

TEXAS REGISTER

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

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

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

How to Use the Texas Register

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

Governor - Appointments, executive orders, and proclamations.

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

Secretary of State - opinions based on the election laws.

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

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

Proposed Rules - sections proposed for adoption.

Withdrawn Rules - sections withdrawn by state agencies from consideration for adoption, or automatically withdrawn by the Texas Register six months after the proposal publication date.

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

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

Open Meetings - notices of open meetings.

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

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

How to Cite: Material published in the Texas Register is referenced by citing the volume in which the document appears, the words "TexReg" and the beginning page number on which that document was published. For example, a document published on page 2402 of Volume 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 1. Texas Department of Human Services
40 TAC §3.704.....950, 1820

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

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

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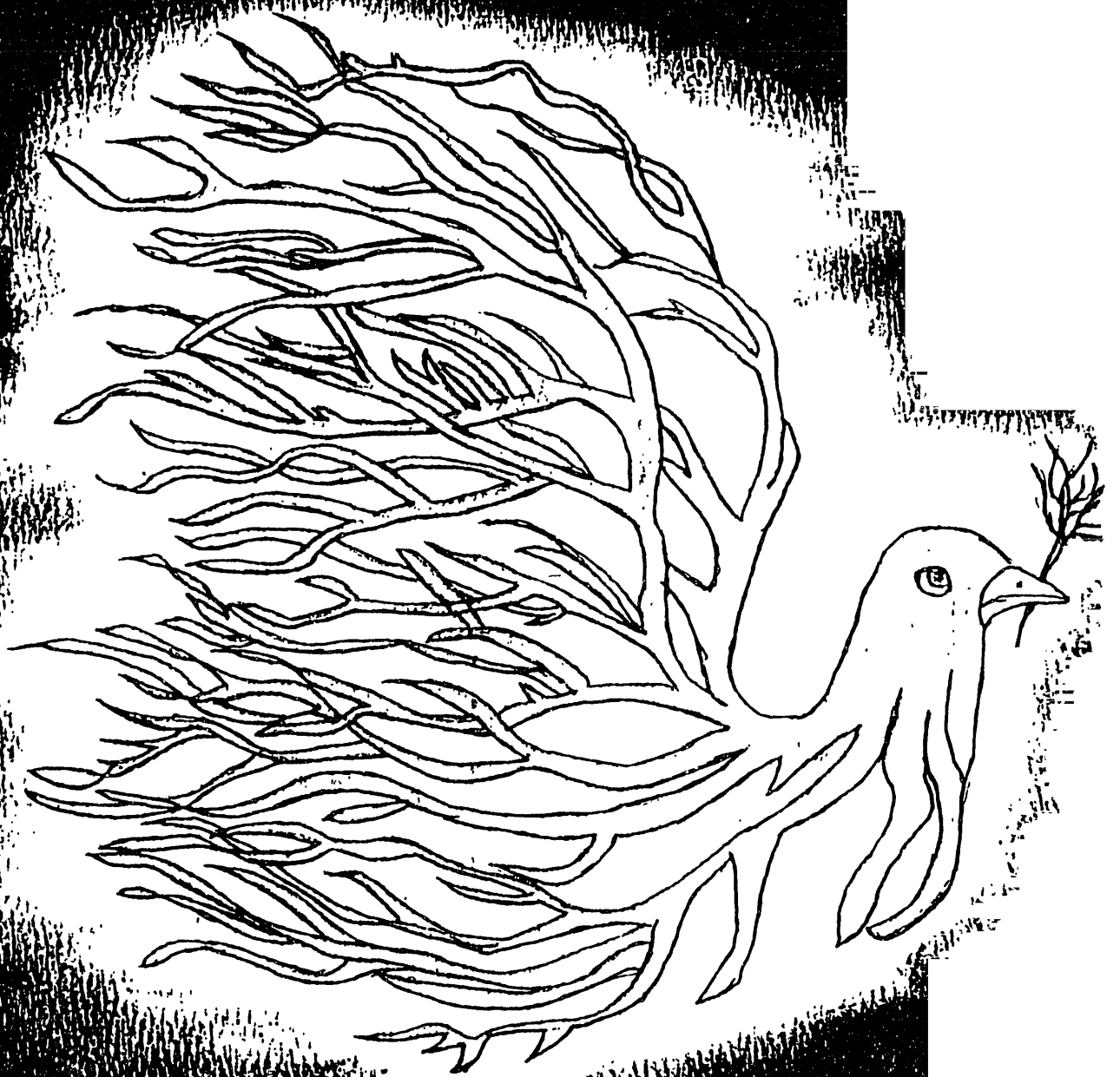
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Name: Gerardo Ramirez
Grade: 9
School: Skyline High School, Dallas ISD

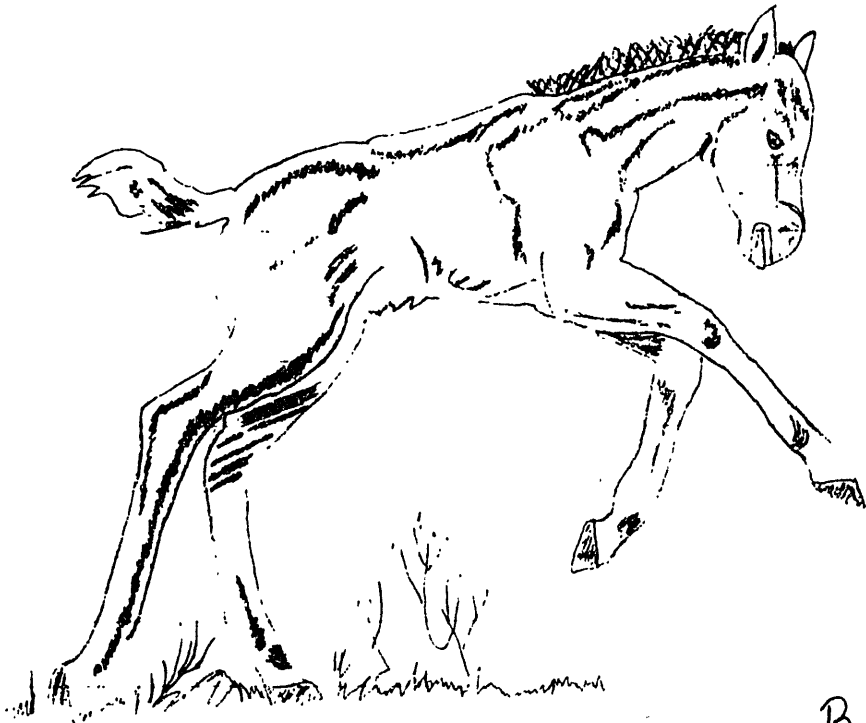


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School: Gainesville High School, Gainesville ISD

Name: Daniel Jones

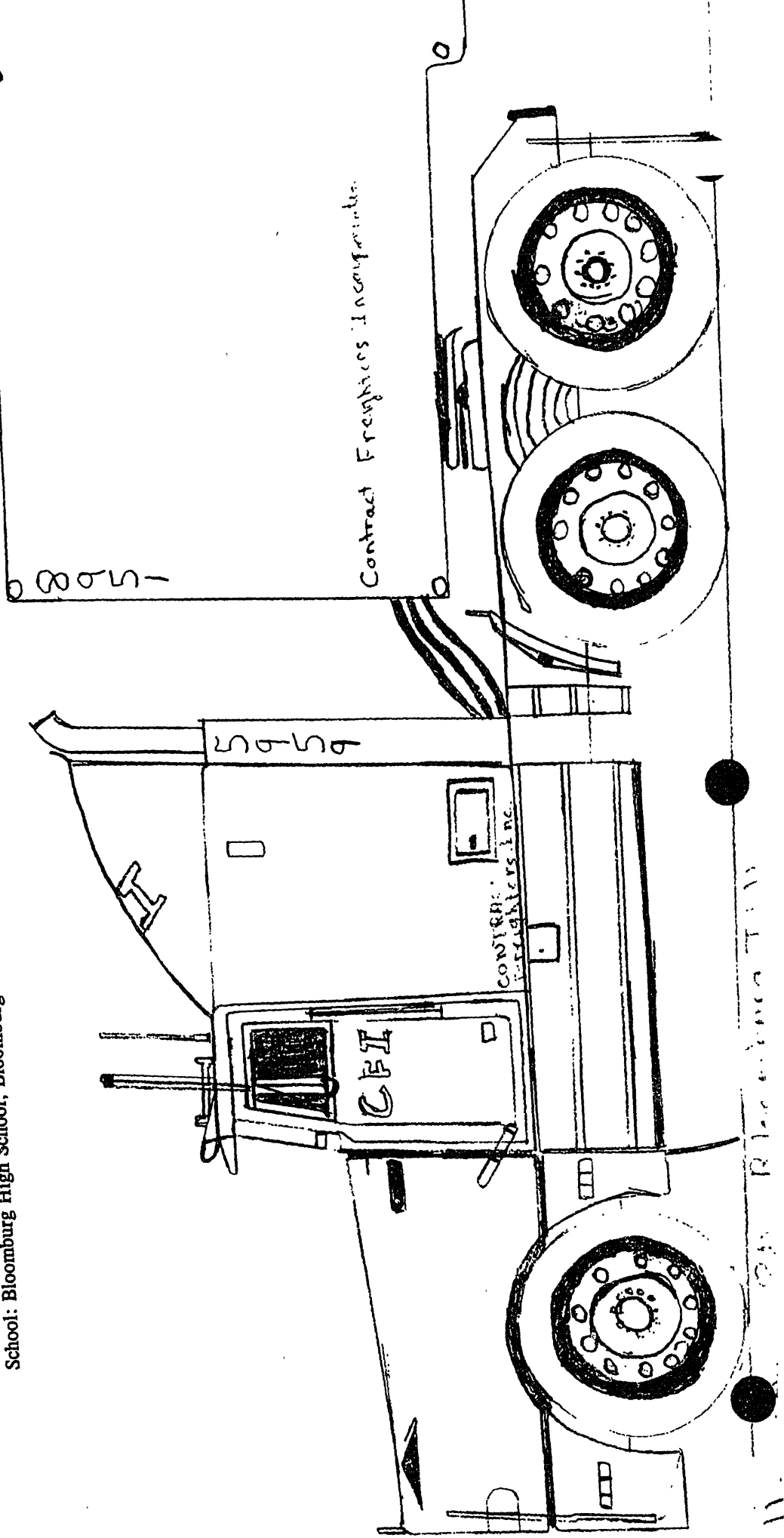
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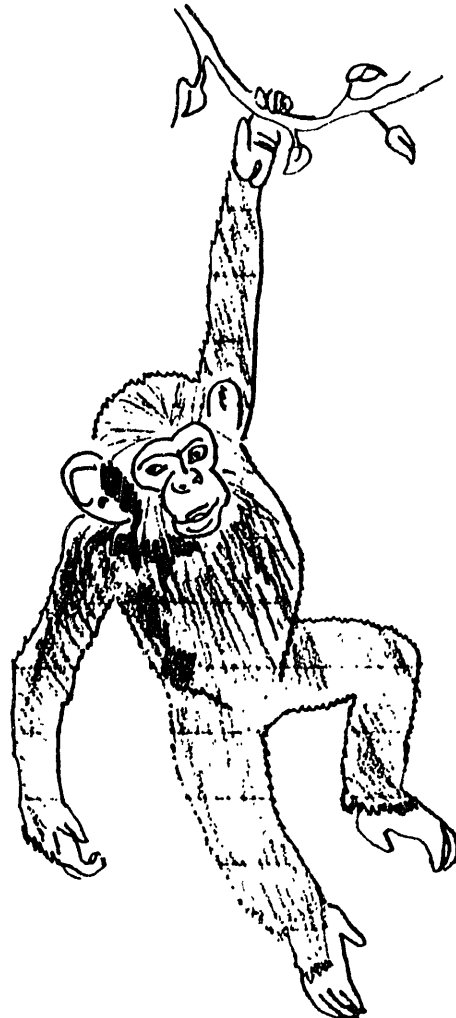
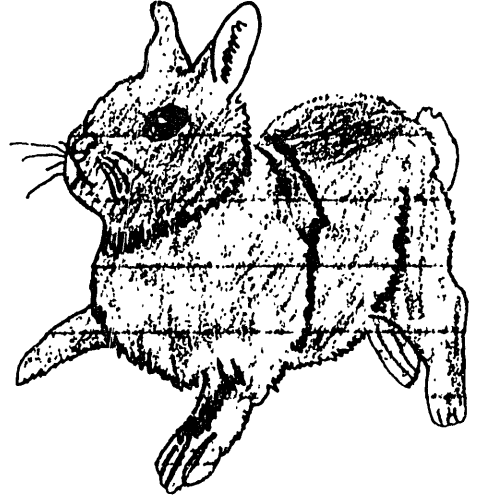
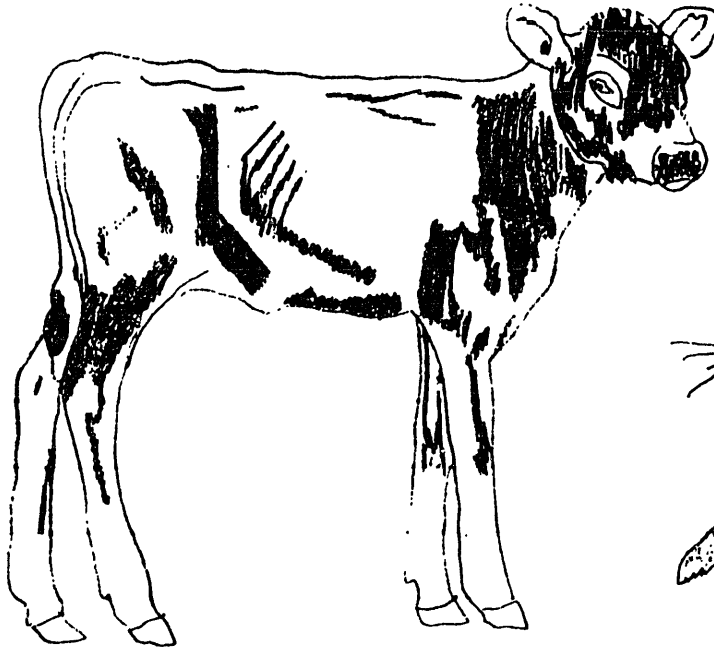
School: Bloomburg Elementary School, Bloomburg ISD



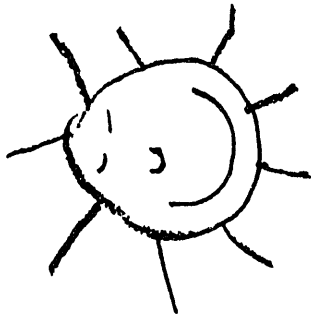
By: Daniel Jones
6th grade

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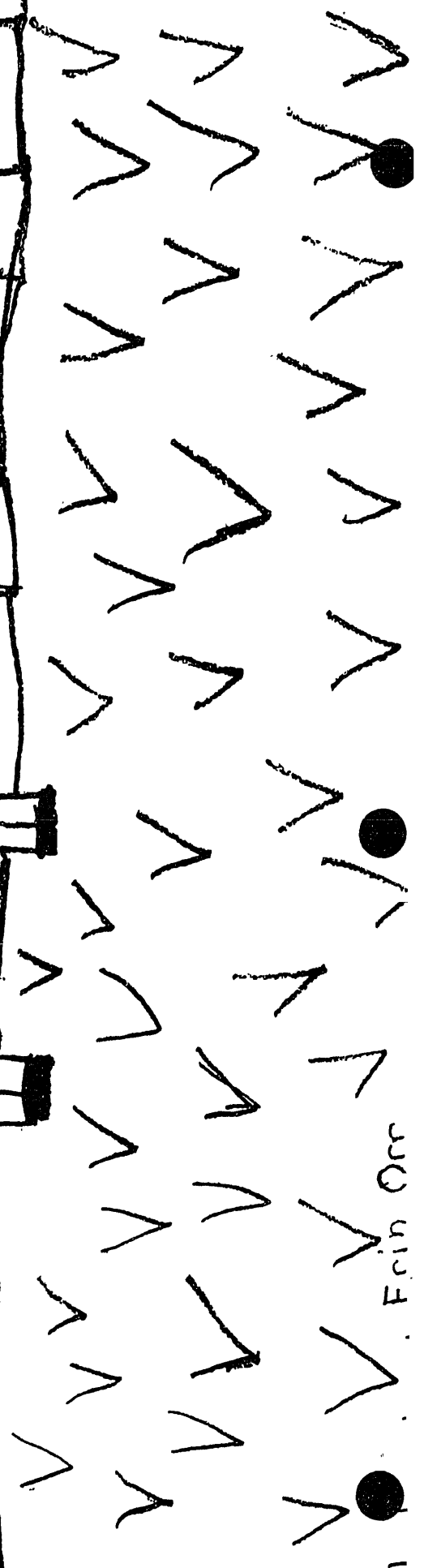




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Courtney Orr

THE GOVERNOR

As required by Texas Civil Statutes, Article 6252-13a, §6, the **Texas Register** publishes executive orders issued by the Governor of Texas. Appointments and proclamations are also published. Appointments are published in chronological order. Additional information on documents submitted for publication by the Governor's Office can be obtained by calling (512) 463-1828.

Appointments Made August 18, 1995

To be a member of the Coastal Coordination Council for a term to expire May 31, 1996: Fred W. Heldenfels, IV, 5429 Chevy Chase, Corpus Christi, Texas 78412. Mr. Heldenfels is being appointed to a new position pursuant to House Bill Number 3226, 74th Legislature, Regular Session.

To be a member of the Coastal Coordination Council for a term to expire May 31, 1997: Robert B. Dunkin, 410 Retama Place, Harlingen, Texas 78550. Mr. Dunkin is being appointed to a new position pursuant to House Bill 3226, 74th Legislature, Regular Session.

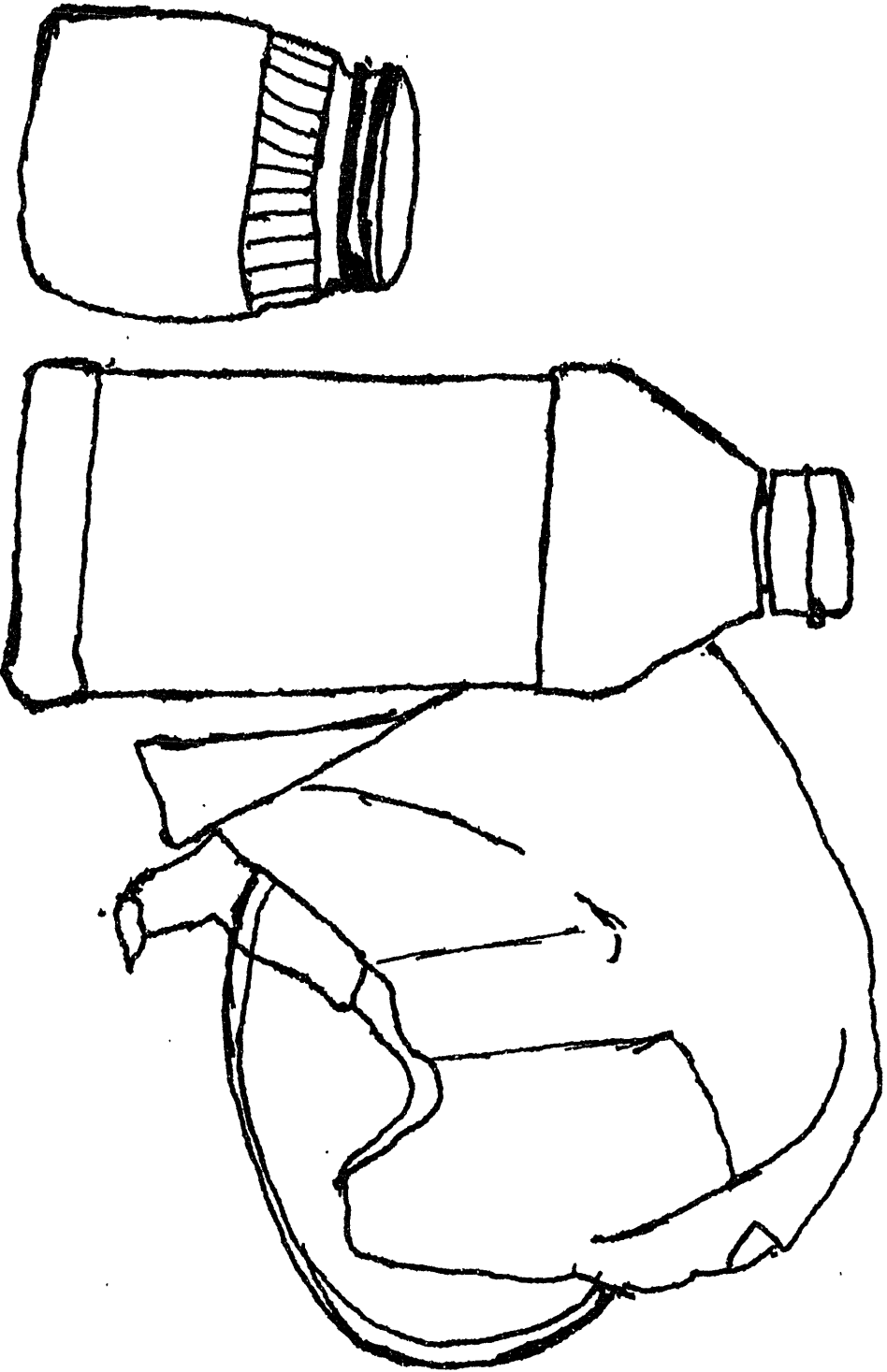
Issued in Austin, Texas, on August 22, 1995.

TRD-9510616

George W. Bush
Governor of Texas



Name: Donald D. Ballard
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School: Skyline High School, Dallas ISD



ATTORNEY GENERAL

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

Requests for Opinions

(RQ-821). Requested by Honorable Rodney Ellis, Chair, Intergovernmental Relations, Texas Senate, P.O. Box 12068, Capitol Station, Austin, Texas 78711, concerning whether the recently enacted concealed handgun bill, Senate Bill 60, particularly the provision to be codified as Texas Civil Statutes, Article 4449ee), §32, permits a business owner or operator to post notices prohibiting license holders carrying concealed handguns from the premises of the business, and related questions.

(RQ-838). Requested by Elaine S. Hengen, Assistant City Attorney, The City of El Paso, 2 Civic Center Plaza, El Paso, Texas 79901-1196, concerning whether the originating telephone numbers and addresses obtained by a 911 districts' use of a telephone service supplier's database is confidential by law under §772.318 of the Health and Safety Code in conjunction with §552.101 of the Government Code.

TRD-9510676



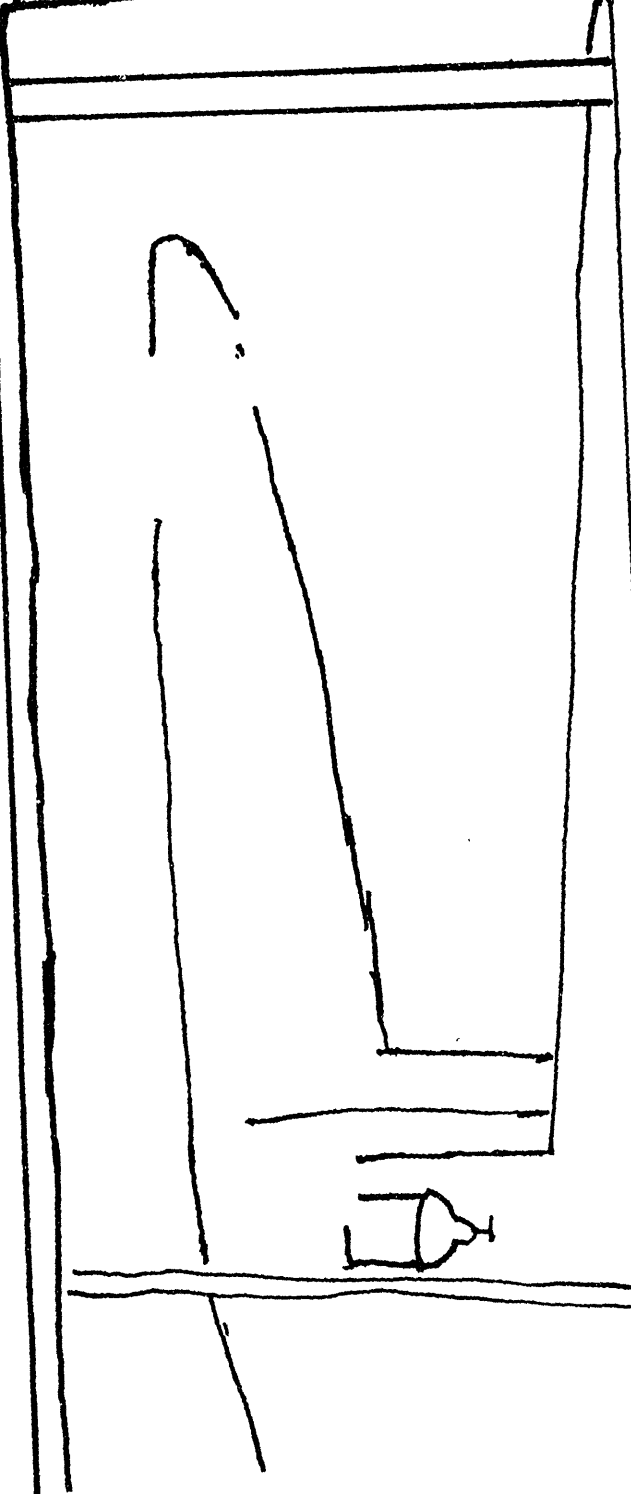
DATE 5/1

PHILE

Name: Donald Ballard

Grade: 9

School: Skyline High School, Dallas ISD



TEXAS ETHICS COMMISSION

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

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

Ethics Advisory Opinions

EAO-273 (AOR-306). Whether a member of the legislature may accept fees for public speaking.

Summary. Whether a member of the legislature may accept a speaking fee depends on the motivation of the person requesting that the legislator speak. Although the permissibility of any particular fee must be determined on a case-by-case basis, the fact that a legislator received fees for speaking before becoming a member of the legislature is certainly strong evidence that the legislator is a desirable speaker for reasons other than his status as a member of the legislature.

A legislator may accept expenses for travel, lodging, and meals in connection with a speaking engagement even if the honorarium provision prohibits the acceptance of a fee for the speaking engagement.

EAO-274. (AOR-305, AOR-308). Whether a contribution from a lawyer to a judicial candidate counts against the contribution limits for both the lawyer's spouse and the spouse's law firm; whether a lawyer's contribution to a judicial candidate counts against the contribution limits of a firm that hires him after the contribution.

Summary. Under the Judicial Campaign Fairness Act, a contribution by the spouse of an individual is considered to be a contribution by the individual. A judicial candidate may not accept from a member of a law firm political contributions exceeding the maximum amount prescribed in Election Code, §253.155. If a member of a law firm moves from one firm to another, political contributions made by the member count toward the contribution limits only of the law firm of which he was a member when he made the contributions.

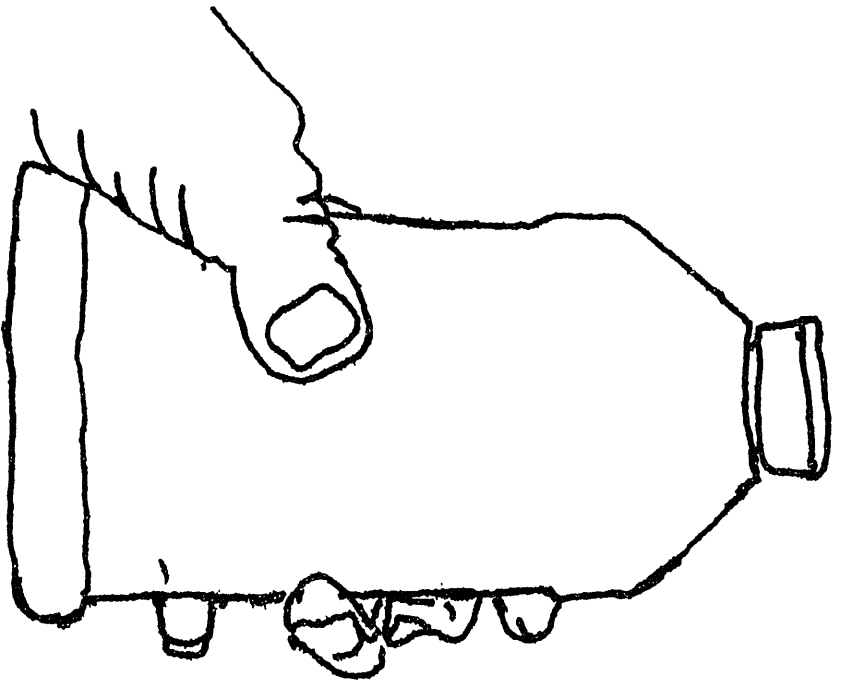
Issued in Austin, Texas, on August 18, 1995.

TRD-9510669

Lucia Dodson
Executive Assistant
Texas Ethics Commission

Filed: August 23, 1995

◆ ◆ ◆



Name: Donald Ballard

Grade: 9

School: Skyline High School, Dallas ISD

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 10. COMMUNITY DEVELOPMENT

Part I. Texas Department of Housing and Community Affairs

Chapter 9. Texas Community Development Program

Subchapter A. Allocation of Program Funds

• 10 TAC §9.1, §9.7

The Texas Department of Housing and Community Affairs (TDHCA) adopts on an emergency basis amendments to §9.1 and §9.7, concerning the application, the selection criteria, and the deletion of the small business incubator program and loan program for the Texas Capital Fund Program under the Texas Community Development Program. In addition, the amendments address the expanded role of the Texas Department of Commerce in the Texas Capital Fund Program.

The amendments are adopted on an emergency basis to ensure that Texas residents will have timely access to federal funds available under the Community Development Block Grant Program (CDBG) (42 United States Code, §§5301 et seq). The emergency rule is in conformance with the requirements of the CDBG statute and complies with 42 United States Code, §5305.

The amendments are adopted on an emergency basis under Texas Government Code, Chapter 2306, §2306.053(b)(4) and §2306.098(b), which authorizes the Department of Housing and Community Affairs to adopt rules to implement the CDBG program in Texas.

