TRD-9510338

Sunday, August 27, 1995, 9:00 a.m.

Criminal Justice Division, 221 East 11th Street, Conference Room

Austin

Texas Crime Stoppers Advisory Council, Education Committee

AGENDA:

I. Call to order; II. Review July 10, 1995 planning summary; III. Finalize December specialized topics school-Arlington; IV. Discussion and preparation of draft on Eighth Annual Crime Stoppers Conference-20th Anniversary; V. Discussion of future training sites, topics and committee responsibilities; VI Adjourn

Contact: David M. Cobos, P.O. Box 12428, Austin, Texas 78711, (512) 463-1784.

Filed: August 16, 1995, 12:58 p.m.

TRD-9510379

Sunday, August 27, 1995, 1:00 p.m.

Criminal Justice Division, 221 East 11th Street, Conference Room

Austin

Texas Crime Stoppers Advisory Council Regular Meeting

AGENDA·

I. Call to order; II. Approval of July 23, 1995 meeting minutes; III. Crime Stoppers staff report, A. Texas Department of Criminal Justice Crime Stoppers report; IV. Discussion on Eighth Annual Crime Stoppers Conference; V. Discussion on December special topics school; VI. Discussion on fiscal year 1996 grant guidelines; VII. Next meeting date; VIII. Adjourn

Contact: David M. Cobos, P.O. Box 12428, Austin, Texas 78711, (512) 463-1784.

Filed: August 16, 1995, 12:58 p.m.

TRD-9510380

Thursday-Friday, August 31-September 1, 1995, 10:00 a.m. and 8:00 a.m. , respectively.

Criminal Justice Division, 221 East 11th Street, First Floor Conference Room

Austin

Governor's Planning Council for STOP Violence Against Women

AGENDA

I Call to order, II Introduction of members, III. Review of previous meeting, IV Reports; V. Strategy planning and development, VI. Assignments; VII Adjourn

Contact: Carol Funderburgh, P.O. Box 12428, Austin, Texas 78711, (512) 463-1929

Filed: August 16, 1995, 8:15 a.m.

TRD-9510339

Thursday-Friday, September 7-8, 1995, 10:00 a.m. and 8:00 a.m., respectively.

Criminal Justice Division, 221 East 11th Street, First Floor Conference Room

Austin

Governor's Planning Council for STOP Violence Against Women

AGENDA·

I Call to order, II. Introduction of members, III. Review of previous meeting; IV Reports; V Strategy planning and development; VI Assignment; VII. Adjourn

Contact: Carol Funderburgh, P O Box 12428, Austin, Texas 78711, (512) 463-1929

Filed: August 16, 1995, 8.16 a m

TRD-9510340

Thursday-Friday, September 14-15, 1995, 10:00 a.m. and 8:00 a.m., respectively.

Criminal Justice Division, 221 East 11th Street, First Floor Conference Room

Austin

Governor's Planning Council for STOP Violence Against Women

AGENDA

I Call to order; II. Introduction of members; III Review of previous meeting, IV. Reports, V Strategy planning and development, VI Assignments, VII. Adjourn.

Contact: Carol Funderburgh, P O Box 12428, Austin, Texas 78711, (512) 463-1929.

Filed: August 16, 1995, 8:16 a.m

TRD-9510341

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Texas Department of Health

Friday, August 25, 1995, 2:00 p.m.

Room T-607, Texas Department of Health, 1100 West 49th Street

Austin

Medical Radiologic Technologist Advisory Board

AGENDA:

The board will discuss and possibly act on: presentation of information concerning the Texas Department of Health· Mission statement, organization, policies and procedures relating to advisory committees, *Texas Register*, open meetings, public information, and other items relating to advisory committee business; review of the Medical Radiologic Technologist Certification Act, Texas Civil Statutes, Article 4512m, and House Bill (HB) 1200, 74th Texas Legislature, and review of rules relating to medical radiologic technologists, 25 Texas Administrative Code (TAC), §§143.1-143 15; goals and timetables for implementing HB 1200; advisory committee rules, 25 TAC §143.3, determination of members' terms (3 terms ending January 1 of the years 1998, 2000, and 2002); election of officers; appointment of subcommittee(s); and announcement of next meeting dates.

Contact: Donna Hardin Flippin, 1100 West 49th Street, Austin, Texas 78756, (512) 834-6617. For ADA assistance, contact Richard Butler at (512) 458-6410 or T.D.D. (512) 458-7708 at least two days prior to the meeting.

Filed: August 15, 1995, 3·18 p.m

TRD-9510320

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Texas Historical Commission

Saturday, August 26, 1995, 9:00 a.m.

The River House, 509 King William (Rear Entrance)

San Antonio

State Board of Review

AGENDA.

I. Announcements

II. Approval of minutes of the May 20, 1995 meeting

III. Approval of nominations of the National Register of Historic Places·

A. Woodmen of the World Lodge, Orange, Orange County

B San Antonio River Valley West of Goliad Rural Historic District, Goliad County

C. Silk Stocking Historic District, Galveston County

D. City Public Service Building/Petroleum Commerce Building, San Antonio, Bexar County

E. Robert E. Lee Hotel, San Antonio, Bexar County

F. Empire Theatre, San Antonio, Bexar County

G. David J. Woodward House/San Antonio Woman's Club, San Antonio, Bexar County

H Texas Tourist Court, Decatur, Wise County

I Joseph R. and Mary M. Stevenson House, Houston, Harris County

J. Steele Covington Motor Company Building, Cleburne, Johnson County

Contact: David Arrieta, 1511 Colorado, Austin, Texas 78701, (512) 463-6006

Filed: August 16, 1995, 9·31 a.m.

TRD-9510361

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Texas Department of Housing and Community Affairs

Thursday, August 24, 1995, 9:30 a.m.

1100 North Congress Avenue, Room E1.016, Capitol Extension

Austin

Finance Committee Meeting

AGENDA:

The Finance Committee of the board of the Texas Department of Housing and Community Affairs will meet to consider and possibly act on the following· approval of multifamily bond program fee schedule, resolution relating to 1995 single family bond issue; 1985 single family refunding bond issue, commercial paper refunding bonds, and extension of commercial paper notes and refunding bond program; modification of program 48 guidelines; biennium operating plan; 1995-1996 operating budget; executive session-personnel matters regarding duties and responsibilities in relationship to budget under §551.074 and consultation with attorney with §551.071(2) of the Texas Government Code, action in open session on executive session items, adjourn.

Supporting materials and staff recommendations on these agenda items are available for review at Texas Department of Housing and Community Affairs, 811 Barton Springs Road, Austin, Texas 78704 or copies may be obtained on specific items by calling (512) 475-3934 (copies are subject to open records request copying charge per page).

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.

Contact: Larry Paul Manley, 811 Barton Springs Road, Suite 500, Austin, Texas 78704, (512) 475-3934.

Filed: August 16, 1995, 4·48 p.m.

TRD-9510404

Thursday, August 24, 1995, 10:30 a.m.

Capitol Extension, 1100 North Congress Avenue, Room E1.016

Austin

Programs Committee Meeting

AGENDA:

The Programs Committee will meet to consider and possibly act on the following: policy for combined tax credit and HOME program, border housing initiatives recommendations for funding; City of Dallas housing plan, executive session-consultation with attorney under §551.071(2) of Texas Government Code; adjourn.

Supporting materials and staff recommendations on these agenda items are available for review at Texas Department of Housing and Community Affairs, 811 Barton Springs Road, Austin, Texas 78704 or copies may be obtained on specific items by calling (512) 475-3934 (copies are subject to open records request copying charge per page).

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.

Contact: Larry Paul Manley, 811 Barton Springs Road, Suite 500, Austin, Texas 78704, (512) 475-3934.

Filed: August 16, 1995, 4:48 p.m.

TRD-9510406

Thursday, August 24, 1995, 12:30 p.m.

1100 North Congress Avenue, Room E1.016, Capitol Extension Building

Austin

Board Meeting

AGENDA:

The Board of the Texas Department of Housing and Community Affairs will meet to consider and possibly act on: approval of minutes of July 21, 1995 meeting; policy for combined tax credit and HOME program; border housing initiatives recommendations for funding; approval of budget for 1995-1996; City of Dallas housing plan; biennium operating plan; multi-family bond program fee schedule; resolution relating to 1995 single family bond issue; 1985 single family refunding bond issue, commercial paper refunding bonds, and extension of commercial paper notes and refunding bond program; modification of program 48 guidelines; resolution for master lease purchase; resolution regarding signature authority; additional assistant secretary of the board; executive session-anticipated litigation (General Counsel to give report on litigation under §551.071 and §551.103, Texas Government Code litigation exception). Proposed restructure of mutual benefit bonds; personnel matters regarding duties and responsibilities in relationship to budget under §551. 074 and consultation with attorney with §551.071(2) of the Texas Government Code; receive information from internal auditor regarding audits in programs under §551.075; action in open session on items discussed executive session; executive directors report; adjourn.

Supporting materials and staff recommendations on these agenda items are available for review at Texas Department of Housing and Community Affairs, 811 Barton Springs Road, Austin, Texas 78704 or copies may be obtained on specific items by calling (512) 475-3934 (copies are subject to open records request copying charge per page). 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.

Contact: Larry Paul Manley, 811 Barton Springs Road, Suite 500, Austin, Texas 78704, (512) 475-3934.

Filed: August 16, 1995, 4:48 p.m.

TRD-9510405

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Texas State Affordable Housing Corporation

Thursday, August 24, 1995, Noon.

1100 North Congress Avenue, Room E1.016, Capitol Extension

Austin

Board of Directors Meeting

AGENDA:

The Board of the Texas State Affordable Housing Corporation will meet to consider and possibly act upon the following: approval of minutes of July 21, 1995; ratifying Executive Director as President of Housing Corporation; amendment of outside counsel contract with authorization to President to amend; approval of 1995-1996 budget; service contract with department for loan services and other services; report on El Cenizo project; executive session-consultation with attorney under §551.071(2) of Texas Government Code; adjourn.

Contact: Larry Paul Manley, 811 Barton Springs Road, Suite 500, Austin, Texas 78704, (512) 475-3934.

Filed: August 16, 1995, 4:48 p.m.

TRD-9510403

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Department of Information Resources

Thursday, August 24, 1995, 9:00 a.m.

Omni-Austin Hotel, Justice Room, 700 San Jacinto

Austin

Board

AGENDA:

1. Adoption of July meeting minutes

2. Ratification of the State Strategic Planning Advisory Committee

3. Consideration of designation of Financial Subcommittee

4. Executive director's report

5. Board planning session

6. Other business

Contact: John Hawkins, 300 West 15th Street, Suite 1300, Austin, Texas 78701, (512) 475-4714.

Filed: August 16, 1995, 4:31 p.m.

TRD-9510399

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Texas Juvenile Probation Commission

Thursday, August 24, 1995, 9:00 a.m.

2015 South IH-35

Austin

Internal Audit Committee Meeting

AGENDA:

Call to order; excused absences; discussion of information systems audit; discussion of monitoring audit; discussion of risk assessment and proposed audit plan for fiscal year 1996; discussion of selection of new internal auditor for fiscal year 1996; public comments; adjourn.

Contact: Vicki Wright, P.O. Box 13547, Austin, Texas 78711, (512) 443-2001.

Filed: August 16, 1995, 4:38 p.m.

TRD-9510401

Thursday, August 24, 1995, 10:30 a.m.

2015 South IH-35

Austin

Board Meeting

AGENDA:

Call to order; excused absences; approval of minutes; Program Committee report-discussion and action regarding TJPC state financial assistance contracts for fiscal year 1996 (a) discussion of unrestricted state aid allocation; request by staff to rescind previous board action increasing fiscal year

1995 allocation by 58.693% and reauthorize fiscal year 1995 level of funding; authorization to provide separate contracts for these funds (b) discussion of unrestricted community corrections assistance funds to be allocated using previously adopted formula but with changed allocation amount; authorization to provide separate contract for these funds (c) discussion of optional progressive sanctions basic services funds to made available to those departments implementing progressive sanctions; discuss and define eligibility criteria for these funds; discuss and define allocation increments for funding; (d) discussion of optional progressive sanctions community corrections assistance funds to made available to those departments implementing progressive sanctions; discuss and define eligibility criteria for these funds; discuss and define allocation increments for funding; internal audit report-discussion of information systems audit, discussion of monitoring audit, discussion of risk assessment plan and proposed audit for fiscal year 1996, discussion of selection of new internal auditor for fiscal year 1996; appointments to the Texas Advisory Council on Juvenile Services; discussion of the Texas Juvenile Probation Commission and State Board of Education Joint Subcommittee-consider the continuation of the joint-subcommittee for ____ year(s); HHSC update-Mike McKinney; director's report-response to TJPC's request for exemption of the mandatory 1.2% reduction in appropriations; update on $37.5 construction bond money; update on the Sunset process, staff additions and changes, public comment; closed executive session-discussion of the executive director position; open session-to take action on items discussed in the closed executive session, schedule next meeting; adjourn.

