

TEXAS REGISTER

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How to Use the Texas Register

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

Governor - Appointments, executive orders, and proclamations.

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

Secretary of State - opinions based on the election laws.

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

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

Proposed Rules - sections proposed for adoption.

Withdrawn Rules - sections withdrawn by state agencies from consideration for adoption, or automatically withdrawn by the Texas Register six months after the proposal publication date.

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

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

Open Meetings - notices of open meetings.

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

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

How to Cite: Material published in the Texas Register is referenced by citing the volume in which the document appears, the words "TexReg" and the beginning page number on which that document was published. For example, a document published on page 2402 of Volume 20 (1995) is cited as follows: 20 TexReg 2402.

In order that readers may cite material more easily, page numbers are now written as citations. Example: on page 2 in the lower-left hand corner of the page, would be written "20 TexReg 2 issue date," while on the opposite page, page 3, in the lower right-hand corner, would be written "issue date 20 TexReg 3."

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

Texas Administrative Code

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

The TAC volumes are arranged into Titles (using

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

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

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

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

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

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

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

TITLE 40. SOCIAL SERVICES AND ASSISTANCE
Part I. Texas Department of Human Services
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The Table of TAC Titles Affected is cumulative for each volume of the Texas Register (calendar year).

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

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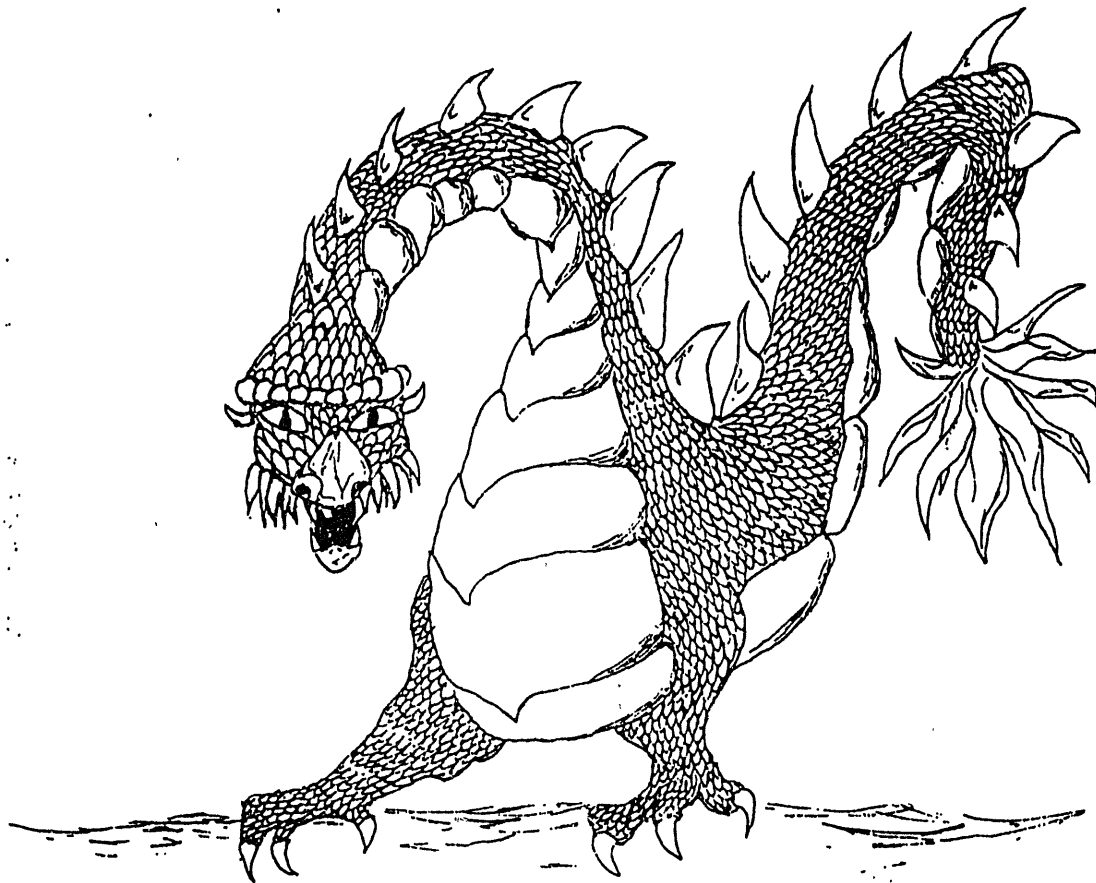
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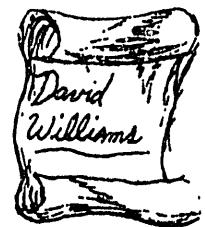
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ADOPTED RULES

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 I. Office of the Governor

Chapter 3. Criminal Justice Division

Subchapter A. Criminal Justice Audits of Criminal Justice Projects and Audit Report Exceptions

• 1 TAC 3.105

The Criminal Justice Division (CJD) of the Office of the Governor adopts an amendment to §3.105, concerning the Audit Review Board without changes to the proposed text as proposed in the May 12, 1995, issue of the *Texas Register* (20 TexReg 3529).