§9.1. General Provisions.

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

(1) (No change.)

(2) Application—A written request for Texas Community Development Program funds in the format required by the

Department or by the Texas Department of Commerce for Texas Capital Fund applications.

(3) Commerce—The Texas Department of Commerce.

(4)[(3)] Community Development Block Grant nonentitlement area funds—The funds awarded to the State of Texas pursuant to the Housing and Community Development Act of 1974, Title I, as amended, (42 United States Code, §§5301 et seq) and the regulations promulgated thereunder in 24 Code of Federal Regulations, Part 570.

(5)[(4)] Community—A unit of general local government.

(6)[(5)] Contract—A written agreement, including all amendments thereto, executed by the Department and contractor which is funded with community development block grant nonentitlement area funds.

(7)[(6)] Contractor—A unit of general local government with which the Department has executed a contract.

(8)[(7)] Department—The Texas Department of Housing and Community Affairs.

[(8)] Incubator—An incubator or small business incubator is defined as a facility within which small businesses share space, equipment, and support personnel and have access to professional consultants for advice related to the technical and management aspects of conducting a commercial enterprise.

[(9)] Incubator sponsor—A non-profit organization or entity including a quasi-governmental entity, a junior college, an institution of higher learning as defined by the Education Code, §61.003, a private college or university, a small business development center, a development corporation created under state law, or a research and development authority established under Texas Local Government Code, Chapter 382, that enters into a written agreement with the applicant to establish, operate, and administer a small business incubator.]

(9)[(10)] Local government—A unit of general local government.

(10)[(11)] Low- and moderate-income person—A member of a family which earns less than 80% of the area median family income, as defined under the United States Department of Housing and Urban Development Section 8 Assisted Housing Program.

(11)[(12)] Nonentitlement area—An area which is not a metropolitan city or part of an urban county as defined in 42 United States Code, §5302.

(12)[(13)] Permanent job/permanent full-time job—A permanent position for which continuation of employment is not dependent on funds provided through the Texas Community Development Program.

(A) A full-time job is defined as employment for 1,820 hours or more per year or 35 hours or more per week per person annualized.

(B) A permanent seasonal job is defined as employment of less than 1,820 hours annually and which provides a salary that meets or exceeds 50% of the county median income per person.

(C) A part-time job is defined as employment for less than 1,820 hours per year and 20-34 hours per week per person annualized.

(13)[(14)] Poverty—The current official poverty line established by the Director of the Federal Office of Management and Budget.

(14)[(15)] Primary beneficiary—A low- or moderate-income person.

(15)[(16)] Regional review committee—A regional community development review committee, one of which is established in each of the 24 state planning regions established by the governor pursuant to Texas Local Government Code, §391.003.

(16)[(17)] Slum or blighted area—An area which has been designated a state enterprise zone, or an area within a municipality or county that is detrimental to the public health, safety, morals, and welfare of the municipality or county because the area:

(A) has a predominance of buildings or other improvements that are dilapidated, deteriorated, or obsolete due to age or other reasons;

(B) is prone to high population densities and overcrowding due to inadequate provision for open space;

(C) is composed of open land that, because of its location within municipal or county limits, is necessary for sound community growth through replatting, planning, and development for predominantly residential uses; or

(D) has conditions that exist due to any of the causes enumerated in subparagraphs (A)-(C) of this paragraph or any combination of those causes that:

(i) endanger life or property by fire or other causes; or

(ii) are conducive to:

(I) the ill health of the residents;

(II) disease transmission;

(III) abnormally high rates of infant mortality;

(IV) abnormally high rates of juvenile delinquency and crime; or

(V) disorderly development because of inadequate or improper platting for adequate residential development of lots, streets, and public utilities.

(17)[(18)] Slum or blight, spot basis—A building which has been declared as a slum or blight and has multiple and unattended building code violations, and qualifies as slum or blighted on a spot basis under local law.

(18)[(19)] State review committee—The State Community Development Review Committee established pursuant to Texas Government Code, §2306.100.

(19)[(20)] Unemployed person—A person between the ages of 16 and 64, inclusive, who is not presently working but is seeking employment.

(20)[(21)] Unit of general local government—An entity defined as a unit of general local government in 42 United States Code, §5302(a)(1), as amended.

(b) Overview—Community Development Block Grant nonentitlement area funds are distributed by the Texas Community Development Program to eligible units of general local government in the following program areas:

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

(7) *Young v. Cisneros* fund. The Texas Capital Fund is administered by Commerce under an interagency agreement with Department. Applications for the Texas Capital Fund shall be submitted to Commerce.

(c) Types of applications.

(1) (No change.)

(2) Multi jurisdiction applications. Subject to each participating community satisfying the application requirements of the Texas Community Development Program fund under which the application is submitted and this paragraph, an application will be accepted from two or more units of general local government if the application clearly demonstrates that the proposed activities will mutually benefit the residents of the communities applying for funds. A multi-jurisdiction application solely for administrative convenience will not be accepted. Any community participating in a multi-jurisdiction application may not submit a single jurisdiction application under the project fund for which the multi-jurisdiction application was submitted. One of the participating communities must be primarily accountable to the Department and Commerce, in instances where the Texas Capital Fund is accessed, for financial compliance and program performance. Only one unit of general local government may be the official applicant and this applicant must enter into a legally binding cooperation agreement with each participant that incorporates Texas Community Development Program requirements. A proposed project which is located in more than one jurisdiction or in which beneficiaries from more than one jurisdiction will be counted must be submitted as a multi-jurisdiction application (except as specified for the Texas Capital Fund and single jurisdiction applications which include beneficiaries located in a city's extraterritorial jurisdiction).

(3) Applications for the Texas Capital Fund shall be submitted to Commerce.

(d)-(e) (No change.)

(f) Citizen Participation.

(1) Public hearing requirements. For each public hearing scheduled and conducted by an applicant or contractor, the

following public hearing requirements shall be followed.

(A) Notice of each hearing must be published in a newspaper having general circulation in the city or county at least 72 hours prior to each scheduled hearing. The published notice must include the date, time, and location of each hearing and the topics to be considered at each hearing. The published notice must be printed in both English and Spanish, if appropriate. Articles published in such newspapers which satisfy the content and timing requirements of this subparagraph will be accepted by the Department and, in the case of Texas Capital Fund hearings, by Commerce in lieu of publication of notices. Notices should also be prominently posted in public buildings and distributed to interested community groups.

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

(2) Application requirements. Prior to submitting a formal application, an applicant for Texas Community Development Program funding shall satisfy the following requirements.

(A) At least one public hearing shall be held prior to preparing its application and at least one additional public hearing shall be held prior to submitting its completed application to the Department and, in the case of Texas Capital Fund applications, to Commerce.

(B)-(G) (No change.)

(3) Contractor requirements.

(A) A contractor must hold a public hearing concerning any substantial change, as determined by the Department and, in the case of Texas Capital Fund program changes, by Commerce, proposed to be made in the use of Texas Community Development Program funds from one eligible activity to another.

(B)-(D) (No change.)

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

(g) Appeals. An applicant for funding under the Texas Community Development Program may appeal the disposition of its application in accordance with this subsection.

(1) The appeal may only be based on one or more of the following grounds.

(A) Misplacement of an application. All or a portion of an application is lost, misfiled, or otherwise misplaced by

Department staff and, in the case of Texas Capital Fund applications, by Commerce staff, resulting in unequal consideration of the applicant's proposal.

(B) Mathematical error. In rating the application, the score on any selection criteria is incorrectly computed by the Department and, in the case of Texas Capital Fund applications, by Commerce due to human or computer error.

(C) Other procedural error. The application is not processed by the Department and, in the case of Texas Capital Fund applications, by Commerce in accordance with the application and selection procedures set forth in this subchapter. Procedural errors alleged to have been committed by a regional review committee may only be appealed in accordance with the provisions of §9.8 of this title (relating to Regional Review Committees).

(2) The appeal must be submitted in writing to the Texas Community Development Program of the Department no later than 30 days after the date the announcement of community development fund and planning/capacity building fund contract awards is published in the *Texas Register*. In addition, timely appeals not submitted in writing at least five working days prior to the next regularly scheduled meeting of the state review committee will be heard at the subsequent meeting of the state review committee. The Department staff will evaluate the appeal and may either concur with the appeal and make an appropriate adjustment to the applicant's scores, or disagree with the appeal and prepare an appeal file for consideration by the state review committee at its next regularly scheduled meeting. The state review committee will make a final recommendation to the executive director of the Department. The decision of the executive director of the Department is final. If the appeal concerns a Texas Capital Fund application, the appeal must be submitted in writing to Commerce no later than 30 days following the date of the notification letter of the denial. If the appeal concerns a disaster relief fund or urgent need fund application, the appeal must be submitted in writing to the Department no later than 30 days following the date of the notification letter of the denial. If the appeal concerns a colonia fund or *Young v. Cisneros* fund application, the appeal must be submitted in writing to the Department no later than 30 days after the date the announcement of contracts awards is published in the *Texas Register*. The staff of either the Department or Commerce, when appropriate, evaluates the appeal and may either concur with the appeal or disagree with the appeal and prepare an appeal file for consideration by the

appropriate executive director. The executive director, of the agency with which the appeal was filed, then considers the appeal within 30 days and makes the final decision.

(3) In the event the appeal is sustained and the corrected scores would have resulted in project funding, the application is approved and funded. If the appeal concerning a community development fund or planning/capacity building fund application is rejected, the Department notifies the applicant of its decision, including the basis for rejection after the meeting of the state review committee at which the appeal was considered. If the appeal concerns a *Young v. Cisneros* fund, Texas Capital Fund, colonia fund, disaster relief fund, or urgent need fund application, the applicant will be notified of the decision made by the appropriate executive director within ten days after the final determination by the executive director.

(4) (No change.)

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

(j) False information. If an applicant provides false information in its community development fund or planning/capacity building fund application which has the effect of increasing the applicant's competitive advantage, the number of beneficiaries, or the percentage of low to moderate income beneficiaries, the Department refers the matter to the state review committee for disciplinary action. If the applicant provides false information in a *Young v. Cisneros* fund, [Texas Capital Fund,] colonia fund, disaster relief fund, or urgent need fund application, the Department staff shall make a recommendation for action to the executive director of the Department. If the applicant provides false information in a Texas Capital Fund application, Commerce staff shall make a recommendation for action to the appropriate executive director. The state review committee makes a recommendation for action to the executive director of the Department at its next regularly scheduled meeting. Documentation of false information must be submitted at least ten business days prior to the next regularly scheduled meeting of the state review committee to be considered at that meeting. Recommendations that the state review committee or executive director may make include, but are not limited to:

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

(k) Substitution of standardized data. Any applicant that chooses to substitute locally generated data for standardized information available to all applicants must use the survey instrument provided by the Department and must follow the procedures prescribed in the instructions to the survey instrument. This option does not apply to

applications submitted to the Texas Capital Fund.

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

(l) Unobligated and recaptured funds. Deobligated funds, unobligated funds and program income generated by Texas Capital Fund projects shall be retained for expenditure within the Texas Capital Fund subject to the approval of the executive director of Commerce. Any deobligated funds, unobligated funds, program income, and unused funds from previous years' allocations derived from any Texas Community Development Program Fund other than the Texas Capital Fund and any reallocated funds which HUD has recaptured from Small Cities may be redistributed among the above categories, except the Texas Capital Fund, for otherwise eligible projects. The selection of eligible projects to receive such funds will be approved by the executive director of the Department on a priority needs basis with eligible disaster relief and urgent need projects as the highest priority, and the Department's special targeted activities (e.g., colonias, special housing projects, etc.) as the next highest priority. [Any additional funds resulting from the recapture of dollars from a prior year's allocation, recapture of program income, unobligated or unused funds from a program area specified in subsection (b) of this section, or reallocated funds which the United States Department of Housing and Urban Development has recaptured from small cities grantees are redistributed to eligible communities on a priority basis with eligible disaster relief and urgent need projects as the highest priority; eligible projects with *Young v. Cisneros* activities, colonia activities, or federally designated empowerment zone and/or enterprise community activities as the next highest priority; and eligible economic development projects as the next highest priority. Any additional remaining funds may be redistributed to eligible communities at the discretion of the executive director of the Department within such program areas.]

(m) Waivers. The Department may waive any provision of this subchapter upon its own motion, or upon an applicant's or contractor written request for such a waiver if the Department finds that compelling circumstances exist outside the control of the applicant or contractor which justify the approval of such a waiver. The Department shall not waive any provision hereof concerning the Texas Capital Fund program unless written request to do so is received from the Executive Director of Commerce. The provisions of the foregoing sentence shall not apply to contracts other than those awarded and/or administered by Commerce for the Department. Issues related to audit

requirements will be handled by the appropriate agency.

(n) Performance threshold requirements. In addition to the requirements of subsection (h) of this section, an applicant must satisfy the following performance requirements in order to be eligible to apply for program funds. A contract is considered executed for the purposes of this subsection on the date stated in Section 2 of such contract.

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

(3) Expend all but the audit funds for a Texas Capital Fund contract funded prior to the 1995 [1994] program year that has been in effect for at least 36 months and submit to the Department the close-out documents (and any close-out document revisions requested by the Department) required by the most recent edition of the Texas Community Development Program Project Implementation Manual prior to submitting an application for the 1995 [1994] program year Texas Capital Fund program. The Department may direct that certain 1993 and 1994 program year Texas Capital Fund program contracts be submitted to Commerce rather than to the Department.

(4) Starting with the 1994 program year Texas Capital Fund contracts, local governments that have not closed Texas Capital Fund contracts within the three year contract period are required to establish a repayment plan for any expended contract funds.]

(o) (No change.)

§9.7. Texas Capital Fund.

(a) General Provisions. This fund covers projects which will result in either an increase in new, permanent employment within a community or retention of existing permanent employment. Under [the small business incubator program or] the main street improvements program, projects may also qualify if they meet the national program objective of aiding in the prevention or elimination of slum or blighted areas.

(1) (No change.)

(2) If the project is designed to aid in the prevention or elimination of slum or blighted areas, then it must meet the area slum or blight or spot slum or blight criteria and threshold requirements outlined in [each of] the separate main street program application [pre-applications].

(3) A firm financial commitment from all funding sources other than United States Department of Commerce Economic Development Administration or Farmers Home Administration is required upon submission of an application [a pre-application].

(4) A letter from the United States Department of Commerce Economic Development Administration inviting a formal application under its public works program must be included in the pre-application if applicable.]

(4)[(5)] The leverage ratio between all funding sources and the Texas Capital Fund request must not be less than 1:1. [The only exception is the small and minority businesses loan program which requires a minimum leverage ratio of 1:3.]

(5)[(6)] In order for an applicant to be eligible under the low and moderate income persons benefit national program objective, the Texas Capital Fund cost per job calculation must not exceed \$25,000.

(6)[(7)] No assistance will be provided for projects intended to facilitate the relocation of industrial or commercial plants or facilities from one unit of general local government within Texas to another unit of general local government within Texas unless a 10% net gain of jobs will occur and one or more of the following requirements has been met prior to submitting an application for consideration under this section:

(A) Business to relocate with approval of current locality. Local government must provide [(in the application)] written documentation, within the application, verifying the chief elected official (mayor or judge) of the unit of local government from which the business is relocating supports and approves the relocation proposal. A written agreement between the two local governments involved in the business relocation is preferred.

(B) Business to relocate out-of-state. Business must provide written documentation between business and out-of-state contact verifying the business [company] has secured out-of-state location.

(C) Local government notification with no response. Local government must provide written documentation that a letter has been mailed, by registered mail, to the local government from which the business is relocating, notifying it [them] of the relocation. The local government, upon receipt of the notification, then has 30 days to object to the relocation, in writing, to Commerce before the Texas Capital Fund application can be considered. A written objection to a relocation from a local government will [would] prevent the application from being considered.

(7)[(8)] Commerce [The Department] will not consider any application for funding which will [would] result in the provision of assistance for an economic de-

velopment project where the applicant and one or more other cities or counties are competing to provide economic development project funds to that project.

(8)[(9)] Commerce [The Department] will not consider any application for funding in which the business[,] or principals[,] [or incubator] to be assisted thereunder, or a business that shares common principals has filed under the Federal Bankruptcy Code, and the matter is in the process of being adjudicated or in which such business has been adjudicated bankrupt. On a case by case basis, extenuating circumstances will be evaluated.

(9)[(10)] With the exception of the main street improvements program, Commerce [the Department] will only consider applications that provide funding for one business [or incubator sponsor].

(10)[(11)] Commerce [The Department] may consider providing funding for an economic development project proposed by a city that is outside the city's corporate limits or extraterritorial jurisdiction and may consider a project proposed by a county that is outside the unincorporated area of the county if the applicant demonstrates that the project is appropriate to meet its needs, if the applicant has the legal authority to engage in such a project, and if at least 51% of the principal beneficiaries reside within the applicant's jurisdiction.

(11)[(12)] A business [or incubator sponsor] which is currently being provided assistance from the Texas Capital Fund must create at least 50 permanent jobs in each additional proposed Texas Capital Fund project in order for such project to be considered for funding[,] [with the exception of small business incubator program projects that have the national program objective of aiding in the prevention or elimination of slums or blight].

(12)[(13)] A Texas Capital Fund contractor must satisfactorily close out a contract in support of a specific business[,] [incubator sponsor.] or main street improvements program city in order to be eligible to receive additional funds under the Texas Capital Fund for the same business[,] [incubator sponsor.] or main street city. The contractor is eligible for an additional Texas Capital Fund award in support of a specific business, provided that [(if) the prerequisite program income choice has been selected()], if the assisted business is not in the designated main street/[incubator] geographic area or if the main street/[incubator] project selected the elimination of slums and blight as its national program objective and the assisted business will create or retain jobs to meet the national program objective.

(13)[(14)] Commerce [The Department] will not consider or accept an

application for funding from a community, [under the Texas capital fund] in support of a business project that is currently receiving Texas Capital Fund assistance through that same community [the same project].

(b) Overview. This fund is distributed to eligible units of general local government for eligible activities in the following program areas:

(1) The loan program. The loan program provides financing for activities such as machinery and equipment, working capital, the purchase of land and depreciable property, new construction, rehabilitation of commercial or industrial facilities and infrastructure improvements on private property.]

(1)[(2)] The infrastructure program. The public infrastructure program provides funds for eligible activities such as the construction or improvement of water/wastewater facilities, public roads, natural gas-line main, [services] electric-power services, and railroad spurs, except that funding will not be provided for infrastructure improvements on private property.

(2)[(3)] The real estate development program. The real estate development program provides funds to purchase, construct, or rehabilitate real estate that is wholly or partially owned by the community and leased to a specific benefiting business [contract to an eligible applicant for the acquisition, construction or rehabilitation of real estate in support of a specific business] (either a for-profit entity or a non-profit entity).

(4) The small business incubator program. The small business incubator program provides funds for an eligible applicant to acquire, construct, or rehabilitate real estate and to provide public improvements in support of a nonprofit incubator sponsor.

(5) The small and minority businesses loan program. The small and minority businesses loan program provides a loan to a for-profit small or minority business for the purchase of machinery and equipment and for working capital.]

(3)[(6)] The main street improvements program. The main street improvements program provides public improvements in support of Texas main street program designated municipalities.

(c) Funding cycle. The Texas Capital Fund will be available three times annually for economic development funding to consider projects that will create or retain permanent employment opportunities, primarily for low- and moderate-income persons [There are no pre-application deadlines for the loan, infrastructure, real estate development, small

business incubator, and small and minority businesses loan programs]. Applications [Pre-applications] for the main street improvements program must be received by 5:00 p.m. on the date and location specified in the most recent [pre-] application guide for this program.

(d) Selection procedures. Commerce will accept applications every four months. Applications are reviewed after they have been competitively scored. Commerce staff will make recommendations to the executive director for final award. [The Department has entered into an interagency cooperation contract with the Texas Department of Commerce by which the Texas Department of Commerce performs marketing and underwriting services for this fund. Applications under this section are reviewed by Texas Department of Commerce staff, with input from Department staff, except for the main street program applications, which are reviewed and scored by a committee composed of Texas Department of Commerce and Department staff. The Texas Department of Commerce executive director makes recommendations to the Department executive director for final award.] The application and selection procedures consist of the following steps:

(1) Each applicant must submit a complete application to Commerce's Business Development Division. [Prior to submitting a formal application, each potential applicant must submit a complete pre-application to the Business Development Division of the Texas Department of Commerce.]

(2) Upon receipt of an application, Commerce staff will review it for eligibility and completeness in descending order based on the scoring. In those instances where the staff determines that the application is incomplete (evidenced by 13 or more inadequacies on the Application Checklist), the application will be returned to the applicant and may be resubmitted in the next funding cycle. Returned applications will not be considered for the current funding cycle. Applications resubmitted for future funding cycles will be competing with those applications submitted for that cycle. No preferential placement will be given for applications previously submitted and not funded. In those instances where the staff determines that the application has 12 or less inadequacies on the Application Checklist, the applicant will be given ten business days to rectify all deficiencies. In the event staff determines that the application contains activities that are ineligible for funding, the application will be returned to the applicant. Staff then conducts a review of each complete application to make threshold determinations with respect to: [Upon receipt of a pre-application containing financial information

on the business or incubator sponsor or main street city to be considered for funding, the staff of the Texas Department of Commerce performs an initial review to determine whether the pre-application is complete, whether the activities proposed are eligible for funding and for compliance with threshold requirements. In those instances where the staff of the Texas Department of Commerce determines that the pre-application is incomplete, or the activities are ineligible for funding, or does not meet threshold requirements, the pre-application is returned for the applicant to complete or is cited as ineligible. Texas Department of Commerce staff notify the Department when a pre-application is deemed ineligible before the applicant is notified. The staff at the Texas Department of Commerce then conducts a review of each complete pre-application to make threshold determinations with respect to:]

(A) the financial feasibility of the business [project] to be assisted based on a credit analysis;

(B) the strength of commitments from all other public and/or private investments identified in the application [pre-application];

(C) (No change.)

(D) whether the use of Texas Capital Funds is appropriate[,] [as defined in the pre-application guidelines for this fund.] to carry out the project proposed in the application [pre-application]; [and]

(E) whether there is evidence that at least 51% of the permanent jobs created or retained will benefit low- and moderate-income persons ; [.] [Projects proposed under the small business incubator program or the main street improvements program may meet the national program objective by aiding in the prevention or elimination of slums or blight.]

(F) whether efforts have been made to maximize other financial resources; and

(G) a copy of a complete application must be provided to the appropriate Regional Review Committee. Proposals submitted for funding under the Texas Capital Fund require regional review "from the standpoint of consistency with regional plans and other such considerations" as provided for under the Texas Review and Comment System and Chapter 391, Texas Local Government Code. Each regional review committee may, at its option, review and

comment on an economic development proposal from a jurisdiction within its state planning region. These comments become part of the application file and are considered by the staff provided, such comments are received by the staff prior to the time that the staff makes a recommendation to the executive director of Commerce.

(3) Upon Commerce's determination that an application supports a feasible and eligible project, staff may schedule a visit to the applicant jurisdiction to discuss the project and program rules with the chief elected official, or his designee, and business representative(s), and to visit the project site. [If the Texas Department of Commerce or the Department invite a formal application, the staff of the Texas Department of Commerce is required to discuss the project and program rules with the mayor or judge, as applicable, or his designee, and one company official. A formal application may only be submitted if the Texas Department of Commerce or the Department authorizes such in writing. If an authorization to submit a formal application is granted, a formal application must be submitted within 30 business days of the authorization.]

(4) Staff prepares a project report with recommendations for the executive director who makes the final award. [A copy of a complete application must be provided to the appropriate regional review committee. Each regional review committee may, at its option, review and comment on an economic development proposal from a jurisdiction within its state planning region. These comments become part of the application file and are considered by the Department provided such comments are received by the Department prior to formal application review by Texas Department of Commerce staff.]

(5) Upon the executive director's selection, the projects selected for funding are announced by Commerce. [Applications are evaluated for compliance with threshold requirements or scored based on the selection criteria established for the Texas Capital Fund program.

[(A) For the loan, infrastructure and real estate development programs, the staff of the Texas Department of Commerce generates scores on selection criteria related to leverage ratio, cost per job, minority hiring, and project feasibility. Scores on factors in these categories are derived from information provided by the applicant. An infrastructure, loan, or real estate development program applicant must receive at least 60 points out of a possible 100 points to be considered for funding.

[(B) An application submitted under the small business incubator pro-

gram or the small and minority businesses loan program is not scored, however, an applicant must meet the minimum threshold requirements specified in the pre-application.

[(C) For the main street improvements program, the staff of the Texas Department of Commerce and the Department score pre-applications based on selection criteria related to project feasibility, leverage ratio and minority hiring. The Texas Historical Commission also scores pre-applications based on selection criteria related to project feasibility using its scores to place the applicants in rank order from highest to lowest scores. The five projects ranked highest by the Texas Historical Commission receive additional points. Final scores are reviewed by the Department and Texas Department of Commerce staff committee. Scores on factors in these categories are derived from information provided by the applicant. Formal applications are then requested from the two highest scoring applicants.]

(6) Commerce staff then negotiates the contract with the recipients. The contract terms are based on the information provided in the application, but Commerce may vary the terms of the contract with the recipient. [The staff of the Texas Department of Commerce and the Department may conduct a site visit of the proposed project. Site visits to the two highest scoring main street improvements applicants may include a verification of information submitted in the pre-application.]

(7) For the main street improvements program, Commerce staff scores applications based on selection criteria related to project feasibility, leverage ratio and minority hiring. The Texas Historical Commission also scores applications based on selection criteria related to project feasibility using its scores to place the applicants in rank order from highest to lowest scores. The five projects ranked highest by the Texas Historical Commission receive additional points. Final scores are reviewed by Commerce staff. Scores on factors in these categories are derived from information provided by the applicant. [If a project is determined not to be feasible by Texas Department of Commerce staff, the Department notifies the applicant of its decision, including the basis for denial.]

[(8) The executive director of the Texas Department of Commerce makes recommendations to the Department's executive director for final award.

[(9) The executive director of the Department reviews the recommendations and announces the projects selected for funding.

[(10) The staff of the Texas Department of Commerce and the Department work with the recipients to execute contract agreements. While the contract award must be based on the information provided in the pre-application and the formal application, the Department may negotiate any element of the final contract agreement with the recipient. A main street improvements program contract amount cannot increase and the level of benefits described in the pre-application and formal application cannot decrease.]

(e) Selection criteria for the Real Estate Improvements and Infrastructure Grant Programs of the Texas Capital Fund will focus upon factors which may include, but which are not limited to, paragraphs (1)-(7) of this subsection. Based on the selection criteria described in paragraphs (1)-(7) of this subsection, projects will be reviewed and evaluated upon the following additional factors: the history of the applicant community in the program; the strength of the business or marketing plan; the management experience of the business' principals; and the justification of the minimum Texas Capital Fund contribution necessary to serve the project; [loan, infrastructure and real estate development programs. The following is an outline of the selection criteria used for selection of projects under the loan, infrastructure, and real estate development programs. One hundred points are available. The terms and criteria used in this subsection are further defined in the pre-application guidelines for these programs.]

(1) Creation of jobs paying an above-average wage; [Project feasibility (total-30 points). The feasibility of each project is evaluated and scored based on the financial soundness of the project. Factors examined include firm commitments for financial investments and the jobs to be created or retained; the history of the business; the current financial condition of the business, including a full review of the credit analysis; cash flow projections; the business or marketing plan, including letters of intent to purchase products or services; and management experience of the business's principals. A project located in a designated state enterprise zone, federal empowerment zone, or federal enterprise community receives special consideration.]

(2) Generation of a greater ratio of private investment to Texas Capital Fund investment; [Minority hiring (total-20 points). Percentage of minorities presently employed by the applicant divided by the percentage of minority residents within the local community (20 points). In the event 10% or less of the applicant's population base is composed of minority residents, the applicant has seven or fewer non-seasonal full-time employees, or 5.0% or more of the applicant's population base

is living in group quarters or institutions, the applicant is assigned the average score on this factor for all applicants for the previous program year or the score calculated on the actual figures, whichever is higher. The terms used in this paragraph are defined in the current application guide.]

(3) **Expansion of markets through means such as exporting, value-added processing, and/or creating new or modified product lines;** [Leverage ratio (total-30 points). Points are awarded by dividing the total other funds committed by the amount of Texas Capital Funds requested less administration, in accordance with the following scale:

- points; [(A) 1.25:1 (125%)-10
- points; [(B) 1.50:1 (150%)-15
- points; [(C) 2.00:1 (200%)-20
- points; [(D) 2.50:1 (250%)-25
- points.] [(E) 3.00:1 (300%)-30

(4) **Provision of job opportunities at the lowest possible Texas Capital Fund cost per job;** [Cost per job (total-20 points). Points are awarded by dividing the amount of Texas capital funds requested by the number of full-time job equivalents to be created or retained, in accordance with the following scale:

- points; [(A) \$8,000 or less-20
- points; [(B) \$13,000 to \$8,001-15
- points; [(C) \$18,000 to \$13,001-10
- points.] [(D) \$22,000 to \$18,001-5

(5) **Benefit to areas of the state most in need of new capital investment and/or jobs;**

(6) **Assistance for small businesses and manufacturers; and**

(7) **Feasibility of project and ability to create and/or retain jobs.**

(f) Additional criteria for the [loan program and the] public infrastructure program. A minimum of a ten percent [10%] equity injection, based on [(of the] total

project costs[] in the form of cash, land, buildings, equipment, furniture, or fixtures by the business is required.

(g) Additional criteria for the real estate development program. A minimum of a ten percent [10%] equity injection, based on [(of the] total project costs[]) in the form of cash, land, buildings, equipment, furniture, or fixtures by the business is required if the business has been operating for at least three years. A minimum of a thirty-three percent [33%] equity injection, [(of the] based on total project costs,[]) in the form of cash, land, buildings, equipment, furniture, or fixtures by the business is required if the business has been operating for less than three years.

[(h) Threshold requirements for the small business incubator program. The following is an outline of threshold requirements used for selection of projects under the small business incubator program. The terms and criteria used in this subsection are further defined in the pre-application guidelines for this program. In order for its pre-application to be considered, an applicant must meet either paragraphs (1), (2), or (3) of this subsection.