Contact: Vicki Wright, P.O. Box 13547, Austin, Texas 78711, (512) 443-2001.

Filed: August 16, 1995, 4:38 p.m.

TRD-9510402

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Texas State Board of Medical Examiners

Thursday, August 17, 1995, 3:00 p.m.

1812 Centre Creek Drive, Suite 300

Austin

Emergency Revised Agenda

Examination Committee

AGENDA:

Call to order

Roll call

Review of letters of eligibility

Review of licensure applicants:

3:15 p.m.-Husam Ali Barakat, M.D.; Susan Payberah, M.D.; and Hoa Tan Dang, M.D.

4:15 p.m.-Naveed Umer Farooq, M.D.; John M. DeMaio, M.D.; Benjamin B. Tiongson, M.D.; and Mario Jose Portocarrero, M.D.

Review of examination applicants complete for consideration of licensure

Review of the June 1995 USMLE step 3 and Texas Medical Jurisprudence Examination results

Executive session under authority of the Open Meetings Act, §551.071 of the Government Code and Article 4495b, §2.07(b) and §2.09(o), Texas Civil Statutes, to review applicant files for licensure.

Reason for Emergency: Information has come to the attention of the agency and requires prompt consideration.

Contact: Pat Wood, P.O. Box 149134, Austin, Texas 78714-9134, (512) 834-7728, Ext. 402 or Fax: (512) 834-4597.

Filed: August 16, 1995, 4:23 p.m.

TRD-9510397

Thursday, August 17, 1995, 3:00 p.m.

1812 Centre Creek Drive, Suite 300

Austin

Emergency Revised Agenda

Reciprocity Committee

AGENDA:

Call to order

Roll call

Review of licensure applicants referred to the Reciprocity Committee by the executive director for determination of eligibility for licensure:

Kimberly A. Ridl, M.D.

William A. Huston, M.D.

Lloyd K. Everson, M.D.

Pedro Esmeralda Estorque, Jr., M.D.

Discussion/action items:

SPEX

Review of June 1995, SPEX statistics

Review of endorsement applicants to be considered for permanent licensure

Executive session under authority of the Open Meetings Act, §551.071 of the Government Code and Article 4495b, §2.07(b) and §2.09(o), Texas Civil Statutes.

Reason for Emergency: Information has come to the attention of the agency and requires prompt consideration.

Contact: Pat Wood, P.O. Box 149134, Austin, Texas 78714-9134, (512) 834-7728, Ext. 402 or Fax: (512) 834-4597.

Filed: August 16, 1995, 4:23 p.m.

TRD-9510396

Friday, August 18, 1995, 4:30 p.m.

1812 Centre Creek Drive, Suite 300

Austin

Emergency Revised Agenda

Executive Committee

AGENDA:

Call to order

Roll call

Discussion and possible action related to an achievement bonus for the executive director

Executive session under the authority of the Open Meetings Act, §551.074 of the Government Code to discuss personnel matters

Review of Texas Retired physicians referred to the Executive Committee by the Executive Director for a determination of eligibility to return to the active practice of medicine:

Edmund Prue, M.D.

Edward V. Stalzer, M.D.

Floyd H. Verheyden, M.D.

Executive session under authority of the Open Meetings Act, §551.071 of the Government Code and the Medical Practice Act, Article 4495b, Texas Civil Statutes, §2.07(b) and §2.09(o) to discuss pending or contemplated litigation.

Reason for Emergency: Information has come to the attention of the agency and requires prompt consideration.

Contact: Pat Wood, P.O. Box 149134, Austin, Texas 78714-9134, (512) 834-7728, Ext. 402 or Fax: (512) 834-4597.

Filed: August 16, 1995, 4:23 p.m.

TRD-9510398

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Texas Natural Resource Conservation Commission

Wednesday, August 23, 1995, 8:30 a.m.

12118 North Interstate 35, Building E, Room 201S

Austin

AGENDA:

Addendum to the contested agenda. The item concerns consideration of the TNRCC FY 1996 operating budget. (Bill Campbell)

Contact: Douglas Kitts, 12100 Park 35 Circle, Austin, Texas 78753, (512) 239-3300.

Filed: August 15, 1995, 2:28 p.m.

TRD-9510316

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Texas State Board of Perfusionists

Thursday, **August 31, 1995, 8:00 a.m.**

Room S-402, the Exchange Building, 8407 Wall Street

Austin

Application Committee

AGENDA

The committee will discuss and possibly act on applications PF0108 through PF0150; and set next meeting date.

Contact: Jo Whittenberg, 1100 West 49th Street, Austin, Texas 78756, (512) 834-6751 For ADA assistance, contact Richard Butler at (512) 458-6410 or T.D.D. (512) 458-7708 at least two days prior to the meeting

Filed: August 15, 1995, 3:18 p.m.

TRD-9510322

Thursday, August 31, 1995, 9:30 a.m.

Room S-402, the Exchange Building, 8407 Wall Street

Austin

AGENDA.

The board will discuss and possibly act on: approval of minutes from the March 23, 1995 meeting; division director's report; report from the application committee; emergency rules; adoption of proposed rules; continuing education requirements; other matters concerning licensing and regulation of perfusionists; and setting of the next meeting date.

Contact: Jo Whittenberg, 1100 West 49th Street, Austin, Texas 78756, (512) 834-6751. For ADA assistance, contact Richard Butler at (512) 458-6410 or T.D.D. (512) 458-7708 at least two days prior to the meeting.

Filed: August 15, 1995, 3:18 p.m.

TRD-9510321

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Texas State Board of Podiatry Examiners

Thursday-Friday, August 24-25, 1995, 10:00 a.m.

333 Guadalupe, Tower I, Room 1250A (Thursday); 3401 South IH-35 (Friday)

Austin

Emergency Meeting

AGENDA

1) Thursday, August 24, 1995, inspection of credentials, reading of the minutes; president's, vice-president's and executive director's reports; public comments; discussion on examinations; discussion on board certification: discussion on rule changes' discussion on PMLexis scores; discussion on scope of practice; CME update-Schwarzentraub; discuss policy to accept state guidelines; complaint status report; extension request for John Gentis, DPM; CME exemption request for Ratchnee Finance, DPM; board discussion in executive session pursuant to §2(c) and (g) of Article 6252-17 with executive director and staff and possible board action concerning evaluation, employment, reassignment, duties, discipline, or expectations of board or to hear complaints, questions, or receive responses from executive director and staff regarding evaluation; set time, place and date for next scheduled meeting. 2) Friday, August 25, 1995, complete agenda by grading and compiling the grades and signing of the licenses. NOTE: Agenda items may be taken out of order.

Reason for emergency: Due to last minutes changes on the agenda.

Contact: Janie Alonzo, P.O. Box 12216, Austin, Texas 78711-2216, (512) 305-7000.

Filed: August 17, 1995, 9:19 a.m.

TRD-9510412

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Texas Real Estate Commission

Friday, August 25, 1995, 9:00 a.m.

Room 234, Second Floor, TREC Headquarters Office, 1101 Camino La Costa

Austin

Subcommittee on Education and Examinations Real Estate Inspector Committee

AGENDA:

Possible executive session to discuss examination materials pursuant to Attorney General Opinion H-484; discussion and possible recommendations concerning examination, education or experience requirements or courses

For ADA assistance, call Nancy Guevremont at (512) 465-3923 at least two days prior to meeting.

Contact: Mark A. Moseley, P.O. Box 12188, Austin, Texas 78711-2188, (512) 465-3900.

Filed: August 17, 1995, 8:48 a.m.

TRD-9510408

Friday, August 25, 1995, 9:00 a.m.

Conference Room 235A, Second Floor, TREC Headquarters Office, 1100 Camino La Costa

Austin

Subcommittee on Standards, Real Estate Inspector Committee

AGENDA:

Discuss and possibly recommend action on 22 TAC §535.222 concerning standards of practice.

For ADA assistance, call Nancy Guevremont at (512) 465-3923 at least two days prior to meeting.

Contact: Mark A. Moseley, P.O. Box 12188, Austin, Texas 78711-2188, (512) 465-3900.

Filed: August 17, 1995, 8:48 a.m.

TRD-9510409

Friday, August 25, 1995, 9:00 a.m.

Conference Room 235, Second Floor, TREC Headquarters Office, 1101 Camino La Costa

Austin

Subcommittee on Standard Report Form, Real Estate Inspector Committee

AGENDA:

Discuss and possibly recommend action on standard report form

For ADA assistance, call Nancy Guevremont at (512) 465-3923 at least two days prior to the meeting.

Contact: Mark A. Moseley, P.O. Box 12188, Austin, Texas 78711-2188, (512) 465-3900.

Filed: August 17, 1995, 8:48 a.m.

TRD-9510410

Friday, August 25, 1995, 2:00 p.m.

Conference Room 235, Second Floor, TREC Headquarters Office, 1101 Camino La Costa

Austin

Texas Real Estate Inspector Committee

AGENDA:

1. Call to order; introduction of new members

2. Approval of minutes of May 5, 1995 committee meeting

3. Public comments

4. Review and response to correspondence or questions concerning inspection standards of practice

5. Subcommittee reports and possible action on subcommittee recommendations; reports from TREC staff

6. Discussion and possible action to recommend action by the Texas Real Estate Commission on standard inspection report form

7. Discussion and possible action to recommend changes to 22 TAC §535.222 con-

cerning inspection standards or to other TREC rules

8. Scheduling of future meetings

For ADA assistance, call Nancy Guevremont at (512) 465-3923 at least two days prior to meeting.

Contact: Mark A. Moseley, P.O. Box 12188, Austin, Texas 78711-2188, (512) 465-3900.

Filed: August 17, 1995, 8:48 a.m.

TRD-9510407

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State Securities Board

Friday, August 25, 1995, 9:30 a.m.

State Treasury Building, 200 East Tenth Street, Room 227

Austin

Board

AGENDA:

(1) July 7, 1995 meeting minutes.

(2)(A) Published proposals to: (1) amend §113.5; (2) amend §123.1; (3) amend §113.2; (4) amend §113.4(g); (5) amend §115.3; (6) amend §115.4; (7) create new §106.1, concerning guidelines for the assessment of administrative fines; (8) amend §131.1; (9) create new form §133.7, an application for registration of securities; (10) repeal form §133.7; (11) create new form §133.10, an investment company report of sales; (12) repeal form §133.10; (13) create new form §133.12, a renewal application for mutual funds and other continuous offerings; (14) repeal form §133.12; (15) create new form §133.13, an application for renewal permit; (16) repeal form §133.13; (17) create new form §133.36, a request for multiple capacity status; and (18) amend §139.16.

(2)(B) New rule proposal to create new §139.11 concerning an exemption for certain transactions in United States Savings Bonds from the registration requirements of the Securities Act.

(3) Discussion of ethical issues and consideration of updating formal declaration of standards of conduct for Agency Board members.

(4) Update on proposed venture capital seminar.

(5) Adoption of a Resolution honoring Duncan E Boeckman.

(6) Discussion of House Rule 2131, Capital Markets Deregulation and Liberalization Act of 1995.

(7) Discussion of agency's exempt salary plan.

(8) New business items for subsequent board meetings

(9) General update on agency operations from Securities Commissioner and Senior Staff.

Contact: Denise Voigt Crawford, 200 East Tenth Street, Fifth Floor, Austin, Texas 78701, (512) 305-8300.

Filed: August 16, 1995, 10.28 a.m.

TRD-9510371

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The Texas A&M University System, Board of Regents

Friday, August 25, 1995, 10:00 a.m.

Texas A&M University-Corpus Christi, Chapman Conference Room, Corpus Christi Hall, Room 276

Corpus Christi

System Policies Committee

AGENDA:

Review existing and proposed system policies and take any action the Committee deems necessary and appropriate.

Contact: Vickie Running, The Texas A&M University System, College Station, Texas 77843, (409) 845-9600.

Filed: August 15, 1995, 2:37 p.m.

TRD-9510318

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Texas Womans' University, Board of Regents

Friday, August 25, 1995, 9:00 a.m.

1322 Oakland, ACT Building, 14th Floor

Denton

Finance and Audit Committee

AGENDA:

Consider approval of the minutes of the committee meeting of June 23, 1995; consider recommending approval of personnel additions and changes, gifts and grants, contracts and agreements, allocation of federal funds, renewal and extension of insurance, the fiscal 1996 budget, the Texas Womans' University Investment Policy, the fourth quarter 1994-1995 internal audit activities report and the 1995-1996 internal audit plan, the annual internal audit report for 1994-1995, a resolution authorizing the abandonment of Smith=Carroll Hall, a Certificate of Resolution abandoning Smith-Carroll Hall, and the execution of the certificate regarding the university's ability to meet bond requirements in connection with the abandonment of Smith-Carroll Hall, authorizing the president of the university to take all steps necessary to accomplish the abandonment and demolition of Smith-Carroll Hall in accordance with the TWU Master Plan as approved by the board on March 24, 1995, that the Vice President for Student Life be authorized to sign contracts and other documents relating to student affairs on behalf of the university and to sign contracts, agreements, and other documents relating to fiscal affairs at such time as there is a vacancy in the position of Vice President for Fiscal Affairs, briefing on university administrative organization; discussion of Regent Retreat; report of the committee chair.