The adopted amendment will clarify which CJD staff members will constitute the Audit Review Board for the purpose of reviewing the documentation presented in response to audit or monitoring review exceptions for legal, financial, and program acceptability under the state rules, regulations, and guidelines.

No comments were received regarding adoption of the amendment.

The amendment is adopted under Texas Government Code, §772.006(11), which provides the Criminal Justice Division of the Office of the Governor with the authority to adopt rules, regulations, and procedures as may be necessary to carry out the provisions of the act.

No other code, statute, or article is affected by the amendment.

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

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

TRD-9514447

Pete Wassdorf
Deputy General Counsel
Office of the Governor

Effective date: November 29, 1995

Proposal publication date: May 12, 1995

For further information, please call: (512) 463-1788

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 adopts new §79.53, without changes to the proposed text as published in the August 29, 1995 issue of the *Texas Register* (20 TexReg 6725). New §79.53 concerns 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.

Section 79.53 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), necessitated the codification of existing policy and procedure regarding the utilization of Olympic symbols or terminology. Senate Bill 529, which relates to the unauthorized use of certain Olympic symbols and terminology, 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.

No comments were received regarding adoption of the new section.

New §79.53 is adopted 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

to administer these acts efficiently and to perform the duties imposed on the secretary of state under these acts. The Government Code, §2001.004, 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.

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 November 3, 1995.

TRD-9514339

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

Effective date: November 28, 1995

Proposal publication date: August 29, 1995

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

Chapter 80. Unincorporated Business Entities

• 1 TAC §§80.21-80.29

The Office of the Secretary of State adopts new §§80.21-80.29, concerning unincorporated nonprofit associations without changes to the proposed text as published in the August 18, 1995 issue of the *Texas Register* (20 TexReg 6289).

New §§80.21-80.29 are necessary in order to implement the authorized agent document filing provisions of House Bill 1661, Chapter 919, Acts, 74th Legislature, Regular Session, (1995), enacting the Texas Uniform Unincorporated Nonprofit Association Act. The new sections clarify filing requirements, establish filing procedures and establish filing fees for a statement appointing an agent authorized to receive service of process for an unincorporated nonprofit association and establish filing requirements, procedures and fees for other document filings relating to the statement appointing an agent.

No comments were received regarding adoption of the new sections.

New §§80.21-80.29 are adopted under House Bill 1661, Chapter 919, Acts, 74th Legisla-

ture, Regular Session (1995), which authorizes the Secretary of State to promulgate forms and to adopt rules on filing documents pursuant to §12.

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 November 3, 1995.

TRD-9514340 Clark Kent Ervin
Assistant Secretary of
State
Office of the Secretary of
State

Effective date: November 28, 1995

Proposal publication date: August 18, 1995

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

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Chapter 93. Trademark
Section: Practice and
Procedure

The Written Application

• 1 TAC §93.69

The Office of the Secretary of State adopts new §93.69, without changes to the proposed text as published in the August 29, 1995, issue of the *Texas Register* (20 TexReg 6725). New §93.69 relates to 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 clear that authorization or consent by the United States Olympic Committee does not determine the issue of registrability of the trademark or service mark proposed for registration. The new section reflects existing procedure with regard to trademarks proposed for registration under Chapter 16, Business and Commerce Code, which violate 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. Senate Bill 529 also provides the United States Olympic Committee with the remedies for infringement available to a registrant under Chapter 16, Business and Commerce Code.

No comments were received regarding adoption of the new section.

The new section is adopted under the 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.

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 November 3, 1995.

TRD-9514341 Clark Kent Ervin
Assistant Secretary of
State
Office of the Secretary of
State

Effective date: November 28, 1995

Proposal publication date: August 29, 1995

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

◆ ◆ ◆
TITLE 4. AGRICULTURE

Part I. Texas Department
of Agriculture

Chapter 15. Consumer Services
Division

Texas Egg Law

• 4 TAC §§15.47, 15.53, 15.55,
15.56

The Texas Department of Agriculture (the department) adopts amendments to §§15.47, 15.53, and 15.55, and new §15.56, concerning Texas Egg Law, without changes to the proposed text as published in the September 29, 1995, issue of the *Texas Register* (20 TexReg 7907).