[(1) Low and moderate income persons objective. Document that at least 51% or more of all the persons to benefit from the economic development activities qualify as low and moderate income persons.

[(2) Area slums/blight objective. Document the boundaries of the area designated as a slum or blighted, document the conditions which qualified it under the definition in §9.1(a)(17), and the way in which the assisted activity addressed one or more of the conditions which qualified the area as slum or blighted.

[(3) Spot slum/blight objective. To show how this objective will be met, the applicant must:

[(A) document that the project qualifies as slum or blighted on a spot basis under local law;

[(B) describe the specific condition of blight or physical decay that is to be treated;

[(C) for rehabilitation carried out under this category, describe the specific conditions detrimental to public health and safety which will be corrected; and

[(D) provide details and scope of the proposed rehabilitation, by structure.

[(4) The staff at Texas Department of Commerce conducts a review of

each complete pre-application to make threshold determinations with respect to the feasibility of each incubator project based on the soundness of the project. Factors examined include firm commitments for financial contributions; the jobs to be created or retained; the history of the incubator; the financial condition of the incubator, including a full review of the credit analysis and cash flow projections; the feasibility study and business plan; pre-lease commitments; demonstrated proof of community support; demonstrated linkages with related small business programs and educational institutions; and evidence of strong management experience of the incubator sponsor.

[(i) Additional criteria for the small business incubator program.

[(1) A minimum 10% equity injection (of the total project costs) in the form of cash, land, buildings, equipment, furniture, or fixtures by the applicant and/or incubator sponsor is required.

[(2) An incubator project located in a state designated enterprise zone, federal empowerment zone, or federal enterprise community receives special consideration.

[(j) Threshold requirements for the small and minority businesses loan program. The following requirements are used for the selection of projects under the small and minority businesses loan program. The terms and criteria used in this subsection are further defined in the pre-application guidelines for this program. In order for its pre-application to be considered, an applicant must document the following:

[(1) at least 51% or more of all the persons to benefit from the economic development activities qualify as low and moderate income persons; and

[(2) a minimum 10% (of the total project costs) equity injection in the form of cash, land, buildings, equipment, furniture, or fixtures of the business.

[(k) Enterprise zone designation. A small and minority businesses loan program project that is located in a designated state enterprise zone, federal empowerment zone, or federal enterprise community receives priority consideration.]

(h)[(l)] Selection criteria for the main street improvements program. The following is an outline of the selection criteria used for selection of projects under the main street improvements program. The terms and criteria used in this subsection are further defined in the application [pre-application] guidelines for this program.

(1) Threshold criteria. In order for its application [pre-application] to be considered, an applicant must meet the requirements of either subparagraph (A) or (B), and (C) of this paragraph:

(A) [Low and moderate income persons objective. Document that at least 51% or more of all persons to benefit from the economic development activities qualify as low and moderate income persons.] The national objective of aiding in the prevention or elimination of Slum or Blight on a spot basis. To show how this objective will be met, the applicant must:

(i) document that the project qualifies as slum or blighted on a spot basis under local law; and

(ii) describe the specific condition of blight or physical decay that is to be treated.

(B) Area slums/blight objective. Document the boundaries of the area designated as a slum or blighted, document the conditions which qualified it under the definition in 10 TAC §9.1(a)(16)(17), and the way in which the assisted activity addressed one or more of the conditions which qualified the area as slum or blighted.

(C) Main street designation. The applicant must have been designated by the Texas Historical Commission as a Main Street City and must have received this designation two years prior to submitting a Texas Capital Fund application for main street improvements.

(2) Project feasibility (total-50 points). Factors examined by the Texas Capital Fund staff include Texas Historical Commission Main Street designation and demonstrated successful experience in the Main Street program; marketing strategies and identified funding sources for Main Street efforts [firm commitments for financial contributions]; documentation supporting secondary/indirect job creation or retention [the jobs to be created or retained]; community support and [the community's long-term] commitment to historic preservation and commercial revitalization; [a full review of the marketing strategy and funding for continued main street efforts existing] business [ownership] occupancy rates, [and] available space pre-lease commitments; [demonstrated proof of community support;] and demonstrated linkages between [with related] downtown [small] businesses; and [evidence of strong] management experience of the Main Street

[main street] manager. [(A)Projects that address the primary benefit to low and moderate income persons through job creation/retention receive highest priority, regardless of the national program objective selected. Projects that leverage additional dollars and demonstrate firm financial commitments also receive priority. Applicants that have demonstrated successful experience in the Texas Historical Commission's Main Street Program and that submit projects addressing the needs of mobility impaired individuals are given additional consideration. Applicants that have demonstrated a long term commitment to historic preservation, continued main street efforts, and have a low first floor building vacancy rate in the impacted project area are also given additional consideration. A main street improvements program project that is located in a designated state enterprise zone, federal empowerment zone, or federal enterprise community receives priority consideration.]

(3) Leverage ratio (total-30 points). Points are awarded by dividing all other funds committed to the project, exclusive of Texas Capital Funds, by the amount of Texas Capital Funds requested, less administration, according to the following scales:

(A) Applicant with population less than 5,000 persons:

- (i) 0.50: 1 (50%)-15 points;
- (ii) 1.00: 1 (100%)-20 points;
- (iii) 1.50: 1 (150%)-25 points;
- (iv) 2.00: 1 (200%)-30 points.

(B) Applicant with population equal to or more than 5,000 persons:

- (i) 1.50: 1 (150%)-15 points;
- (ii) 2.00: 1 (200%)-20 points;
- (iii) 2.50: 1 (250%)-25 points;
- (iv) 3.00: 1 (300%)-30 points.

(4) Minority hiring (total-10 points). Percentage of minorities presently employed by the applicant divided by the percentage of minority residents within the local community (10 points). In the event ten percent [10%] or less of the applicant's population base is composed of minority residents, the applicant has seven or fewer non-seasonal full-time employees, or five percent [5.0%] or more of the applicant's population base is living in group quarters or institutions, the applicant is assigned the average score on this factor for all applicants for the previous program year or the score based on the actual figures, whichever is higher. [The terms used in this paragraph are defined in the current application guide.]

(5) Projects recommended by Texas Historical Commission (total-10 points). A maximum of ten points are awarded [Points are awarded up to a maximum of ten points] to the five applicants ranked highest by The Texas Historical Commission. The Texas Historical Commission scores [pre-] applications based on the Main Street Improvements Program project feasibility selection criteria [included in paragraph (2) of this subsection.] using its scores to place the applicants in rank order from highest to lowest scores. [A maximum of ten points is awarded according to the following scale:]

- (A) Ranking 1-10 points;
- (B) Ranking 2-8 points;
- (C) Ranking 3-6 points;
- (D) Ranking 4-4 points;
- (E) Ranking 5-2 points.

Issued in Austin, Texas, on August 22, 1995.

TRD-9510655

Larry Paul Manley
Executive Director
Texas Department of
Housing and
Community Affairs

Effective date: August 22, 1995

Expiration date: December 20, 1995

For further information, please call: (512) 475-3916



PROPOSED RULES

Before an agency may permanently adopt a new or amended section or repeal an existing section, a proposal detailing the action must be published in the *Texas Register* at least 30 days before action is taken. The 30-day time period gives interested persons an opportunity to review and make oral or written comments on the section. Also, in the case of substantive action, a public hearing must be granted if requested by at least 25 persons, a governmental subdivision or agency, or an association having at least 25 members.

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

TITLE 1. ADMINISTRATION

Part IV. Office of the Secretary of State

Chapter 79. Corporations

Entity Name Availability

• 1 TAC §79.53

The Office of the Secretary of State proposes new §79.53, concerning the restrictions on the use in an entity name of the words, "Olympic," "Olympiad," "Citius Altius Fortius," or the use of a trademark, trade name, symbol or insignia of the International Olympic Committee or the United States Olympic Committee. The new section provides examples and requires that a letter of consent or authorization be obtained from the United States Olympic Committee when seeking to organize a business organization under a name which utilizes the restricted terms. The new section reflects existing procedure with regard to business names in violation of federal laws (The Amateur Sports Act of 1978, Public Law 95-606) restricting use of the word "Olympic" and use of the Olympic trademarks and symbols. The passage of Senate Bill 529, Chapter 113, 74th Legislature, Regular Session (1995) necessitates the clarification and codification of existing policy and procedure regarding the utilization of Olympic symbols or terminology. Senate Bill 529 relates to the unauthorized use of certain Olympic symbols and terminology and prohibits the use of such symbols or terminology for the purpose of trade, to induce the sale of goods or services, or to promote a theatrical exhibition, or an athletic performance or competition without the permission of the United States Olympic Committee.

Carmen Flores, Legal Counsel, Statutory Filings Division, has determined that for the first five-year period the new section will be in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the section.

Ms. Flores 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 that persons seeking to incorporate or organize an entity subject to the entity name availability rules

will be apprised of the need to obtain prior written consent from the United States Olympic Committee when organizing an entity under a name utilizing the restricted terms. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the section as proposed.

Comments on the proposal may be submitted to Carmen Flores, Legal Counsel, Statutory Filings Division, P.O. Box 13697, Austin, Texas, 78711-3697.

The new section is proposed under Article 9.03, Texas Business Corporation Act, Article 1396-9.04, Texas Non-Profit Corporation Act, and Article 8.03, Texas Limited Liability Company Act (Article 1528n), which give the secretary of state the power and authority reasonably necessary to enable the secretary of state to administer these acts efficiently and to perform the duties imposed on the secretary under these acts. Section 2001.004, Government Code, requires all state agencies, including the secretary of state, to adopt rules of practice which state the nature and requirements of formal and informal procedures.

The following statutory provisions are affected by the proposed new section: Articles 2.05, 2.06, 2.07, 6.05, 7.01, 8.03, 8.04, and 8.16, Texas Business Corporation Act; Article 1396-2.04, Article 1396-2.04A, Article 1396-7.01, Article 1396-8.03, and Article 1396-8.15, Texas Non-Profit Corporation Act; Articles 2.03, 2.047.03, 7.04, and 7.11, Texas Limited Liability Company Act (Article 1528n); and §§1.03, 1.04, 1.05, and 13.09, Texas Revised Limited Partnership Act (Article 6132a-1).

§79.53. Restricted Words. An entity name cannot include the words, "Olympic," "Olympiad," or "Citius Altius Fortius," or a combination or simulation of those words or use a trademark, trade name, symbol or insignia of the International Olympic Committee or the United States Olympic Committee without the authorization or permission of the United States Olympic Committee. Example: *Olympian Tours, Inc.* would require a letter of consent, authorization, or no objection from the United States Olympic Committee. Example: *Olympus MotorSports, LLC* would require a letter of

consent, authorization or no objection from the United States Olympic Committee.

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 18, 1995.

TRD-9510590

Clark Kent Ervin
Assistant Secretary of
State
Office of the Secretary of
State

Earliest possible date of adoption: September 29, 1995

For further information, please call: (512) 463-5586

Chapter 93. Trademark Section: Practice and Procedure

Olympic Symbols

• 1 TAC §93.69

The Office of the Secretary of State proposes new §93.69, concerning the restrictions on the use of the words, "Olympic," "Olympiad," "Citius Altius Fortius," or the use of a trademark, trade name, symbol or insignia of the International Olympic Committee or the United States Olympic Committee when seeking registration under Chapter 16, Business and Commerce Code, of a trademark or service mark comprised of such terms or symbols. The new section requires that a letter of consent or authorization be obtained from the United States Olympic Committee when seeking to register a trademark or service mark which utilizes the restricted terms or symbols. The new rule also makes it clear that authorization or consent by the United States Olympic Committee is not determinative of the issue of registrability of a trademark or service mark proposed for registration. The new section reflects existing procedure with regard to trademarks proposed for registration under Business and Commerce Code, Chapter 16, which violate federal laws (The Amateur Sports Act of 1978, Public Law 95-606) restricting use of the word "Olympic" and use of the Olympic trademarks and symbols. The passage of

Senate Bill 529, Chapter 113, 74th Legislature, Regular Session (1995), necessitates the clarification and codification of existing policy and procedure regarding the utilization of Olympic symbols or terminology. Senate Bill 529 relates to the unauthorized use of certain Olympic symbols and terminology and prohibits the use of such symbols or terminology for the purpose of trade, to induce the sale of goods or services, or to promote a theatrical exhibition, or an athletic performance or competition without the permission of the United States Olympic Committee. Senate Bill 529 also provides the United States Olympic Committee with the remedies for infringement available to a registrant under Business and Commerce Code, Chapter 16.

Carmen Flores, Legal Counsel, Statutory Filings Division, has determined that for the first five-year period the new section will be in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the section.

Ms. Flores also has determined also that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be that persons seeking to register a trademark or service mark will be apprised of the need to obtain prior written consent from the United States Olympic Committee when making an application to register a trademark or service mark utilizing the restricted terms or symbols. There will be no effect on small businesses. Additionally, persons able to obtain the consent or authorization from the United States Olympic Committee will be apprised that the requirements for registration under Chapter 16, Business and Commerce Code, must still be met regardless of the consent of the United States Olympic Committee. There is no anticipated economic cost to persons who are required to comply with the section as proposed.

Comments on the proposal may be submitted to Carmen Flores, Legal Counsel, Statutory Filings Division, P.O. Box 13697, Austin, Texas, 78711-3697.

The new section is proposed under Government Code, §2001.004, which requires all state agencies, including the secretary of state, to adopt rules of practice which state the nature and requirements of formal and informal procedures.

The following statutory provisions are affected by the proposed new section: Business and Commerce Code, §§16.08(a), 16.10(b)(10), and 16.30.

§93.69. Olympic Symbols.

(a) An application for registration of a trademark or service mark which uses a symbol, emblem, trademark, trade name, or insignia of the International Olympic Committee or the United States Olympic Committee; or which consists of or includes the words, "Olympic," "Olympiad," or "Citius Altius Fortius," or a combination or simulation of those words must be accompanied by a letter from the United States Olympic

Committee consenting to its use as a trademark or service mark and its registration as a trademark or service mark.

(b) Written consent from the United States Olympic Committee for the registration of the mark is not determinative of the issue of registrability under the provisions of Texas Business and Commerce Code, §16.08.

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 18, 1995.

TRD-9510589 Clark Kent Ervin
Assistant Secretary of
State
Office of the Secretary of
State

Earliest possible date of adoption: September 29, 1995

For further information, please call: (512) 463-5586

TITLE 4. AGRICULTURE Part I. Texas Department of Agriculture

Chapter 9. Plant Quality

Citrus Fruit Maturity Standards

• 4 TAC §9.30

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

The Texas Department of Agriculture (the department) proposes the repeal of §9.30, concerning citrus fruit juice content requirements. This section is being repealed in order to comply with statutory changes made by the 74th Legislature, Regular Session, 1995, in accordance with Senate Bill 1146. The department is proposing new §§10.1-10.6 to combine the current citrus fruit juice content requirement regulation, standards for minimum acceptable ratios of soluble solids to anhydrous citric acid in the fruit, and seasonal requirements of citrus fruit for fitness for human consumption into one consolidated rule concerning citrus fruit maturity standards.

Rick Smathers, deputy director for agri-systems programs, has determined that for the first five-year period the repeal is in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the repeal.

Mr. Smathers also has determined that for each year of the first five years the repeal is in effect, the public benefit anticipated as a result of enforcing the repeal will be the consolidation of citrus fruit maturity standards in one rule. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the repeal as proposed.

Comments on the proposal may be submitted to Rick Smathers, Deputy Director for Agri-Systems, Texas Department of Agriculture, P.O. Box 12847, Austin, Texas 78711. Comments must be received no later than 30 days from the date of publication of the proposal in the *Texas Register*.

The repeal is proposed under the Texas Agriculture Code, §94.003, which provides the Texas Department of Agriculture with the authority to adopt rules as necessary for the efficient enforcement and administration of the Citrus Fruit Maturity Standards.

The code section that will be affected by the proposal is the Texas Agriculture Code, Chapter 94, Subchapter C.

§9.30. Citrus Fruit Juice Content Requirements.

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 22, 1995.

TRD-9510638 Dolores Alvarado Hibbs
Chief Administrative Law
Judge
Texas Department of
Agriculture

Earliest possible date of adoption: September 29, 1995

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

Chapter 10. Citrus

• 4 TAC §§10.1-10.6

The Texas Department of Agriculture (the department) proposes new §§10.1-10.6, concerning citrus fruit maturity standards. The new sections are proposed to establish maturity standards for grapefruit and oranges and to ensure that grapefruit or oranges that are immature or otherwise unfit for consumption are not prepared, received, transported, or offered for sale. The purposes of the new sections are to establish minimum acceptable ratios of soluble solids to anhydrous citric acids in the fruit and to establish the minimum juice content requirements as they relate to the size of grapefruit and oranges. The new sections are also proposed to establish procedures to determine soluble solids and anhydrous citric acid contents in the fruit.

Rick Smathers, deputy director for agri-systems programs, has determined that for the first five-year period the new sections are in effect, there will be no fiscal implications for state or local government as a result of enforcing or administering the new sections.

Mr. Smathers also has determined that for each year of the first five years the new sections are in effect the public benefit anticipated as a result of enforcing the new sections will be an assurance that the citrus fruits will have met maturity standards. There will be no effect on small businesses. There is no anticipated economic cost to persons required to comply with the new sections as proposed.

Comments on the proposal may be submitted to Rick Smathers, Deputy Director for Agri-Systems Programs, Texas Department of Agriculture, P.O. Box 12847, Austin, Texas 78711. Comments must be received no later than 30 days from the date of the publication of the proposal in the *Texas Register*.

The new sections are proposed under the Texas Agriculture Code, §94.003, which provides the Texas Department of Agriculture with the authority to adopt rules as necessary to establish citrus maturity standards.

The Texas Agriculture Code, Chapter 94, is affected by this proposal.

§10.1. Maturity Standards for Grapefruit. Grapefruit that are to be prepared, received, or delivered for sale or transportation, transported, sold or offered for sale in Texas during the period from August 1 to December 1 of each year are mature if:

(1) the juice consists of 9.0% or more of soluble solids, when the ratio of soluble solids to anhydrous citric acid is at least 7.2 to one;

(2) the juice consists of 10% or more of soluble solids, when the ratio of soluble solids to anhydrous citric acid is at least seven to one;

(3) the juice consists of 11% or more of soluble solids, when the ratio of soluble solids to anhydrous citric acid is at least 6.8 to one; or

(4) the juice consists of 11.5% or more of soluble solids, when the ratio of soluble solids to anhydrous citric acid is at least 6.5 to one.

Figure 1: 4 TAC §10.1(4)

§10.2. Maturity Standards for Oranges.

(a) Oranges that are to be prepared, received, or delivered for sale or transportation, transported, sold, or offered for sale in Texas during the period from August 1 to November 1 of each year are mature when the ratio of soluble solids to the anhydrous citric acid of the juice is at least nine to one.

(b) Oranges that are to be prepared, received, or delivered for sale or transportation, transported, sold or offered for sale in Texas during the period from August 1 to November 1 of each year are fit for consumption if they contain the minimum juice volume (in cubic centimeters) as it relates to the fruit size.

(c) Orange size and juice requirements in cubic centimeters are:
Figure 2: 4 TAC §10.2(c)

§10.3. Determination of Soluble Solids. The percentage of soluble solids in grapefruit or orange juice shall be determined by using a Brix hydrometer. The reading of the hydrometer corrected for temperature is the percent of soluble solids.

§10.4. Determination of Anhydrous Citric Acid. Anhydrous citric acid in grapefruit or orange juice is equal to the total acidity of the juice, which is determined by titration using standard alkali and phenolphthalein as the indicator.

§10.5. Seasonal Requirements of Grapefruit and Oranges for Fitness for Human Consumption. Grapefruit that are immature or otherwise unfit for human consumption may not be prepared for sale or transportation, transported, or received for any purpose prohibited by this section, from December 2 of one year to July 31 of the following year. Early or mid-season oranges that are immature or otherwise unfit for consumption may not be prepared for sale or transportation, transported, or received for any purpose prohibited by this section, from November 2 of one year to July 31 of the following year.

§10.6. Standards for Use of Coloring Matter. A person may not apply coloring matter to grapefruit and oranges unless the fruits meet the applicable maturity standards established by rule under §10.1 of this title (relating to Maturity Standards for Grapefruit) and §10.2 of this title (relating to Maturity Standards for Oranges).

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 22, 1995.

TRD-9510639 Dolores Alvarado Hibbs
Chief Administrative Law
Judge
Texas Department of
Agriculture

Earliest possible date of adoption: September 29, 1995

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

Chapter 25. Agricultural Development Board

The Texas Department of Agriculture (the department) proposes the repeal of §§25.1-25.9, 25.12, 25.31, 25.32, 25.51-25.58, 25.71-25.82, 25.101, 25.102, 25.111, 26.131-25.141, 25.151, 25.152, 25.161, and 25.171-25.173, concerning the Texas Agricultural Development Board (the Board). The repeals are required by the repeal of the Texas Agriculture Code, Chapter 57, by the 74th Legislature, Senate Bill 372, resulting in the abolishment of the Board.

Robert Kennedy, deputy assistant commissioner for finance and agribusiness development, has determined that for the first five-year period the repeals are in effect there will be no fiscal implications for state or local

government as a result of enforcing or administering the repeals, as the board has been nonfunctional for approximately eight years.

Mr. Kennedy also has determined that for each year of the first five years the repeals are in effect the public benefit anticipated as a result of enforcing the section will be compliance with statutory changes enacted by the 74th Legislature and the abolishment of unnecessary, defunct rules. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the repeals as proposed.

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

Subchapter A. General Provisions

• 4 TAC §§25.1-25.9, 25.12

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

The repeals are proposed under the Texas Agriculture Code, §12.016, which provides the Texas Department of Agriculture with the authority to adopt rules as necessary for the administration of its powers and duties under the Code.

The sections which will be affected by the repeals include the Texas Agriculture Code, Chapter 57.

§25.1. Definitions.

§25.2. Purpose.

§25.3. Eligibility.

§25.4. Scope and Applicability.

§25.5. The Board.

§25.6. Administration.

§25.7. Written Communications.

§25.8. Statements and Opinions.

§25.9. Apportionment of Expense.

§25.12. Practice and Procedure.

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 22, 1995.

TRD-9510628

Dolores Alvarado Hibbs
Chief Administrative Law
Judge
Texas Department of
Agriculture

Earliest possible date of adoption: September 29, 1995

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

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Subchapter B. Corporation Filings

◆ ◆ ◆
• 4 TAC §25.31, §25.32

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

The repeals are proposed under the Texas Agriculture Code, §12.016, which provides the Texas Department of Agriculture with the authority to adopt rules as necessary for the administration of its powers and duties under the Code.

The sections which will be affected by the repeals include the Texas Agriculture Code, Chapter 57.

◆ ◆ ◆
§25.31. Notification of the Board.

§25.32. Corporate Procedure and Fee Schedule.

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 22, 1995.

TRD-9510629

Dolores Alvarado Hibbs
Chief Administrative Law
Judge
Texas Department of
Agriculture

Earliest possible date of adoption: September 29, 1995

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

◆ ◆ ◆
Subchapter C. Applications in General: Filing Requirements

◆ ◆ ◆
• 4 TAC §§25.51-25.58

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

The repeals are proposed under the Texas Agriculture Code, §12.016, which provides the Texas Department of Agriculture with the authority to adopt rules as necessary for the

administration of its powers and duties under the Code.

The sections which will be affected by the repeals include the Texas Agriculture Code, Chapter 57.

§25.51. Notification of Intention to File.

§25.52. Form.

§25.53. Filing and Fee.

§25.54. Completeness.

§25.55. Fish and Other Seafood Products.

§25.56. Amendment.

§25.57. Board Disposition of Application.

§25.58. Transcript of Proceedings.

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 22, 1995.

TRD-9510630

Dolores Alvarado Hibbs
Chief Administrative Law
Judge
Texas Department of
Agriculture

Earliest possible date of adoption: September 29, 1995

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

◆ ◆ ◆
Subchapter D. Facility Bonds: Contents of Application

◆ ◆ ◆
• 4 TAC §§25.71-25.82

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

The repeals are proposed under the Texas Agriculture Code, §12.016, which provides the Texas Department of Agriculture with the authority to adopt rules as necessary for the administration of its powers and duties under the Code.

The sections which will be affected by the repeals include the Texas Agriculture Code, Chapter 57.

§25.71. Applicability.

§25.72. General Information.

§25.73. Participants.

§25.74. The Corporation.

§25.75. Facility and Costs.

§25.76. Users of the Facility.

§25.77. Loan Guarantor.

§25.78. Bond Guarantor.

§25.79. The Bonds.

§25.80. Proposed Agreements.

§25.81. Additional Information.

§25.82. Proposed Conditional Approval Letter.

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 22, 1995.

TRD-9510631

Dolores Alvarado Hibbs
Chief Administrative Law
Judge
Texas Department of
Agriculture

Earliest possible date of adoption: September 29, 1995

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

◆ ◆ ◆
Subchapter E. Facility Bonds: Conditional Approval of Application

◆ ◆ ◆
• 4 TAC §25.101, §25.102

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

The repeals are proposed under the Texas Agriculture Code, §12.016, which provides the Texas Department of Agriculture with the authority to adopt rules as necessary for the administration of its powers and duties under the Code.

The sections which will be affected by the repeals include the Texas Agriculture Code, Chapter 57.

§25.101. Findings Required.

§25.102. Conditions for Final Approval.

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 22, 1995.

TRD-9510632 Dolores Alvarado Hibbs
Chief Administrative Law
Judge
Texas Department of
Agriculture

Earliest possible date of adoption: September 29, 1995

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

◆ ◆ ◆
**Subchapter F. Facility Bonds:
Final Approval of Applica-
tion**

• 4 TAC §25.111

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

The repeal is proposed under the Texas Agriculture Code, §12.016, which provides the Texas Department of Agriculture with the authority to adopt rules as necessary for the administration of its powers and duties under the Code.

The sections which will be affected by the repeal include the Texas Agriculture Code, Chapter 57.

§25.111. Required Documents.

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 22, 1995.

TRD-9510633 Dolores Alvarado Hibbs
Chief Administrative Law
Judge
Texas Department of
Agriculture

Earliest possible date of adoption: September 29, 1995

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

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**Subchapter G. Loans to Lend-
ing Institutions Program
Bonds: Contents of Applica-
tion**

• 4 TAC §§25.131-25.141

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

The repeals are proposed under the Texas Agriculture Code, §12.016, which provides the Texas Department of Agriculture with the authority to adopt rules as necessary for the administration of its powers and duties under the Code.

The sections which will be affected by the repeals include the Texas Agriculture Code, Chapter 57.

§25.131. Applicability.

§25.132. General Information.

§25.133. Participants.

§25.134. Survey of Need.

§25.135. The Corporation.

§25.136. Costs.

§25.137. Bond Guarantor.

§25.138. The Bonds.

§25.139. Proposed Agreements.

§25.140. Additional Information.

§25.141. Proposed Conditional Approval Letter.

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 22, 1995.

TRD-9510634 Dolores Alvarado Hibbs
Chief Administrative Law
Judge
Texas Department of
Agriculture

Earliest possible date of adoption: September 29, 1995

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

◆ ◆ ◆
**Subchapter H. Loans to Lend-
ing Institutions Program
Bonds: Conditional Approval
of Application**

• 4 TAC §25.151, §25.152

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

The repeals are proposed under the Texas Agriculture Code, §12.016, which provides the Texas Department of Agriculture with the authority to adopt rules as necessary for the administration of its powers and duties under the Code.

The sections which will be affected by the repeals include the Texas Agriculture Code, Chapter 57.

§25.151. Findings Required.

§25.152. Conditions for Final Approval.

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 22, 1995.

TRD-9510635 Dolores Alvarado Hibbs
Chief Administrative Law
Judge
Texas Department of
Agriculture

Earliest possible date of adoption: September 29, 1995

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

◆ ◆ ◆
**Subchapter I. Loans to Lend-
ing Institutions Program
Bonds: Final Approval of
Application**

• 4 TAC §25.161

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

The repeal is proposed under the Texas Agriculture Code, §12.016, which provides the Texas Department of Agriculture with the authority to adopt rules as necessary for the administration of its powers and duties under the Code.

The sections which will be affected by the repeal include the Texas Agriculture Code, Chapter 57.

§25.161. Required Documents.

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 22, 1995.

TRD-9510636 Dolores Alvarado Hibbs
Chief Administrative Law
Judge
Texas Department of
Agriculture

Earliest possible date of adoption: September 29, 1995

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

◆ ◆ ◆
**Subchapter J. Loans to Lend-
ing Institutions Program
Bonds: Certification**

• 4 TAC §§25.171-25.173

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

The repeals are proposed under the Texas Agriculture Code, §12.016, which provides the Texas Department of Agriculture with the authority to adopt rules as necessary for the administration of its powers and duties under the Code.

The sections which will be affected by the repeals include the Texas Agriculture Code, Chapter 57.

§25.171. Certification by Corporation or Trustee.

§27.172. Disapproval by the Board

§27.173. Hearing.

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 22, 1995.

TRD-9510637 Dolores Alvarado Hibbs
Chief Administrative Law
Judge
Texas Department of
Agriculture

Earliest possible date of adoption: September 29, 1995

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

TITLE 10. COMMUNITY DEVELOPMENT

Part I. Texas Department of Housing and Community Affairs

Chapter 9. Texas Community Development Program

Subchapter A. Allocation of Program Funds

• 10 TAC §9.1, §9.7

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

The Texas Department of Housing and Community Affairs (TDHCA) proposes amendments to §9.1 and §9.7, concerning the application, the selection criteria, and the deletion of the small business incubator program and loan program for the Texas Capital Fund Program under the Texas Community Development Program. In addition, the amendments address the expanded role of the Texas De-

partment of Commerce in the Texas Capital Fund Program.

Ruth Cedillo, Director of the Texas Community Development Program, 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.

Ms. Cedillo 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 the equitable allocation of CDBG non-entitlement economic development funds to eligible units of general local government in Texas. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the sections as proposed.

Comments on the proposal may be submitted to Anne Paddock, Deputy General Counsel, Texas Department of Housing and Community Affairs, 811 Barton Springs Road, Suite 500, Austin, Texas 78711-3941.