Contact: Carol D. Surles, P.O. Box 23925, Denton, Texas 76204, (817) 898-3201.

Filed: August 16, 1995, 2.30 p.m

TRD-9510385

Friday, August 25, 1995, 9:30 a.m.

1322 Oakland, ACT Building, 14th Floor

Denton

Committee on Institutional Advancement

AGENDA.

I. Consider approval of the minutes of the committee meeting of June 23, 1995

II Report on alumnae relations, development, and public information activities of the Office of Institutional Advancement

III Report of the committee chair.

Contact: Carol D Surles, P.O. Box 23925, Denton, Texas 76204, (817) 898-3201.

Filed: August 16, 1995, 2:30 p.m.

TRD-9510386

Friday, August 25, 1995, 10:00 a.m.

1322 Oakland, ACT Building, 14th Floor

Denton

Student Affairs Committee

AGENDA.

I. Consider approval of the minutes of the committee meeting of June 23, 1995.

II. Consider recommending approval of the student service fee budget for fiscal year 1995-1996.

III. Report on activities of the Office of Student Life.

IV. Report of the committee chair.

Contact: Carol D. Surles, P.O. Box 23925, Denton, Texas 76204, (817) 898-3201.

Filed: August 16, 1995, 2:30 p m.

TRD-9510387

Friday, August 25, 1995, 10:30 a.m.

1322 Oakland, ACT Building, 14th Floor

Denton

Academic Affairs Committee

AGENDA:

I. Consider approval of the minutes of the committee meeting of June 23, 1995.

II. Consider recommending the new Vice President for Academic Affairs, Dr. Beverly Byers-Pevitts, for tenure as Professor of Drama in the Department of Performing Arts.

III. Report on activities in the Office of Academic Affairs.

IV. Report of the committee chair.

Contact: Carol D. Surles, P.O. Box 23925, Denton, Texas 76204, (817) 898-3201.

Filed: August 16, 1995, 2:31 p.m.

TRD-9510388

Friday, August 25, 1995, 1:30 p.m.

1322 Oakland, ACT Building, 16th Floor

Denton

AGENDA:

Executive session: Real estate, litigation, and personnel matters under Texas Civil Statutes, Government Code, §§551.072, 551.071, and 551.074; consider approval of the minutes of the Board of Regents meeting of June 23, 1995. Finance and Audit Committee items: Consider approval of personnel additions and changes; gifts and grants; contracts and agreements; allocation of federal funds; insurance; the fiscal 1996 budget; investment policy, annual internal audit report for 1994-1995; adopt a resolution authorizing the abandonment of Smith-Carroll Hall, authorize and approve the Certificate for Resolution abandoning Smith-Carroll Hall, and authorize the execution of the Certificate regarding the university's ability to meet bond requirements; authorize the president to take all steps necessary to accomplish the abandonment and demolition of Smith-Carroll hall; consider authorizing the Vice President for Student Life to sign contracts and other documents relating to student affairs and to sign contracts and other documents relating to fiscal affairs at such time as there is a vacancy in the position of Vice President for Fiscal Affairs. Student Affairs Committee items: Consider approval of the student service fee budget for fiscal 1995-1996. Academic Affairs Committee items: Consider approval of tenure for the new Vice President for Academic Affairs. Report of the committee chairs. Report of the president.

Contact: Carol D. Surles, P.O. Box 23925, Denton, Texas 76204, (817) 898-3201.

Filed: August 16, 1995, 2:31 p.m.

TRD-9510389

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Texas Department of Transportation

Tuesday, August 29, 1995, 9:00 a.m.

6505 North IH-35

Austin

Board Meeting, Automobile Theft Prevention Authority

AGENDA:

I. Call to order

II. Report on State and National Heat Program

III. Committee reports

IV. Sunset Commission self-evaluation report

V. Director/staff report

VI. Insurance company refund rules

VII. Program and mission of ATPA

VIII. Grantee travel to board meetings limit

IX. Grant expenditures review by impact and cost

X. Grantee assistance fund where full program grants cannot be justified

XI. Additional options/match definitions for grant awards

XII. Review of Standing Committees of ATPA

XIII. Plan for space/staffing requirements

XIV. Adjournment

Contact: Linda Young, 4000 Jackson Avenue, Austin, Texas 78731, (512) 467-3999.

Filed: August 16, 1995, 11:16 a.m.

TRD-9510374

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University of Houston

Monday, August 21, 1995, 2:00 p.m.

SRII Building, Room 201, University of Houston, 4800 Calhoun Boulevard

Houston

Animal Care Committee

AGENDA:

To discuss and/or act upon the following:

Approval of July minutes

Renewal protocols

AAALAC inspection results

Contact: Rosemary Grimmet, 4800 Calhoun Boulevard, Houston, Texas 77204, (713) 743-9222.

Filed: August 16, 1995, 1:31 p.m.

TRD-9510383

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University of Texas M. D. Anderson Cancer Center

Tuesday, August 22, 1995, 9:00 a.m.

1515 Holcombe Boulevard, Room AW7.707

Houston

Institutional Animal Care and Use Committee

AGENDA:

Review of protocols for animal care and use and modifications thereof

Contact: Anthony Mastromarino, Ph.D., 1515 Holcombe Boulevard, Box 101, Houston, Texas 77030, (713) 792-3220.

Filed: August 16, 1995, 11:00 a.m.

TRD-9510373

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Texas Workers' Compensation Research Center

Wednesday, August 23, 1995, 10:00 a.m.

Capitol Extension, Room E1.028

Austin

Board of Directors

AGENDA:

The Board of Directors of the Texas Workers' Compensation Research Center will meet to discuss and act on the following items: call to order; approval of minutes of meeting of June 14, 1995; public participation; announcements; research progress report; adjournment.

Individuals who may require auxiliary aids or services for this meeting should contact Lavon Guerrero at (512) 469-7811 at least two days prior to the meeting so that appropriate arrangements can be made.

Contact: Lavon Guerrero, 105 West Riverside Drive, Suite 100, Austin, Texas 78704, (512) 469-7811.

Filed: August 15, 1995, 4:34 p.m.

TRD-9510333

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Regional Meetings

Meetings Filed August 15, 1995

The Bexar Appraisal District Board of Directors met at 535 South Main, San Antonio, August 21, 1995, at 4:45 p.m. Information may be obtained from Beverly Houston, P.O. Box 830248, San Antonio, Texas 78283-0248, (210) 224-8511. TRD-9510317.

The Lee County Appraisal District Appraisal Review Board will meet at 218 East Richmond Street, Giddings, August 23, 1995, at 9:00 a.m. Information may be obtained from Delores Shaw, 218 East Richmond Street, Giddings, Texas 78942, (409) 542-9618. TRD-9510298.

The Liberty County Central Appraisal District Board of Directors will meet at 315 Main Street, Liberty, August 23, 1995, at 9:30 a.m. Information may be obtained from Sherry Greak, P.O. Box 10016, Liberty, Texas 77575, (409) 336-5722. TRD-9510325.

The Lower Rio Grande Valley Development Council Board of Directors will meet at Harlingen Chamber of Commerce, 311 East Tyler, Harlingen, August 24, 1995, at 1:30 p.m. Information may be obtained from Kenneth N. Jones, Jr. or Anna M. Hernandez, 4900 North 23rd Street, McAllen, Texas 78504, (210) 682-3481. TRD-9510295.

The Nueces River Authority Finance Committee will meet at the Corpus Christi Marriott-Bayfront Hotel, 900 North Shoreline Boulevard, Corpus Christi, August 22, 1995, at 9:00 a.m. Information may be obtained from Con Mims, P.O. Box 349, Uvalde, Texas 78802-0349, (210) 278-6810. TRD-9510310.

The Nueces River Authority Bylaws Committee will meet at the Corpus Christi Marriott-Bayfront Hotel, 900 North Shoreline Boulevard, Corpus Christi, August 22, 1995, at 9:00 a.m. Information may be obtained from Con Mims, P.O. Box 349, Uvalde, Texas 78802-0349, (210) 278-6810. TRD-9510309.

The Nueces River Authority Board of Directors will meet at the Corpus Christi Marriott-Bayfront Hotel, 900 North Shoreline Boulevard, Corpus Christi, August 22, 1995, at 10:00 a.m. Information may be obtained from Con Mims, P.O. Box 349, Uvalde, Texas 78802-0349, (210) 278-6810. TRD-9510308.

The North Central Texas Council of Governments Private Industry Council will meet at Centerpoint Two, 616 Six Flags Drive, Second Floor, Arlington, August 22, 1995, at 10:00 a.m. Information may be obtained from Casandra J. Vines, P.O. Box 5888, Arlington, Texas 76005-5888, (817) 695-9176. TRD-9510294.

The Panhandle Quality Work Force Panhandle Quality Work Force Planning Committee will meet at 815 South Tyler Street, Amarillo, August 23, 1995, at 3:00 p.m. Information may be obtained from Deborah Pickering, P.O. Box 15443, Amarillo, Texas 79105-5443, (806) 371-7577. TRD-9510307.

The Rusk County Appraisal District Board of Directors will meet at 107 North Van Buren, Henderson, August 24, 1995, at 1:30 p.m. Information may be obtained from Melvin R. Cooper, P.O. Box 7, Henderson, Texas 75653-0007, (903) 657-9697. TRD-9510312.

The TML Group Benefits Risk Pool By-Laws Committee will meet at the Texas Municipal Center, 1821 Rutherford Lane, Suite 300, Austin, August 23, 1995, at 3:00 p.m. Information may be obtained from Suzanne Steindorf, 1821 Rutherford Lane, Suite 300, Austin, Texas 78754, (512) 719-6521. TRD-9510293.

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Meetings Filed August 16, 1995

The Angelina and Neches River Authority Industrial Development Corporation ANRA Board of Directors will meet at 210 Lufkin Avenue, ANRA Conference Room, Lufkin, August 23, 1995, at 11:00 a.m. Information may be obtained from Gary L. Neighbors, P.O. Box 387, Lufkin, Texas 75901, (409) 632-7795. TRD-9510365.

The Bosque County Central Appraisal District Board of Directors will meet at 202 South Highway 6, Meridian, August 24, 1995, at 8:00 p.m. Information may be obtained from Janice Henry, P.O. Box 393, Meridian, Texas 76665-0393, (817) 435-2304. TRD-9510393.

The Brazos Valley Development Council Local Workforce Development Board (Initial Meeting) will meet at 1706 East 29th Street, Bryan, August 23, 1995, at 11:30 a.m. Information may be obtained from Paul Hillers, P.O. Drawer 4128, Bryan, Texas 77805-4128, (409) 775-4244. TRD-9510392.

The Cash Water Supply Corporation Board of Directors met at the Corporation Office, FM 1564 at Highway 34, Greenville, August 21, 1995, at 7: 00 p.m. Information may be obtained from Eddy W. Daniel, P.O. Box 8129, Greenville, Texas 75404-8129, (903) 883-2695. TRD-9510384.

The Central Counties Center for MHMR Services Board of Trustess will meet at 304 South 22nd Street, Temple, August 24, 1995, at 7:15 p.m. Information may be obtained from Eldon Tietje, 304 South 22nd Street, Temple, Texas 76501, (817) 778-4841, Ext. 301. TRD-9510344.

The Coastal Bend Council of Governments Executive Board will meet at 2910 Leopard Street, Corpus Christi, August 25, 1995, at Noon. Information may be obtained from John P. Buckner, P.O. Box 9909, Corpus Christi, Texas 78469, (512) 883-5743. TRD-9510370.

The Coastal Bend Council of Governments Membership/Board will meet at 2910 Leopard Street, Corpus Christi, August 25, 1995, at 2:00 p.m. Information may be obtained from John P. Buckner, P.O. Box 9909, Corpus Christi, Texas 78469, (512) 883-5743. TRD-9510369.

The Dallas Housing Authority Dallas Housing Authority Board of Commissioners will meet at 2525 Frankford Road, Dan F. Long Middle School Cafeteria, Dallas, August 22, 1995, at 7:00 p.m. Information may be obtained from Elizabeth S. Horn, 3939 North Hampton Road, Dallas, Texas 75212, (214) 951-8303. TRD-9510334.

The Grayson Appraisal District (Revised Agenda.) Board of Directors will meet at 205 North Travis, Sherman, August 23, 1995, at Noon. Information may be obtained from Angie Keeton, 205 North Travis, Sherman, Texas 75090, (903) 893-9673. TRD-9510372.