The amendments and new section are adopted in order to comply with statutory changes enacted by the 74th Legislature in Senate Bill 372 and the General Appropriations Act.

The amendments will remove certain fee specifications from reporting requirements, and amend the chart for computation of fees for inspection of partial cases to conform to statutory requirements. The new section will establish special fees for persons licensed under the Texas Egg Law.

The Texas Poultry Federation commented generally in favor of the amendments and new section.

The amendments and new section are adopted under the Texas Agriculture Code, §132.003, which provides the Texas Department of Agriculture with the authority to adopt

rules as necessary to administer the Texas Agriculture Code, Chapter 132; the Code, §132.043, which provides the department with the authority to collect fees to implement the licensing and inspection provisions of the Texas Agriculture Code, Chapter 132; the General Appropriations Act, Acts 1995, 74th Legislature, Regular Session, Chapter 1063, Article VI, Rider 8, at 5825, which provides that the department shall collect fees which offset the direct and indirect costs of administering its regulatory activities; Texas Government Code, §316.045, which provides for circumstances under which the General Appropriations Act may override statutory amounts set for fees to be charged; and Texas Government Code, §316.045, which provides for the reduction of fees.

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 November 3, 1995.

TRD-9514248 Dolores Alavardo Hibbs
Chief Administrative Law
Judge
Texas Department of
Agriculture

Effective date: November 24, 1995

Proposal publication date: September 29, 1995

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

◆ ◆ ◆
TITLE 7. BANKING AND
SECURITIES

Part I. Finance

Commission of Texas

Chapter 4. Currency Exchange

Subchapter A. General

• 7 TAC §4.7

The Finance Commission of Texas (the commission) adopts an amendment to §4.7, regarding increasing the bonding requirements for currency transportation and currency transmission licensees, without changes to the proposed text as published in the July 28, 1995, issue of the *Texas Register* (20 TexReg 5562).

The adopted section increases the bonding requirement in direct response to a recent amendment of Texas Civil Statutes, Article 350, §10(a), increasing the minimum bond for currency transmission and transportation to \$300,000, Act of May 26, 1995, 74th Legislature, Chapter 861, §6, 1995 Texas Session Law Service 4304, 4306 (effective September 1, 1995).

One comment was received from an individual opposed to the increase in the bonding requirement, arguing that the bond was so high it would force licensees out of business. The commission declines to modify the section in response to this comment because the increased bonding requirement was imposed

by the Texas Legislature and not by this section.

The section is adopted under Texas Civil Statutes, Article 350, §7, which provide the commission with the authority to prescribe regulations to implement this article, including requirements for the issuance, renewal, denial, suspension, and revocation of a license to operate a currency exchange or transmission business and record-keeping and reporting requirements of a licensee.

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 November 7, 1995.

TRD-9514375 Everett D. Jobe
 General Counsel
 Finance Commission of
 Texas

Effective date: November 28, 1995

Proposal publication date: July 28, 1995

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

Chapter 9. Rules of Procedure for Contested Case Hearings, Appeals, and Rulemakings

The Finance Commission of Texas, the Texas Department of Banking, the Savings and Loan Commissioner, and the Consumer Credit Commissioner adopt new Chapter 9, Subchapters A-E, comprised of §§9.1-9.5, 9.11-9.31, 9.51-9.57, 9. 71-9.72, and 9.81-9.84, to establish uniform rules of practice and procedure for contested case hearings, appeals, and rulemakings for the Finance Commission, the Department of Banking, the Savings and Loan Department, and the Office of the Consumer Credit Commissioner (the agencies). The sections are adopted with changes to the text as proposed in the July 28, 1995, and August 11, 1995, issues of the *Texas Register* (20 TexReg 5563 and 20 TexReg 6065), as discussed further in this preamble. The adoption of each subchapter is published separately as required by the *Texas Register*, preceded by this common preamble. The agencies are also adopting repeal of their existing practice and procedure rules, in this issue of the *Texas Register*.

The new Texas Banking Act, §1.011(b) (as enacted by Act of May 18, 1995, 74th Legislature, Chapter 914, §1, 1995 Texas Session Law Service 4451, 4460), authorizes the finance commission to employ a hearing officer to conduct hearings for each of the agencies. The adoption of uniform rules will expedite the fair hearing of contested cases before all of the agencies and simplify the hearing officer's duties.

No written comments were received. The Office of Consumer Credit Commissioner convened a public hearing on August 15, 1995, to receive comment on the proposed sections, as required by Texas Civil Statutes,

Article 5069-3. 12(1) and Article 5069-51.09(b). Several members of the public attended the hearing and a court reporter was present to take notes. However, only Consumer Credit Commissioner Leslie Pettijohn and Hearings Officer Larry Craddock spoke at the hearing. They briefly explained the reason for the proposed sections and introduced proof of the necessary notices by publication and by mail into the record. Since no member of the public was present who wanted to comment on the rules, the hearing was adjourned.