The amendments are proposed under Texas Government Code, Chapter 2306, §2306.098, which provides TDHCA with authority to allocate Community Development Block Grant non-entitlement area funds to eligible counties and municipalities according to department rules.

Texas Government Code, Chapter 2306, §2306.098 is affected by the proposed amendments.

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 22, 1995.

TRD-9510656 Larry Paul Manley
Executive Director
Texas Department of
Housing and
Community Affairs

Earliest possible date of adoption: September 29, 1995

For further information, please call: (512) 475-3916

• 10 TAC §9.3

The Texas Department of Housing and Community Affairs (TDHCA) proposes an amendment to §9.3, concerning the allocation of Community Development Block Grant (CDBG) non-entitlement area funds under the Texas Community Development Program. The amendments are being proposed to make changes to the application and selection criteria for the *Young v. Cisneros* fund.

Ruth Cedillo, Director of the Texas Community Development Program, has determined that for the first five-year period the section is in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the section.

Ms. Cedillo also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result

of enforcing the section will be the equitable allocation of CDBG non-entitlement area funds to eligible units of general local government in Texas. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the section as proposed.

Comments on the proposal may be submitted to Anne Paddock, Deputy General Counsel, Texas Department of Housing and Community Affairs, 811 Barton Springs Road, Suite 500, Austin, Texas 78711-3941.

The amendment is proposed under Texas Government Code, Chapter 2306, §2306.098, which provides TDHCA with the authority to allocate Community Development Block Grant non-entitlement area funds to eligible counties and municipalities according to department rules.

Texas Government Code, Chapter 2306, §2306.098 is affected by the proposed amendment.

§9.3. *Young v. Cisneros* Fund.

(a) General provisions. Assistance under this fund is limited to the local governments located in the 36 counties named in the *Young v. Cisneros* lawsuit and local governments selected by the U.S. Department of Housing and Urban Development (HUD) to submit applications by the application deadline for this fund. The eligible activities are the required activities described in desegregation plans and desegregation plan amendments filed by HUD [the U.S. Department of Housing and Urban Development (HUD)] with the U.S. District Court for the Eastern District of Texas and/or activities described in memoranda-of-understanding developed by HUD and the local government's [included in the area] affected by the lawsuit.

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

(b) (No change.)

(c) Selection procedures.

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

(3) Each regional review committee may, at its option, review and comment on an application from a local government within its state planning region. These comments become part of the application file, provided such comments are received by the department prior to final review [scoring] of the applications.

(4) HUD reviews the activities included in each application, selects the applications that receive funding, and the order in which the applications receive funding recommendations. HUD then notifies the department when a funding decision is made. [The department then scores the applications to determine rankings. Scores on the selection factors are derived from standardized data from the U.S. Census Bureau, Texas Employment

Commission, and from information provided by the applicant.]

(5) Following a final technical review, the department staff makes funding recommendations for the applications selected by HUD from the 1994 and 1995 program year allocations to the executive director of the department.

(6) The executive director of the department reviews the 1994 program year [final] recommendations for project awards and announces the contract awards.

(7) Upon announcement of the 1994 program year contract awards, the department staff works with recipients to execute the contract agreements. While the award must be based on the information provided in the application, the department may negotiate any element of the contract with the recipient as long as the contract amount is not increased and the level of benefits described in the application is not decreased. The level of benefits may be negotiated only when the project is partially funded [with the remainder of the target allocation within a region].

(8) When the 1995 program year Texas Community Development Program allocation becomes available, the executive director of the department reviews the 1995 program year [final] recommendations for project awards and announces the contract awards.

(9) Upon announcement of the 1995 program year contract awards, the department staff works with recipients to execute the contract agreements. While the award must be based on the information provided in the application, the department may negotiate any element of the contract with the recipient as long as the contract amount is not increased and the level of benefits described in the application is not decreased. The level of benefits may be negotiated only when the project is partially funded [with the remainder of the target allocation within a region].

[(d) Selection criteria. The following is an outline of the selection criteria used by the department and the regional review committees for scoring applications under the *Young v. Cisneros* fund. Three hundred fifty points are available.

[(1) Community distress (total-55 points). All community distress factor scores are based on the population of the applicant. An applicant that has 125% or more of the average rate of all applicants in the competition on any community distress factor, except per capita income, receives the maximum number of points available for that factor. An applicant with less than 125% of the average rate of all applicants in the competition on a factor will receive a proportionate share of the

maximum points available for that factor. An applicant that has 75% or less of the average of all applicants in the competition on the per capita income factor will receive the maximum number of points available for that factor.

[(A) percentage of persons living in poverty-20;

[(B) per capita income-20;

[(C) unemployment rate-15.

[(2) Benefit to low- and moderate-income persons (total-40 points). An application in which at least 60% of the Texas Community Development Program funds requested benefit low and moderate income persons receives 40 points.

[(3) Percentage of minorities presently employed by the applicant divided by the percentage of minority residents within the local community (total-25 points). In the event 10% or less of the applicant's population base is composed of minority residents, the applicant has seven or fewer non-seasonal full-time employees, or 5.0% or more of the applicant's population base is living in group quarters or institutions, the applicant is assigned either the average score on this factor for all applicants in the competition, or the score calculated on the actual figures, whichever is higher. The terms used in this paragraph are defined in the current application guide for this fund.

[(4) Project impact (total-170 points). Information submitted in the application is used by a committee composed of staff of the department to generate scores on this factor. Factors to be evaluated by staff in the assignment of scores include, but are not limited to the following:

[(A) how the proposed project resolves the required activities described in desegregation plans and desegregation plan amendments filed by HUD with the court and/or the activities described in memorandums-of-understanding developed by HUD;

[(B) whether the applicant has received prior Texas Community Development Program funds to address *Young v. Cisneros* required activities;

[(C) whether the application includes any activities that are not required activities described in desegregation plans and desegregation plan amendments filed by HUD with the court and/or the activities described in memorandums-of-understanding developed by HUD;

[(D) whether the application required activities are linked with housing activities funded under the department's 1993 program year HOME and Low Income Housing Tax Credit (LIHTC) programs or the required activities are linked with housing activities included in applications for 1994 program year HOME and LIHTC funding; and

[(E) whether the applicant has previously addressed any of the required activities described in desegregation plans and desegregation plan amendments filed by HUD with the court and/or the activities described in memorandums-of-understanding developed by HUD with local resources.

[(5) Matching Funds (total-60 points). An applicant's matching share may consist of one or more of the following contributions: cash; in-kind services or equipment use; materials or supplies; or land. An applicant's match is considered only if the contributions are used in the same target areas for activities directly related to the activities proposed in its application; if the applicant demonstrates that its matching share has been specifically designated for use in the activities proposed in its application; and if the applicant has used an acceptable and reasonable method of valuation. The population category under which county applications are scored depends on the project type and the beneficiary population served. If the project benefits residents of the entire county, the total population of the county is used. If the project is for activities in the unincorporated area of the county with a target area of beneficiaries, the population category is based on the residents of the entire unincorporated area of the county. For county applications addressing water and sewer improvements in unincorporated areas, the population category is based on the actual number of beneficiaries to be served by the project activities. The population category under which multi-jurisdiction applications are scored is based on the combined populations of the participating applicants according to the 1990 census. Applications for housing rehabilitation and for affordable new permanent housing for low- and moderate-income persons receive the 60 points without including any matching funds. This exception is for housing activities only. Sewer or water service line/connections are not counted as housing rehabilitation. Demolition/clearance and code enforcement, when done in the same target area are counted as part of the housing rehabilitation activity. When demolition/clearance and code enforcement are proposed without housing rehabilitation activities, then the match score is still based

on actual matching funds committed by the applicant. Applications which include additional activities, other than related housing activities, are scored based on the percentage of match provided for the additional activities. The terms used in this paragraph are further defined in the current application guide for this fund.

[(A) Applicants with populations equal to or less than 750 according to the 1990 census:

[(i) match equal to or greater than 5.0% of grant request-60;

[(ii) match at least 4.0% but less than 5.0% of grant request-40;

[(iii) match at least 3.0% but less than 4.0% of grant request-20;

[(iv) match at least 2.0% but less than 3.0% of grant request-10;

[(v) match less than 2.0% of grant request-0.

[(B) Applicants with populations equal to or less than 1,500 but over 750 according to the 1990 census:

[(i) match equal to or greater than 10% of grant request-60;

[(ii) match at least 7.5% but less than 10% of grant request-40;

[(iii) match at least 5.0% but less than 7.5% of grant request-20;

[(iv) match at least 2.5% but less than 5.0% of grant request-10;

[(v) match less than 2.5% of grant request-0.

[(C) Applicants with populations equal to or less than 5,000 but over 1,500 according to the 1990 census:

[(i) match equal to or greater than 15% of grant request-60;

[(ii) match at least 11.5% but less than 15% of grant request-40;

[(iii) match at least 7.5% but less than 11.5% of grant request-20;

[(iv) match at least 3.5% but less than 7.5% of grant request-10;

[(v) match less than 3.5% of grant request-0.

[(D) Applicants with populations over 5,000 according to the 1990 census:

[(i) match equal to or greater than 20% of grant request-60;

[(ii) match at least 15% but less than 20% of grant request-40;

[(iii) match at least 10% but less than 15% of grant request-20;

[(iv) match at least 5.0% but less than 10% of grant request-10;

[(v) match less than 5.0% of grant request-0.]

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 22, 1995.

TRD-9510657 Larry Paul Manley
Executive Director
Texas Department of
Housing and
Community Affairs

Earliest possible date of adoption: September 29, 1995

For further information, please call: (512) 475-3916

◆ ◆ ◆
**TITLE 16. ECONOMIC
REGULATION**
**Part III. Texas Alcoholic
Beverage Commission**

**Chapter 45. Marketing
Practices**

**Subchapter D. Advertising and
Promotion-All Beverages**
• 16 TAC §45.101

The Texas Alcoholic Beverage Commission proposes an amendment to §45.101, concerning rebates, coupons and premium stamps. The rule is being amended in order to clarify confusing and potentially conflicting terms within the section.

Randy Yarbrough, Assistant Administrator, 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. Yarbrough also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be clarification of confusing and potentially conflicting terms within the section. There will be no effect on small businesses. There is no anticipated economic costs to persons who are required to comply with this section.

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

The amendment is proposed pursuant to the authority granted by §5.31 of the Texas Alcoholic Beverage Code.

The Texas Alcoholic Beverage Code, Chapter 102, Subchapter A, §102.07(d) and Chapter 108, Subchapter A, §108.06 are affected by this proposed amendment.

§45.101. Rebates, Coupons and Premium Stamps.

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

(c) No holder of a manufacturing, wholesale, or retail level license or permit may offer or give away with or without the purchase of any alcoholic beverage, a coupon redeemable for a rebate, cents-off or for any free non-alcoholic beverage item or product. [A retailer, manufacturer, or wholesaler may, however, offer a discount, rebate, or cents-off coupon on any non-alcohol product that he sells if it does not require the purchase of any alcoholic beverage.]

(d) (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 22, 1995.

TRD-9510628 Doyme Bailey
Administrator
Texas Alcoholic Beverage
Commission

Earliest possible date of adoption: September 29, 1995

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

◆ ◆ ◆
**TITLE 30. ENVIRONMENTAL
QUALITY**

**Part I. Texas Natural
Resource Conservation
Commission**

**Chapter 330. Municipal Solid
Waste**

The Texas Natural Resource Conservation Commission (TNRCC) proposes amendments to §330.4, §330.41, and new §330.70, concerning certain municipal solid waste management facilities including those used in the recovery and use of gas. On site transfer facilities and facilities that recover and beneficially use gas will be exempt from permit requirements, will be required to register with the TNRCC, and will be required to design and operate the facility in accordance with requirements set forth in a new proposed section.

The amendments and new section are intended to encourage the development of certain facilities that recover and beneficially use gas. Pursuant to federal requirements of Subtitle D of the Resource Conservation and Recovery Act, landfills in Texas must manage landfill gases, thereby incurring costs. The beneficial use of such gases can, in some cases, offset the economic burden of managing landfill gases.

The proposed changes implement House Bill 2315, 74th Legislature(1995), which

amended the Texas Solid Waste Disposal Act, Texas Health and Safety Code, §361.0861 and §361.092. The bill exempts permitted municipal solid waste management facilities (landfills) involved in the recovery and use of gas from the TNRCC municipal solid waste permit requirements. The facilities must comply with certain design and operational requirements to maintain the integrity of the landfill.

An amendment to §330.4(n) exempts from permitting requirements those municipal solid waste management facilities that are used in the recovery and beneficial use of gas. In lieu of permitting, these facilities must be registered with the TNRCC and must be designed and operated pursuant to requirements of §330.70 (Registration of Facilities that Recover Gas for Beneficial Use). Another amendment adds a new paragraph (4) to §330.4(d) to provide that a permit is not required for municipal solid waste transfer facilities located in conjunction with a permitted landfill. A registration for these facilities must be obtained in accordance with §330.65 (relating to Registration for Solid Waste Management Facilities). The amendment to §330.41 clarifies that a Type IX facility may be included on an active portion of a landfill. New §330.70 delineates operation and design criteria which must be met by those Type IX facilities that recover gas for beneficial use and which are exempted from permit requirements under §330.4(n).

Steve Minick, Strategic Planning and Appropriations Division, has determined that for the first five-year period the sections are in effect there will be fiscal implications as a result of administration and enforcement of the sections. The costs to the state of processing municipal solid waste permits will be reduced. The actual savings to the state are prospective and cannot be determined at this time, but will be reflected by the number of facilities sought. Cost savings will potentially be realized by applicants that apply for a registration in lieu of a permit. These savings also cannot be estimated but will depend on individual circumstances and the potential savings from avoiding the costs of permit application and approval.

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 improved management and control of municipal solid waste facilities, improved management of landfill gas, and improved compliance with the TNRCC municipal solid waste rules. No added cost impacts are anticipated to small businesses. No negative economic impacts are anticipated to applicants. There are no fiscal effects anticipated for any person required to comply with the proposed sections.

Written comments on the proposal may be submitted 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 Tracking #95140-330-WS. Written comments must be received 30 days from the date of publication of this proposal in the *Texas Register*. For further information or questions concerning this proposal, please

contact Wayne Lee, Waste Policy and Regulations Division, (512) 239-6815.

Subchapter A. General Information

• 30 TAC §330.4

The amendment is proposed under the authority of the Texas Water Code, §5.103, which provides the TNRCC with the authority to carry out the powers and duties under the provisions of the Texas Water Code and other laws of this state, under House Bill 2315, as passed by the 74th Legislature; and pursuant to the Texas Solid Waste Disposal Act, Texas Health and Safety Code, §361.024, which provides the TNRCC with authority to regulate municipal solid waste and adopt rules as necessary to regulate the operation, management, and control of solid waste under its jurisdiction.

The amendment affects the Texas Health and Safety Code, §361.0861 and §361.092.

§330.4. Permit Required.

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

(d) A permit is not required for a municipal solid waste transfer station facility that is used in the transfer of municipal solid waste to a solid waste processing or disposal facility from:

(1) (No change.)

(2) a county with a population of less than 85,000; [or]

(3) a facility used in the transfer of municipal solid waste that transfers or will transfer 125 tons per day or less; or

(4) a transfer facility located within the permitted boundaries of a municipal solid waste landfill.

(e)-(m) (No change.)

(n) For materials extraction and gas recovery operations relating to municipal solid waste, a registration [permit] is required. A permit is not required for a municipal solid waste facility-Type IX that recovers gas for beneficial use. Those Type IX facilities that recover gas for beneficial use that are exempt from permitting under this subsection shall be registered with the executive director in accordance with §330.70 of this title (relating to Registration of Facilities that Recover Gas for Beneficial Use). However, exploratory and test operations for feasibility purposes may be conducted after approval of the operation by the executive director.

(o)-(q) (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 23, 1995.

TRD-9510670

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

Earliest possible date of adoption: September 29, 1995

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

Subchapter D. Classification of Municipal Solid Waste Facilities

• 30 TAC §330.41

The amendment is proposed under the authority of the Texas Water Code, §5.103, which provides the TNRCC with the authority to adopt any rules necessary to carry out the powers and duties under the provisions of the Texas Water Code and other laws of this state, and under House Bill 2315, as passed by the 74th Legislature; and pursuant to the Texas Solid Waste Disposal Act, Texas Health and Safety Code §361.024, which provides the TNRCC with the authority to regulate municipal solid waste and adopt rules as necessary to regulate the operation, management, and control of solid waste under its jurisdiction.

This section affects the Texas Health and Safety Code, §361.0861 and §361.092.

§330.41. Types of Municipal Solid Waste Sites.

(a)-(i) (No change.)

(j) Municipal solid waste facility-Type IX. A closed disposal facility, [or] an inactive portion of a disposal facility, or an active disposal facility, used for extracting materials for energy and material recovery or for gas recovery for beneficial use is classified as Type IX. Permit and/or registration requirements are contained in §330.4 of this title (relating to Permit Required).

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 23, 1995.

TRD-9510671

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

Earliest possible date of adoption: September 29, 1995

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

Subchapter E. Permit Procedures

• 30 TAC §330.70

The new section is proposed under the authority of the Texas Water Code, §5.103, which provides the Texas Natural Resource Conservation Commission (TNRCC) with the authority to adopt any rules necessary to carry out the powers and duties under the provisions of the Texas Water Code, the Texas Solid Waste Disposal Act, Texas Health and Safety Code, §361.024 and §361.061, which provides the TNRCC with the authority to regulate municipal solid waste and adopt rules as necessary to regulate the operation, management and control of solid waste under its jurisdiction.

The section affects the Texas Health and Safety Code, §361.0861 and §361.092.

§330.70. Registration of Facilities that Recover Gas for Beneficial Use.

(a) **Applicability.** This section shall apply to a municipal solid waste management Type IX facility which is exempt from permit requirements under §330.4(n) of this title (relating to Permit Required).

(b) **Relationship with other rules.** All municipal solid waste landfill facilities accepting waste after October 9, 1993, applying for a non-beneficial use gas control system for any area within the facility's permit boundary shall apply for a permit modification pursuant to §305.70 of this title (relating to Permit Modification).

(c) **Relationship to previously permitted Type IX facilities.** Type IX facility permits previously issued for the recovery and beneficial use of landfill gas are considered to remain valid under applicable permit provisions pursuant to the Texas Health and Safety Code, §361.092.

(d) **Public meeting.** The owner or operator of each facility that recovers gas for beneficial use shall conduct a public meeting in the local area at least 30 days before beginning facility operation, or as determined by the executive director, to describe the proposed action to the general public. A one time notice of the public meeting shall be provided by the facility owner or operator two weeks prior to the meeting in the format prescribed in the Health and Safety Code, §361.0791(d) and (e) (relating to Public Meeting and Notice Requirements). Evidence that the meeting was held shall be submitted to the TNRCC in the form of a copy of the meeting notice as published and a notarized statement from the facility owner or operator stating that the meeting was held and stating the meeting date and location.

(e) **Registration application.** The applicant shall submit an application as follows:

(1) **Number of copies.** Registrants shall submit four copies of the completed application for registration.

(2) **Application.** Part I of the application shall be in accordance with §330.52 of this title (relating to Technical Requirements of Part I of the Application). This part includes all items required by §330.45 of this title (relating to Contents of Application for Permit) and §§330.51-330.52 of this title (relating to Permit Procedures). The applicant should consult with the executive director to confirm the applicability of specific requirements. With regard to the submission of the Land Ownership Maps and a Land Ownership List with Part I of the application, upon request by the applicant, the executive director may waive these requirements if they are deemed unnecessary. This letter of request should be included with the application. The remaining parts of the application must be submitted in the form of an engineering plan signed and sealed in accordance with the Texas Engineering Practice Act.

(3) **Air quality information.** All information necessary to complete the Air Quality Review as prescribed by the TNRCC shall be submitted and approved by the executive director prior to receipt of approval of the registration.

(4) **Plans and cross-sections.** On a large-scale plan drawing of the site, the applicant shall show the following information:

(A) site boundaries (show permit boundaries and/or boundaries and dimensions of tract or land or closed municipal solid waste landfill unit on which the gas recovery system is to be developed);

(B) general plan layout of extraction system and well locations (identify all underground utility easements, limits of waste placement, final contours of facility);

(C) a plan layout showing landfill gas treatment, gas compression, electrical power generation equipment, and any other beneficial gas-use equipment, and indicating limits of waste placement, additional easements required, and existing underground and overhead utility easements;

(D) streets and roads to provide ingress and egress to the processing facility;

(E) typical cross sections of final cover with gas extraction system and wells;

(F) typical details of well placement and manifold placement in conjunction with the final cover system;

(G) provisions for control of drainage or related items concerning the final contours of the municipal solid waste unit or facility and any appurtenant drainage features that may result incidental to the constructions of a processing unit and/or fixed structure;

(H) provisions to assure the integrity of the liner;

(I) for enclosed structures, provisions for fire control facilities (fire hydrants, fire extinguisher, water tanks, and water well), continuous methane monitoring, and explosion-proof fixtures;

(J) a discussion of the proposed method for condensate disposal;

(5) **Safety plans.** The applicant shall provide written plans for personnel safety and contingency during the design, construction, and operation of the entire gas recovery system.

(6) **Recovery system operating plan.** The applicant shall provide a written plan for the operation of the entire gas recovery system. The plan shall include, but not necessarily be limited to, the following:

(A) information necessary to demonstrate that the integrity of the final cover system will not be damaged as a result of the installation of the recovery system;

(B) routine operational procedures for the entire gas recovery system;

(C) emergency and contingency procedures for personnel and equipment;

(D) startup procedures, shutdown, and closure procedures;

(E) monitoring and maintenance procedures; and

(F) post-closure care plan for the gas recovery system. The applicant shall provide a post-closure care plan that discusses operational procedures for the extraction and processing system once the municipal solid waste facility is undergoing post-closure care pursuant to §330.254 of this title (relating to Post-Closure Care).

(7) system descriptive data. The applicant shall provide the following:

(A) an estimation of average daily gas production;

(B) an estimation of the design daily gas production;

(C) a description of the process unit;

(D) a list of monitoring and maintenance procedures.

(8) Evidence of financial assurance. Municipal solid waste landfill facilities are subject to the Subchapter K requirements of §330.9 of this title (relating to Financial Assurance).

(9) Requirements of statements and certification. The applicant shall include the following statements and/or applicable signatures.

(A) Statement of applicant. (Figure 1: 30 TAC 330.70(e)(9)(A)).

(B) Engineer's certification. (Figure 2: 30 TAC 330.70(e)(9)(B)).

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 23, 1995.

TRD-9510672 Lydia Gonzalez-Gromatzky
Acting Director, Legal
Services Division
Texas Natural Resource
Conservation
Commission

Earliest possible date of adoption: September 29, 1995

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

◆ ◆ ◆
TITLE 40. SOCIAL SERVICES AND ASSISTANCE

Part XIX. Texas Department of Protective and Regulatory Services

Chapter 710. Protection of Clients and Staff

The Texas Department of Protective and Regulatory Services (TDPRS) proposes the repeal of §§710.41-710.50 and proposes new §§710.41-710.56, concerning abuse, neglect, and exploitation of persons served in community mental health and mental retardation centers, in its Protection of Clients and Staff

chapter. The purpose of the repeals and new sections is to describe TDPRS's responsibilities in conducting investigations of abuse, neglect, and exploitation in community mental health and mental retardation centers. The proposal also updates the rules to reflect changes in policy since the function was absorbed into Adult Protective Services.

Jerry Abel, chief fiscal officer, has determined that for the first five-year period the proposal will be in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the proposal. Costs associated with the functions are being addressed via interagency transfers of funds from the Texas Department of Mental Health and Mental Retardation to TDPRS.

Mr. Abel also has determined that for each year of the first five years the proposal is in effect the public benefit anticipated as a result of enforcing the proposal will be public access to accurate information about the state's procedures conducting investigations of abuse, neglect, and exploitation in community mental health and mental retardation centers. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the proposal.

Questions about the content of the proposal may be directed to Marc Mullins at (512) 706-5505 in TDPRS's Adult Protective Services section. Written comments on the proposal may be submitted to Nancy Murphy, Agency Liaison, Media and Policy Services-503, Texas Department of Protective and Regulatory Services E-205, P.O. Box 149030, Austin, Texas 78714-9030, within 30 days of publication in the *Texas Register*.

Subchapter B. [Client] Abuse, [and] Neglect, and Exploitation of Persons Served by [in] Community Mental Health and Mental Retardation Centers

◆ ◆ ◆
• 40 TAC §§710.41-710.50

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

The repeals are proposed under the Human Resources Code, Title 2, Chapter 48, which provides the department with the right to investigate reports of abuse, exploitation, or neglect of an elderly or disabled person; and under Texas Civil Statutes, Article 4413 (503), historical note (Vernon Supplement 1993), 72nd Legislature, which transferred all functions, programs, and activities related to investigations of abuse and neglect from TDMHMR to TDPRS.

The repeals implement §1.06 of Acts 1991, 72nd Legislature, First Called Session, Chapter 15, as amended by Acts 1993, 73rd Legislature, Chapter 747, §1.

§710.41. Purpose.

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§710.44. Client Abuse and Neglect Defined.

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§710.48. Training in Prevention of Client Abuse and/or Neglect.

§710.49. References.

§710.50. Distribution.

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 22, 1995.

TRD-9510664 Nancy Murphy
Section Manager, Media
and Policy Services
Texas Department of
Protective and
Regulatory Services

Proposed date of adoption: November 1, 1995

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

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• 40 TAC §§710.41-710.56

The new sections are proposed under the Human Resources Code, Title 2, Chapter 48, which provides the department with the right to investigate reports of abuse, exploitation, or neglect of an elderly or disabled person; and under Texas Civil Statutes, Article 4413 (503), historical note (Vernon Supplement 1993), 72nd Legislature, which transferred all functions, programs, and activities related to investigations of abuse and neglect from TDMHMR to TDPRS.

The new sections implement §1.06 of Acts 1991, 72nd Legislature, First Called Session, Chapter 15, as amended by Acts 1993, 73rd Legislature, Chapter 747, §1.

§710.41. Purpose. The purpose of this subchapter is to define abuse, neglect and exploitation of any person receiving services from a community mental health and mental retardation center, center contractor, or an agent of the community center and to describe procedures for its report, investigation and prevention.

§710.42. Application.

(a) The Texas Department of Protective and Regulatory Services (TDPRS) is responsible for investigating allegations of abuse, neglect, or exploitation involving persons served by community centers unless another state agency has responsibility for the investigation. Other responsible agencies include, but are not be limited to:

(1) psychiatric hospitals, psychiatric units in general hospitals and crisis stabilization units licensed or certified for Medicare by the Texas Department of Health; and

(2) residential and outpatient programs operated and regulated by Texas Commission of Alcohol and Drug Abuse.

(b) Abuse and neglect investigations in these programs shall be conducted by the appropriate regulatory agency. If the adult protective services (APS) investigator receives an allegation in one of these programs, the investigator shall refer the allegation to the chief executive officer or designee for appropriate action.

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

Adult—A person 18 years of age or older.

Adult Protective Services (APS) investigator—An employee of the Texas Department of Protective and Regulatory Services with expertise and demonstrated competence in conducting investigations.

Agent—Any consultant, student, volunteer, etc., not employed by a community center but working under the auspices of the community center.

Allegation—A report by a person believing or having knowledge that a person receiving services has been or is in a state of abuse, exploitation, or neglect as defined in this subchapter.

Center—Any institution, program, or service operated by a community mental health and mental retardation center.

Chief executive officer—The head of a community mental health and mental retardation center.

Child—A person under 18 years of age who is not and has not been married and who has not had the disabilities of minority removed for general purposes.

Clinical practice—Relates to issues of potentially or allegedly unsafe nursing, or medical practice or violations of the Nursing Practice Act, Licensed Vocational Nurse Title Act, or Medical Practice Act. These include acts of omissions of the physician or nurse which result from a lack of competence in their profession, impaired status, or failure to provide adequate medical or nursing care to a person served.

Confirmed—A finding that an allegation of abuse, neglect, or exploitation is supported by the preponderance of the evidence.

Contractor—Any organization or entity associated by contract in a working alliance with a community mental health and mental retardation center to provide community based services.

Department—The Texas Department of Protective and Regulatory Services.

Designee—A staff member immediately available who is temporarily or permanently appointed to assume designated responsibilities of the chief executive officer.

Employee—Any person hired for a specific job position or to be part of a "pool" for specific job positions, expected to work on a continuous basis, seasonally, or to perform work of a transitory nature or foreseeable end and meet certain minimum performance and time-on-job expectations, paid from a budgeted position in the salary schedule and through a payroll process. A person receiving payment as a "vocational trainee" in a properly authorized vocational training program is not considered to be an employee.

Incitement—To spur to action or instigate into activity; implies responsibility for initiating another's actions.

Inconclusive—A finding that an allegation of abuse, neglect, or exploitation leads to no conclusion or definite result due to lack of witnesses or other relevant evidence.

Mental health service provider—An individual, licensed or unlicensed, who performs or purports to perform mental health services, including a:

(A) licensed social worker as defined by the Human Resources Code, §50.001;

(B) chemical dependency counselor as defined by §1, Chapter 635, Acts of the 72nd Legislature, Regular Session, 1991 (Texas Civil Statutes, Article 4512o);

(C) licensed professional counselor as defined by §2, Licensed Professional Counselor Act (Texas Civil Statutes, Article 4512g);

(D) licensed marriage and family therapist as defined by §2, Licensed Marriage and Family Therapist Act (Texas Civil Statutes, Article 4512c-1);

(E) member of the clergy;

(F) physician who is "practicing medicine" as defined by the Medical

Practice Act, §1.03, (Texas Civil Statutes, Article 4495b);

(G) psychologist offering "psychological services" as defined by Psychologists' Certification and Licensing Act, §2 (Texas Civil Statutes Article 4512c); or

(H) registered nurse or licensed vocational nurse as defined by law. **Office of Facility Investigations**—The state office located at the Texas Department of Protective and Regulatory Services which has administrative and policy development responsibilities for investigations of abuse, neglect, and exploitation conducted in Texas Department of Mental Health and Mental Retardation facilities and community mental health and mental retardation centers.

Perpetrator—The person alleged to have committed an act of abuse, neglect, or exploitation.