The Henderson County Appraisal District Board of Directors will meet at 1751 Enterprise Street, Athens, August 22, 1995, at 5:30 p.m. Information may be obtained from Lori Fetterman, 1751 Enterprise Street, Athens, Texas 75751, (903) 675-9296. TRD-9510391.

The North Central Texas Council of Governments Executive Board will meet at Centerpoint Two, 616 Six Flags Drive, Second Floor, Arlington, August 24, 1995, at 12:45 p.m. Information may be obtained from Edwina J. Shires, P.O. Box 5888, Arlington, Texas 76005-5888, (817) 640-3300. TRD-9510400.

The North Texas Private Industry Council Nortex Regional Planning Commission will meet at 4309 Jacksboro Highway, Suite 200, Wichita Falls, August 30, 1995, at 12:15 p.m. Information may be obtained from Kelly Couch, 3917 Texas, Vernon, Texas 76384, (817) 322-5281. TRD-9510394.

The Panhandle Regional Planning Commission Board of Directors will meet at 415 West Eighth Avenue, Amarillo, August 24, 1995, at 1:30 p.m. Information may be obtained from Rebecca Rusk, P.O. Box 9257, Amarillo, Texas 79105, (806) 372-3381. TRD-9510395.

The Trinity River Authority of Texas Board of Directors will meet at 5300 South Collins Street, Arlington, August 23, 1995, at 10:00 a.m. Information may be obtained from James L. Murphy, P.O. Box 60, Arlington, Texas 76004, (817) 467-4343. TRD-9510381.

The West Central Texas Council of Governments (Revised Agenda.) Regional Citizens Advisory Council, AAA will meet at 1025 EN Tenth Street, Abilene, August 24, 1995, at 10:00 a.m. Information may be obtained from Brad Helbert, 1025 EN Tenth Street, Abilene, Texas 79601, (915) 672-8544. TRD-9510390.

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Meetings Filed August 17, 1995

The Deep East Texas Council of Governments Rural Rail Transportation District Committee will meet at Westwood Shores, FM 356, Trinity, August 24, 1995, at 10:00 a.m. Information may be obtained from Rusty Phillips, 274 East Lamar Street, Jasper, Texas 75951, (409) 384-5704. TRD-9510411.

The TML Group Benefits Risk Pool Board of Trustees will meet at the Hyatt Hill Country, 9800 Hyatt Resort Drive, San Antonio, August 25-26, 1995, at 8:30 a.m. Information may be obtained from Suzanne Steindorf, 1821 Rutherford Lane, Suite 300, Austin, Texas 78754, (512) 719-6521. TRD-9510413.

IN ADDITION

The **Texas Register** is required by statute to publish certain documents, including applications to purchase control of state banks, notices of rate ceilings, changes in interest rate and applications to install remote service units, and consultant proposal requests and awards.

To aid agencies in communicating information quickly and effectively, other information of general interest to the public is published as space allows.

Texas Department of Agriculture

Notice of Public Hearings

The Texas Department of Agriculture will hold public hearings to take public comment and provide information to the public regarding the department's proposed regulation changes governing cotton stalk destruction to require producers to shred and plow their cotton stalks on or before the October 10 deadline, as published in the August 11, 1995, issue of the *Texas Register* (20 TexReg 6062). Prior regulations only required shredding of the stalks on or before the deadline. Hearings will be held as follows:

(1) Thursday, August 24, 1995, at the Texas A&M Research and Extension Center Library, 1619 Garner Field Road, Uvalde, Texas, beginning at 9:00 a.m.

(2) Thursday, August 24, 1995, at the Pleasanton Public Library, 321 North Main, Pleasanton, Texas, beginning at 2:00 p.m.

For more information, please contact Jo Anne Noble, Regional Director, Texas Department of Agriculture, 8918 Tesoro Drive, Suite 120, San Antonio, Texas 78217, (210) 820-0288.

Issued in Austin, Texas, on August 16, 1995.

TRD-9510337 Dolores Alvarado Hibbs
Chief Administrative Law Judge
Texas Department of Agriculture

Filed: August 16, 1995

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Texas Department of Commerce

Program Year 1994 and 1995 Title III Performance Standards and Goals

As authorized by the Texas Labor Code §301.051 and §301.052, and pursuant to state Job Training Partnership Act (JTPA) Rules 10 TAC §187.161, and §187.162, the Texas Department of Commerce (the Department) provides notice of the Program Year 1994 and 1995 Performance Standards and Goals for Title III JTPA programs. Section 106 of JTPA directs the Secretary of Labor to establish performance standards for dislocated worker programs. For Program Years 1994 and 1995, the Secretary's standard for Title III is the Entered Employment Rate. Governors have the option of setting a measure for average wage at placement. The State of Texas adopted this wage goal as well as one additional performance measure.

The performance measures for the Title III program are as follows: Entered Employment Rate Standard-Total number of individuals who entered employment at termination, excluding those who were recalled or retained by the original employer after receipt of a layoff notice, divided by the total terminations excluding those who were recalled or retained by the original employer after receipt of a layoff notice. The departure point is 67%. Average Wage at Placement Goal-Average hourly wage for all participants placed. The departure point is $8.37. Employment Rate at Follow-up Goal-The number of follow-up survey respondents who were employed during the 13th week after termination divided by the total number of respondents. The departure point is 78%.

Additionally, the Texas Council on Workforce and Economic Competitiveness retained the Minimum Expenditure Level of 85%. Substate areas (SSAs) must expend at least 85% of their annual allocation to avoid deobligation of funds.

Issued in Austin, Texas, on August 15, 1995.

TRD-9510330 Brenda F. Arnett
Executive Director
Texas Department of Commerce

Filed: August 15, 1995

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Program Year 1995 Performance Standards and 5.0% Incentive Grant System

As authorized by the Texas Labor Code §301.051 and §301.052, and pursuant to state Job Training Partnership Act (JTPA) Rules 10 TAC §187.161, §187.162, and §187.163, the Texas Department of Commerce (the Department) provides notice of the Program Year 1995 Performance Standards and 5.0% Incentive Grant System for Title IIA and IIC JTPA programs. As a general State policy, PY 1996 five percent incentive funds will be used to award incentive grants to SDAs based on PY 1995 performance against DOL , Federally mandated, and State standards established for JTPA Title IIA and Title IIC programs.

To ensure the development of JTPA programs as performance-driven systems, the State's 5.0% incentive funds will be primarily awarded to Service Delivery Areas (SDAs) on the basis of their exceeding minimum performance levels of the following : Department of Labor (DOL) performance standards: (1) Adult follow-up employment rate, (2) Adult follow-up weekly earnings, (3) Adult welfare follow-up employment rate, (4) Adult welfare follow-up weekly earnings, (5) Youth entered employment rate, (6) Youth employability enhancement rate; Federally mandated standards: (1) Model Out-of-School Youth programs having a demonstrated record of success and serving more than the minimum required percentage of out-of-school youth, (2) Adult Employer-Assisted Ben-

efits Rate; and State performance standards: (1) Adult High Wage Placements, and (2) Serving Job Opportunities and Basic Skills Training (JOBS) participants. The minimum performance levels are:

For DOL performance standards, the minimum performance level shall be the adjusted 50th percentile of national performance. SDAs with actual performance between the adjusted 50th percentile of national performance and the lower confidence interval inclusive shall be considered to have met but not exceeded the standard. (See Table 1).

Table 1

	Column A	Column B	Column C	Column D	Column E	Column F	Column G	Column H	Column I
	Actual (from MIS Performance Report)	Predicted (from MIS Performance Report)	Tolerance Range	Lower Confidence Interval (B minus C)	50th Percentile of National Performance minus National Standard	Adjusted 50th Percentile of National Performance (B plus E)	65th Percentile of National Performance minus National Standard	Adjusted 65th Percentile of National Performance (B plus G)	Status (See below)
Adult Follow-up Employment Rate			3.2		4.3		6.9		
Adult Follow-up Weekly Earnings			$12		$5.60		$14.10		
Adult Welfare Follow-up Employment Rate			4.1		6.2		9.5		
Adult Welfare Follow-up Weekly Earnings			$13		$6.70		$16.10		
Youth Entered Employment Rate			4.9		0.9		4.6		
Youth Employability Enhancement Rate			4.7		9.7		14.0		

If Column A is:

- greater than Column H then the SDA is EXCEEDING the standard at Tier II level.
- greater than Column F but less than or equal to Column H then the SDA is EXCEEDING the standard at Tier I level.
- greater than or equal to Column D and less than or equal to Column F then the SDA is MEETING the standard.
- less than Column D then the SDA is FAILING the standard.

For the Adult Employer-Assisted Benefits Rate, the minimum performance level is 57% adjusted to account for availability of health benefits in the area based on variations in area industry composition. (See Table 2).

For the Model Out-of-School Youth Incentive, incentive funds will be awarded for implementing model programs that achieve demonstrated success in terms of participant outcomes applying the Youth/Work strategy described herein. Seventy percent (70%) demonstrated success in the following outcomes must be verified through the CMS: (1) Entered Employment. (2) Returned to School. (3) Remained in School. (4) Completed Major Level of Education. (5) Entered Non-Title II Training-"Certificate" or Apprenticeship Program.

To be eligible for incentive funds an SDA's model out-of-school youth program must meet at least four of the following requirements, and the requirement to serve 51% out-of-school youth: (1) Each youth must participate in a work based activity, such as work experience, limited internship, job shadowing or mentoring with adult supervision in the work place. (2) Basic skills instruction must include some curriculum based on the DOL Secretary's Commission on Achieving Necessary Skills (SCANS) competencies or foundations. (3) Programs must allow for

attainment of a high school diploma or GED by participants. (4) Occupational skills training must be provided. (5) Supportive services must be provided if need is verified by the Individual Service Strategy (ISS), and may be provided through an agreement with another agency. (6) Programs must attempt to instill a sense of community responsibility in youth.

An SDA's Model Out-of-School Youth program activities may be subject to verification by the Department. Positive terminations must be verified through the CMS. For that purpose, each participant in a Model Out-of-School Youth program must be identified by "MY" in the Participant Coding Sheet activity record Optional Field 1, either in the initial Title IIC (grant 16) Objective Assessment activity assignment or the first employment/training or services activity under Title IIC (grant 16) provided thereafter.

SDAs with programs to be considered for this incentive award with less than 15 terminations during PY 1995 must notify the Department. The Department will determine eligibility for the incentive award by considering the number of terminations from the Model Out-of-School Youth program in relation to the total number of out-of-school youth terminations.

SDAs meeting the criteria may submit an application for Model Out-of-School Youth incentive funds to the Department not later than July 15, 1996. An SDA's application will provide a brief program description, the total number of participants, the number of positive terminations, and detail which of the six criteria have been met.

For serving JOBS participants, the minimum qualifying performance levels are twice the incident of JOBS participants in the poverty population, and serving AFDC recipients at rates at least as high as their incidence in the eligible poverty population. The percentage of JOBS participants served shall be calculated as the number of terminees (adult and youth) who were JOBS participants expressed as a percentage of all terminees. (See Table 2).

TABLE 2

	ADULT EMPLOYER ASSISTED BENEFITS RATE (PERCENT OF PLACE-MENTS)	ADULT HIGH WAGE PLACEMENTS (MINIMUM QUALIFYING WAGE)	JOBS PARTICIPANT RATE		
			AFDC (PERCENT OF TERMINEES)	JOBS TIER I (PERCENT OF TERMINEES)	JOBS TIER II (PERCENT OF TERMINEES)
SDA					
NORTH EAST TEXAS	57.4	$9.73	23.3	10.6	16.0
CITY OF AUSTIN	57.1	$11.30	17.0	6.3	9.5
BRAZOS VALLEY PIC	54.5	$9.18	12.5	4.6	6.8
CONCHO VALLEY COG	54.7	$8.98	18.0	5.2	7.9
DEEP EAST TEXAS COG	56.4	$8.78	22.4	4.4	6.6
EAST TEXAS COG	57.2	$9.95	24.8	8.6	12.9
CITY OF FORT WORTH	57.9	$11.79	29.9	14.9	22.4
HEART OF TEXAS COG	56.3	$9.48	22.5	11.0	16.5
CITY OF HOUSTON	56.5	$11.79	27.1	9.8	14.7
HOUSTON-GALVESTON	57.6	$11.79	26.7	8.9	13.3
MIDDLE RIO GRANDE	52.4	$7.97	30.3	6.8	10.2
NORTH CENTRAL TEXAS	57.7	$11.79	21.9	7.6	11.4
TEXAS PANHANDLE	54.4	$9.97	23.5	3.6	5.4
PERMIAN BASIN	57.6	$10.77	24.5	5.7	8.5
ALAMO	55.7	$10.50	24.9	8.2	12.2
COLLIN COUNTY	57.8	$11.79	20.4	8.6	12.9
SOUTH EAST TEXAS	57.5	$11.79	26.1	9.2	13.7
SOUTH PLAINS	51.3	$9.41	25.1	3.2	4.9
TARRANT COUNTY	58.7	$11.79	24.9	10.0	15.0
LUBBOCK - GARZA	54.6	$9.41	24.4	8.0	12.0
GOLDEN CRESCENT	55.3	$9.66	24.2	5.4	8.1
TEXOMA	57.6	$10.17	26.5	9.1	13.6
RURAL CAPITAL	56.6	$11.30	14.1	1.7	2.6
SOUTH TEXAS PIC	54.4	$8.07	20.3	3.0	4.5
WEST CENTRAL TEXAS	55.2	$8.87	21.1	4.4	6.6
CENTRAL TEXAS COG	55.6	$10.12	25.4	8.5	12.7
HIDALGO-WILLACY	53.1	$8.00	32.9	9.1	13.6
RURAL COASTAL BEND	54.7	$10.23	29.6	3.8	5.7
DALLAS COUNTY	58.4	$11.79	27.9	8.9	13.4
NORTH TEXAS	56.1	$9.31	21.9	7.5	11.3
CORPUS CHRISTI	55.8	$10.23	30.8	7.8	11.7
CITY OF DALLAS	56.5	$11.79	30.4	14.0	21.0
CAMERON COUNTY	54.1	$8.00	26.7	8.0	12.0
HARRIS COUNTY	58.8	$11.79	31.0	9.4	14.1
UPPER RIO GRANDE	56.9	$9.52	24.1	7.0	10.5

[graphic]

For the Adult High Wage Placement Incentive, the minimum qualifying performance level is the Family Hourly Wage defined in the Smart Jobs Act, adjusted for regional variations. The placement must be for employment of at least 20 hours per week. (See Table 2). Allocation of Five Percent Incentive Funds.