Nonsubstantive changes were made in Subchapter A, §9.1(b)(2), to clarify that the agency has the status of a party in a contested case, and in Subchapter B, §9.11(b)(1), to clarify that the hearing may be held at a place other than the State Finance Commission building, and in Subchapter B, §9.12, to clarify that a party may be defaulted if served with notice in compliance with §9.11(a) of Subchapter B. Changes were also made to correct citation forms in Subchapter B, §9.20 and §9.21, and Subchapter E, §9.81 and §9.84.

Subchapter A. General

• 7 TAC §§9-1-9.5

The new sections are adopted under Government Code, §2001.004(1) and §2001.021(b), which require all administrative agencies to adopt rules of practice stating the nature and requirements of all available formal and informal procedures and to adopt rules regarding petitions for adoption of rules.

Texas Banking Act, §1.012(a)(5), Act of May 18, 1995, 74th Legislature, Chapter 914, §1, 1995 Texas Session Law Service 4451, 4461, authorizes the finance commission to adopt rules necessary or reasonable to facilitate the fair hearing and adjudication of matters before the banking commissioner and the finance commission. As required by the Texas Banking Act, §1.012(b), the commission considered the need to promote a stable banking environment, provide the public with convenient, safe, and competitive banking services, preserve and promote the competitive parity of state banks with national banks and other depository institutions in this state consistent with the safety and soundness of state banks and the state bank system, and allow for economic development within this state.

Texas Civil Statutes, Article 350, §7, authorizes the finance commission to adopt rules necessary to implement Article 350 (governing regulation of currency exchange and transmission licensees).

Texas Civil Statutes, Article 489d, §9E, as added by Act of May 27, 1995, 74th Legislature, Chapter 916, §8, 1995 Texas Session Law Service 4558, 4562, authorizes the finance commission to adopt rules necessary for the enforcement and orderly administration of the Sale of Checks Act.

Texas Civil Statutes, Article 548b, §2, authorizes the Department of Banking to adopt rules concerning matters incidental to the enforcement and orderly administration of Article 548b (governing the sale of prepaid funeral services or merchandise).

Texas Banking Act, §1.013, Act of May 18, 1995, 74th Legislature, Chapter 914, §1, 1995 Texas Session Law Service 4451, 4461, authorizes the finance commission to adopt rules applicable to state savings associations or to savings banks. Texas Civil Statutes, Article 489e, §4.04(2), and Article 852a, §8.01(2), also authorize the savings and loan commissioner and the finance commission to adopt procedural rules for deciding applications filed with the savings and loan commissioner or the savings and loan department.

Texas Banking Act, §1.014, Act of May 18, 1995, 74th Legislature, Chapter 914, §1, 1995 Texas Session Law Service 4451, 4462, authorizes the finance commission to adopt rules necessary for supervising the consumer credit commissioner and for ensuring compliance with Title 79, Revised Statutes (Texas Civil Statutes, Articles 5069-1.01 et seq). Texas Civil Statutes, Article 5069-3.12(1), also authorizes the finance commission to adopt rules necessary for the enforcement of Chapter 3 (Articles 5069-3.01 et seq, relating to regulated loans). Texas Civil Statutes, Articles 5069-51.09(b), further authorizes the consumer credit commissioner to adopt rules necessary for the enforcement of the Texas Pawn Shop Act (Articles 5069-51.01 et seq, relating to regulation of pawn shops).

§9.1. Definitions and Interpretation.

(a) The same rules of construction that apply to interpretation of Texas statutes and codes, the definitions in Government Code, §2001.003, and the definitions in subsection (b) of this section govern the interpretation of this chapter.

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

(1) Administrative law judge—The hearings officer employed by the finance commission to conduct administrative hearings for the finance commission, the department of banking, the savings and loan department, and the office of the consumer credit commissioner pursuant to the Texas Banking Act, §1.011(b).

(2) Agency—The finance commission, the department of banking, the savings and loan department, or the office of the consumer credit commissioner. The agency is a party to every contested case.

(3) Agency head(s)—Finance commission members, the banking commissioner, the savings and loan commissioner, or the consumer credit commissioner.

(4) Applicant—A party seeking a license, permit, or other action from an agency.

(5) Protestant—A party opposing an application for a license, permit, or other action filed with an agency who has paid any filing fees required by an applicable statute or administrative regulation.

(6) Respondent—A permittee, licensee, or other party against whom a disciplinary proceeding is directed by an agency.