Perpetrator unknown—Term used to describe instances in which abuse or neglect is confirmed but positive identification of the responsible person(s) cannot be made, and in which self-injury has been eliminated as the cause.

Person served—Any person receiving services from a community mental health and mental retardation center.

Preponderance of evidence—The greater weight of evidence, or evidence which is more credible and convincing to the mind.

Prevention and Management of Aggressive Behavior (PMAB)—The Texas Department of Mental Health and Mental Retardation's proprietary risk management program, which uses the least intrusive, most effective options to reduce the risk of injury for persons receiving services and for staff from acts or potential acts of aggression.

Reporter—The person filing a report of abuse, neglect, or exploitation, whether the victim of alleged abuse, neglect, or exploitation, or a third party filing a report on behalf of the alleged victim, or both.

Sexual abuse—Any sexual activity, including sexual exploitation as defined by the Texas Health and Safety Code, §161.131, and sexual assault as defined in the Texas Penal Code, §22.011, involving an employee, agent, or contractor and a person served. Sexual activity includes but is not limited to kissing, hugging, stroking, or fondling with sexual intent; oral sex or sexual intercourse; request or suggestion or encouragement by staff for performance of sex with the employee or with another client.

Sexual exploitation—A coercive, manipulative, or otherwise exploitative pattern, practice, or scheme of conduct, which may include sexual contact, that can be reasonably construed as being for the purposes of

sexual arousal or gratification or sexual abuse of any person. The term does not include obtaining information about a patient's sexual history within standard accepted practice.

Unconfirmed—A finding that an allegation of abuse, neglect, or exploitation is not supported by the preponderance of the evidence.

Unfounded—A finding that an allegation of abuse, neglect, or exploitation is spurious or patently without factual basis.

§710.44. Abuse, Neglect, and Exploitation of an Adult Defined.

(a) When the perpetrator is an employee, contractor, or agent of a community mental health and mental retardation center, or the perpetrator is unknown, abuse, neglect, or exploitation of an adult shall be defined as follows.

(1) Abuse includes:

(A) any act or failure to act performed knowingly, recklessly, or intentionally, including incitement to act, which caused or may have caused physical injury or death to a person served;

(B) any act of inappropriate or excessive force or corporal punishment, regardless of whether the act results in an injury to a person served;

(C) any use of chemical or bodily restraints not in compliance with federal and state laws and regulations;

(D) sexual abuse; or

(E) any act or use of verbal or other communication including gestures to curse, vilify, or degrade a person served or threaten a person served with physical or emotional harm.

(2) Neglect means a negligent act or omission by any individual responsible for providing services in a facility rendering care or treatment which caused or may have caused physical or emotional injury or death to an individual with mental illness or mental retardation, which placed an individual with mental illness or mental retardation at risk of physical or emotional injury or death, and includes an act or omission such as the failure to establish or carry out an appropriate individual program plan or treatment plan for a person served, the failure to provide adequate nutrition, clothing, or health care to a person served in an in-patient or residential program, or the failure to provide a safe environment for a person served, including the failure to maintain adequate numbers of appropriately trained staff.

(A) Complaints concerning failure to carry out an appropriate individual program plan or treatment plan or involving the failure to maintain adequate numbers of appropriately trained staff which do not relate to a specific allegation of abuse or neglect will be investigated administratively by the community center.

(B) Within 24 hours of receipt of such an allegation, the adult protective services (APS) investigator will refer the allegation to the chief executive officer using the Adult Protective Services Referral Form.

(3) Exploitation means the illegal or improper act or process of using the resources of a person served for monetary or personal benefit, profit, or gain.

(b) Abuse, neglect, or exploitation does not include:

(1) the proper use of restraints or seclusion, including the Texas Department of Mental Health and Mental Retardation's prevention and management of aggressive behavior (PMAB), and the approved application of behavior modification techniques, or other actions taken in accordance with the written policies and procedures of the center;

(2) actions an employee reasonably believes to be immediately necessary to avoid imminent harm to self, persons served, or other individuals, if the actions are limited only to those actions reasonably believed to be necessary under the existing circumstances. The actions do not include acts of unnecessary force or the inappropriate use of restraints or seclusion, including PMAB; or

(3) complaints related to rights violations, theft of property, or daily administrative operations of a community center. Such complaints will be referred to the chief executive officer for administrative action by the chief executive officer, the rights protection officer, or other appropriate parties, using the Adult Protective Services Referral Form.

§710.45. Abuse, Neglect, and Exploitation of a Child Defined.

(a) When the alleged perpetrator is an employee, contractor, or agent of the community mental health or mental retardation center, or the perpetrator is unknown, abuse, neglect, or exploitation of a child shall be defined as follows.

(1) Abuse of a child includes the following acts or omissions by any person:

(A) mental or emotional injury to a child that results in an observable

and material impairment in the child's growth, development, or psychological functioning;

(B) causing or permitting the child to be in a situation in which the child sustains a mental or emotional injury that results in an observable and material impairment in the child's growth, development, or psychological functioning;

(C) physical injury that results in substantial harm to the child, or the genuine threat of substantial harm from physical injury to the child, including an injury that is at variance with the history or explanation given and excluding an accident or reasonable discipline by a parent, guardian, or managing or possessory conservator that does not expose the child to a substantial risk of harm;

(D) failure to make a reasonable effort to prevent an action by another person that results in physical injury that results in substantial harm to the child;

(E) sexual contact, sexual intercourse, or sexual conduct, as those terms are defined by the Texas Penal Code, §43.01; sexual penetration with a foreign object; incest; sexual assault; or sodomy inflicted on, shown to, or intentionally practiced in the presence of a child by another person if the child is present only to arouse or gratify the sexual desires of any person;

(F) failure to make a reasonable effort to prevent sexual contact, sexual intercourse, or sexual conduct, as those terms are defined by the Texas Penal Code, §43.01; sexual penetration with a foreign object; incest; sexual assault; or sodomy being inflicted on or shown to a child by another person, or intentionally practiced in the presence of a child by another person if the child is present only to arouse or gratify the sexual desire of any person;

(G) compelling or encouraging the child to engage in sexual conduct as defined by the Texas Penal Code, §43.01; or

(H) causing, permitting, encouraging, engaging in, or allowing the photographing, filming, or depicting of the child if the person knew or should have known that the resulting photograph, film, or depiction of the child is obscene (as defined by the Texas Penal Code) or pornographic.

(2) Neglect of a child includes:

(A) leaving a child in a situation where the child would be exposed to a substantial risk of physical or mental harm, without arranging for necessary care for the child, and a demonstration of an intent not to return by a parent, guardian, or managing or possessory conservator of the child;

(B) the following acts or omissions by any person:

(i) placing the child in or failing to remove the child from a situation that a reasonable person would realize requires judgment or actions beyond the child's level of maturity, physical condition, or mental abilities and that results in bodily injury or a substantial risk of immediate harm to the child;

(ii) the failure to seek, obtain, or follow through with medical care for the child, with the failure resulting in or presenting a substantial risk of death, disfigurement, or bodily injury or with the failure resulting in an observable and material impairment to the growth, development, or functioning of the child;

(iii) the failure to provide the child with food, clothing, or shelter necessary to sustain the life or health of the child, excluding failure caused primarily by financial inability unless relief services had been offered and refused; or

(iv) the failure by the person responsible for a child's care, custody, or welfare to permit the child to return to the child's home without arranging for the necessary care for the child after the child has been absent from the home for any reason, including having been in residential placement or having run away.

(3) Exploitation means the illegal or improper act or process of using the resources of a person served for monetary or personal benefit, profit, or gain.

(b) Abuse does not include:

(1) the proper use of restraints or seclusion, including the Texas Department of Mental Health and Mental Retardation's prevention and management of aggressive behavior (PMAB), and the approved application of behavior modification techniques, or other actions taken in accordance with the written policies and procedures of the center;

(2) actions an employee reasonably believes to be immediately necessary to avoid imminent harm to self, persons served, or other individuals, if the actions are limited only to those actions reasonably believed to be necessary under the existing circumstances. The actions do not include acts of unnecessary force or the inappropri-

ate use of restraints or seclusion, including PMAB; or

(3) complaints related to rights violations, theft of property, or daily administrative operations of a community center. Such complaints will be referred to the chief executive officer for administrative action by the chief executive officer, the rights protection officer, or other appropriate parties.

§710.46. Responsibilities of All Community Centers.

(a) Each community center employee or agent who suspects, has knowledge of, or is involved in an allegation of abuse, neglect, or exploitation of a person served by the center, including abuse of a child or neglect of a child, must make an immediate report to the Texas Department of Protective and Regulatory Services (TDPRS), unless another state agency has responsibility for the investigation. TDPRS will establish through regional offices a mechanism to receive reports of abuse, neglect, or exploitation.

(b) Each community center is responsible for assuring that prompt and appropriate medical and emotional care is sought or provided to any person served.

(c) Each community center is responsible for assuring that any evidence connected with an allegation is appropriately preserved or protected in accordance with instructions from TDPRS personnel.

(d) Each community center is responsible for assuring that each contractor establishes a procedure for reporting allegations to the TDPRS (or other appropriate state agency) of a person served pursuant to the contract with the community center.

§710.47. Adult Protective Services (APS) Investigator.

(a) APS investigator. An APS investigator will conduct all investigations of abuse, neglect, and exploitation, unless another state agency has responsibility for the investigation.

(b) Training. APS investigators will receive appropriate training in issues related to the efficient and effective investigation of allegations of abuse and neglect. Investigators are oriented to issues pertaining to individuals with disabilities and how to communicate effectively with them in the community.

(c) Notifications. Upon receiving a report of an allegation of abuse, neglect, or exploitation, the person receiving the intake or the APS investigator will:

(1) immediately notify the chief executive officer or designee of the allega-

tion and if known, the identity of the alleged perpetrator, without revealing the identity of the reporter. If the allegation involves sexual exploitation of a person served by a mental health services provider as defined in the Texas Civil Practices and Remedies Code, §81, the name of the reporter shall be released to the chief executive officer or designee;

(2) immediately notify the chief executive officer or designee as to whether the allegation will be reported to a law enforcement agency; and

(3) immediately, if possible, but in no case more than one hour later, report allegations involving physical abuse or sexual assault to the appropriate local or state law enforcement agency.

(d) Responsibilities.

(1) The APS investigator shall fully investigate alleged incidents of abuse, neglect, or exploitation.

(A) The APS investigator must begin an investigation within 24 hours of receiving an allegation. An investigation begins when the investigator interviews either the victim, alleged perpetrator, or any collateral witness.

(B) When an allegation involves sexual abuse or physical injury of a person served, the investigator must make a face-to-face contact with either the person served, alleged perpetrator, or a collateral witness within 24 hours.

(C) Anonymous allegations will be received and investigated following the same procedures that are used when the reporter is known.

(D) An allegation that sexual abuse has been committed by a person receiving services shall be reported and investigated following the procedures outlined in this subchapter to determine whether negligence on the part of staff may have made it possible for the sexual abuse to have occurred.

(E) If the allegation involves the actions of a physician, registered nurse, or licensed vocational nurse, the chief executive officer or designee, in coordination with the APS investigator and the community center medical or nursing director, as appropriate to the discipline involved (if such a position exists at the center), will determine whether the allegation involves the clinical practice of the physician, registered nurse, or licensed vocational nurse. If the abuse or neglect allegation does not involve clinical practice, the APS investiga-

tor will pursue an investigation. If a determination is made that the allegation involves the clinical practice of a physician, registered nurse, or licensed vocational nurse, and the community center has an established professional review process, the APS investigator shall refer the allegation in writing to the chief executive or designee, for professional review. If the community center does not have an established professional review process, the APS investigator shall refer clinical issues to the appropriate licensing authority.

(F) Allegations involving other licensed professional groups, which do not meet the definitions of abuse, neglect, or exploitation as defined in §710.44 and §710.45 of this title (relating to Abuse, Neglect, and Exploitation of an Adult Defined and Abuse, Neglect, and Exploitation of a Child Defined), shall be referred to the chief executive officer or designee, for the professional review process. If the community center does not have an established professional review process, the APS investigator shall refer clinical issues to the appropriate licensing agency. Allegations involving abuse, neglect, or exploitation that are investigated by the APS investigator may also be referred to the chief executive officer or designee for the professional review process, if appropriate.

(G) Allegations determined by the APS investigator to involve rights issues shall be reported in writing using the Adult Protective Services Referral Form, to the community center client rights officer within 24 hours of the time the investigator becomes aware of the rights violations or the next working day.

(2) Investigative procedures outlined in the Texas Department of Protective and Regulatory Services' "Procedures and Techniques for Investigation of Abuse and Neglect, must be followed in all investigations.

(3) If at any point during the course of the investigation it becomes apparent (via written witness statements and other evidence gathered) that the allegation is spurious or patently without factual basis, the investigation may be closed as unfounded with supervisory approval. The reason for this determination, based on specific evidence, will be included in the report.

(4) If there is not a preponderance of evidence to indicate that an allegation should or should not be confirmed, due to lack of witnesses or other available evidence, a finding of inconclusive may be used with supervisory approval.

(5) The APS investigator shall indicate "perpetrator unknown" in those in-

stances where the preponderance of evidence exists to confirm abuse or neglect, but positive identification of the person(s) responsible cannot be determined and self-injury has been eliminated as the cause. Evidence must exist that abuse or neglect has been committed for the term "perpetrator unknown" to be used.

§710.48. Responsibilities of the Adult Protective Services (APS) Investigator; Completion of Investigation.

(a) The APS investigator shall complete an investigation within 14 calendar days after receiving an allegation and submit a copy of the items listed in paragraphs (1)-(4) of this subsection to the chief executive officer:

(1) The investigative report, with any information that would reveal the identity of the reporter concealed, including

(A) a statement of the allegation(s);

(B) a summary of the investigation;

(C) an analysis of the evidence;

(D) the investigator's determination as to whether or not abuse, neglect, or exploitation occurred;

(E) recommendations resulting from the investigation; and

(F) a determination as to how the incident should be classified in accordance with the Texas Family Code, §34.012, if the incident involves a minor.

(2) Photographs relevant to the investigation, including photographs depicting the existence of injuries (taken within 24 hours after the report of the allegation) or the non-existence of injuries, when appropriate.

(3) All witness statements and supporting documents.

(4) A "Client Abuse/Neglect Report" (AN-1-A) form reflecting the finding of the investigation, and the alleged source of the abuse, neglect, or exploitation.

(b) If the incident involved sexual exploitation of a person served by a mental health services provider as defined in the Texas Civil Practices and Remedies Code, Chapter 81, the name of the reporter shall not be concealed in the report provided to the chief executive officer or designee.

(c) If additional time is required to complete the investigation, the APS investi-

gator may request an extension by submitting an Extension Request form, to the local supervisor. Extensions in increments of 14 calendar days may be authorized by the local supervisor. The chief executive officer or designee will be notified of extensions as they are granted.

(d) If the investigation reveals that a person receiving services has been abused, neglected, or exploited in a manner that constitutes a criminal offense, a copy of the investigation shall be made available to the appropriate law enforcement agency.

(e) In cases of abuse, neglect or exploitation involving a physician, registered nurse, or licensed vocational nurse, the APS investigator will forward a copy of the completed investigative report to TDPRS's Office of Facility Investigations in state office. The reports will then be forwarded to the licensing authority for the discipline under review, as required by law.

(f) The investigator will notify the perpetrator in writing of the outcome of the investigation and of the right to request a management review. A request for a management review by the alleged perpetrator must be made in writing to the local regional director within seven calendar days after being notified of the finding. The management review may be waived by the alleged perpetrator.

(g) The investigator will notify the reporter in writing of the outcome of the investigation, whether the chief executive officer concurs with the finding, and the method of appealing either the outcome of the TDPRS investigation or the determination of the chief executive officer, if different from the TDPRS outcome.

(h) Upon request, APS investigators will attend and participate in community center grievance hearings related to investigations they have conducted.

§710.49. Responsibilities of the Chief Executive Officer.

(a) The chief executive officer or designee shall ensure that adult protective services (APS) investigators have access to the following:

(1) clients, employees, contractors, or agents of the community center;

(2) client records; and

(3) other documents relevant to the investigative process.

(b) If the chief executive officer or designee disagrees with the finding of the investigation, the chief executive officer may, within 14 calendar days after receiving the investigative report, request in writing a review of the finding, by filing a Request for Review of Finding form with

the Deputy Director of Adult Protective Services, Texas Department of Protective and Regulatory Services, P.O. Box 149030, E-561, Austin, Texas 78714-9030. The review will be completed by adult protective services within 14 calendar days.

(c) The chief executive officer or designee shall notify the person served and legal guardian of an allegation of abuse, neglect, or exploitation and of the final results of the investigation.

(d) The chief executive officer or designee is responsible for completion and data entry of the Client Abuse/Neglect Report (AN-1-A) form.

§710.50. Abuse and Neglect Investigative Procedures for Community Center Contractors and Independent School District (ISD) Employees. For purposes of reporting and investigating abuse, neglect, and exploitation by contractors of community centers, the procedures described for employees of community centers shall be followed.

(1) An allegation that a contract provider or an employee of a contract provider has committed abuse, neglect, or exploitation shall be reported to the Texas Department of Protective and Regulatory Services immediately, if possible, but in no case more than one hour later. Upon notification of the allegation, the adult protective services (APS) investigator will immediately notify the administrator of the contract provider and the chief executive officer or designee of the center.

(A) The investigation of an allegation that a contract provider or an employee of a contract provider has committed abuse, neglect, or exploitation shall be handled in accordance with the procedures specified in §710.47 of this title (relating to APS Investigator).

(B) Upon completion of the investigation, the APS investigator shall submit a copy of the investigative report and supporting documents to the administrator of the contract provider and the chief executive officer of the center.

(C) If there is disagreement with the finding, the administrator of the contract provider may, within 14 calendar days, request in writing a review of the finding, by filing a Request for Review of Finding form with the Deputy Director of Adult Protective Services, Texas Department of Protective and Regulatory Services, P.O. Box 149030, E-561, Austin, Texas 78714-9030.

(D) The investigator will notify the perpetrator in writing of the out-

come of the investigation and of the right to request a management review. A request for a management review by the alleged perpetrator must be made in writing to the local regional director within seven calendar days after being notified of the finding. The management review may be waived by the alleged perpetrator.

(2) An abuse or neglect allegation where the alleged perpetrator is an employee of an ISD and the ISD is not a contractor of the community center, and the person served is under 18 years of age, shall be reported to the superintendent of the ISD and to Child Protective Services for investigation. If the person served is 18 years of age or older, the allegation shall be reported to the superintendent of the ISD and Adult Protective Services for investigation.

(3) An abuse or neglect allegation where the alleged perpetrator is an employee of an ISD and the ISD is a contractor of the community center shall be investigated by the APS investigator. The APS investigator shall notify the superintendent of the ISD and the appropriate local or state law enforcement agency of such allegations. The investigation of an allegation of abuse, neglect, or exploitation will be handled in accordance with the procedures outlined in this subchapter.

§710.51. Functions of the Office of Adult Protective Services. The functions of the Office of Adult Protective Services related to community center investigations are to:

(1) develop policy and program related to community center investigations;

(2) monitor and evaluate for quality assurance and compliance with program standards;

(3) provide consultation and technical assistance to regional staff; and

(4) coordinate with staff development in the development of training curricula.

§710.52. Request for Appeal; Filing a Complaint.

(a) The reporter, person served, or legal guardian of the person served, may file an appeal of the findings of an investigation conducted by the Texas Department of Protective and Regulatory Services by notifying the Deputy Director, Adult Protective Services, State Office, Mail Code E-561, P.O. Box 149030, Austin, Texas 78714-9030.

(1) The appeal shall be completed within 30 calendar days from the date of the request unless a review of the finding has been requested by the chief executive officer or designee. The appeal process will be postponed until a request for

review filed by the chief executive officer or designee, and/or a management review requested by the alleged perpetrator has been completed, at which point it will be completed within 30 calendar days.

(2) The appeal process will include an analysis of the investigative report and all supporting documents and records.

(3) The reviewer makes a decision to:

(A) sustain, alter, or reverse the original finding of the adult protective services (APS) investigator based on the same criteria used by community investigators to conduct investigations and reach conclusions; or

(B) re-open the investigation.

(4) Within 30 calendar days after the appeal process is completed, the reviewer will document the outcome and notify the person who requested the appeal, and the person served or legal guardian of the person served, of the decision in writing.

(5) A copy of the decision shall be sent to the investigator to be filed with the original investigative report.

(6) A copy of the decision shall be sent to the chief executive officer or designee.

(b) If the person who requested an appeal of the finding is not satisfied with the outcome, or wishes to file a complaint of a different nature, the person may contact the Ombudsman Office of the Texas Department of Protective and Regulatory Services by calling 1-800-720-7777. The person may write to the Ombudsman Office, Mail Code Y-946, P.O. Box 149030, Austin, Texas 78714-9030.

§710.53. Confidentiality of Investigative Process and Report.

(a) The reports, records, and working papers used by or developed in the investigative process and the resulting final report regarding abuse and neglect are confidential and may be disclosed only as provided in the Human Resources Code, §§40.005, 48.081, and 48.101, the Texas Family Code, §261.201, and other rules of this agency in the Texas Administrative Code.

(b) Investigative reports, with any information which might reveal the identity of the reporter concealed, will be forwarded to the chief executive officer or designee upon completion of the investigation in accordance with §710.49 of this title (relating to Responsibilities of the Chief Executive Officer).

(c) If the incident involves sexual exploitation of a person served by a mental health services provider as defined in the Texas Civil Practices and Remedies Code, §81, a copy of the investigative report and all supporting documents, in which the identity of the reporter has not been concealed, shall be released to the chief executive officer or designee.

(d) Upon request, a copy of the investigative report shall be released to the person served, legal guardian, or parent (if the person served is a minor) with any information that might reveal the identity of the reporter, and other persons served concealed.

§710.54. Retention of Investigative Reports. Investigative reports shall be retained five years after the investigation is closed. Reports may be sent to the Records Storage Center for storage three years after the case is closed.

§710.55. References. Reference is made to the following statutes, rules of the department, and attorney general opinions:

(1) Texas Family Code, §§261 et seq;

(2) Title 7, Chapter 576, §576.005, Health and Safety Code (formerly Texas Civil Statutes, Article 5547-87);

(3) Title 7, Chapter 532, §532.011, Health and Safety Code (formerly Texas Civil Statutes, Article 5547-202, §2.12);

(4) Title 7, Subtitle D, Health and Safety Code (formerly Texas Civil Statutes, Article 5547-300);

(5) Texas Penal Code, Chapters 19 and 21, §§22.01, 22.02, 22.04, 22.05, 22.07, 22.08, 22.10;

(6) Human Resources Code, Chapters 40 and 48; and

(7) Title 4, Civil Practices and Remedies Code, §81.001.

§710.56. Distribution.

(a) The provisions of this subchapter shall be distributed to:

(1) members of the Board of the Texas Department of Protective and Regulatory Services (TDPRS);

(2) members of the Texas Board of Mental Health and Mental Retardation;

(3) deputy commissioner, regional directors, and supervisors of Adult Protective Services, TDPRS;

(4) deputy commissioners, associate deputy commissioners; assistant deputy commissioners; and directors at the Texas Department of Mental Health and Mental Retardation (TDMHMR);

(5) superintendents, directors, contractors, and agents of all facilities of TDMHMR;

(6) the attorney general of Texas;

(7) the Association for Retarded Citizens of Texas;

(8) the Mental Health Association in Texas;

(9) the Parent Association for the Retarded of Texas;

(10) the Texas Association on Mental Deficiency;

(11) the Texas Association for Mental Health;

(12) the Texas Council CMHMR Centers;

(13) the Texas Council Risk Management Fund;

(14) the Texas Department of Health;

(15) the Texas Department of Human Services;

(16) the Texas Youth Commission;

(17) the Texas Alliance for the Mentally Ill;

(18) Texas Mental Health Consumers; and

(19) Advocacy, Inc.

(b) The head of each community center shall be responsible for duplicating and disseminating copies of this subchapter to:

(1) appropriate staff; and

(2) any person served, employee, or other person desiring a copy.

(c) The head of each community center shall be responsible for prominently displaying copies of this subchapter.

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 22, 1995.

TRD-9510665

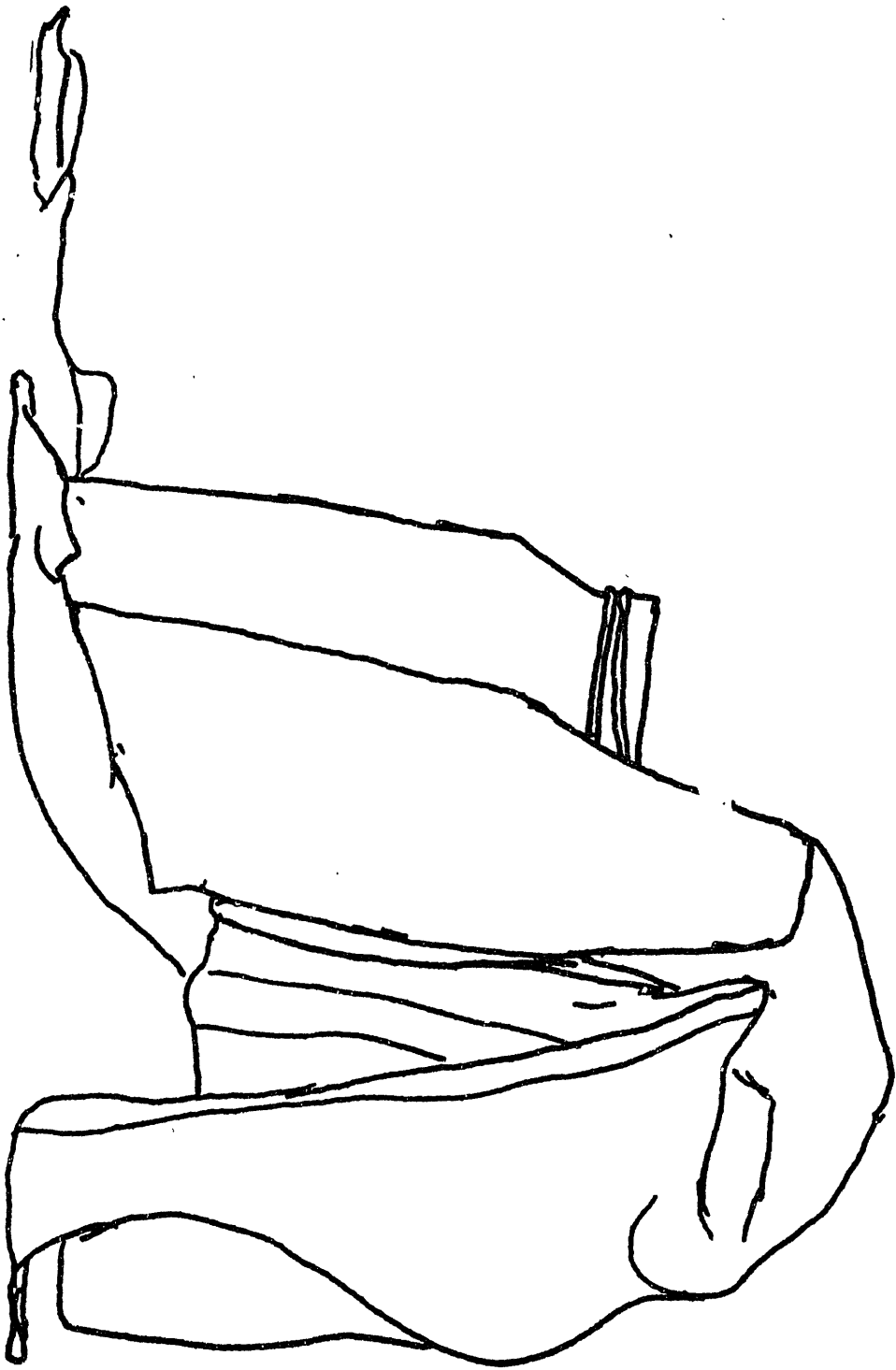
Nancy Murphy
Section Manager, Media
and Policy Services
Texas Department of
Protective and
Regulatory Services

Proposed date of adoption: November 1, 1995

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

◆ ◆ ◆

Name: Donald Ballard
Grade: 9
School: Skyline High School, Dallas ISD



WITHDRAWN RULES

An agency may withdraw a proposed action or the remaining effectiveness of an emergency action by filing a notice of withdrawal with the **Texas Register**. The notice is effective immediately upon filing or 20 days after filing as specified by the agency withdrawing the action. If a proposal is not adopted or withdrawn within six months of the date of publication in the **Texas Register**, it will automatically be withdrawn by the office of the Texas Register and a notice of the withdrawal will appear in the **Texas Register**.

TITLE 34. PUBLIC FI- NANCE

Part I. Comptroller of Public Accounts

Chapter 9. Property Tax Administration

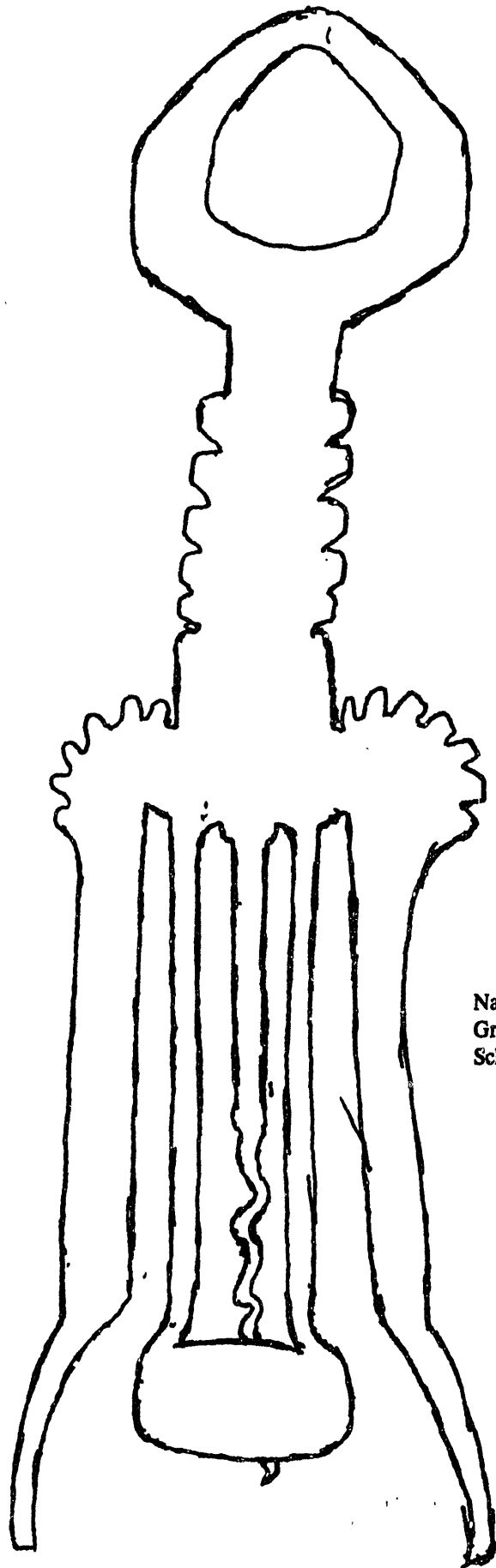
Subchapter I. Validation Proce- dures

- 34 TAC §9.4011

Pursuant to Texas Government Code, §2001.027 and 1 TAC §91.24(b), the proposed amendment to §9.4011, submitted by the Comptroller of Public Accounts has been automatically withdrawn, effective August 18, 1995. The amendment as proposed appeared in the February 17, 1995, issue of the *Texas Register* (20 TexReg 1111).