Ten percent of the 5.0% incentive funds will be set aside for the Adult High Wage Placement incentive. Maximum potential SDA shares of the remaining five percent incentive funds will be proportionate to the SDA share for PY 1995, of the State's Title IIA and Title IIC allocation. Funds not needed for performance against the Serving JOBS Participants Standard will be divided evenly between the Model Out-of-school Youth Standard and the Adult Employer-assisted Benefits Standard.

If the incentive awards total is less than the total amount allocated for incentives, the balance will be prorated by award share, as additional incentive grant funds, to those SDAs eligible for an incentive award. Total incentive awards will not exceed the total amount allocated for incentives (not less than 67% of the Title IIA and IIC 5.0% allocation). Not more than 25% of the total incentive funds distributed will be for State standards. Eligibility/Special Restrictions.

If less than 65% of an SDA's Title IIA participants are hard-to-serve, as defined by DOL, the SDA will be ineligible for incentive grants based on performance during PY 1995.

If less than 65% of an SDA's Title IIC participants are hard-to-serve, as defined by DOL, the SDA will be ineligible for incentive grants based on performance during PY 1995.

If an SDA fails three or more of the six DOL performance Standards or fails both of the DOL youth standards it will be ineligible for incentive grants based on performance during that year. Weighting.

For PY 1995, the following ten performance criteria are weighted/ranked equally at 10.% each: Adult follow-up employment rate, Adult follow-up weekly earnings, Adult welfare follow-up employment rate, Adult welfare follow-up weekly earnings, Youth entered employment rate, Youth employability enhancement rate, Model out-of-school youth programs having a demonstrated record of success, Adult Employer-assisted Benefits rate, Adult High Wage Placements, and Serving JOBS participants at rates exceeding incidence in eligible population. Distribution Mechanism.

For the DOL performance standards, serving JOBS participants standard, and model out-of-school youth standard, two funding tiers will be included in the PY 1995 policy, allowing SDAs the opportunity to increase their incentive award for higher performance levels.

For the DOL performance standards, serving JOBS participants standard, and model out-of-school youth standard, 85% and 15% of the five percent incentive funds will be allocated to Tiers I and II, respectively.

To qualify for funds in a given tier, the DOL performance standards must be exceeded by the following required performance levels: Tier I: above the adjusted 50th percentile of national performance Tier II: above the adjusted 65th percentile of national performance.

The degree by which the serving JOBS participants standard must be exceeded to qualify for funds in a given tier are as follows: Tier I: serving JOBS participants at rates greater than twice their incidence in the eligible poverty population. Tier II: serving JOBS participants at rates greater than three times their incidence in the eligible poverty population.

For the model out-of-school youth standard: Tier I: the SDA must meet at least four of the six requirements, and serve at least 51% out-of-school youth. Tier II: the SDA must meet five or more of the six requirements, and serve at least 51% out-of-school youth.

SDAs which exceed their adjusted Adult Employer-assisted Benefits rate will receive the full amount available to the SDA for this standard.

The funds set aside for performance on the State Adult High Wage Placement Standard will be divided among SDAs based on their proportionate share of all adult high wage placements.

Issued in Austin, Texas, on August 15, 1995.

TRD-9510331 Brenda F. Arnett
Executive Director
Texas Department of Commerce

Filed: August 15, 1995

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Office of Consumer Credit Commissioner

Notice of Rate Ceilings

The Consumer Credit Commissioner of Texas has ascertained the following rate ceilings by use of the formulas and methods described in Title 79, Texas Civil Statutes, Article 1.04, as amended (Texas Civil Statutes, Article 5069-1. 04).

Types of Rate Ceilings	Effective Period (Dates are Inclusive)	Consumer (1)/Agricultural/ Commercial (2) thru $250,000	Commercial(2) over $250,000
Indicated (Weekly) Rate - Art. 1.04(a)(1)	08/21/95-08/27/95	18.00%	18.00%

(1)Credit for personal, family or household use. (2)Credit for business, commercial, investment or other similar purpose.

Issued in Austin, Texas, on August 14, 1995.

TRD-9510348 Leslie L. Pettijohn
Commissioner
Office of Consumer Credit Commissioner

Filed: August 16, 1995

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Texas Environmental Awareness Network

Notice of Monthly Meeting

Note that there is another schedule change for upcoming meetings. Meetings will be on the second Tuesday of each month and will start at 8:30 a.m.

The Texas Environmental Awareness Network, an association of state agencies and environmental and educational organizations, will meet September 12, 1995, at 8:30 a.m. at Texas Parks and Wildlife Department, Wild Basin Preserve Offices, 805 South Capital of Texas Highway, Austin, Texas 78746. Tentative agenda items include:

1. Introductions
2. Mailing List Update
3. "Eye on Earth" Program
4. Environmental Education Conference Update
5. Other announcements

For information about the meeting, or to place an item on the agenda, contact Sue Bumpous, TEAN Chair, by mail at P.O. Box 13087, MC 194, Austin, Texas 78711; by phone at (512) 239-0049; or by fax at (512) 239-0055.

Issued in Austin, Texas, on August 15, 1995.

TRD-9510292 Sigrid Clift
Texas Environmental Awareness Network

Filed: August 15, 1995

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Office of the Governor, Criminal Justice Division

Governor's Interim Plan for Safe and Drug-Free Schools and Communities Act–January 1, 1996-August 31, 1996

The Criminal Justice Division (CJD), Office of the Governor, will be accepting applications for grants to be awarded under the Governor's Interim Plan for Safe and Drug-Free Schools and Communities-January 1, 1996-August 31, 1996. Under the plan, there are four statewide goals: to promote drug and weapon-free environments in communities targeted by subgrants; to promote respect for the rights of others and to foster individual responsibility in communities targeted by subgrants; to provide services that promote school attendance, discipline, and learning; and to coordinate drug and violence prevention programs statewide. A state planning group will be convened to review applications and to identify duplications and gaps in services in communities targeted by subgrants. Applicants must give priority to creating and maintaining a neighborhood environment that is free of drugs and weapons, fosters individual responsibility, promotes respect for the rights of others, and is conducive to school attendance, discipline, and learning. Eligible target groups are preschoolers through 21 years of age and their families. Priority must be given to providing services to children, youth, and their families who are not normally served by State or local education agencies, or to populations that need special or additional services such as at-risk preschoolers, children born to teenage parents, youth in juvenile detention facilities, and school dropouts. Eligible target areas are neighborhoods with high rates of violence, drug and gang related offenses, weapons violations, truancy, and school dropout. Grant funds may be used for any combination of the following activities: Law Enforcement and Education Partnerships, After-School Programs, Comprehensive Neighborhood Drug and Violence Prevention Programs, and Training Programs. Eligible applicants are private non-profit organizations representing parents, community action or job training agencies, community-based organizations that provide educational or related services to individuals in the community, and consortia thereof. Local units of government, including school districts, and Regional Councils of Governments may also apply and may contract with any of the above-listed groups or with public agencies. Statewide non-profit organizations and state agencies, including universities and colleges, are eligible to apply for projects with statewide impact.

Maximum Funding Amounts: Applicants for local projects are eligible to apply for a maximum of $134,000 for the period of January 1, 1996-August 31, 1996. Applicants for statewide projects are eligible to apply for a maximum of $267,000 for the same period.

Contact Persons: Detailed specifications including the selection process and application kits are available through the Regional Council of Governments (COGs). If information about regional COGs is needed, contact Jim Kester at (512) 463-1916 or Leticia Pena Martinez at (512) 463-1924.

Closing Date for Receipt of Applications: The original and five copies of the application must be received by mail or hand delivered to the appropriate regional COG by 5:00 p.m. on or before September 30, 1995. Applications for statewide projects are due at Criminal Justice Division by 5:00 p.m. on or before September 30, 1995, Office of the Governor, Criminal Justice Division, Attention: Grant Administration, P.O. Box 12428, Austin, Texas 78711.

Selection Process: Applications for local projects will be prioritized by each Council of Governments and those priorities must be submitted to the Governor's Criminal Justice Division by October 31, 1995. Statewide applications will be reviewed and prioritized by the Criminal Justice Division. The Criminal Justice Division will then make recommendations to the Governor, who will make all final funding decisions.

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

TRD-9510231 Alberto R. Gonzales
General Counsel, Office of the Governor
Office of the Governor, Criminal Justice Division

Filed: August 11, 1995

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Texas Department of Health

Licensing Actions for Radioactive Materials

The Texas Department of Health has taken actions regarding licenses for the possession and use of radioactive materials as listed in the table below. The subheading

labeled "Location" indicates the city in which the radioactive material may be possessed and/or used. The location listing "Throughout Texas" indicates that the radioactive material may be used on a temporary basis at job sites throughout the state.

AMENDMENTS TO EXISTING LICENSES ISSUED:

Location	Name	License#	City	Amendment #	Date of Action
Abilene	Hendrick Medical Center	L02433	Abilene	45	08/01/95
Abilene	ABCO Industries	L03153	Abilene	10	08/07/95
Amarillo	The Don and Sybil Harrington Cancer Center	L03053	Amarillo	21	08/09/95
Angleton	Angleton-Danbury General Hospital	L02544	Angleton	13	08/03/95
Arlington	Metroplex Hematology Oncology Associates	L03211	Arlington	37	08/01/95
Austin	Austin Radiological Association	L00545	Austin	73	08/01/95
Bay City	Hoechst Celanese Chemical Group, Inc.	L00246	Bay City	30	08/04/95
Baytown	Bayer Corporation	L01577	Baytown	39	08/09/95
Baytown	IGI Baychem, Inc.	L04436	Houston	2	08/09/95
Brownwood	Brownwood Regional Medical Center	L04765	Brownwood	2	08/09/95
Channelview	Via NDT Engineering and Testing	L04322	Channelview	28	08/08/95
Corpus Christi	Cardiology Associates of Corpus Christi	L04611	Corpus Christi	4	08/03/95
Dallas	Medical City Hospital Dallas	L01976	Dallas	86	08/09/95
Dallas	North Texas Heart Center, P.A.	L04608	Dallas	5	08/03/95
Deer Park	Occidental Chemical Company	L00155	Deer Park	33	08/10/95
Edinburg	Edinburgh Hospital	L04262	Edinburg	4	08/03/95
El Paso	Columbia Medical Center - West	L02715	El Paso	17	08/04/95
El Paso	American Sensors Electronics, Inc.	L04704	El Paso	1	08/09/95
Fort Worth	Radiology Associates	L03953	Fort Worth	13	08/11/95
Garland	Litton Laser Systems	L02155	Garland	23	08/09/95
Houston	Rice University	L00311	Houston	38	08/01/95
Houston	Twelve Oaks Hospital	L02432	Houston	19	08/01/95
Houston	M.B.A. Laboratories	L02571	Houston	10	08/09/95
Houston	General Welding Works, Inc.	L02895	Houston	31	08/08/95
Houston	Cytastar, Inc.	L04575	Houston	3	08/10/95
Houston	Texas Tower	L04618	Houston	2	08/10/95
Houston	Flange-Tech, Inc.	L04281	Houston	2	08/09/95
Houston	AEMS, Inc.	L04641	Houston	2	08/09/95
Irving	Irving Healthcare System	L02444	Irving	22	08/11/95
Lolita	AMTOPP Corporation	L04720	Lolita	3	08/04/95
Longview	Good Shepherd Medical Center	L02411	Longview	46	08/11/95
Lubbock	Saint Mary of the Plains Hospital and Rehabilitation	L01547	Lubbock	42	08/09/95