§9.2. Ex Parte Communications. Oral or written communications may not be initiated or conducted with the administrative law judge regarding any issue of fact or law in a contested case without notice and opportunity for all parties to participate. Letters must indicate that copies have been sent to the opposing party (through counsel if he or she is represented) and to the agency through its attorney of record. The administrative law judge may communicate ex parte with employees of the agency who did not participate in either the hearing or in the investigation of the agency's case for the purpose of utilizing their special skills or knowledge in evaluating the evidence.

§9.3. Pleadings, Briefs, and Motions.

(a) Except for the time for perfecting an appeal from an agency order to the finance commission, the time for filing any document or pleading under this chapter may be modified by order of the administrative law judge unless the time for filing is non-discretionary by statute.

(b) Parties shall file all pleadings, briefs, and motions with the administrative law judge. All such pleadings, briefs, and motions must contain a certification that true copies have been served on all parties of record. Rule 21a, Texas Rules of Civil Procedure, shall govern methods and manner of authorized service and the computation of time periods whenever a party has the right or is required to do some act within a prescribed period after the service of a notice or other paper.

§9.4. Dismissal. Following notice to all affected parties and the opportunity for hearing, the administrative law judge with the consent of the agency head(s) may dismiss, with or without prejudice, any proceeding under such conditions and for such reasons as are found to be just and reasonable, including the following:

- (1) failure to prosecute;
- (2) unnecessary duplication of proceedings or res judicata;
- (3) withdrawal;
- (4) moot questions or obsolete petitions;
- (5) lack of jurisdiction;
- (6) abuse of discovery; or
- (7) if necessary in the interest of justice.

§9.5. Severability. If any section of this chapter is found to conflict with an applica-

ble and controlling provision of other state or federal law, the section involved shall be void to the extent of the conflict. The validity of the rest of this chapter shall not be affected.

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 November 7, 1995.

TRD-9514378

Everette D. Jobe
General Counsel
Finance Commission of
Texas

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

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Subchapter B. Contested Case Hearings

• 7 TAC §§9.11-9.31

The new sections are adopted under Government Code, §2001.004(1) and §2001.021(b), which require all administrative agencies to adopt rules of practice stating the nature and requirements of all available formal and informal procedures and to adopt rules regarding petitions for adoption of rules.

Texas Banking Act, §1.012(a)(5), Act of May 18, 1995, 74th Legislature, Chapter 914, §1, 1995 Texas Session Law Service 4451, 4461, authorizes the finance commission to adopt rules necessary or reasonable to facilitate the fair hearing and adjudication of matters before the banking commissioner and the finance commission. As required by the Texas Banking Act, §1.012(b), the commission considered the need to promote a stable banking environment, provide the public with convenient, safe, and competitive banking services, preserve and promote the competitive parity of state banks with national banks and other depository institutions in this state consistent with the safety and soundness of state banks and the state bank system, and allow for economic development within this state.

Texas Civil Statutes, Article 350, §7, authorizes the finance commission to adopt rules necessary to implement Article 350 (governing regulation of currency exchange and transmission licensees).

Texas Civil Statutes, Article 489d, §9E, as added by Act of May 27, 1995, 74th Legislature, Chapter 916, §8, 1995 Texas Session Law Service 4558, 4562, authorizes the finance commission to adopt rules necessary for the enforcement and orderly administration of the Sale of Checks Act.

Texas Civil Statutes, Article 548b, §2, authorizes the Department of Banking to adopt rules concerning matters incidental to the enforcement and orderly administration of Article 548b (governing the sale of prepaid funeral services or merchandise).

Texas Banking Act, §1.013, Act of May 18, 1995, 74th Legislature, chapter 914, §1, 1995 Texas Session Law Service 4451, 4461, authorizes the finance commission to adopt rules applicable to state savings associations or to savings banks. Texas Civil Statutes, Article 489e, §4.04(2), and Article 852a, §8.01(2), also authorize the savings and loan commissioner and the finance commission to adopt procedural rules for deciding applications filed with the savings and loan commissioner or the savings and loan department.

Texas Banking Act, §1.014, Act of May 18, 1995, 74th Legislature, chapter 914, §1, 1995 Texas Session Law Service 4451, 4462, authorizes the finance commission to adopt rules necessary for supervising the consumer credit commissioner and for ensuring compliance with Title 79, Revised Statutes (Texas Civil Statutes, Articles 5069-1.01 et seq.). Texas Civil Statutes, Article 5069-3.12(1), also authorizes the finance commission to adopt rules necessary for the enforcement of Chapter 3 (Articles 5069-3.01 et seq. relating to regulated loans). Texas Civil Statutes, Article 5069-51.09(b), further authorizes the consumer credit commissioner to adopt rules necessary for the enforcement of the Texas Pawn Shop Act (Articles 5069-51.01 et seq. relating to regulation of pawn shops).