TRD-9510523

◆ ◆ ◆



Name: Donald Ballard
Grade: 9
School: Skyline High School, Dallas ISD

ADOPTED RULES

An agency may take final action on a section 30 days after a proposal has been published in the *Texas Register*. The section becomes effective 20 days after the agency files the correct document with the *Texas Register*, unless a later date is specified or unless a federal statute or regulation requires implementation of the action on shorter notice.

If an agency adopts the section without any changes to the proposed text, only the preamble of the notice and statement of legal authority will be published. If an agency adopts the section with changes to the proposed text, the proposal will be republished with the changes.

TITLE 1. ADMINISTRATION

Part IV. Office of the Secretary of State

Chapter 81. Elections

Political Parties

• 1 TAC §§81.100-81.137

The Office of the Secretary of State adopts the repeal of §§81.001-81.137, concerning primary elections. The repeals allow for new funding sections to be adopted for the 1996 Primary Elections. The proposed text as published in the July 21, 1995, issue of the *Texas Register* (20 TexReg 5338). These sections deal with expenses relating to the proper conduct of the primary elections by party officials and the procedure for requesting reimbursement by the parties for such expenses.

The repeals are necessary because the current rules do not adequately address the situations to be faced by election officials in conducting the 1996 primary elections. In addition, changes were made as a result of an internal audit conducted by the Secretary of State and recommendations from various county chairs.

No comments were received regarding adoption of the repeals.

The repeals are adopted under the Texas Election Code, §31.003 and §173.006, which provides the Office of the Secretary of State with the authority to obtain and maintain uniformity in the application, interpretation, and operation of provisions under the Texas Election Code and other election laws, and, in performing such duties, to prepare detailed and comprehensive written directives and instructions based on such laws, and to adopt rules consistent with the Election Code that reduce the cost of the primary elections or facilitate the holding of the elections within the amount appropriated by the legislature for that purpose.

The Texas Election Code, Chapter 173, Subchapter A, §173.006 is affected by these repeals.

This agency hereby certifies that the rules 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 22, 1995.

TRD-9510641 Clark Kent Ervin
Assistant Secretary of
State
Office of the Secretary of
State

Effective date: September 12, 1995

Proposal publication date: July 21, 1995

For further information, please call: (512) 463-5702

• 1 TAC §§81.100-81.136

The Office of the Secretary of State adopts new §§81.100-81.136, concerning primary election funding, without changes to the proposed text as published in the July 21, 1995, issue of the *Texas Register* (20 TexReg 5338). The new sections concern the financing of the 1996 primary elections with state funds, including the determination of necessary and proper expenses relating to the proper conduct of the primary elections by party officials and the procedures for requesting reimbursement by the parties for such expenses.

The new sections are necessary for the proper and efficient conduct of the 1996 primary elections. It is in the public interest to establish adequate procedures to insure the best use of state funding.

Guy C. Jackson III commented that the pay rate for election judges and clerks should be raised to \$6.00 per hour instead of the \$5.00 per hour allowed by §81.121. The Secretary of State estimates that this change would cost an additional \$800,000. Additional funding was not granted by the 73rd Texas Legislature to allow for this increase in spending. However, §81.122 allows for election judges to receive an extra \$10 if the judge attends the party's election school.

The new sections are adopted under the Texas Election Code, §31.003 and §173.006, which provides the Office of the Secretary of State with the authority to obtain and maintain uniformity in the application, interpretation, and operation of provisions under the Texas Election Code and other election laws, and, in performing such duties, to prepare detailed and comprehensive written directives and instructions based on such laws, and to adopt rules consistent with the Election Code that reduce the cost of the primary elections or

facilitate the holding of the elections within the amount appropriated by the legislature for that purpose.

The Texas Election Code, Chapter 173, Subchapter A, §173.006 is affected by the new sections.

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 22, 1995.

TRD-9510640 Clark Kent Ervin
Assistant Secretary of
State
Office of the Secretary of
State

Effective date: September 12, 1995

Proposal publication date: July 21, 1995

For further information, please call: (512) 463-5702

TITLE 22. EXAMINING BOARDS

Part XV. Texas State Board of Pharmacy

Chapter 281. General Provisions

• 22 TAC §281.25

The Texas State Board of Pharmacy adopts an amendment to §281.25, concerning Grounds for Discipline for a Pharmacy License, with one change to the proposed text as published in the July 4, 1995, issue of the *Texas Register* (20 TexReg 4899).

This rule is being amended to correct references to other sections of the rules. The change to the proposed text is in paragraph (5)(D)(ii) and corrects the reference to paragraph (4)(C)(ii).

No comments were received regarding adoption of the amendment.

The amendment is adopted under the Texas Pharmacy Act, Texas Civil Statutes, Article 4542-1, §16(a), which specifies that the Board has the authority to adopt rules for the proper administration and enforcement of the Act.

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

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

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

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

(5) the pharmacy possesses or engages in the sale, purchase, or trade or

the offer to sell, purchase, or trade of prescription drugs:

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

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

(i) (No change.)

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

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

(6) (No change.)

This agency hereby certifies that the 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 22, 1995.

TRD-9510618

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

Effective date: September 12, 1995

Proposal publication date: July 4, 1995

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

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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: 4 TAC §10.1(4)

Seedless:

Size	Diam.	1 Frt.	2 Frt.	3 Frt.	4 Frt.	5 Frt.
126	3 1/2	150	300	450	600	750
96	3 3/4	180	360	540	720	900
80	4	195	390	585	780	975
70	4 1/8	200	400	600	800	1000
64	4 1/4	205	410	615	820	1025
54	4 1/2	220	440	660	880	1100
46	4 3/4	235	470	705	940	1175
36	5	250	500	750	1000	1250
28	5 1/4	265	530	795	1060	1325

Seeded:

126	3 1/2	140	280	420	560	700
96	3 3/4	165	330	495	660	825
80	4	175	350	525	700	875
70	4 1/8	180	360	540	720	900
64	4 1/4	200	400	600	800	1000
54	4 1/2	220	440	660	880	1100
46	4 3/4	235	470	705	940	1175
36	5	250	500	750	1000	1250
28	5 1/4	265	530	795	1060	1325

Figure 2: 4 TAC §10.2(c)

Size	Diam. min.	Diam. max.	1 Frt.	2 Frt.	3 Frt.	4 Frt.	5 Frt.
324	2 4/16	2 8/16	52.6	105.2	157.8	210.4	263.0
288	2 6/16	2 10/16	59.1	118.2	177.3	236.4	295.5
250	2 8/16	2 12/16	68.1	136.2	204.3	272.4	340.5
216	2 10/16	2 14/16	78.9	157.8	236.7	315.6	394.5
200	2 12/16	3	85.2	170.4	255.6	340.8	426.0
176	2 14/16	3 2/16	96.8	193.6	290.4	387.2	484.0
150	3	3 4/16	113.6	227.2	340.8	454.4	568.0
126	3 3/16	3 8/16	135.2	270.4	405.6	540.8	676.0
96	3 6/16	3 11/16	177.4	354.8	532.2	709.6	887.0

Figure 1: 30 TAC 330.70(e) (9) (A)

I, _____, state that I have knowledge of the facts herein set forth and that these facts are true and correct, to the best of my knowledge and belief. I further state that, to my knowledge and belief, the project for which this application is made will not in any way violate any law rule, ordinance, or decree of any duly authorized government entity having jurisdiction. I further state that I am the applicant or am authorized to act for the city/county/applicant.

(Signed)

(Type Name and Title)

(Date)

Subscribed to and sworn to before me, by the said _____, this
____ day of _____, 19____, to certify which witness my hand and
seal of office.

Notary Public in and for

County, Texas

[Seal]

Figure 2: 30 TAC 330.70(e) (9) (B)

I, _____, a Registered Professional Engineer in the State of Texas, do hereby certify that this application for registration was prepared under my supervision. 00

(Engineer's Signature)

(Type of Printed Name)

(Name of Engineering Firm)

(Street or P.O. Box)

(City, State, Zip Code)

(Area Code, Telephone Number)

(Date)

(Seal)

OPEN MEETINGS

Agencies with statewide jurisdiction must give at least seven days notice before an impending meeting. Institutions of higher education or political subdivisions covering all or part of four or more counties (regional agencies) must post notice at least 72 hours before a scheduled meeting time. Some notices may be received too late to be published before the meeting is held, but all notices are published in the **Texas Register**.

Emergency meetings and agendas. Any of the governmental entities listed above must have notice of an emergency meeting, an emergency revision to an agenda, and the reason for such emergency posted for at least two hours before the meeting is convened. All emergency meeting notices filed by governmental agencies will be published.

Posting of open meeting notices. All notices are posted on the bulletin board at the main office of the Secretary of State in lobby of the James Earl Rudder Building, 1019 Brazos, Austin. These notices may contain a more detailed agenda than what is published in the **Texas Register**.

Meeting Accessibility. Under the Americans with Disabilities Act, an individual with a disability must have an equal opportunity for effective communication and participation in public meetings. Upon request, agencies must provide auxiliary aids and services, such as interpreters for the deaf and hearing impaired, readers, large print or braille documents. In determining type of auxiliary aid or service, agencies must give primary consideration to the individual's request. Those requesting auxiliary aids or services should notify the contact person listed on the meeting summary several days prior to the meeting by mail, telephone, or RELAY Texas (1-800-735-2989).

Texas Department on Aging

Thursday, August 31, 1995, 9:30 a.m.

1949 South IH-35, Third Floor Large Conference Room

Austin

Citizens Advisory Council

AGENDA:

Consider and possibly act on: Call to order; minutes of June 1, 1995 meeting; receive public testimony; roundtable discussion; update on Texas Board on Aging activities; announcements; and adjourn.

Contact: Mary Sapp, P.O. Box 12786, Austin, Texas 78701, (512) 444-2727.

Filed: August 22, 1995, 3:34 p.m.

TRD-9510644

Texas Department of Agriculture

Wednesday, August 30, 1995, 8:00 a.m.

Ambassador Hotel, 3100 I-40 West

Amarillo

Texas Corn Producers Board

AGENDA:

Call to order

Action on minutes of May 2 meeting

Presentation and action: Various reports from committees and proposals presented at meeting on August 29, 1995; financial

statements for April-June; Finance Committee recommendations; committee organization.

Executive session: Discussion concerning Texas Corn Producer Board personnel in accordance with Texas Government Code, Annotated §551.074.

Adjourn executive session

Call to order

Action on executive session

Discussion

Other business

Discussion and action: Setting time and place of next board meeting.

Adjourn

Contact: Carl King, 218 East Bedford, Dimmitt, Texas 79027, (806) 647-4224.

Filed: August 22, 1995, 11:44 a.m.

TRD-9510612

Texas Animal Health Commission

Thursday, August 31, 1995, 8:30 a.m.

2105 Kramer Lane

Austin

Commission Meeting

AGENDA:

Approval of minutes from the meeting of June 29, 1995; report of the executive director and approval of actions for the period

June 30-August 30, 1995; presentation of awards; committee reports and possible action on recommendations from the Audit and Finance subcommittees; vesicular stomatitis update, EIA update and discussion of regulations; report and action on binational committee recommendations regarding TB status of Mexican states relative to §43.2; consideration for adopting amendments to: interstate, shows, and fairs-special requirements for entry from areas with vesicular stomatitis (§51.4); fever ticks-(\$41.1); swine-requirements for market testing for brucellosis and pseudorabies (§55.4); cattle brucellosis-implementation of brucellosis free planning project recommendations (§§35.1, 35.2, 35.4, 35.6, 35.7, 43.1, and 47.1); administrative penalties implementation plans; public comment; set date for next commission meeting; and adjournment.

Contact: Melissa Nitsche, P.O. Box 12966, Austin, Texas 78711-2966, (512) 719-0714.

Filed: August 22, 1995, 4:28 p.m.

TRD-9510660

Texas Certified Self-Insurer Guaranty Association

Thursday, September 7, 1995, 10:30 a.m.

4000 South IH-35, Tippy Foster Meeting Room 910

Austin

Board

AGENDA:

I. Call to order.

II. Approval of minutes for the public meeting of July 6, 1995.

III. Discussion, consideration, and possible action on the following renewal applications.

A. Occidental Chemical Corporation

B. Southwestern Bell Telephone Company

C. Rohm and Haas Company

D. The Limited, Inc.

E. Driver Pipeline Company, Inc.

IV. Other business

V. Discussion of future public meetings.

VI. Adjournment.

Contact: Judy Roach, 1600 San Jacinto, 98 San Jacinto Boulevard, Austin, Texas 78701, (512) 322-2514.

Filed: August 22, 1995, 12:11 p.m.

TRD-9510613

Conservatorship Board

Monday, August 28, 1995, 1:30 p.m.

710 Brazos, Perry Brooks Building

Austin

Emergency Meeting

AGENDA:

Call to order; approval of August 15, 1995 minutes; executive session to discuss personnel matters; and adjournment.

Reason for emergency: Necessary for Conservatorship Board to meet in order to meet statutory mandate.

Contact: Tom Mann, 710 Brazos, Austin, Texas 78701, (512) 867-8809.

Filed: August 22, 1995, 2:47 p.m.

TRD-9510625

Texas Diabetes Council

Thursday, September 7, 1995, 3:00 p.m.

Room T-407, Texas Department of Health, 1100 West 49th Street

Austin

Industry Advisory Committee

AGENDA:

The committee will discuss and possibly act on: report on Managed Care Committee; continuing medical education workshops; Operation Defeat Diabetes in Jefferson County and Tarrant County; and other business not requiring committee action.

Contact: Amy Pearson, 1100 West 49th Street, Austin, Texas 78756, (512)

458-7534. For ADA assistance, contact Richard Butler at (512) 458-6410 or T.D.D. at (512) 458-7708 at least two days prior to the meeting.

Filed: August 22, 1995, 4:56 p.m.

TRD-9510661

Texas Alternative Fuels Council

Thursday, August 31, 1995, 10:00 a.m.

1701 North Congress Avenue, Room 12-126, William B. Travis State Office Building

Austin

AGENDA:

I. Call to order

II. Consideration of minutes from March 10, 1995, council meeting

III. Consideration of Alternative Fuels Council Grant program

Contract extension

IV. Consideration of Alternative Fuels Council Loan Program

Loan policy/guidelines

V. Consideration of State Energy Conservation Office contract

VI. Consideration of Alternative Fuels Council 1995 fiscal year budget

VII. Executive session

VIII. Information items

IX. Public comment

X. Adjournment

Contact: Craig Davis, 300 West 15th Street, Room 130-A, Austin, Texas 78701, (512) 463-3262.

Filed: August 22, 1995, 11:44 a.m.

TRD-9510610

Texas Genetic Network (TEXGENE)

Friday, September 8, 1995, 9:00 a.m.

Room T-607, Texas Department of Health, 1100 West 49th Street

Austin

AGENDA:

The committee will discuss and possibly act on: public comments; adoption of the minutes of June 2, 1995 meeting; Interagency Council for Genetic Services (report on Interagency Council for Genetic Services (IAC) legislative activities; and invitation to TEXGENE to attend IAC for legislative education); TEXGENE subcommittee re-

ports (education; laboratory services; clinical services; data collection; ethics; and ad hoc committee-PRIMED (Preventive Regional Initiatives for Minority and Ethnic Diseases)); reports from agency representatives regarding the activities of their respective agencies or institutions (Texas Department of Health (TDH); Texas Department of Human Services; Texas Department of Mental Health and Mental Retardation; The University of Texas System; private service providers; community-based sickle cell agencies; and consumers); items for committee action (bylaw revisions; and elections); items for information (report from the Clinical Genetics Advisory Committee to TDH Bureau of Women and Children; and report from Scientific Advisory Committee on Birth Defects in Texas); program coordinator items (budget status; Special Project of Regional and National Significance update); progress toward grant objectives (member/committee assignments); and next meeting date (December 8, 1995).

*Lunch will be available. A working lunch is planned with a presentation by legislative representatives to educate TEXGENE and IAC members on the legislative process.

Contact: Veronyca C. Horst, 1100 West 49th Street, Austin, Texas 78756, (512) 458-7700. For ADA assistance, call Richard Butler (512) 458-7695 or T.D.D. (512) 458-7708 at least two days prior to the meeting.

Filed: August 24, 1995, 8:50 a.m.

TRD-9510710

Interagency Council for Genetic Services (IAC)

Friday, September 8, 1995, 1:00 p.m.

Room T-607, Texas Department of Health, 1100 West 49th Street

Austin

AGENDA:

The council will discuss and possibly act on: public comments; adoption of minutes from the June 2, 1995 meeting; Texas Genetics Network (TEXGENE) report (report on TEXGENE status); agency activities (Texas Department of Health; Texas Department of Mental Health and Mental Retardation; Texas Department of Human Services; University of Texas System; and representative of contractors); program coordinator items (budget status); progress toward legislative mandates/members assignments; announcements and comments not requiring council action; and next meeting (December 8, 1995).

Contact: Veronyca C. Horst, 1100 West 49th Street, Austin, Texas 78756, (512) 458-7700. For ADA assistance, call Richard

Butler (512) 458-7695 or T.D.D. (512) 458-7708 at least two days prior to the meeting.

Filed: August 24, 1995, 8:50 a.m.

TRD-9510711

◆ ◆ ◆
Department of Information Resources

Thursday, August 24, 1995, 8:30 a.m.
(Rescheduled from August 24, 1995, 9:00 a.m.)

Omni-Austin Hotel, Justice Room, 700 San Jacinto

Austin

Emergency Revised Agenda

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

Reason for emergency: Error in original posting regarding the time of the meeting.

Contact: John Hawkins, 300 West 15th Street, Suite 1300, Austin, Texas 78701, (512) 475-4714.

Filed: August 23, 1995, 4:39 p.m.

TRD-9510706

◆ ◆ ◆
Texas Department of Insurance

Tuesday, September 5, 1995, 9:00 a.m.

State Office of Administrative Hearings, 300 West 15th Street, Suite 502

Austin

454-95-0871.C

AGENDA:

To consider whether disciplinary action should be taken against Cynthia A. Edwards, Houston, Texas, who holds a Local Recording Agent's License issued by the Texas Department of Insurance.

Contact: Bernice Ross, 333 Guadalupe Street, Mail Code #113-2A, Austin, Texas 78701, (512) 463-6328.

Filed: August 22, 1995, 11:44 a.m.

TRD-9510605

Tuesday, September 5, 1995, 1:00 p.m.

State Office of Administrative Hearings, 300 West 15th Street, Suite 502

Austin

454-95-0674.C

AGENDA:

To consider whether disciplinary action should be taken against Roy Brown Bertrand, Jr., Waco, Texas, who holds a group I, Legal Reserve Life Insurance Agent's License issued by the Texas Department of Insurance (continued from July 31, 1995).

Contact: Bernice Ross, 333 Guadalupe Street, Mail Code #113-2A, Austin, Texas 78701, (512) 463-6328.

Filed: August 22, 1995, 11:44 a.m.

TRD-9510606

Wednesday, September 6, 1995, 9:00 a.m.

State Office of Administrative Hearings, 300 West 15th Street, Suite 502

Austin

AGENDA:

454-95-0886.C

To consider the application of Michael Eugene Watts, Dallas, Texas, for a Group I, Legal reserve Life Insurance Agent's License to be issued by the Texas Department of Insurance.

Contact: Bernice Ross, 333 Guadalupe Street, Mail Code #113-2A, Austin, Texas 78701, (512) 463-6328.

Filed: August 22, 1995, 11:44 a.m.

TRD-9510608

Friday, September 8, 1995, 9:00 a.m.

333 Guadalupe Street, Room 1264, Tower I

Austin

Revised Agenda

Texas Health Reinsurance System

AGENDA:

Revised Agenda: Board of Directors meeting

VII. Discussion and take possible action on establishing a line of credit for the System

VIII. Discussion and take possible action on the hiring of an administrating carrier for the System, and take possible action on the hiring

IX. Discussion and take possible action on establishing committees of the board, including Actuarial, Operations, Access, and Audit

X. Discussion and take possible action on communications to and from reinsured carriers and procedures connected with such communications

XI. Any further business

XII. Setting the agenda, date and location for next board meeting

XIII. Adjourn

Contact: Bernice Ross, 333 Guadalupe Street, Mail Code #113-2A, Austin, Texas 78701, (512) 463-6328.

Filed: August 22, 1995, 11:44 a.m.

TRD-9510609

Friday, September 8, 1995, 1:00 p.m.

State Office of Administrative Hearings, 1225 Agnes Street, Suite 102

Corpus Christi

AGENDA:

454-95-0874.E

Appeal of Rebecca Rivera of denial of damage claim by Texas Catastrophe Insurance Property Association.

Contact: Bernice Ross, 333 Guadalupe Street, Mail Code #113-2A, Austin, Texas 78701, (512) 463-6328.

Filed: August 22, 1995, 11:44 a.m.

TRD-9510607

Tuesday, October 31, 1995, 10:00 a.m.

State Office of Administrative Hearings, 300 West 15th Street, Suite 502

Austin

AGENDA:

The purpose of the hearing is consideration of adoption of the manual rates for private passenger and commercial classes of risks provided through the Texas Automobile Insurance Plan Association (Association).

Contact: Sylvia Gutierrez, 333 Guadalupe Street, Austin, Texas 78701, (512) 463-6327.

Filed: August 23, 1995, 9:58 a.m.

TRD-9510677

◆ ◆ ◆
Texas State Library

Thursday, September 7, 1995, 10:00 a.m.

Lorenzo del Zavala State Archives and Library Building, 1201 Brazos Street, Room 314

Austin

Texas State Library and Archives Commission

AGENDA:

1. Approve minutes for May 17, 1995 commission meeting.

2. Consider appeals by libraries not accredited for membership in the Texas Library System.

3. Consider City of Dallas appeal regarding denial of Major Urban Resource Library Grant.

4. Approve proposed amendments to Standards and Procedures for Management of Electronic Records—Commission Rules 13 TAC §§6.91-6.98 for State Records and 13 TAC §§7.71-7.78 for Local Government Records.

5. Approve proposed amendments to Local Records Retention Schedules (Local Schedule PW—Records of Public Works and Services, and the third edition of Local Schedule GR—Record. Common to All Local Government(s) Commission Rule 13 TAC §7.125.

6. Approve recommendations of internal auditor and/or staff regarding:

a) Alamo Area Library Systems grant

b) Information Services Program

c) Personnel activity

d) Purchasing activity

e) Risk assessment and audit plan for fiscal year 1996-1997

7. Approve negotiations for internal audit services or an RFP for internal audit services fiscal year 1996-1997.

8. Approve revisions to nepotism policy.

9. Public comment.

10. Director's report.

Contact: Raymond Hitt, P.O. Box 12927, Austin, Texas 78711, (512) 463-5440.

Filed: August 22, 1995, 2:47 p.m.

TRD-9510627

Texas State Board of Medical Examiners

Thursday, August 24, 1995, 9:00 a.m.

1812 Centre Creek Drive, Suite 300

Austin

Emergency Agenda

Hearings Division

AGENDA:

Probation appearance, 9:00 a.m.—Vicki S. Anderson, M.D., Odessa, Texas.

Probation appearance, 9:00 a.m.—Eric H. Scheffey, M.D., Houston, Texas.

Probation appearance, 9:00 a.m.—Patrick A. Titus, M.D., Houston, Texas.

Probation appearance, 10:00 a.m.—Harlan J. Borcharding, D.O., Tyler, Texas.

Probation appearance, 1:00 p.m.—Thomas R. Leconey, M.D., Weatherford, Texas.

Probation appearance, 1:00 p.m.—Ardashes Mirzatury, M.D., Terrell, Texas.

Modification request, 9:00 a.m.—Mark D. Pucek, M.D., Houston, Texas.

Modification request, 10:00 a.m.—Mark D. Westbrook, M.D., Houston, Texas.

Modification request, 1:00 p.m.—Raymond D. Hicks, M.D., Dallas, Texas.

Termination request, 10:30 a.m.—Kermit R. Veggeberg, M.D., Houston, Texas.

Termination request, 11:30 a.m.—Joe Bill Belue, M.D., Tyler, Texas.

Termination request, 12:30 p.m.—Michael A. Amaro, M.D., Missouri City, Texas.

Termination request, 2:00 p.m.—Carlton D. Pittard, M.D., Grapevine, Texas.

Termination Request, 2:30 p.m.—Donald S. Chandler, M.D., Desoto, Texas.

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, regarding 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, Fax: (512) 834-4597.

Filed: August 23, 1995, 10:03 a.m.

TRD-9510682

Texas Council on Offenders with Mental Impairments

Tuesday, September 5, 1995, 9:00 a.m.

8610 Shoal Creek Boulevard

Austin

Executive Committee

AGENDA:

I. Introductions

II. Public Comments

III. Approval of minutes

IV. Committee reports

Planning/Legislative Committee

.MOU/Action plan update

.Legislative update

.Committee activities for FY 1996

Program/Research Committee

.Committee activities for FY 1996

Finance Committee

.Committee activities for FY 1996

Nominations Committee report

V. Committee Structures

VI. Executive director report

Status report on TDCJ/Council audits

Fy 1996 Contract/Budget report

Dr. Teplin's summary report

Special skills training report

VII. Finalize Council agenda

Each item above includes discussion and action as necessary.

Contact: Dee Kifowit, 8610 Shoal Creek Boulevard, Austin, Texas 78757, (512) 406-5406.

Filed: August 23, 1995, 5:30 p.m.

TRD-9510708

Texas Natural Resource Conservation Commission

Monday, September 11, 1995, 10:00 a.m.

Building A, Room 110, 12124 Park 35 Circle

Austin

Office of Hearings Examiners

AGENDA:

Notice of public hearing on assessment of administrative penalties and requiring certain actions of Calabrian Chemicals Corporation, TNRCC Docket Number 95-1292-SWR-E.

Contact: Sylvia McClellan, Mail Code 102, P.O. Box 13087, Austin, Texas 78711-3087, (512) 239-4100.

Filed: August 23, 1995, 3:00 p.m.

TRD-9510701

Monday, September 25, 1995, 10:00 a.m.

TNRCC, 12124 Park 35 Circle, IH-35 North at Yager Lane, Building B, Room 201A

Austin

AGENDA:

On an application by Yoakum County Concrete Construction, proposed Standard Exemption Registration Number AQ-28599, to construction and operate a concrete batch plant under a standard exemption. The plant will be located at 9925 U.S. Highway 62-82 in the City of Wolfforth, Lubbock County, Texas.

Contact: Kyle Hagan, P.O. Box 13087, Austin, Texas 78711, (512) 239-1028.

Filed: August 23, 1995, 3:59 p.m.

TRD-9510703

Texas Board of Occupational Therapy Examiners

Wednesday, August 30, 1995, 9:30 a.m.

Columbia Lifecare Center, 3333 North Mesa, Classroom B

El Paso

Application Review Committee

AGENDA:

I. Call to order

II. Review and possible action on the following applications: L. Baldwin, R. Beck, J. Harrington, D. Harrison, M. Kenne, McChristian-Jones, F. McGowan

III. Discussion and possible action on rule revisions: Chapters 362, 364-367, 370, 371, and 374

IV. Adjournment

Contact: Joy L. Vaughn, 333 Guadalupe, Suite 2-510, Austin, Texas 78701-3942, (512) 305-6900.

Filed: August 22, 1995, 11:10 a.m.

TRD-9510603

Friday, September 1, 1995, 10:30 a.m.

Health Science Center at San Antonio, School of Allied Health Sciences, 7703 Floyd Curl Drive, Main Library Basement, Room 2.024

San Antonio

Rules Committee

AGENDA:

I. Call to order

II. Discussion and possible action on rule revisions: Chapters 362-374

III. Adjournment

Contact: Joy L. Vaughn, 333 Guadalupe, Suite 2-510, Austin, Texas 78701-3942, (512) 305-6900.

Filed: August 23, 1995, 11:10 a.m.

TRD-9510604

Board of Pardons and Pardon Roles

Thursday, August 31, 1995, 9:00 a.m.

Texas Law Center, Room 101/102, 1414 Colorado Street

Austin

Full Board

AGENDA:

I. Call to order by chairman

II. Recognition of guests

III. Approval of minutes of the previous meeting of the board held May 24, 1995

IV. Legislative Committee report

V. Sunset Committee report

VI. T.D.C.J.-Parole Division report-Melinda Bozarth

VII. Consider, discuss, and vote to propose initiation of administrative law changes

VIII. Adjournment

Contact: Juanita Llamas, 8610 Shoal Creek Boulevard, Austin, Texas 78759, (512) 406-7407.

Filed: August 23, 1995, 1:42 p.m.

TRD-9510692

Thursday, August 31, 1995, 1:00 p.m.

Texas Law Center, Room 101/102, 1414 Colorado Street

Austin

Full Board

AGENDA:

I. Call to order by chairman

II. Consideration and action on a petition for adoption of rules proposed May 22, 1995, by Francisco Gonzales (Proposal 95-1).