CONTINUED AMENDMENTS TO EXISTING LICENSES ISSUED:

Location	Name	License#	City	Amend-ment #	Date of Action
McAllen	McAllen Regional Imaging Center	L04674	McAllen	1	08/01/95
Mont Belvieu	Exxon Chemical Americas	L03119	Mont Belvieu	18	08/11/95
Nederland	Anatec, Inc.	L04865	Nederland	2	08/02/95
Nederland	Anatec, Inc.	L04865	Nederland	3	08/09/95
Orange	Inland Container Corporation	L01029	Orange	40	08/07/95
Pampa	Mundy Contract Maintenance, Inc.	L04360	Pampa	10	08/09/95
Pasadena	ZENECA, Inc.	L02216	Pasadena	20	08/11/95
Plano	Texas Regional Heart Center	L03704	Plano	12	08/08/95
Plano	Medical Center of Plano	L02032	Plano	28	08/09/95
San Antonio	Baptist Memorial Hospital System	L00455	San Antonio	67	08/01/95
San Antonio	Southwest Foundation for Biomedical Research	L00468	San Antonio	40	08/11/95
San Antonio	Southwest Texas Methodist Hospital	L00594	San Antonio	115	08/08/95
San Antonio	Northeast Methodist Hospital	L03810	San Antonio	14	08/08/95
San Antonio	Nuclear Cardiology of San Antonio, Inc.	L03833	San Antonio	13	08/08/95
San Antonio	South Texas Interventional Vascular Group	L04377	San Antonio	4	08/09/95
Texarkana	Wadley Regional Medical Center	L02486	Texarkana	22	08/01/95
Throughout Texas	Texaco, Inc. - Houston Research Center	L00247	Houston	63	08/02/95
Throughout Texas	Huntingdon Engineering and Environmental, Inc.	L00299	Houston	92	08/10/95
Throughout Texas	The Methodist Hospital	L00457	Houston	76	08/10/95
Throughout Texas	Medical and Radiation Physics, Inc.	L01417	San Antonio	12	08/03/95
Throughout Texas	CBI NA-CON, Inc.	L01902	Houston	32	08/02/95
Throughout Texas	Halliburton Energy Services	L02113	Houston	80	08/09/95
Throughout Texas	H & G Inspection Company, Inc.	L02181	Houston	93	08/07/95
Throughout Texas	H & G Inspection Company, Inc.	L02181	Houston	94	08/11/95
Throughout Texas	Technical Welding Laboratory, Inc.	L02187	Pasadena	101	08/07/95
Throughout Texas	Sivalls, Inc.	L02298	Odessa	23	08/02/95
Throughout Texas	Magnum Wireline, Inc.	L03184	Giddings	9	08/04/95
Throughout Texas	Qualitest X-Ray, L.L.C.	L03326	Corpus Christi	33	08/04/95
Throughout Texas	Global X-Ray & Testing Corp.	L03663	Aransas Pass	42	08/02/95
Throughout Texas	Midland Inspection and Engineering, Inc.	L03724	Odessa	49	08/04/95
Throughout Texas	ProTechnics International, Inc.	L03835	Houston	24	08/04/95
Throughout Texas	Fugro-McClelland (Southwest), Inc.	L03875	Austin	7	08/04/95
Throughout Texas	Hensel Phelps Construction Company	L04011	Austin	11	08/11/95
Throughout Texas	Young Contractors, Inc.	L04095	Waco	10	08/11/95
Throughout Texas	Guardian NDT Services, Inc.	L04099	Corpus Christi	36	08/08/95
Throughout Texas	SGS Industrial Services	L04460	Deer Park	21	08/07/95
Throughout Texas	Selective Tools, Inc.	L04669	Houston	0	08/11/95
Throughout Texas	Drash * Focht Consulting Engineers, Inc.	L04724	San Antonio	1	08/11/95
Throughout Texas	Adams Brothers, Inc.	L04771	Athens	2	08/11/95
Throughout Texas	Frontera Materials, Inc.	L04830	Weslaco	2	08/09/95
Tyler	Mother Frances Hospital	L01670	Tyler	54	08/10/95
Waco	Young Contractors, Inc.	L04095	Waco	10	08/11/95

RENEWALS OF EXISTING LICENSES ISSUED:

Location	Name	License#	City	Amendment #	Date of Action
Dallas	GAF Materials Corporation	L03811	Dallas	5	08/08/95

TERMINATIONS OF LICENSES ISSUED:

Location	Name	License#	City	Amendment #	Date of Action
Dallas	Ecology and Environment, Inc.	L04739	Dallas	1	08/11/95
Houston	Smith International, Inc.	L02362	Houston	13	08/09/95

AMENDMENTS TO EXISTING LICENSES DENIED:

Location	Name	License#	City	Amendment #	Date of Action
Throughout Texas	Scientific Measurement Systems, Inc.	L02696	Austin	0	08/10/95
Throughout Texas	Desert Industrial X-Ray	L04590	Odessa	0	08/11/95

In issuing new licenses and amending and renewing existing licenses, the Texas Department of Health, Bureau of Radiation Control, has determined that the applicants are qualified by reason of training and experience to use the material in question for the purposes requested in accordance with *Texas Regulations for Control of Radiation* in such a manner as to minimize danger to public health and safety or property and the environment; the applicants' proposed equipment, facilities, and procedures are adequate to minimize danger to public health and safety or property and the environment; the issuance of the license(s) will not be inimical to the health and safety of the public or the environment; and the applicants satisfy any applicable special requirements in the *Texas Regulations for Control of Radiation.*

This notice affords the opportunity for a hearing on written request of a licensee, applicant, or person affected within 30 days of the date of publication of this notice. A person affected is defined as a person who is resident of a county, or a county adjacent to the county, in which the radioactive materials are or will be located, including any person who is doing business or who has a legal interest in land in the county or adjacent county, and any local government in the county; and who can demonstrate that he has suffered or will suffer actual injury or economic damage due to emissions of radiation. A licensee, applicant, or person affected may request a hearing by writing Richard A. Ratliff, P.E., Chief, Bureau of Radiation Control (Director, Radiation Control Program), 1100 West 49th Street, Austin, Texas, 78756-3189.

Any request for a hearing must contain the name and address of the person who considers himself affected by agency action, identify the subject license, specify the reasons why the person considers himself affected, and state the relief sought. If the person is represented by an agent, the name and address of the agent must be stated.

Copies of these documents and supporting materials are available for inspection and copying at the office of the Bureau of Radiation Control, Texas Department of Health, Exchange Building, 8407 Wall Street, Austin, Texas, from 8:00 a.m. to 5:00 p.m., Monday-Friday (except holidays).

Issued in Austin, Texas, on August 14, 1995.

TRD-9510350 Susan K. Steeg
General Counsel, Office of General Counsel
Texas Department of Health

Filed: August 16, 1995

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Request for Proposals for Maternal and Child Health Services

The Texas Department of Health (department), Bureau of Women and Children is accepting Requests for Proposals (RFP's) for the provision of maternal and child health services to women and children currently being served by TDH regional clinics in specified areas of the State. Services include prenatal care, family planning, preventive and primary child health care, and case management. RFP's are due by September 5, 1995 and notification of awards will be made by September 15, 1995. Contracts will be awarded for an 11 month period of time beginning October 1, 1995, through August 31, 1996. Service areas are defined as:

Public Health Region 1: Dallam, Moore, Hansford, Wheeler, Collingsworth, Childress, Castro, and Lamb Counties. RFP's may plan to serve one or all counties.

Public Health Region 2/3: Five county area: Erath, Hood, Palo Pinto, Somervell, and Wise. RFP's must plan to serve all five counties.

Ten county area: Archer, Baylor, Clay, Cottle, Foard, Hardeman, Jack, Montague, Wilbarger and Young. RFP's must plan to serve all ten counties.

Fifteen county area: Callahan, Coleman, Comanche, Eastland, Fisher, Haskell, Jones, Kent, Knox, Mitchell, Runnels, Shackelford, Stephens, Stonewall and Throckmorton. RFP's must plan to serve all 15 counties.

Two county area: Kaufman and Rockwall. RFP's must plan to serve both counties.

Two county area: Cooke and Fannin. RFP's must plan to serve both counties.

Single counties: Ellis, Johnson, and Parker. RFP's may plan to serve one or all counties.

Public Health Region 4/5. Upshur County.

Public Health Region 11. Jim Hogg, Refugio, Willacy and Zapata Counties. RFP's may plan to serve one or all counties.

The department reserves the right to reject all RFPs if necessary.

Interested parties should call Cynthia Pipitone at (512) 458-7700 to request an RFP.

Issued in Austin, Texas, on August 16, 1995.

TRD-9510366 Susan K. Steeg
General Counsel, Office of General Counsel
Texas Department of Health

Filed: August 16, 1995

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Survey on Breast Cancer Data Messages Request for Proposals

Purpose. The Texas Department of Health (department) receives funding from the Centers for Disease Control and Prevention to implement the Breast and Cervical Cancer Control Program (BCCCP), a cancer screening program. The Texas BCCCP began in July, 1991. The BCCCP's outcome objective is to reduce premature mortality due to breast and cervical cancer. The BCCCP seeks to increase the use of breast and cervical cancer screening among eligible women, and to identify and reduce financial, educational, and cultural barriers to screening. Education of women about breast and cervical cancer screening involves the use of "data messages," messages that have content based on epidemiology.

This request for proposals invites applications from public or non-profit organizations to conduct surveys of selected BCCCP clients in Texas. Through the surveys, we hope to learn how women interpret and understand statistics-based messages on breast cancer. It is not known how well BCCCP clients understand these educational messages (e.g., "Women have a one in nine risk of getting breast cancer.") Information from the surveys will be used to develop better educational materials for women age 50 or older with low incomes. Women surveyed should be representative of women served under the BCCCP who are age 50 or older.

Surveys will be conducted before November 15, 1995.

The department will award one contract of up to $25,000 to begin on or about October 1, 1995. The contractor will be required to complete 240 face-to-face interviews among a random sample of women age 50 or older who are eligible to receive services under the BCCCP. We anticipate interviews will be conducted on-site at multiple BCCCP clinics in up to three or more different regions of Texas. The clinics will likely be in urban areas. The sample should comprise a Hispanic:African American:White ratio of roughly 1:1:1. About half the women surveyed must be age 50-60, and about half must be 60 or older. The department, in collaboration with the contractor, will select the clinic sites for the surveys, and develop the survey instrument. The contractor will perform data entry. Data analyses are not required. The data in diskette format with documentation and a report describing the procedures and methodologies used are due by December 31, 1995. The budget must allow for payment of up to a $10 fee to women who complete the survey. It is expected that each interview will take less than 30 minutes.

Proposal Format. Interested parties must submit proposals with the following information: description of services to be performed; description of the methods of operation that will be used to accomplish activities including: pilot testing of the instrument; selection and training of interviewers; pre-screening techniques; quality control procedures; data entry and data editing procedures; assurances that the confidentiality of all women interviewed will be preserved by the survey team; qualifications and experience of persons who would be responsible for completing this project, which may include: knowledge of survey methodologies and techniques; assurances that survey staff will be fluent in English and Spanish in order to accommodate women in their primary language; curriculum vitae of key personnel; reports representing previous experience may be submitted; work schedule of activities with milestones; and budget and accompanying justification consistent with the objectives and the amount of funds requested.

Selection Criteria. A committee composed of department staff will evaluate proposals and make a recommendation to the Breast and Cervical Cancer Control Program. Evaluation and funding will be based on the following criteria (weighted values are in parentheses): experience in completing surveys 10%; experience in managing survey data 10%; staff qualifications 10%; proposed strategy and process for completing surveys and managing data 30%; budget allocation 10%; and overall evaluation 30%.

Proposal Packet. Contact Mr. Wright for a proposal packet or for additional information at 1-(800) 452-1955. Proposals must have a legible postmark dated no later than September 20, 1995. Hand delivered packets must be delivered by 5:00 p.m. on Wednesday, September 20, 1995, to Stephen Wright, Texas Department of Health, Breast and Cervical Cancer Control Program, 1100 West 49th Street, Building G, Room 407, Austin, Texas 78756-3199. Proposals received with a postmark later than September 20, 1995, or incomplete proposals will not be evaluated. Facsimile copies of proposals will not be evaluated.

Closing Date. The original plus three copies of the proposal should be submitted to: Stephen Wright, Texas Department of Health, Breast and Cervical Cancer Control Program, 1100 West 49th Street, Austin, Texas 78756-3199.