§9.11. Notice.

(a) Unless another statute authorizing a different notice period is applicable to the particular proceeding, all hearings in contested cases must be preceded by at least ten days notice, as required by Government Code, §2001.051. Licensees and permittees shall keep the agency informed as to their correct current mailing address. In all cases in which service on a licensee or permittee is made by registered or certified mail, return receipt requested, to the address furnished the agency, service is effective when the notice is placed in the mail, postage prepaid.

(b) Notices of disciplinary proceedings that are required to be preceded by a hearing must comply with Government Code, §2001.052, and a draft copy of the notice shall be submitted to the administrative law judge at the time a setting is requested that substantially contains:

- (1) an order to appear at a specified time, date, and place;
- (2) a statement of the nature of the administrative action to be commenced and the authority under which the administrative action is conducted;
- (3) a description in plain language of the specific act(s) or omission(s) asserted as grounds for the contemplated administrative action;
- (4) a description of the remedies sought, including the penalties or consequences sought to be imposed;
- (5) a disclosure that the respondent is entitled to:

(A) be represented by an attorney of respondent's choice;

(B) directly or through an attorney cross examine the witnesses against the respondent; and

(C) respond and present evidence and argument in respondent's behalf pursuant to Government Code §2001.051(b) and §2001.087;

(6) a disclosure that the failure of respondent to appear at the hearing will be considered a waiver of respondent's rights under paragraph (5) of this subsection (b); and

(7) the name, title, address, and phone number of person handling the administrative action for the agency and to whom the respondent or the respondent's attorney should direct inquiries regarding additional information, detail, or further discussion or negotiation in connection with the administrative action.

(c) Notice of an action that is not required to be preceded by a hearing, but that requires a party to be advised of a right to hearing before the action becomes final, must contain a notice that a written request for a hearing under the Administrative Procedure Act must be delivered to the agency within a specified number of days from the mailing of the notice, or the administrative action will become final.

§9.12. Default. If, after served with notice in compliance with §9.11(a) of this subchapter (relating to Notice), a party fails to attend a hearing, the administrative law judge may proceed in that party's absence and, where appropriate, may issue a proposal for decision against that party. The proposal for decision shall be served upon the defaulting party and the party will be afforded the opportunity to contest it in the same manner as if he or she had been present for the hearing.

§9.13. Appearances and Representation. Since contested case procedures are closely modeled upon those used in a court of law, the agency strongly urges but does not require parties to employ attorneys to represent them. A private individual may appear pro se. An officer, partner, or full time employee may represent a corporation, partnership, association, or firm in a hearing before the administrative law judge even if that person is not a licensed attorney, if that person observes proper decorum and the instructions of the administrative law judge. Attorneys who are licensed in other states but not in Texas may represent a client in a

contested case hearing with the permission of the administrative law judge.

§9.14. Protests. Protests shall be allowed to the extent authorized by court decisions, statutes, or administrative regulations applicable to each agency and type of proceeding. A certificate of service shall be included on any protest showing that a copy has been served on the applicant. Every protest must be accompanied by any filing fees required by statute or administrative regulation.

§9.15. Participation by General Public. The administrative law judge has discretion to allow members of the general public to testify under oath or affirmation without the necessity of their becoming a party. The administrative law judge may set fair and reasonable conditions on such appearances, and the testimony shall be subject to cross-examination, challenge and rebuttal. After affording all parties a reasonable opportunity to be heard on this issue, the administrative law judge shall determine the extent, if any, to which members of the general public who are not parties shall be allowed to participate in a contested case.

§9.16. Motion for More Definite Statement. If a pleading is so vague or ambiguous that a party is unable to fully understand what is intended to be placed in issue, the party may move for a more definite statement and the administrative law judge shall grant the motion if it is well taken and direct that a more definite statement be made.

§9.17. Continuances. Motions for continuance must be in writing and filed not less than five calendar days prior to the hearing, except for good cause shown. Motions must set forth the specific grounds upon which the moving party seeks continuance, make reference to all similar motions filed in the case, and state whether all parties agree with the continuance. Continuances will not be granted based on the need for discovery if discovery requests have not previously been served upon the person from whom discovery is sought, except when necessary due to surprise or discovery of facts or evidence previously undisclosed despite the diligence of the moving party.

§9.18. Prehearing Conferences.