III. Consideration and action on a petition for adoption of rules proposed July 13, 1995, by Texas Civil Rights Project (Proposal 95-2).

IV. Adjournment

Contact: Juanita Llamas, 8610 Shoal Creek Boulevard, Austin, Texas 78759, (512) 406-7407.

Filed: August 23, 1995, 1:43 p.m.

TRD-9510693

Texas Parks and Wildlife Department

Wednesday, August 30, 1995, at 9:00 a.m.

Parks and Wildlife HQ, 4200 Smith School Road,

Austin

Parks and Wildlife Commission Finance Committee

AGENDA:

Approval of committee minutes of the previous meetings; annual charge to committee; action-fiscal year 1996 operating and capital budget and issuance of Park Development Bonds; briefing-five year funding needs and projected revenue; action-proposal to issue fees recommendations for public comments; action-annual audit plan; action-instant license; other business.

Contact: Andrew Sansom, 4200 Smith School Road, Austin, Texas 78744, (512) 389-4642.

Filed: August 23, 1995, 8:56 a.m.

TRD-9510648

Wednesday, August 30, 1995, 9:00 a.m.

Parks and Wildlife HQ, 4200 Smith School Road

Austin

Parks and Wildlife Commission Regulations Committee

AGENDA:

Approval of committee minutes of the previous meetings; annual charge to committee; action-1995-1996 Late Season Migratory Game Bird Proclamation; action-scientific, zoological, educational, and rehabilitation permits; action-trap and transplant permits, stocking plan; action-scientific breeder permits; action-general permits for the disturbance of removal of marl, sand, and gravel; other business.

Contact: Andrew Sansom, 4200 Smith School Road, Austin, Texas 78744, (512) 389-4642.

Filed: August 22, 1995, 3:58 p.m.

TRD-9510649

Wednesday, August 30, 1995, 9:00 a.m.

Parks and Wildlife HQ, 4200 Smith School Road

Austin

Parks and Wildlife Commission Public Lands Committee

AGENDA:

Approval of committee minutes of the previous meetings; annual charge to committee; action-nominations for oil and gas leases; action-electric transmission line easement-Smith County; action-land donation-Wharton County; action-sale of land-Medina County; other business.

Contact: Andrew Sansom, 4200 Smith School Road, Austin, Texas 78744, (512) 389-4642.

Filed: August 22, 1995, 4:00 p.m.

TRD-9510650

Wednesday, August 30, 1995, 6:00 p.m.

Four Seasons Hotel, 98 San Jacinto Boulevard,

Austin

Parks and Wildlife Commission Ducks Unlimited Reception

AGENDA:

Members of the Texas Parks and Wildlife Commission plan to have a reception at 6:00 p.m., August 30, 1995. Although this function is primarily a social event and no formal action is planned, the commission may discuss items on the public hearing

scheduled for 9:00 a.m., Thursday, August 31, 1995.

Contact: Andrew Sansom, 4200 Smith School Road, Austin, Texas 78744, (512) 389-4642.

Filed: August 22, 1995, 4:03 p.m.

TRD-9510651

Wednesday, August 30, 1995, 7:00 p.m.

Ruth's Chris Steakhouse, 3010 Guadalupe
Austin

Parks and Wildlife Commission

AGENDA:

Members of the Texas Parks and Wildlife Commission plan to have a dinner at 7:00 p.m., August 30, 1995. Although this function is primarily a social event and no formal action is planned, the commission may discuss items on the public hearing scheduled for 9:00 a.m., Thursday, August 31, 1995.

Contact: Andrew Sansom, 4200 Smith School Road, Austin, Texas 78744, (512) 389-4642.

Filed: August 22, 1995, 4:04 p.m.

TRD-9510652

Thursday, August 31, 1995, 9:00 a.m.

Parks and Wildlife HQ, 4200 Smith School Road

Austin

Parks and Wildlife Commission

AGENDA:

Approval of the commission minutes from the July 6, 1995 meeting; presentation of retirement certificates and service awards; big game awards recognition; signing of agreement-TPWD and Sul Ross University; action-local park funding; action-boat ramp funding; briefing-hunting forecast; action-1995-1996 Late Season Migratory Game Bird Proclamation; action-fiscal year 1996 operating and capital budget and issuance of Park Development Bonds; briefing-freshwater inflows; action-nominations for oil and gas leases; action-electric transmission line easement-Smith County; action-land donation-Wharton County; action-sale of land-Medina County; briefing-State Cemetery.

Contact: Andrew Sansom, 4200 Smith School Road, Austin, Texas 78744, (512) 389-4642.

Filed: August 22, 1995, 4:05 p.m.

TRD-9510653

Texas State Board of Examiners of Psychologists

Thursday-Friday, September 14-15, 1995, 8:00 a.m.

333 Guadalupe, Tower I, Room 1264

Austin

Revised Agenda

AGENDA:

There are no actual changes to the agenda itself as published in the August 18, 1995, issue of the *Texas Register*. However, there is a change to the room number where the meeting is to be held from Room 1296 to Room 1264.

Contact: Rebecca E. Forkner, 9101 Burnet Road, Suite 212, Austin, Texas 78758, (512) 835-2036.

Filed: August 23, 1995, 11:58 a.m.

TRD-9510690

Public Utility Commission of Texas

Monday, August 28, 1995, 10:00 a.m.

7800 Shoal Creek Boulevard

Austin

Hearings Division

Emergency Meeting

AGENDA:

A joint prehearing conference has been scheduled for the above date and time in Docket Number 14447-

Petition for MCI Telecommunications Corporation for an investigation of the practices of Southwestern Bell Telephone Company regarding the numbering plan area and request for a cease and desist order against Southwestern Bell Telephone Company and Docket Number 14575-petition of the office of Public Utility Counsel for an investigation of the practices of Southwestern Bell Telephone Company regarding the exhaustion of telephone numbers in the 713 numbering plan area and request for a cease and desist order against Southwestern Bell Telephone Company.

Reason for emergency: Need for immediate action before the next scheduled hearing on the merits.

Contact: Paula Mueller, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

Filed: August 22, 1995, 10:25 a.m.

TRD-9510601

Wednesday, August 30, 1995, 9:00 a.m.

7800 Shoal Creek Boulevard

Austin

AGENDA:

There will be an open meeting for discussion, consideration, and possible action on: P.14362, adoption of new §23.19; D.14239, complaint of George W. Hahn against Texas Utilities Electric Company; D.14584, petition of certain power marketers and non-utility generators for a declaratory order; D.12065, complaint of Kenneth D. Williams against HL&P; D.12700, El Paso Electric Company for authority to change rates and of Central and South West Corporation and El Paso Electric for approval of acquisition; D.13575, Texas Utilities Electric Company for approval of demand side management programs, renewable resources agreement, and requests regarding cost recovery mechanisms, and other relief; commission rules on transmission access and pricing and stranded investment; orders, including transmittal order and protective order, in connection with COA/SPCOA applications; comments in response to the FCC's notice of proposed rulemaking in CC Docket Number 95-116; Relay Texas Contract; briefing by the National Exchange Carrier Association related to the Universal Service Fund; activities relating to the Texas Defense Economic Adjustment Advisory Council; transfer of pending cases to State Office of Administrative Hearings; agency restructuring; agency administrative procedures; budget and fiscal matters; adjournment for closed session to consider litigation and personnel matters; reconvene for discussion and decisions on matters considered in closed session.

Contact: Paula Mueller, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0241.

Filed: August 22, 1995, 1:29 p.m.

TRD-9510617

Thursday, December 7, 1995, 9:00 a.m.

7800 Shoal Creek Boulevard

Austin

Hearings Division

AGENDA:

A hearing on the merits will be held on the above date and time in Docket Number 14475: complaint of Texas-New Mexico power company against Texas Utilities Electric Company.

Contact: Paula Mueller, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

Filed: August 22, 1995, 4:14 p.m.

TRD-9510654

Railroad Commission of Texas

Friday, September 29, 1995, 1:00 p.m.

Fort Worth Radisson Hotel, Crystal Ballroom, 815 Main Street

Fort Worth

AGENDA:

The Railroad Commission of Texas will hold a meeting on the state of the LP-gas industry.

1:00-1:30 p.m.—Call to order. Introduction of Chairman Barry Williamson, Commissioner Carole Keeton Rylander, and Commissioner Charles R. Matthews.

1:10-1:30 p.m.—Remarks by Chairman Williamson, Commissioner Rylander, and Commissioner Matthews.

1:30-3:45 p.m.—Speakers'/presenters' comments to the commission.

3:45 approximately—Closing remarks by Chairman Williamson, Commissioner Rylander, and Commissioner Matthews.

4:00 p.m.—Adjournment.

Contact: Thomas D. Peru, P.O. Box 12967, Austin, Texas 78711-2967, (512) 463-6949.

Filed: August 23, 1995, 9:29 a.m.

TRD-9510674

Boards for Lease of State-Owned Lands

Thursday, August 31, 1995, 3:00 p.m.

General Land Office, Stephen F. Austin Building, 1700 North Congress Avenue, Room 833

Austin

Board for Lease of Texas Parks and Wildlife Department

AGENDA:

Approval of previous board meeting minutes; lease renewal application, Candy Abshire Wildlife Management Area, Chambers County; pipeline easement application, Lower Neches Wildlife Management Area, Jefferson County; electric transmission line easement application, Old Sabine Bottom Wildlife Management Area, Smith County; water line easement renewal, Possum Kingdom State Natural Area, Palo Pinto County; consideration of nominations, terms, conditions and procedures for the October 3, 1995 oil, gas and other minerals lease sale.

Contact: Linda K. Fisher, 1700 North Congress Avenue, Room 836, Austin, Texas 78701, (512) 463-5016.

Filed: August 23, 1995, 2:46 p.m.

TRD-9510699

Thursday, August 31, 1995, 3:30 p.m.

General Land Office, Stephen F. Austin Building, 1700 North Congress Avenue, Room 833

Austin

Board for Lease of Texas Department of Criminal Justice

AGENDA:

Approval of previous board meeting minutes; lease renewal application, Candy Abshire Wildlife Management Area, Chambers County; pipeline easement application, Lower Neches Wildlife Management Area, Jefferson County; electric transmission line easement application, Old Sabine Bottom Wildlife Management Area, Smith County; water line easement renewal, Possum Kingdom State Natural Area, Palo Pinto County; consideration of nominations, terms, conditions and procedures for the October 3, 1995 oil, gas and other minerals lease sale.

Contact: Linda K. Fisher, 1700 North Congress Avenue, Room 836, Austin, Texas 78701, (512) 463-5016.

Filed: August 23, 1995, 2:47 p.m.

TRD-9510700

Thursday, August 31, 1995, 3:30 p.m.

General Land Office, Stephen F. Austin Building, 1700 North Congress Avenue, Room 833

Austin

Revised Agenda

Board for Lease of Texas Department of Criminal Justice

AGENDA:

Approval of previous board meeting minutes; consideration of nominations, terms, conditions and procedures for the October 3, 1995 oil, gas and other minerals lease sale.

Contact: Linda K. Fisher, 1700 North Congress Avenue, Room 806, Austin, Texas 78701, (512) 463-5016.

Filed: August 23, 1995, 4:57 p.m.

TRD-9510707

Teacher Retirement System of Texas

Tuesday, August 30, 1995, 9:00 a.m.

1717 Main Street, Seventh Floor Boardroom

Austin

Board of Trustees Real Estate Committee

AGENDA:

Approval of minutes of July 21, 1995, meeting; consideration of proposed sale of property owned by TRST Plantation, Inc.; consideration of proposed sale of properties owned by TRST Houston, Inc.; and update on mortgage risk ratings

Contact: Mary Godzik, 1000 Red River, Austin, Texas 78701-2698, (512) 397-6400.

Filed: August 22, 1995, 3:32 p.m.

TRD-9510643

Texas Department of Transportation

Thursday, August 31, 1995, 9:00 a.m.

500 Rio Concho Drive, San Angelo Convention Center

San Angelo

Texas Transportation Commission

AGENDA:

Recognition and comments by officials from San Angelo, Tom Green County, Midland/Odessa Transportation Alliance, area legislators; district reports from San Angelo, Brownwood, and Abilene. Approve minutes. Awards/recognitions/resolutions. Contract awards/rejections/defaults. Programs-1996 Project Development Plan. Routine minute orders. Multimodal transportation, funding and projects. Operating budget for fiscal year 1996. Rulemaking: 43 TAC Chapters 1, 3, 9, 11, 15, 17, 18, 25, and 28. Executive session for legal counsel, land acquisition, and personnel matters. Open comment period.

Contact: Diane Northam, 125 East 11th Street, Austin, Texas 78701, (512) 463-8630.

Filed: August 23, 1995, 2:06 p.m.

TRD-9510694

Thursday, September 7, 1995, 9:00 a.m.

815 Brazos, Suite 302

Austin

Motor Vehicle Board

AGENDA:

Call to order; roll call. Introduction of new board members. Approval of minutes of Motor Vehicle Board meeting on May 18, 1995. Argument on proposal for decision. Public hearing on consideration of proposed amendments to Texas Motor Vehicle Board rules 101.64 and 107.1, and new 107.12 (pertaining to notice requirements for lemon law hearings), 109.1-109.11 (pertaining to Lessors and Lease Facilitators) and 111.1-111.16 (pertaining to General Distinguishing Numbers). Consideration of proposals for decision. Agreed orders. Consumer Affairs orders of dismissal and

settlement orders. Orders of dismissal. Other: a. Recognition of employees; b. Review of litigation status report; c. Review of consumer complaint recap report including decisions made by examiners, division director and board members; d. Review of Article 6686 (P-number) contested cases; e. Division budget status; e. Legislative update; f. Relocation update; g. 1996 board meeting schedule; h. election of vice chair. Adjournment.

Contact: Brett Bray, 815 Brazos, #300, Austin, Texas 78701, (512) 476-3587.

Filed: August 23, 1995, 2:06 p.m.

TRD-9510695

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**The University of Texas
Health Center at Tyler**

Thursday, September 7, 1995, Noon.

Highway 271 at Highway 155, Room 116
Tyler

Animal Research Committee

AGENDA:

Approval of minutes

Chairman report

Veterinarian report

Old business

New business

Adjournment

Contact: Cindy Pessink, P.O. Box 2003, Tyler, Texas 75710, (903) 877-7594.

Filed: August 23, 1995, 10:21 a.m.

TRD-9510683

◆ ◆ ◆
**Board of Vocational Nurse
Examiners**

Monday-Tuesday, September 11-12,
1995, 8:00 a.m.

Austin North Hilton and Towers, 6000 Middle Fiskville Road

Austin

Board Meeting

AGENDA:

Monday, September 11, 1995-8:00 a.m.-Call to order; introduction of board members; introduction of new staff; approval of minutes; education report (program matters, program actions, meetings/conference/seminars attended, summary of board actions pertaining to education matters); unfinished business (current budget, TPAPN, Health Professions Council, Hilton Hotel report); executive direc-

tor's report; new business (delegate assembly success story, election of board officers, executive director evaluation, Rules Committee meeting)

Tuesday, September 12, 1995-8:00 a.m.-Administrative hearings; presentative of rules by Rules Committee; any unfinished business and adjournment.

ON CALL-Executive session to discuss personnel changes/matters

Contact: Marjorie A. Bronk, 9191 Burnet Road, Suite 105, Austin, Texas 78758, (512) 835-2071.

Filed: August 22, 1995, 1:30 p.m.

TRD-9510619

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Texas Workers' Compensation Insurance Fund

Wednesday, August 30, 1995, 8:30 a.m.

100 Congress, Suite 600

Austin

Board of Directors

AGENDA:

Call to order; roll call; review and approval of the minutes of the July 25, 1995 and the July 26, 1995, board meetings; action items; consideration of approval of consultant for services for a compensation study; consideration of amendments to board policies on governance and executive authority and to committee job descriptions; report of the START appeals panel regarding appeal by personnel connection; consideration of appointment of independent auditor for 1995 audit; consideration of a change in the administration of retirement plan; consideration of amendments to policies and procedures for administration of START Program; financial report; fund status report; informational items; report of the Administrative Committee; report of the Finance Committee; report of the Operations Committee; report of the Organizational Effectiveness Committee; public participation; executive session; action items resulting from executive session deliberations; consideration of approval of amendments to underwriting guidelines; consideration of strategic decision on whether to build or lease future Austin office space; discussion of board seating arrangement; announcements; adjourn

Contact: Jeanette Ward, 100 Congress Avenue, Austin, Texas 78701, (512) 404-7142.

Filed: August 22, 1995, 3:26 p.m.

TRD-9510642

Texas Youth Commission

Thursday, August 31, 1995, 9:00 a.m.

4900 North Lamar Boulevard, Room 1410

Austin

Board

AGENDA:

Policy regarding the authority to Commission Apprehension Specialists as Peace Officers (Action)

Approval of interagency agreement for Construction Management Services with the Texas Department of Criminal Justice (Action)

Revise and/or adopt policies and procedures as necessary to affect interagency agreement with the Texas Department of Criminal Justice for Construction Management Services (Action)

Authorize the awarding of contracts for construction projects authorized by the 73rd Legislature and deletion of a previously approved project (Action)

Approval of request for financing for the initial phase of construction projects authorized by the 74th Legislature (Action)

Quarterly construction status report and end of biennium report (Information)

Election of board officers (Action)

Next regularly scheduled meeting date, September 21, 1995

Contact: Steve Robinson, P.O. Box 4260, Austin, Texas 78765, (512) 483-5001.

Filed: August 23, 1995, 11:18 a.m.

TRD-9510689

◆ ◆ ◆
Regional Meetings

**Meetings Filed August 22,
1995**

The Austin-Travis County MHMR Center (Emergency Meeting.) Executive Committee met at 1430 Collier Street-ED Conference Room, Austin, August 24, 1995, at 4:00 p.m. (Reason for emergency: Item requiring action prior to Board of Trustees meet on August 24, 1995.) Information may be obtained from Sharon Taylor, P.O. Box 3548, Austin, Texas 78764-3548, (512) 447-4141. TRD-9510602.

The Education Service Center, Region VI Board of Directors met at 1301 Sam Houston Avenue, Huntsville, August 28, 1995, at 6:00 p.m. Information may be obtained from Bobby Roberts, 3332 Montgomery Road, Huntsville, Texas 77340, (409) 295-9161. TRD-9510647.

The Education Service Center, Region XVI (Revised Agenda.) Board of Directors

met at 1601 South Cleveland, Board Room, Amarillo, August 25, 1995, at 1:00 p.m. Information may be obtained from Darrell L. Garrison, P.O. Box 30600, Amarillo, Texas 79120, (806) 376-5521. TRD-9510615.

The Gulf Bend Center Committee of the Whole will meet at 1502 East Airline, Victoria, August 29, 1995, at 9:00 a.m. Information may be obtained from Agnes Moeller, 1502 East Airline, Victoria, Texas 77901, (512) 575-0611. TRD-9510659.

The Gulf Bend Center Board of Trustees will meet at 1502 East Airline, Victoria, August 29, 1995, at Noon. Information may be obtained from Agnes Moeller, 1502 East Airline, Victoria, Texas 77901, (512) 575-0611. TRD-9510658.

The Lee County Appraisal District Board of Directors will meet at 218 East Richmond Street, Giddings, August 30, 1995, at 9:00 a.m. Information may be obtained from Roy L. Holcomb, 218 East Richmond Street, Giddings, Texas 78942, (409) 542-9618. TRD-9510611.

The Lubbock Regional MHMR Center Board of Trustees-Program Committee met at 1602 Tenth Street, Lubbock, August 25, 1995, at Noon. Information may be obtained from Gene Menefee, P.O. Box 2828, Lubbock, Texas 79408, (806) 766-0202. TRD-9510620.

The Middle Rio Grande Development Council Texas Review and Comment System will meet in the MRGDC Operations Conference Room, 209 North Getty Street, Uvalde, August 30, 1995, at 4:00 p.m. Information may be obtained from Erma Alejandro, 209 North Getty Street, Uvalde, Texas 78801, (210) 278-4151. TRD-9510614.

The Texas Rural Communities, Inc. Board of Directors will meet at 1016 La Posada Drive, Suite 280, Austin, September 7, 1995, at 9:00 a.m. Information may be obtained from Leslie Janca, 1016 La Posada Drive, Suite 200, Austin, Texas 78752, (512) 458-1016. TRD-9510662.

Meetings Filed August 23, 1995

The Cash Water Supply Corporation Board of Directors met at the Corporation Office, FM 1564 at Highway 34, Greenville, August 28, 1995, at 5:30 p.m. Information may be obtained from Eddy W. Daniel, P.O. Box 8129, Greenville, Texas 75404-8129, (903) 883-2695. TRD-9510696.

The Lubbock Regional MHMR Center Board of Trustees-Resource Committee met at 1602 Tenth Street-Board Room, Lubbock, August 28, 1995, at 11:00 a.m. Information may be obtained from Gene Menefee, P.O. Box 2828, Lubbock, Texas 79408, (806) 766-0202. TRD-9510698.

The Lubbock Regional MHMR Center Board of Trustees met at 1602 Tenth Street-Board Room, Lubbock, August 28, 1995, at Noon. Information may be obtained from Gene Menefee, P.O. Box 2828, Lubbock, Texas 79408, (806) 766-0202. TRD-9510697.

The Southwest Milam Water Supply Corporation Board met at 114 East Cameron, Rockdale, August 28, 1995, at 7:00 p.m. Information may be obtained from Dwayne Jekel, P.O. Box 232, Rockdale, Texas 76567, (512) 446-2604. TRD-9510691.

Meetings Filed August 24, 1995

The Angelina and Neches River Authority ANRA Board of Directors will meet in the Conference Room, 210 Lufkin Avenue, Lufkin, August 29, 1995, at 9:30 a.m. Information may be obtained from Gary L. Neighbors, P.O. Box 387, Lufkin, Texas 75901, (409) 632-7795. TRD-9510709.

The MHMR Authority of Brazos Valley (Emergency Revised Agenda.) Board of Trustees met at 804 Texas Avenue, Conference Room A, Bryan, August 24, 1995, at 1:00 p.m. (Reason for emergency: All bids were not in and must have a board decision before September 1, 1995.) Information may be obtained from Leon Bawcom, P.O. Box 4588, Bryan, Texas 77805, (409) 822-6467. TRD-9510713.

The Kendall Appraisal District Appraisal Review Board met at 121 South Main Street, Boerne, August 28, 1995, at 9:00 a.m. Information may be obtained from Mick Mikulenka or Tammy Johnson, P.O. Box 788, Boerne Texas 78006, (210) 249-8012, Fax: (210) 249-3975. TRD-9510721.

The Kendall Appraisal District Appraisal Review Board will meet at 121 South Main Street, Boerne, August 29, 1995, at 9:00 a.m. Information may be obtained from Mick Mikulenka or Tammy Johnson, P.O. Box 788, Boerne Texas 78006, (210) 249-8012, Fax: (210) 249-3975. TRD-9510722.

The Kendall Appraisal District Appraisal Review Board will meet at 121 South Main Street, Boerne, August 30, 1995, at 9:00 a.m. Information may be obtained from Mick Mikulenka or Tammy Johnson, P.O. Box 788, Boerne Texas 78006, (210) 249-8012, Fax: (210) 249-3975. TRD-9510723.

The Kendall Appraisal District Appraisal Review Board will meet at 121 South Main Street, Boerne, August 31, 1995, at 9:00 a.m. Information may be obtained from Mick Mikulenka or Tammy Johnson, P.O. Box 788, Boerne Texas 78006, (210) 249-8012, Fax: (210) 249-3975. TRD-9510724.

The Kendall Appraisal District Appraisal Review Board will meet at 121 South Main Street, Boerne, September 5, 1995, at 9:00 a.m. Information may be obtained from Mick Mikulenka or Tammy Johnson, P.O. Box 788, Boerne Texas 78006, (210) 249-8012, Fax: (210) 249-3975. TRD-9510725.

The Kendall Appraisal District Appraisal Review Board will meet at 121 South Main Street, Boerne, September 6, 1995, at 9:00 a.m. Information may be obtained from Mick Mikulenka or Tammy Johnson, P.O. Box 788, Boerne Texas 78006, (210) 249-8012, Fax: (210) 249-3975. TRD-9510726.

The Kendall Appraisal District Appraisal Review Board will meet at 121 South Main Street, Boerne, September 7, 1995, at 9:00 a.m. Information may be obtained from Mick Mikulenka or Tammy Johnson, P.O. Box 788, Boerne Texas 78006, (210) 249-8012, Fax: (210) 249-3975. TRD-9510727.

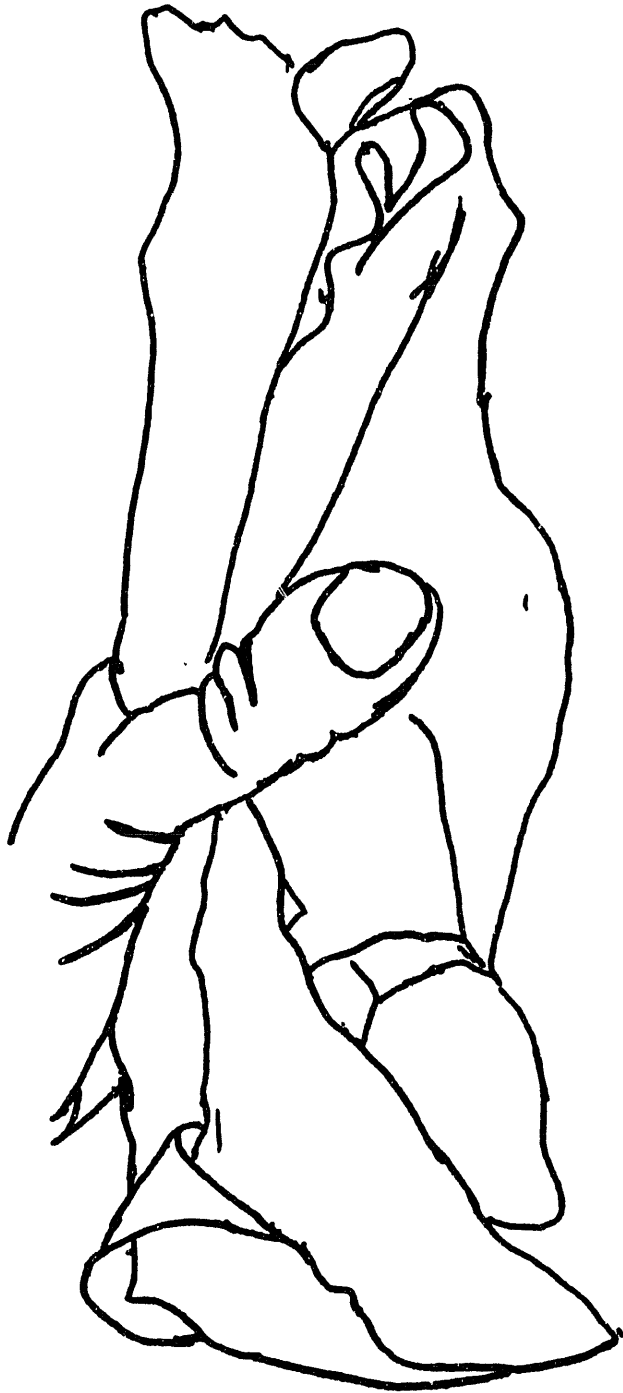
The Kendall Appraisal District Appraisal Review Board will meet at 121 South Main Street, Boerne, September 11, 1995, at 9:00 a.m. Information may be obtained from Mick Mikulenka or Tammy Johnson, P.O. Box 788, Boerne Texas 78006, (210) 249-8012, Fax: (210) 249-3975. TRD-9510728.

The Kendall Appraisal District Appraisal Review Board will meet at 121 South Main Street, Boerne, September 12, 1995, at 9:00 a.m. Information may be obtained from Mick Mikulenka or Tammy Johnson, P.O. Box 788, Boerne Texas 78006, (210) 249-8012, Fax: (210) 249-3975. TRD-9510729.

The Kendall Appraisal District Appraisal Review Board will meet at 121 South Main Street, Boerne, September 13, 1995, at 9:00 a.m. Information may be obtained from Mick Mikulenka or Tammy Johnson, P.O. Box 788, Boerne Texas 78006, (210) 249-8012, Fax: (210) 249-3975. TRD-9510730.

The Kendall Appraisal District Appraisal Review Board will meet at 121 South Main Street, Boerne, September 14, 1995, at 9:00 a.m. Information may be obtained from Mick Mikulenka or Tammy Johnson, P.O. Box 788, Boerne Texas 78006, (210) 249-8012, Fax: (210) 249-3975. TRD-9510731.

The North Plains Ground Water Conservation District Number Two Board (Special Meeting) met at 603 East First, Dumas, August 28, 1995, at 10:00 a.m. Information may be obtained from Richard S. Bowers, P.O. Box 795, Dumas, Texas 79029-0795, (806) 935-6401. TRD-9510712.



Still
Life

Name: Donald Ballard
Grade: 9
School: Skyline High School, Dallas ISD

IN ADDITION

The *Texas Register* is required by statute to publish certain documents, including applications to purchase control of state banks, notices of rate ceilings, changes in interest rate and applications to install remote service units, and consultant proposal requests and awards.

To aid agencies in communicating information quickly and effectively, other information of general interest to the public is published as space allows.

Comptroller of Public Accounts Notices of Request for Proposals

Pursuant to the Texas Government Code, Chapter 2254, Subchapter B, and House Bill 1214 passed earlier this year by the 74th Legislature, and which amended Texas Education Code, Chapter 54, to add Subchapter F, the Comptroller of Public Accounts (Comptroller) announces the issuance of a Request for Proposals (RFP) for the purpose of hiring a consultant to assist the Comptroller with market research services in connection with the establishment of a Prepaid Higher Education Tuition Program. House Bill 1214 provides that the program be administered by a seven member Prepaid Higher Education Tuition Board (Board). The Comptroller is the executive director and chairperson of the Board. The fund to be created to hold the funds from contracts and investments of the program is to be known as the Texas Tomorrow Fund. The Board, when appointed, is authorized to enter into one or more contracts for the performance of services relating to establishing and maintaining the program. The Comptroller, as executive director of the Board, is issuing this RFP in order to move forward with retaining services necessary to establish the program, provided that the vendor chosen by the Comptroller pursuant to this RFP will be subject to approval by the Board. The Comptroller has identified market research services as a service required to establish the program. If approved by the Board, the successful proposer will be expected to begin performance of the contract on or about October 9, 1995.