Issued in Austin, Texas, on August 16, 1995.

TRD-9510345 Susan K. Steeg
General Counsel
Texas Department of Health

Filed: August 16, 1995

Health and Human Services Commission

Public Notice

The Health and Human Services Commission State Medicaid Office has received approval from the Health Care Financing Administration to amend the Title XIX Medical Assistance Plan by transmittal Number 94-31, Amendment Number 460.

The amendment revises the State Plan to extend the current methodology for determination of Intermediate Care Facilities for the Mentally Retarded (ICFs/MR) Level V alternative children's facility rates through November 30, 1994 and creates a replacement methodology effective December 1, 1994. This replacement methodology will allow the facility to remain in operation while implementing a plan to reduce its certified ICFs/MR capacity and withdraw from the program. The facility is scheduled to cease its residential operations by the end of June 1996. The amendment is effective October 1, 1994.

If additional information is needed, please contact Ernest McKenney, Texas Department Mental Health/Mental Retardation at (512) 323-3856.

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

TRD-9510230 Michael D. McKinney, M.D.
Commissioner
Health and Human Services Commission

Filed: August 11, 1995

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Texas Department of Housing and Community Affairs

The Texas State Affordable Housing Corporation Announces a Request for Bids for Loan Collection Services

I. SCOPE. The Texas State Affordable Housing Corporation (the "Corporation") has been duly created and organized as an instrumentality of the State of Texas for governmental purposes of the State in accordance with the rights, powers and duties of the Texas Department of Housing and Community Affairs (the "Department") as created pursuant to the Texas Government Code, Chapter 2306, effective September 1, 1991; codified as Chapter 23 of the Texas Government Code as amended by Acts of the 73rd Legislative Session, Chapter 725, page 838, effective September 1, 1993, and as subsequently amended (the "Act").

The Corporation has purchased approximately 600 residential mortgage instruments, including promissory notes and deeds of trust, from the Chapter 11 Trustee in the D & A Realty, Inc. Bankruptcy (Case Number 92-21915-L-11, In the United States District Court for the Southern District of Texas) pursuant to the Plan of Reorganization approved by the Court in that case (hereinafter "D & A Bankruptcy Plan"). The promissory notes and deeds of trust purchased by the Corporation relate to certain low income residential properties located within the City of El Cenizo, Texas, a colonia located in Webb County, Texas (hereinafter referred to as the "El Cenizo properties").

In order to achieve the Corporation's purposes in acquiring the promissory notes and deeds of trust for the El Cenizo properties, the Corporation must realize a high percentage of monthly collections from the makers of such promissory notes. The Corporation is requesting bids from qualified parties for loan collections services.

The Corporation anticipates the need for loan collections services for the El Cenizo properties. Such services must also include accounting, security, data entry, and other services incident to the loan collections services. Parties submitting Bids shall be able to perform or meet the following requirements:

1. Establish an office within the City of El Cenizo and perform collections services on weekdays and weekends during normal business hours;

2. Establish security measures for the protection of the loan proceeds collected from the El Cenizo residents;

3. Prepare collections activity reports using the Corporation's computerized software accounting system on a timely basis;

4. Implement the Corporation's guidelines regarding collections procedures;

5. Obtain fidelity bonds for persons performing collections services;

6. Comply with the Federal and Texas Fair Debt Collections Practices Acts, and any other federal or state statutes governing collections activities;

7. Perform collections activities and services in a courteous, responsible and professional manner;

8. Furnish written receipts for payments made by El Cenizo residents, whether such payments are made by cash or check;

9. Maintain ledgers and other prudent documentation accurately identifying the source and amount of all funds received;

10. Deposit all payments received into the depository selected by the Corporation on a daily basis and shall maintain deposit receipts along with the ledgers and records of collection activities;

11. All personnel performing collections services shall be fluent in English and Spanish.

Bid Continuation Page

The ability to efficiently perform loan collection services to low and very low income individuals and families is critical.

B. Terms of Agreement

Upon selection, the selected party will execute an agreement with the firm for at least one year with optional extensions as required and as approved by the Corporation based on performance. However, the Corporation will retain the right to terminate the contract for any reason and at any time upon the payment of fees and expenses then earned.

Compensation shall be paid either on a flat monthly fee basis or alternatively as a percentage of the amounts collected on a monthly basis.

II. Deadline for Submission

The deadline for submission in response to this Request for Bid is 5:00 p.m. on September 11, 1995. No Bid will be accepted after the deadline.

III. General Information

The Corporation reserves the right to accept or reject any or all Bid submitted. The information contained in this bid request is intended to serve only as a general description of the services desired by the Corporation. This request does not commit the Corporation to pay for any costs incurred prior to the execution of a contract and is subject to availability of funds. Issuance of this request for Bid in no way obligates the Corporation to award a contract or to pay any costs incurred in preparation of a response. A single party may be retained by the Corporation for this assignment. The selected party will be performing those loan collection services required for under the management, direction, and supervision of the Board of Directors of the Corporation. Frequent review of the status and progress of the selected party on its assignments will be performed by the Corporation

IV. Required Information

A. Must provide a general description of your business, including historical background, number and location of offices, number of employees, and major areas of expertise.

B. Must provide a general description of your experience in performing loan collections services.

C. Must identify the individuals who will be assigned to the Corporation's account if your firm is selected. Provide information regarding the background and experience of each individual in particular their collections experience, if any, and designate the percentage of work for which each individual will be responsible.

D. Must provide five client references.

E. Must describe the nature of the collections services that you normally provides to your customers.

F. Compensation. Must clearly specify your proposed method of charging for loan collection services provided. If a flat monthly fee is anticipated, describe the basis for the anticipated flat fee. If a percentage of collections payment methodology is anticipated, describe the basis for such fee. If you propose that the Corporation bear any costs or incidental expenses associated with loan collection services, the bid should clearly state the nature of such incidental expenses and their estimated costs to the Corporation. Please indicate minimum charges on any of the fees. Invoices presented for payment must be itemized and contain detail of specific expenses. Reimbursement for time spent traveling will be negotiated during pre-selection interviews with the Corporation. All Bids must include a statement that they are valid for the duration of the contract.

G. The Written Data Rule. Failure to provide the required information with the bid response will automatically disqualify the bid from consideration for award in connection with this transaction.

V. Insurance Requirement

Must provide as an Appendix with qualifications submittal:

A. Name of company(ies) providing fidelity bonds and general liability coverage including limits of coverage.

B. The Corporation may require additional policies and/or increased coverage limits of the selected party.

TOTAL $____

VI. Additional Information

To obtain a complete bid package concerning this request for bid, please contact Donna Schelack, Director of Purchasing and Support Services, TDHCA, 811 Barton Springs Road, Suite 100, Austin, Texas 78704, (512) 475-3800.

Issued in Austin, Texas, on August 15, 1995.

TRD-9510352 Larry Paul Manley
Executive Director
Texas Department of Housing and Community Affairs

Filed: August 16, 1995

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Texas Department of Human Services

Correction of Errors

The Texas Department of Human Services submitted an Open Solicitation, which was published in the In Addition section of the August 4, 1995, issue of the *Texas Register* (20 TexReg 5943).

Due to submission error the last day of the solicitation period should have been September 4, 1995, instead of August 31, 1995. Also, the primary selection process completion date should have been September 14, 1995, instead of September 11, 1995.

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The Texas Department of Human Services (DHS) proposed new §§20.101-20. 111. The rules appeared in the August 1, 1995, issue of the *Texas Register* (20 TexReg 5707).

Due to submission the rules contained errors.

Section 20.103(b)(9)(B) should read: "(B) Employment-related taxes such as Federal Insurance Contributions Act (FICA), Workers' Compensation and Unemployment Compensation, are allowable costs. Refer to paragraph (1)(A) of this subsection.

Section 20.109(b) should read: "(b) DHS may also make interim adjustments to reimbursement when it can be clearly demonstrated that changes in economic factors will result, on average over the period the reimbursement in question is scheduled to be in effect, in allowable cost increases for most if not all providers, over which they have little or no control, in excess of 2.0% of the reimbursement. Such changes in economic factors include, but are not limited to, changes in the rate of wage and price inflation that are not discernible in cost report data or in other data available at the time reimbursement is determined, increases in the number of participating providers or clients with significantly different costs which are demonstrably necessary for provision of care meeting program standards, and changes in DHS's budgetary capabilities. Interim reimbursement adjustments based on changes in economic factors are subject to the same 2.0% rule as those for legal or regulatory reasons, as cited under subsection (a) of this section. Where adjustments are under consideration based on both changes in rules and regulations as described under subsection (a) of this section and economic factors as described under this subsection, the 2.0% rule is based on the combined impact of both types of influences.

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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 GEICO Indemnity Company pursuant to Texas Insurance Code, Article 5.101, §3(f). They are proposing rates ranging from plus 30% for bodily injury; to plus 62. 5% for physical damage; to plus 87.2% for PIP; to plus 75.5% for collision; and plus 62.5% for comprehensive for private passenger automobile for all classes and territories.

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 August 16, 1995.

TRD-9510363 Alicia M. Fechtel
General Counsel and Chief Clerk
Texas Department of Insurance

Filed: August 16, 1995

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Third Party Administrator Applications

The following third party administrator (TPA) applications have been filed with the Texas Department of Insurance and are under consideration.

Application for admission to Texas of EBA , Inc., a foreign third party administrator. The home office is Metairie, Louisiana.

Application for incorporation in Texas of Community Health Electronic Clearinghouse (CHEC) L.L.C., a domestic third party administrator. The home office is Grand Prairie, Texas.

Application for incorporation in Texas of CYBERTEK Corporation, a domestic third party administrator. The home office is Dallas, Texas.

Any objections must be filed within 20 days after this notice was filed with the Secretary of State, addressed to the attention of Charles M. Waits, MC 107-5A, 333 Guadalupe, Austin, Texas 78714-9104.

Issued in Austin, Texas, on August 16, 1995.

TRD-9510364 Alicia M. Fechtel
General Counsel and Chief Clerk
Texas Department of Insurance

Filed: August 16, 1995

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Texas Department of Mental Health and Mental Retardation

Notice of Public Hearing

The Texas Department of Mental Health and Mental Retardation (TDMHMR) will conduct a public hearing to receive comments on the department's proposed reimbursements for the following Medicaid programs: home and community-based services; home and community-based services-OBRA; case management (MH and MR); rehabilitation services; and institutions for mental diseases. The public hearing is held in compliance with Title 25, Texas Administrative Code, Chapter 409, Subchapter A, §409.002(j), which requires a public hearing on proposed reimbursement rates for medical assistance programs. The hearing will be held at 2:00 p.m., Tuesday, September 5, 1995, in the TDMHMR Central Office auditorium (main building) at 909 West 45th Street in Austin, Texas. Persons who wish to offer testimony but who are unable to attend the hearing may submit written comments which must be received by 5:00 p.m. the day of the hearing. The written comments should be sent to the Data Analysis Section, Medicaid Administration, Texas Department of Mental Health and Mental Retardation, P.O. Box 12668, Austin, Texas 78711-2668 or faxed to (512) 323-3250. Interested parties may obtain a copy of the reimbursement briefing package by calling the Data Analysis Section at (512) 323-3870. If interpreters for the hearing impaired are required, please contact the Data Analysis Section at the number given above at least 72 hours in advance of the hearing.

Issued in Austin, Texas, on August 15, 1995.

TRD-9510332 Ann K. Utley
Chair, Texas MHMR Board
Texas Department of Mental Health and Mental Retardation

Filed: August 15, 1995

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Texas Natural Resource Conservation Commission

Notice of Availability

The Texas Natural Resource Conservation Commission (Commission) announces the availability of the Commission's and the Department of Energy's (DOE) Federal Facility Compliance Act Agreed Order and Compliance Plan (Plan) for the treatment of the DOE's mixed radioactive waste and hazardous waste (mixed waste) at the DOE Pantex Plant. As required by the Resource Conservation and Recovery Act, §3021(b) (RCRA), as amended by the Federal Facility Compliance Act of 1992 (FFCA), DOE prepared Proposed Plans for 40 sites in 20 states for developing capacities and technologies for mixed waste at each site where DOE stores or generates mixed waste. Mixed waste is defined by the FFCA as waste containing both hazardous waste subject to RCRA, and source, special nuclear, or by-product material subject to the Atomic Energy Act of 1954. The Pantex Plant submitted its Proposed Plan to the Commission and published it in the *Federal Register* on April 6, 1995. The Commission and Pantex Plant have been negotiating the terms of the Plan since April 1995. On August 7, 1995, an agreement on the final draft plan was reached pending public comment. The Plan identifies the proposed treatment option and related schedule for development of the option for each type of mixed waste at the Pantex Plant. The Plan is available at the Commission and public comment will be considered by the Commission before signing the order. Please submit comments by September 15, 1995.