(a) Sua sponte or on the motion of any party, the administrative law judge may direct that the parties or their authorized representatives appear at a prehearing conference to consider such matters as:

(1) simplifying and settling issues;

(2) disclosing names, identities, and location of proposed witnesses and supplying a brief statement of what is proposed to be established by the testimony of each;

(3) limiting the number of and exchanging reports of expert witnesses expected to be called by a party;

(4) obtaining:

(A) admissions of fact; and

(B) stipulations as to the admissibility into evidence of documents and other exhibits;

(5) the exchange of documentary evidence to be submitted at the hearing;

(6) establishing discovery deadlines; and

(7) any other matter which may expedite the hearing or otherwise facilitate the hearing process.

(b) The administrative law judge may require the parties to prepare prehearing briefs prior to or subsequent to the prehearing conference covering such matters as the administrative law judge may specify.

(c) In the administrative law judge's discretion, the prehearing conference may be formal or informal, may be conducted in person or by telephone, and may be conducted with or without a court reporter. In the event that no court reporter is used, the administrative law judge shall prepare a memorandum encompassing any agreements reached and decisions made including any admissions, stipulations, or agreed proposals.

§9.19. Discovery.

(a) All parties are entitled to use the following discovery procedures as set forth in the Texas Rules of Civil Procedure: interrogatories, requests for admissions, oral depositions, depositions on written questions, written discovery and production of documents, and entry upon designated land and other property. Use of such forms of discovery must be in accordance with and subject to limitations provided for discovery under the Texas Rules of Civil Procedure. Parties shall apply to the administrative law judge for issuance of a commission to take a deposition only if they disagree on its scheduling or scope.

(b) A party upon whom a request for discovery is served may object and move for a protective order and the administrative law judge shall promptly set such motion for a hearing which may be held either in person or by telephone. For good cause shown, the administrative law judge may direct that discovery be made in some

other place or manner than originally proposed, that certain matters are not discoverable, that the scope of examination be limited to certain matters, that the examination be held with no one present except parties and their officers or counsel, that the deposition be sealed and opened only by order of the administrative law judge, or may make such other orders as justice may require, including an order terminating all further discovery upon a showing that discovery is being conducted in bad faith or unreasonably.

(c) In the event that a request for discovery is not honored, or only partially honored, the requesting party may file a motion to compel discovery and the administrative law judge may compel compliance with the discovery request through all such sanctions as may appear reasonable and just under the facts and circumstances of the particular case.

§9.20. Subpoenas.

(a) On written request by a party, or sua sponte, the administrative law judge may issue a subpoena addressed to any person authorized to serve a subpoena under Texas Rules of Civil Procedure, Rule 178, to require witnesses from anywhere in the State of Texas to attend the hearing or a deposition and to produce books, records, papers, or other objects needed as evidence.

(b) Before issuing a subpoena at the request of any party other than the agency itself, the administrative law judge shall require that party to make a deposit with the agency sufficient to cover the witness fees provided in Government Code, §2001.103, and the estimated cost of serving the subpoena.

§9.21. Conduct of Hearings

(a) Contested case hearing procedures are set forth in this chapter and in Government Code, §§2001.051-2001.147. Subject to approval by the agency head(s), the administrative law judge has authority analogous to that of a district judge sitting without a jury in a civil case and may make such rulings and issue such orders as may be required to provide a fair, just, expeditious, orderly, and proper hearing. Sua sponte or on motion, the administrative law judge may summon and swear an interpreter to facilitate the taking of evidence. Hearings are open to the public, except that matters made confidential by law must be considered in executive session if requested. If an executive session is not requested before confidential evidence is introduced, the confidentiality of such evidence shall be deemed to have been waived. Each party has the opportunity to present its case, by calling and examining witnesses, offering documentary evidence, and making legal

arguments. Each party has the opportunity to cross-examine opposing witnesses on any matter relevant to the issues even though the matter was not covered in direct examination. An objection to testimony or evidentiary offers must be stated timely, along with the basis for the objection.

(b) The Texas Rules of Civil Evidence, as applied in nonjury civil cases in the courts of Texas, apply in contested cases under this chapter. Irrelevant, immaterial, or unduly repetitious evidence shall be excluded. When necessary to ascertain facts not reasonably susceptible of proof under those rules, evidence not admissible under those rules may be admitted, except where precluded by statute, if of a type commonly relied upon by reasonably prudent persons in the conduct of their affairs.

(c) The evidentiary exception for "evidence not admissible under the Texas Rules of Civil Evidence if of a type commonly relied upon by reasonably prudent persons in the conduct of their affairs" will be treated as analogous to the residual exception to the hearsay rule set forth in Federal Rule of Evidence, Rule 803(24), i.e., such evidence will be admitted if the administrative law judge determines that:

(1) the fact the evidence is offered to prove is material;

(2) the evidence offered is more probative on the point for which it is offered than any other evidence which the proponent can procure through reasonable efforts;

(3) the interests of justice will be served by admission of the evidence; and

(4) the proponent of the evidence makes it known to the adverse party sufficiently in advance of the hearing to provide the adverse party with a fair opportunity to prepare to meet it.