Contact: Parties interested in submitting a proposal should contact the Comptroller of Public Accounts, Senior Legal Counsel's Office, 111 East 17th Street, Room 113, Austin, Texas 78774, (512) 475-0866, to obtain a complete copy of the RFP. The RFP will be available for pick-up at the previously referenced address on Tuesday, August 29, 1995, between 4:00 p.m. and 5:00 p.m. Central Zone Time (CZT), and during normal business hours thereafter. All written inquiries and mandatory letters of intent to propose must be received at the previously-referenced address prior to 4:00 p.m. (CZT) on Friday, September 8, 1995.

Closing Date: Proposals must be received in the Senior Legal Counsel's Office no later than 4:00 p.m. (CZT), on Thursday, September 21, 1995. Proposals received after this time and date will not be considered.

Award Procedure: All proposals will be subject to evaluation by a committee based on the evaluation criteria set forth in the RFP. The committee will determine which proposal best meets these criteria and will make a recommendation to the Deputy Comptroller, who will then make a recommendation to the Comptroller. The Comptroller will make the final selection of a proposer to be recom-

mended to the Board. A proposer may be asked to clarify its proposal, which may include an oral presentation prior to final selection.

The Comptroller reserves the right to accept or reject any or all proposals submitted. Neither the Comptroller nor the Board is under any legal or other obligation to execute a contract on the basis of this notice or the distribution of an RFP. Neither this notice nor the RFP commits the Comptroller or the Board to pay for any costs incurred prior to the execution of a contract. The anticipated schedule of events is as follows: Issuance of RFP—August 29, 1995, 4:00 p.m. (CZT); Mandatory Letter of Intent and Questions Due—September 8, 1995, 4:00 p.m. (CZT); Proposals Due—September 21, 1995, 4:00 p.m. (CZT); and Contract Execution—October 9, 1995, or soon thereafter as possible.

Issued in Austin, Texas, on August 23, 1995.

TRD-9510679 Arthur F. Lorton
Senior Legal Counsel
Comptroller of Public Accounts

Filed: August 23, 1995

Pursuant to Texas Government Code, Chapter 2254, Subchapter B, and House Bill 1214, passed earlier this year by the 74th Legislature and which amended Texas Education Code, Chapter 54, to add Subchapter F, the Comptroller of Public Accounts (Comptroller) announces the issuance of a Request for Proposals (RFP) for the purpose of hiring a consultant to assist the Comptroller with actuarial and related consulting services in connection with the establishment of a prepaid higher education tuition program. House Bill 1214 provides that the program be administered by a seven member Prepaid Higher Education Tuition Board (Board). The Comptroller is the executive director and chairperson of the Board. The fund to be created to hold funds from contracts and investments of the program is to be known as the Texas Tomorrow Fund. The Board, when appointed, is authorized to enter into one or more contracts for the performance of services relating to establishing and maintaining the program. The Comptroller, as executive director of the Board, is issuing this RFP in order that the Board may move forward with retaining services necessary to establish the program, provided that the vendor recommended by the Comptroller pursuant to this RFP process will be subject to approval by the Board. The Comptroller has identified actuarial and related consulting services as a service required to establish the program. If approved by the Board, the successful proposer will be expected to begin performance of the contract on or about October 9, 1995.

Contact: Parties interested in submitting a proposal should contact the Comptroller of Public Accounts, Senior Legal

Counsel's Office, 111 East 17th Street, Room 113, Austin, Texas 78774, (512) 475-0866, to obtain a complete copy of the RFP. The RFP will be available for pick-up at the previously referenced address on Tuesday, August 29, 1995, between 4:00 p.m. and 5:00 p.m. Central Zone Time (CZT), and during normal business hours thereafter. All written inquiries and mandatory letters of intent to propose must be received at the previously-referenced address prior to 4:00 p.m. (CZT) on Friday, September 8, 1995.

Closing Date: Proposals must be received in the Senior Legal Counsel's Office no later than 4:00 p.m. (CZT), on Thursday, September 21, 1995. Proposals received after this time and date will not be considered.

Award Procedure: All proposals will be subject to evaluation by a committee based on the evaluation criteria set forth in the RFP. The committee will determine which proposal best meets these criteria and will make a recommendation to the Deputy Comptroller, who will then make a recommendation to the Comptroller. The Comptroller will make the final selection as to a proposer to be recommended to the Board. A proposer may be asked to clarify its proposal, which may include an oral presentation prior to final selection.

The Comptroller reserves the right to accept or reject any or all proposals submitted. Neither the Comptroller nor the Board is under any legal or other obligation to execute a

contract on the basis of this notice or the distribution of an RFP. Neither this notice nor the RFP commits the Comptroller or the Board to pay for any costs incurred prior to the execution of a contract. The anticipated schedule of events is as follows: Issuance of RFP-August 29, 1995, 4:00 p.m. (CZT); Mandatory Letter of Intent and Questions Due-September 8, 1995, 4:00 p.m. (CZT); Proposals Due-September 21, 1995, 4:00 p.m. (CZT); and Contract Execution-October 9, 1995, or soon thereafter as possible.

Issued in Austin, Texas, on August 23, 1995.

TRD-9510680 Arthur F. Lorton
Senior Legal Counsel
Comptroller of Public Accounts

Filed: August 23, 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, Articles 1.04 and 1.05, as amended (Texas Civil Statutes, Articles 5069-1.04 and 1.05).

<u>Types of Rate Ceilings</u>	<u>Effective Period (Dates are Inclusive)</u>	<u>Consumer ⁽¹⁾/Agricultural/ Commercial ⁽²⁾ thru \$250,000</u>	<u>Commercial⁽²⁾ over \$250,000</u>
Indicated (Weekly) Rate - Art. 1.04(a)(1)	08/28/95-09/03/95	18.00%	18.00%
Judgment Rate - Art. 1.05, Section 2	09/01/95-09/30/95	10.00%	10.00%

⁽¹⁾Credit for personal, family or household use. ⁽²⁾Credit for business, commercial, investment or other similar purpose.

Issued in Austin, Texas, on August 21, 1995.

TRD-9510673 Leslie L. Pettijohn
Commissioner

Office of Consumer Credit Commissioner
Filed: August 23, 1995

Texas Education Agency
Request for Applications Concerning
Fiscal Year 1995-1996 State and
Federal Adult Education Job
Opportunities and Basic Skills (JOBS)
Funding

Filing Authority. The availability of grant funds under Requests for Applications (RFA) #701-95-044 is authorized by the Texas Education Code, Chapter 29, Subchapter H, and the Family Support Act of 1988, Public Law (PL) 100-485.

Eligible Applicants. The Texas Education Agency (TEA) is requesting applications from public local education agencies, including local school districts, education service centers, and public postsecondary education institutions; public nonprofit agencies; and community-based organizations to provide educational services to out-of-school Aid to Families with Dependent Children (AFDC) recipients who have been identified by the Texas Department of Human Services (TDHS) as participants in the JOBS program.

Description. Programs funded under this RFA will be implemented only in the 87 counties designated by TDHS as JOBS counties. Under the TEA/TDHS interagency agreement the following educational services are to be provided.

- 1) individual academic assessment to determine the educational service level of each JOBS participant enrolled;
- 2) adult basic and remedial instruction necessary for a JOBS participant to achieve a literacy level consistent with the participant's employability plan;
- 3) adult secondary instruction necessary for a JOBS participant to achieve a literacy level consistent with the participant's employability plan; and
- 4) instruction in English as a Second Language (ESL) where assessment indicates that English language training is necessary for the JOBS participant to meet the objectives of the participant's employability plan.

Eligible applicants can apply directly to TEA and compete for funding. Eligible recipients are encouraged to maximize the fiscal resources available for service to undereducated JOBS participants and avoid unproductive duplication of services and excessive administrative costs by coordinating and by forming consortia or cooperatives using fiscal agents as authorized by State Board of Education (SBOE) rule and the TEA/TDHS interagency agreement. Eligible applicants may apply to provide services to a TDHS designated JOBS county, to a portion of a county, or to multiple counties.

Dates of Project. The JOBS program will be implemented during the 1995-1996 school year. Applicants should plan for a starting date of no earlier than September 1, 1995, and an ending date of no later than August 31, 1996.

Project Amount. The application package contains details regarding available funds allocated to JOBS counties. The program is funded 50% from federal funds under PL 100-485 and 50% from nonfederal sources.

Selection Criteria. Applications will be selected based on the ability of each applicant to carry out all requirements

contained in the RFA. The TEA reserves the right to select from the highest ranking applications those that address all requirements in the RFA. The TEA is under no obligation to approve an application, provide funds, or endorse any application submitted in response to this RFA. This RFA does not commit TEA to pay any costs incurred before an application is approved. The issuance of this RFA does not obligate TEA to award a grant or to pay any costs incurred in preparing a response. Applicants will be selected for funding the last week of September 1995 for an effective date of September 1, 1995.

Requesting the Application. A complete copy of RFA #701-95-044 may be obtained by contacting the Document Control Center, Room 6-108, Texas Education Agency, William B. Travis Building, 1701 North Congress Avenue, Austin, Texas 78701, (512) 463-9304. Please refer to the RFA number in your request.

Further Information. For clarifying information about the RFA, contact Dr. Deborah Stedman, Division of Adult and Community Education, Texas Education Agency, (512) 463-9294.

Deadline for Receipt of Applications. Applications must be received in the Texas Education Agency Document Control Center by 5:00 p.m., September 22, 1995 (Central Daylight Time), to be considered.

Issued in Austin, Texas, on August 23, 1995.

TRD-9510667 Criss Clout
Executive Associate Commissioner
Texas Education Agency

Filed: August 23, 1995

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Texas Department of Health
Correction of Error

The Texas Department of Health adopted an amendment to §29.610, concerning disproportionate share reimbursement methodology for state-owned teaching hospitals. The rule appeared in the August 15, 1995, issue of the *Texas Register* (20 TexReg 6206).

The effective date of the section was submitted incorrectly to be effective 20 days after filing. The correct effective date is September 1, 1995.

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Notice of Rescission of Orders

Notice is hereby given that the Bureau of Radiation Control, Texas Department of Health, rescinded the following orders: Emergency Cease and Desist Order issued July 26, 1995, to Daniels Chiropractic Clinic, 6620 South Congress Avenue, Austin, Texas 78757, holder of Certificate of Registration Number R16401; Emergency Cease and Desist Order issued June 22, 1995, to Royce C. Borho, D.C., 6108 Highway 290 West, Austin, Texas 78735, holder of Certificate of Registration Number R06105.

A copy of all relevant material is available for public inspection at the Bureau of Radiation Control, Exchange Building, 8407 Wall Street, Austin, Monday-Friday, 8:00 a.m. to 5:00 p.m. (except holidays).

Issued in Austin, Texas on August 23, 1995.

Filed: August 23, 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 (RFPs) for the provision of maternal and child health services to women and children currently being served by the department's regional clinics in specified areas of the state. Services include prenatal care, family planning, preventive and primary child health care, and case management. This notification amends a similar *Texas Register* announcement published in the August 22, 1995, issue of the *Texas Register* (20 TexReg 6512). This notice adds 19 counties to the originally published service area list. For these 21 additional counties, RFPs are due by September 12, 1995 and notification of awards will be made by September 20, 1995. RFPs for those counties listed in the original August 22, 1995, announcement are still due by September 5, 1995 and notification of awards will be made by September 15, 1995. Contracts which may be awarded as a result of this RFP process will have 9 to 11 month terms, beginning between October 1 and December 1, 1995 and ending August 31, 1996. All contract start dates (including those applicable to the counties in the original August 22 publication) will be individually negotiated. The 21 additional counties are as follows.

Public Health Region 2: Hale and Garza.

Public Health Region 7: Fayette, Lee, Coryell, Llano, and San Saba.

Public Health Region 8: La Salle, Dimmit, Goliad, and Uvalde.

Public Health Region 9/10: Mason, Kimble, Coke, Sterling, Irion, Concho, Culberson, Upton and Martin.

Public Health Region 11: McMullen.

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 22, 1995.

Filed: August 23, 1995

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Texas Department of Insurance Notice of Public Hearing for Private Passenger and Commercial Automobile Insurance Rates Concerning the Texas Automobile Insurance Plan Association—Docket Number 454- 95-0966.G

Notice is hereby given that a hearing under Docket Number 454-95-0966.G will be held before an administrative

law judge (ALJ) of the State Office of Administrative Hearings (SOAH) at 10:00 a.m. on October 31, 1995, and continuing thereafter at dates, times and places designated by the ALJ until conclusion. The purpose of the hearing is consideration of adoption of the manual rates for private passenger and commercial classes of risks provided through the Texas Automobile Insurance Plan Association (Association). The hearing will be held at SOAH, Suite 502 of the William Clements State Office Building at 300 West 15th Street, Austin, Texas 78701.

Authority, Jurisdiction and Statutes and Rules Involved.

The commissioner has jurisdiction and legal authority over the subject matter of this hearing pursuant to the Texas Insurance Code, Article 21.81, §5. Pursuant to the Texas Insurance Code, Article 1.33B(b), SOAH shall conduct the hearing. Statutes involved include the Texas Insurance Code, Chapter 5, Subchapter A, Article 21.81 and Article 5.131.

The procedure of the hearing will be governed by the Rules of Practice and Procedure For Industry-Wide Rate Cases before the department (Texas Administrative Code, Title 28, Chapter 1, Subchapter L), the Memorandum of Understanding between the department and SOAH (Texas Administrative Code, Title 28, Chapter 1, §1.90), the Administrative Procedure Act (Texas Government Code, Chapter 2001) and SOAH's Rules of Procedures (Texas Administrative Code, Title 1, Chapter 155).

Matter to be Considered.

The commissioner will consider testimony presented and information filed by the Association, the Office of Public Insurance Counsel and other interested parties relating to the determination of rates for private passenger and commercial automobile insurance provided through the Association, including the spreading of the rates among relevant classifications and territories. The commissioner has the statutory authority and duty pursuant to the Texas Insurance Code, Article 21.81, §5 to promulgate the rates to be charged for insurance provided through the Association, including private passenger and commercial automobile insurance, after notice and hearing. Relevant data to be used in the rate case are currently available from the department.

The commissioner has the statutory authority and duty pursuant to the Texas Insurance Code, Article 21.81 to determine and prescribe rates that are just, reasonable, adequate, not excessive, not confiscatory and not unfairly discriminatory for the risks to which they apply; and to set rates in an amount sufficient to carry all claims to maturity, and to meet the expenses incurred in the writing and servicing of the business.

The commissioner requests evidence on the following additional matters to be adduced at the hearing:

1. Analysis and explanation for changes in the number of new applications to the Association as measured by monthly new Association assignments from January 1990 through the present, including:

a) the substantial increase in new Association assignments in the first half of 1991 compared to the first half of 1990;

b) the similar level of new Association assignments through late 1992 and 1993, despite this period being more than a year after financial responsibility laws were strengthened in 1991;

c) the increase in new Association assignments in the first half of 1994 compared to levels for similar periods in 1992 and 1993; and

d) the decrease in new Association policies in 1995.

2. The expected impact, if any, of credits for underserved areas and take-out programs on the Association population and costs for policies issued through the Association.

3. The impact of changes in the Association population and book of business, including future levels of Association assignments, on the relevance of historical loss experience data for developing new Association rates.

4. Analysis of the impact of major judicial decisions on the expected cost of losses and loss adjustment expenses for policies issued through the Association.

5. Analysis of the impact of tort reform legislation, pursuant to Article 5.131, on the expected cost of losses and loss adjustment expense for policies issued through the Association.

6. Explanation of the use of Association-only experience, voluntary market-only experience and/or combined Association plus voluntary market experience for the development of Association rates, including loss trends and class/territorial relativities.

7. Adjustments and/or amendments to statistical reporting rules and statistical plans which may aid the parties and/or the commissioner in the presentation of future rate hearings.

Motions for Admission as a Party.

Anyone who wishes to participate in the hearing as a party must file a motion for Admission as a party by 5:00 p.m. September 19, 1995.

Prehearing Conference.

An initial prehearing conference will be held before the ALJ at 1:30 p.m. on September 21, 1995, at SOAH, Suite 502 of the William Clements State Office Building at 300 West 15th Street, Austin, Texas 78701. The prehearing conference will be held for the following purposes:

1. Ruling on all motions for admission of parties.
2. Setting the procedural deadlines for discovery motions, and prefiled testimony.
3. Such other matters as will promote the orderly and prompt conduct of the hearing.

Additional prehearing conferences will be scheduled as the ALJ deems necessary.

Commissioner's Policies.

Pursuant to Texas Government Code, §2001.058(c), the commissioner is required to provide the ALJ with a written statement of applicable rules and policies. The applicable procedural rules are set out above. The commissioner's policies regarding the setting of rates for insurance provided through the Association are set out below. The purpose of this policy statement is to provide the ALJ and parties with notice regarding the types of evidence parties should present in the hearing. This policy statement, however, is not intended to limit the type of evidence a party may offer at the hearing. The pertinent commissioner's policies are as follows:

1. It is the commissioner's policy to consider all relevant evidence and issues in making a determination of rates. To

assure a complete record, the commissioner requests the ALJ to:

a) take judicial notice of data and reports made available by the department to the parties, including the data, as applicable, presented at the hearing and used in the adoption of the Rate Reduction rule; and

b) ensure that exhibits accompanying testimony from the parties' witnesses be made available in both paper and electronic format. The electronic format should be 3.5 inch high-density diskette in a DOS or Windows spreadsheet or other format readable by a machine running DOS or Windows. Parameters, assumptions and references to underlying data should be identifiable in the electronic exhibits.

2. It is the commissioner's policy that so-called "Fast Track" data reports not be used directly in the rate development analysis. Trend analysis should rely upon trend data reported to the department and provided by the department to the parties. Fast Track data are not intended for ratemaking and represent only a portion of industry experience.

Conduct of the Hearing.

Each page of any exhibit offered in evidence at a hearing before the commissioner, including prefiled testimony, must be numbered consecutively at the center of the bottom margin, be on 8 1/2" by 11" paper, and must be three-hole-punched along the left margin. The front page of each exhibit should indicate that the exhibit would be part of the record of a public hearing before the commissioner and should identify the subject of the hearing, the docket number, the date of the hearing, and the party offering the exhibit. On the front page, the party offering the exhibit should also describe the exhibit and leave a space for numbering the exhibit. For example:

Public Hearing before the Commissioner of Insurance

Subject of Hearing: Texas Automobile Insurance Plan Association Rate Hearing

Docket Number 454-95-0966.G

Date: _____

Exhibit # _____

Description of Exhibit _____

Parties offering exhibits into evidence at the hearing should be prepared with sufficient copies of each proposed exhibit to furnish the following:

1. The original exhibit, which will be tendered to the ALJ for marking and retention for the official record, after which the attorneys shall use an exact photocopy of such marked exhibit in the examination of the witness.
2. One copy each for every other party admitted to the hearing.

All deadlines in this notice are subject to change at the ALJ's discretion to the extent permitted by statute and rule.

In contested cases, all parties are entitled to the assistance of their counsel before administrative agencies. This right may be expressly waived.

Issued in Austin, Texas, on August 23, 1995.

Filed: August 23, 1995

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Texas Department of Public Safety Operating Procedures for the State Emergency Response Commission

ARTICLE I, NAME AND PURPOSE:

Section 1. Name. The name of this organization shall be the State Emergency Response Commission, herein referred to as the SERC.

Section 2. Members. The SERC shall be composed of the Chief Executive Officers, or their designees, of the agencies, boards, commissions and volunteer groups on the Emergency Management Council as set forth in the current Executive Order of the Governor relating to Emergency Management.

[Adjutant General's Department American Red Cross, Department of Information Resources, General Land Office, General Services Commission, Governor's Division of Emergency Management, Public Utility Commission of Texas, Railroad Commission of Texas (RRC), State Aircraft Pooling Board, State Auditor's Office, State Comptroller of Public Accounts, Texas Attorney General's Office, Texas Commission on Fire Protection, Texas Department of Agriculture, Texas Department of Commerce, Texas Department of Health (TDH), Texas Department of Housing and Community Affairs, Texas Department of Human Services, Texas Department of Insurance, Texas Department of Mental Health and Mental Retardation, Texas Department of Public Safety (DPS), Texas Department of Transportation (TxDOT), Texas Education Agency, Texas Employment Commission, Texas Engineering Extension Services (TEEX), Texas Forest Service, Texas Natural Resource Conservation Commission (TNRCC), Texas Parks and Wildlife Department (TPWD), Texas Rehabilitation Commission.]

Section 3. Duties and Responsibilities. The purpose of the SERC shall be:

A) to carry out for the State of Texas those responsibilities required of the SERC pursuant to Public Law 99-499, Superfund Amendments and Reauthorization Act of 1986 (SARA), Title III, and related regulations including but not limited to the following: 1) Designate Emergency Planning Districts (EPD's). 2) Designate additional facilities which shall be subject to the requirements of SARA Title III after public notice and opportunity for comment. 3) Appoint Local Emergency Planning Committees (LEPC's) for each EPD. 4) Supervise and coordinate activities of LEPC's. 5) Accept Texas Tier 2 forms. This shall be the responsibility of the Texas Department of Health (TDH). 6) Establish procedures for receiving and processing requests from the public for information under Sections 324 and 312 (includes "Trade Secrets" provisions). 7) Designate one official to act as coordinator for information requests. This shall be the DEM. 8) Notify Environmental Protection Agency (EPA) Administrator of facilities subject to subtitle A of SARA Title III by notifying the Administrator of: a) Each notification received from a facility; this shall be the responsibility of the TDH. b) Each facility designated by SERC or Governor under Section 302(b)(2). 9) Receive yearly toxic chemical release forms filed by each facility

and process requests from public for information. This shall be the responsibility of the Texas Natural Resource Conservation Commission (TNRCC). 10) Receive telephone emergency notification of release and written follow-up under Section 304 and process requests from the public for information. This shall be the responsibility of the TNRCC and Railroad Commission of Texas (RRC) consistent with their statutory responsibilities under state law. 11) Identify the adverse health effects and provide the information on adverse health effects to any person requesting the information for cases where an extremely hazardous substance or hazardous chemical is claimed a trade secret consistent with federal law. This shall be the responsibility of the TDH. 12) Review local plans submitted under SARA and make recommendations on necessary revisions. This shall be the responsibility of DEM. 13) Provide information as necessary to the EPA for the required mass balance studies. This shall be the responsibility of TNRCC.

B) to implement such other and further related activities as may hereafter be legally required by the federal or state government.

ARTICLE II, MEMBERSHIP:

Section 1. Qualifications. The organization shall consist of those members appointed by the Governor under the Texas Disaster Act and Executive Orders of the Governor.

Section 2. Officers. Officers shall be appointed as specified in Article III to conduct meetings, appoint standing committees, keep minutes of meetings, and to otherwise accomplish the work of the committee.

Section 3. Powers and Duties. The SERC shall plan and direct the work necessary to carry out the requirements of the SARA, Title III.

Section 4. Meetings. Meetings of the SERC may be called by the Chairman at such time and place as the Chairman may determine. The standing committees shall meet as the work under their groupings proceeds.

Section 5. Quorum. The presence of over fifty percent of the membership.

ARTICLE III, OFFICERS:

Section 1. Enumeration of Officers. The SERC shall have a Chairman who shall be the Director of the Division of Emergency Management (DEM).

Section 2. Chairman. The Chairman or his designee shall preside at all meetings of the SERC, shall serve as ex officio member of all committees, and shall perform such duties and acts as necessary to accomplish the goals of the SERC.

Section 3. State Coordinator. The Director of DPS will appoint a State Coordinator. In the absence of the chairman, the State Coordinator or his designee shall preside at all SERC meetings.

ARTICLE IV, COMMITTEES:

Section 1. Standing Committees. The following standing committees shall be established: A) Right-to-Know Committee. B) Training Committee. C) Rules and Procedures Committee. D) Emergency Notification. E) Emergency Planning.

Section 2. Chairmen of the Standing Committees. The Chairmen of the standing committees shall be nominated and elected by their respective committees.

Section 3. Membership of Standing Committees. Final membership on the standing committees shall be determined by the Chairman to ensure that all committees have sufficient representation to carry out assigned tasks.

Section 4. Creating and Abolishing Standing Committees. Additional standing committees may be created by majority vote of the members present. With the exception of those listed in Section 1, standing committees may be dissolved by majority vote.

ARTICLE V, LOCAL EMERGENCY PLANNING COMMITTEE MEMBERSHIP:

Nominations for membership to the LEPC shall be submitted to the SERC through the County Judge. The *Division of Emergency Management* may review and approve membership *on behalf of the SERC if the nominations are approved in writing by the County Judge and meet the representation criteria established by Sec. 301(c) of Public Law 99-499. Nominations not meeting these two conditions will be referred to the SERC for review. After reviewing a nomination, the SERC may approve the appointment or deny it* by simple majority vote. Any interested person(s) requesting modification of [to] the membership of a Local Emergency Planning Committee shall provide written notification to the Division of Emergency Management. Such notification will include the reason for requesting modification and shall include a statement that the County Judge has been previously contacted on the modification request. The *Division of Emergency Management* [SERC] may review the request and ask for testimony in order to make a determination for action. After review, the SERC, by majority vote may appoint or deny membership of the *nomination* [requestor(s)] to the LEPC.

ARTICLE VI, PUBLIC PARTICIPATION:

The public may participate in posted meetings of the SERC as is appropriate within the guidelines of the Secretary of State. To insure the appropriate agency is represented, persons wishing to address the SERC shall submit, in writing, and at least three (3) days prior to the meeting, the topic to be addressed. The chairman or his designee may limit the length in time of any presentation by the public.

ARTICLE VII, AMENDMENTS:

These procedures may be amended by a two-thirds vote of the members present and voting at any meeting of the SERC provided that any proposed amendments to these procedures be submitted to the members in writing at least one month in advance of the meeting and published in the *Texas Register*.

ARTICLE VIII, PARLIAMENTARY AUTHORITY:

The rules contained in Robert's Rules of Order, Newly Revised, shall govern this committee in all cases to which they are applicable and in which they are not inconsistent with these procedures or state law.

Issued in Austin, Texas, on July 17, 1995.

TRD-9510681 James R. Wilson
Director
Texas Department of Public Safety

Filed: August 23, 1995

Public Utility Commission of Texas

**Notice of Intent to File Pursuant to
Public Utility Commission Substantive
Rule 23.27**

Notice is given to the public of the intent to file with the Public Utility Commission of Texas an application pursuant to Public Utility Commission Substantive Rule 23.27 for approval of customer-specific contract for Billing and Collection Services.

Tariff Title and Number. Application of Southwestern Bell Telephone Company for Approval of a customer-specific contract for Billing and Collection Services with AT&T Communications of the Southwest, Inc. and AT&T Corp., pursuant to Public Utility Commission Substantive Rule 23.27. Tariff Control Number 14571.

The Application. Southwestern Bell Telephone Company is requesting approval of a customer-specific contract for Billing and Collection Services with AT&T Communications of the Southwest, Inc. and AT&T Corp. The geographic service for this specific service is anywhere within the state of Texas were AT&T Communications of the Southwest, Inc. and AT&T Corp. 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 22, 1995.

TRD-9510645 Paula Mueller
Secretary of the Commission
Public Utility Commission of Texas

Filed: August 22, 1995



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 Aldine ISD, Houston, Texas.

Tariff Title and Number. Application of Southwestern Bell Telephone Company for PLEXAR-Custom Service for Aldine ISD pursuant to Public Utility Commission Substantive Rule 23.27. Tariff Control Number 14574.

The Application. Southwestern Bell Telephone Company is requesting approval of a 155-station addition to the existing PLEXAR-Custom service for Aldine ISD. The geographic service market for this specific service is the Houston, 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 22, 1995.



Filed: August 22, 1995

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Railroad Commission of Texas

Notice of Public Hearing on Compressed Natural Gas Rulemaking

The Railroad Commission of Texas will conduct a public hearing to receive comments on possible revisions to the *Regulations for Compressed Natural Gas* concerning retest requirements for CNG cylinders, including acoustic emissions testing, on Wednesday, September 27, 1995, from 11:00 a.m. until 2:00 p.m., in Room 1-111 of the William B. Travis Building, 1701 North Congress, Austin, Texas 78701. To accommodate out-of-town participants' travel arrangements, there will not be a lunch break.

The commission will take comments on issues pertaining to the effectiveness and accuracy of retest methods for CNG cylinders. Since industry opinion is divided on some retest methods, the purpose of the meeting is to help commission staff determine if amendments to CNG Rule 13.26 should be drafted.

Any interested person may appear and offer comments, either orally or in writing; however, questioning for those making oral comments will be reserved exclusively for the presiding officers as may be necessary to ensure a complete record. Depending upon the number of speakers, the commission may limit the time for comments to afford all interested parties an opportunity to comment. While any person with pertinent comments will be granted an opportunity to present them during the course of the meeting,

the presiding officers reserve the right to restrict comments in terms of time and repetitive content. Organizations, associations, and groups are encouraged to present their commonly held views and identical or similar comments through a single representative member where possible. Presentations must remain pertinent to the issues being discussed. A person may not assign a portion of his or her time to another speaker. A person who disrupts the public meeting must leave the hearing room if ordered to do so by the presiding officers.

Comments and any supporting documentation should be submitted in writing and should include at least three copies for the presiding officers and commission staff. If comments include references to other state, local, or federal regulations, specific citations should be included.

Any person who requires video or audio equipment for a presentation must request the equipment at least ten days prior to the hearing by notifying Kellie Martinec at (512) 475-1295.

Any person with a disability who needs auxiliary aids and/or services in order to have an equal opportunity to communicate and participate effectively in this public hearing must request such aids or services by 3:00 p.m., Tuesday, September 12, 1995, by notifying the Personnel Office of the Railroad Commission by mail at P.O. Box 12967, Austin, Texas 78711-2967, or by at (512) 463-7327 or TDD Number (512) 463-7284.

Issued in Austin, Texas, on August 23, 1995.

TRD-9510675

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

Filed: August 23, 1995

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