Copies of the document may be obtained by calling Lisa K. Roberts, Staff Attorney, Legal Services Division of the Commission at (512) 239-0583 or by writing to her at

TNRCC, Legal Services Division, P.O. Box 13087, MC173, Austin, Texas 78711-3087.

Issued in Austin, Texas, on August 15, 1995.

TRD-9510311 Lydia Gonzalez-Gromatzky
Director, Legal Services Division
Texas Natural Resource Conservation Commission

Filed: August 15, 1995

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Notice of Public Hearing

Notice is hereby given that pursuant to the requirements of the Texas Health and Safety Code, §382.017; Texas Government Code, Subchapter B, Chapter 2001; and 40 Code of Federal Regulations, §51.102 of the United States Environmental Protection Agency regulations concerning State Implementation Plans (SIP), the Texas Natural Resource Conservation Commission (TNRCC or commission) will conduct a public hearing to receive testimony concerning revisions to Chapter 101 and the SIP.

The TNRCC proposes revisions to §101.2, concerning Multiple Air Contaminant Sources or Properties. The proposed amendment would eliminate the 50,000 population limitation and would limit the use of the provision to properties under the control of a single entity which has been or will be divided and placed under the control of separate entities, creating a new property line configuration or for those properties operated or intended to be operated as an integrated plant or plants where individual facilities are owned by separate entities, but all facilities are under the control of a single entity. The proposed amendment would further restrict contiguous properties to those separated only by roads, railroads, and rights-of-way which are considered part of the property or properties.

A public hearing on the proposal will be held September 21, 1995, at 10:00 a.m. in Room 254S of TNRCC Building E, located at 12118 North IH-35, Park 35 Technology Center, Austin. The hearing is structured for the receipt of oral or written comments by interested persons. Individuals may present oral statements when called upon in order of registration. Open discussion within the audience will not occur during the hearing; however, a TNRCC staff member will be available to discuss the proposal 30 minutes prior to the hearing and will answer questions before and after the hearing.

Written comments not presented at the hearing may be submitted to the TNRCC central office in Austin. The deadline for submission of written comments will be 30 days after the date of publication of the proposal in the *Texas Register*. Material received by the TNRCC Office of Policy and Regulatory Development by 4:00 p.m. on that date will be considered by the commission prior to any final action on the proposal. Please mail comments to Lisa Martin, Office of Policy and Regulatory Development, MC 205, P.O. Box 13087, Austin, Texas 78711-3087, and reference Rules Tracking Log #95111-101-AI. Please fax comments to (512) 239-5687. Copies of the revision are available at the central office of the TNRCC, Air Policy and Regulations Division, located at 12118 North IH-35, Park 35 Technology Center, Building E, Austin, and at all TNRCC regional offices. For further information, please contact John Gillen at (512) 239-1415.

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

Issued in Austin, Texas, on August 15, 1995.

TRD-9510342 Lydia Gonzales-Gromatzky
Acting Director, Legal Services Division
Texas Natural Resource Conservation Commission

Filed: August 16, 1995

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Notice of Public Hearing (Chapter 116)

Notice is hereby given that pursuant to the requirements of the Texas Health and Safety Code, §382.017; Texas Government Code, Subchapter B, Chapter 2001; and 40 Code of Federal Regulations, §51.102 of the United States Environmental Protection Agency regulations concerning State Implementation Plans (SIP), the Texas Natural Resource Conservation Commission (TNRCC or commission) will conduct a public hearing to receive testimony concerning revisions to Chapter 116 and the SIP.

The TNRCC proposes revisions to §§116.310-116.314, concerning Notification of Permit Holder; Permit Renewal Application; Public Notification and Comment Procedures; Renewal Application Fees; and Review Schedule.

The primary purpose of the revisions is to add new §116.311(b), which states that at the time of permit renewal, a permit may not be made more stringent unless the TNRCC determines that it is necessary to avoid a condition of air pollution or to ensure compliance with otherwise applicable federal or state air quality control requirements. Minor administrative changes are also proposed in the other sections for consistency with the new §116.311(b) and to update references.

A public hearing on the proposal will be held September 21, 1995, at 2:00 p. m. in Room 254S of TNRCC Building E, located at 12118 North IH-35, Park 35 Technology Center, Austin. The hearing is structured for the receipt of oral or written comments by interested persons. Individuals may present oral statements when called upon in order of registration. Open discussion within the audience will not occur during the hearing; however, a TNRCC staff member will be available to discuss the proposal 30 minutes prior to the hearing and will answer questions before and after the hearing.

Written comments not presented at the hearing may be submitted to the TNRCC central office in Austin. The deadline for submission of written comments will be 30 days after the date of publication of the proposed rules in the *Texas Register*. Material received by the TNRCC Office of Policy and Regulatory Development by 4:00 p.m. on that date will be considered by the commission prior to any final action on the proposal. Please mail comments to Lisa Martin, Office of Policy and Regulatory Development, MC 205, P.O. Box 13087, Austin, Texas 78711-3087, and reference Rules Tracking Log #95138-116-AI. Please fax comments to (512) 239-5687. Copies of the revision are available at the central office of the TNRCC, Air Policy and Regulations Division, located at 12118 North IH-35, Park 35 Technology Center, Building E, Austin, and at all TNRCC regional offices. For further information, please contact Sam Wells at (512) 239-1441.

Persons with disabilities who have special communication or other accommodation needs who are planning to attend the hearing should contact the agency at (512) 239-4900.

Requests should be made as far in advance as possible.

Issued in Austin, Texas, on August 14, 1995.

TRD-9510314 Lydia Gonzalez-Gromatzky
Director, Legal Services Division
Texas Natural Resource Conservation Commission

Filed: August 15, 1995

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Texas Department of Public Safety

Administrative License Revocation (ALR)

Public Hearing Notice

The Texas Department of Public Safety, in accordance with Administrative Procedure Act, and Texas Government Code §2001.29, is holding a public hearing on August 23, 1995, at 9:00 a.m., in the Department of Public Safety Conference Room B, 5805 North Lamar Boulevard, Austin, Texas.

The purpose of the hearing is to receive comment from all interested persons regarding adoption of the amendment to Administrative License Revocation (ALR) rule-§§17.1, 17.11, and 17.16 pursuant to Texas Civil Statutes, Article 6687b; Texas Civil Statues, Article 6687b-1; Texas Civil Statues, Article 67011-5, and Texas Penal Code, Chapter 49. The proposed rule was published in the June 6, 1995, issue of the *Texas Register*, (20 TexReg 4119), regarding Administrative License Revocation (ALR).

The hearing is in response to one request for a public hearing: This request is from the Texas Criminal Defense Lawyers Association.

Persons interested in attending this hearing are encouraged to submit advance written notice of their intent to attend the hearing and to submit a written copy of their comments. Letters should be addressed to John C. West, Jr., Chief of Legal Services, Texas Department of Public Safety, Box 4087, Austin, Texas 78773-0001.

This hearing will be conducted in accordance with the Texas Department of Public Safety's General Rules of Practice and Procedure, §§29.1-29.49.

Issued in Austin, Texas on August 11, 1995.

TRD-9510291 James R. Wilson
Director
Texas Department of Public Safety

Filed: August 15, 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 contract for Billing and Collection Services.

Tariff Title and Number. Application of Southwestern Bell Telephone Company for Approval of a Customer-specific contract pursuant to Public Utility Commission Substantive Rule 23.27. Tariff Control Number 14538.

The Application. Southwestern Bell Telephone Company is requesting approval of a customer-specific contract for Billing and Collection Services with MIDCOM Communications, Inc. doing business as Logicall. The geographic service market for this specific service is anywhere within the state of Texas where MIDCOM Communications, Inc. doing business as Logicall provides services to Southwestern Bell end user customers.

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 August 14, 1995.

TRD-9510281 Paula Mueller
Secretary of the Commission
Public Utility Commission of Texas

Filed: August 14, 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 Lubbock County, Lubbock, Texas.

Docket Title and Number. Application of Southwestern Bell Telephone Company for PLEXAR-Custom Service for Lubbock County pursuant to Public Utility Commission Substantive Rule 23.27. Docket Number 14274.

The Application. Southwestern Bell Telephone Company is requesting approval of a new PLEXAR-Custom service for Lubbock County. The geographic service market for this specific service is the Lubbock, 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 August 14, 1995.

TRD-9510282 Paula Mueller
Secretary of the Commission
Public Utility Commission of Texas

Filed: August 14, 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 Tarrant County, Fort Worth, Texas.

Tariff Title and Number. Application of Southwestern Bell Telephone Company for PLEXAR-Custom Service for Tarrant County pursuant to Public Utility Commission Substantive Rule 23.27. Tariff Control Number 14542.

The Application. Southwestern Bell Telephone Company is requesting approval of a 773-station addition to the existing PLEXAR-Custom service for Tarrant County. 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 August 15, 1995.

TRD-9510346 Paula Mueller
Secretary of the Commission
Public Utility Commission of Texas

Filed: August 16, 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 contract for Billing and Collection Services.

Tariff Title and Number. Application of Southwestern Bell Telephone Company for Approval of a Customer-specific contract pursuant to Public Utility Commission Substantive Rule 23.27. Tariff Control Number 14543.

The Application. Southwestern Bell Telephone Company is requesting approval of a customer-specific contract for Billing and Collection Services with NBC, Inc. The geographic service market for this specific service is anywhere within the state of Texas where NBC, Inc. provides services to Southwestern Bell end user customers.

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 August 15, 1995.

TRD-9510347 Paula Mueller
Secretary of the Commission
Public Utility Commission of Texas

Filed: August 16, 1995

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Texas Savings and Loan Department

Correction of Error

The Finance Commission of Texas proposed amendments to §§77.4, 77.5, 77. 7, 77.10, 77.72, 77.73, 77.91, and 77.96 relating to authorized loans and investments for state savings banks. The rules appeared in the July 28, 1995, issue of the *Texas Register* (20 TexReg 5576).

Due to submission and publishing errors text was left out.

Section 77.73(c) should read:

"(c) If [such] real estate acquired for the [use of the savings bank in] future expansion of **the savings bank's [its banking] facilities is not improved and occupied as banking facilities within three years from the date of its acquisition, the savings bank shall sell or otherwise dispose of such property; provided that the commissioner may for good cause shown grant an extension of time for a period of one year or more.**

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PUBLICATION SCHEDULE

The following is the 1995 Publication Schedule for the Texas Register. Listed below are the deadline dates for the June-December 1995 issues of the Texas Register. Because of printing schedules, material received after the deadline for an issue cannot be published until the next issue. Generally, deadlines for a Tuesday edition of the Texas Register are Wednesday and Thursday of the week preceding publication, and deadlines for a Friday edition are Monday and Tuesday of the week of publication. No issues will be published on July 7, November 10, November 28, and December 29. An asterisk beside a publication date indicates that the deadlines have been moved because of state holidays.

FOR ISSUE PUBLISHED ON	ALL COPY EXCEPT NOTICES OF OPEN MEETINGS BY 10 A.M.	ALL NOTICES OF OPEN MEETINGS BY 10 A.M.
42 Friday, June 2	*Friday, May 26	Tuesday, May 30
43 Tuesday, June 6	Wednesday, May 31	Thursday, June 1
44 Friday, June 9	Monday, June 5	Tuesday, June 6
45 Tuesday, June 13	Wednesday, June 7	Thursday, June 8
46 Friday, June 16	Monday, June 12	Tuesday, June 13
47 Tuesday, June 20	Wednesday, June 14	Thursday, June 15
48 Friday, June 23	Monday, June 19	Tuesday, June 20
49 Tuesday, June 27	Wednesday, June 21	Thursday, June 22
50 Friday, June 30	Monday, June 26	Tuesday, June 27
51 Tuesday, July 4	Wednesday, June 28	Thursday, June 29
Friday, July 7	NO ISSUE PUBLISHED	
52 Tuesday, July 11	Wednesday, July 5	Thursday, July 6
Friday, July 14	Second Quarterly Index	
53 Tuesday, July 18	Wednesday, July 12	Thursday, July 13
54 Friday, July 21	Monday, July 17	Tuesday, July 18
55 Tuesday, July 25	Wednesday, July 19	Thursday, July 20
56 Friday, July 28	Monday, July 24	Tuesday, July 25
57 Tuesday, August 1	Wednesday, July 26	Thursday, July 27
58 Friday, August 4	Monday, July 31	Tuesday, August 1
59 Tuesday, August 8	Wednesday, August 2	Thursday, August 3
60 Friday, August 11	Monday, August 7	Tuesday, August 8
61 Tuesday, August 15	Wednesday, August 9	Thursday, August 10
62 Friday, August 18	Monday, August 14	Tuesday, August 15
63 Tuesday, August 22	Wednesday, August 16	Thursday, August 17
64 Friday, August 25	Monday, August 21	Tuesday, August 22
65 Tuesday, August 29	Wednesday, August 23	Thursday, August 24
66 Friday, September 1	Monday, August 28	Tuesday, August 29