(d) The rules of privilege and exemption recognized by Texas law apply in all hearings.

(e) Public comments in the form of letters and affidavits are not admissible into evidence in contested case hearings unless they satisfy one of the exceptions to the hearsay rule or come into evidence without objection.

§9.22. In Camera Materials.

(a) The administrative law judge may order that documents, testimony, or other data recognized as privileged under the statutes and regulations pertaining to each agency be received and preserved in camera (kept confidential and excluded from the public record). If such material is received in camera, all parties to a contested case proceeding will be entitled to access to the in camera material so that they may

fully prepare their respective cases including cross examination and rebuttal. On application from a party, witness or deponent entitled to invoke the privilege, the administrative law judge may enter a protective order that allows all parties access to the confidential material, prohibits disclosure of the material or the information contained therein to non-parties, and restricts use of the material and information to the case immediately at hand. In proposed findings, conclusions, briefs, or other documents, parties shall make a good faith effort to refer to in camera material and information in a general way without revealing specific detail so as to avoid making the information public. If parties consider it necessary to include specific details of in camera information in their briefs, arguments, or in proposed findings and conclusions of law, they shall incorporate those references into separate proposed findings, conclusions, briefs, or other documents marked "confidential, contains in camera information." Such separate proposed findings, conclusions, briefs, or other documents shall become part of the in camera record and made available only to people to whom the administrative law judge has allowed access to the in camera record. Similarly, the administrative law judge in drafting the proposal for decision shall avoid revealing details of the in camera information to the extent practicable. If necessary to state details of the in camera information in order to make appropriate findings of fact or conclusions of law, the administrative law judge may redact the version of the proposal for decision made available to the general public or may state in the version made available to the general public that some required findings or conclusions are based upon confidential information and those findings and conclusions are fully discussed in an in camera supplement to the proposal for decision. The agency head(s), and the finance commission (if the case is appealed to the finance commission), or the court (if the case is appealed to the court) shall also have access to the in camera material. The protective order shall remain in effect unless the agency head(s), the finance commission (if the case is appealed to the finance commission), or the court (if the case is appealed to the court), revokes or modifies it. The administrative law judge shall specify in the protective order whether the in camera material will be returned or destroyed if no appeal is taken or when the time for appeal has expired and the date following final disposition of the case by which the materials will be returned or destroyed. The agency shall destroy all in camera material as soon as the retention schedule approved by the state library permits its destruction except that the agency may retain one or more copies of the full proposal for decision for its files.

(b) To the extent that in camera material may be coded, redacted, or sum-

marized and made part of the public record without disclosing protected information, the administrative law judge shall order that to be done so as to minimize the extent to which an in camera record is needed.

(c) A person determined to have violated a protective order may be subjected to appropriate sanctions including but not limited to a letter of reprimand, an order barring such person from appearing before the administrative law judge to represent another for a designated time period from the date that a violation has been determined to exist; an order denying the person access to confidential information for a designated time period from the date that a violation has been determined to exist; and an order requiring the person to immediately return all material containing the confidential information, such as briefs, notes, or charts based on any such information received.

§9.23. Order of Proceedings.

(a) In proceedings initiated by filing an application with the agency, the applicant shall open and shall present evidence and testimony first. The protesting party, if any, shall present its evidence and testimony upon completion of the applicant's case in chief. The agency shall present its evidence and testimony following the protesting party(s).

(b) In hearings initiated as a result of agency investigations or show cause orders, the agency shall open and shall present evidence and testimony first. The respondent shall present its evidence and testimony upon completion of the agency's case in chief.

(c) Where evidence is peculiarly within the knowledge of one party, or an any proceedings not covered by application of subsections (a) and (b) of this section, the administrative law judge may direct who shall open and the order of presentation.

(d) Each party is permitted to put on rebuttal witnesses and evidences necessary to present a complete case.

§9.24. *Prefiled Testimony* Sua sponte or on motion of any party, the administrative law judge may omit oral presentation of the direct testimony of any witness and may allow prefiled written testimony to be presented in its place. The written testimony carries the same force and effect as though stated orally by the witness; provided that the witness must be present at the hearing at which such testimony is offered and adopt such testimony under oath, and must be made available for cross-examination. Written reports of agency investigations on fact issues, if offered into evidence in a hearing in which the facts covered by the report are directly at issue, will be treated as prefiled

testimony and the investigator must be made available for cross examination.

§9.25. *Stipulations.* Parties may by written stipulation agree upon the facts or any portion thereof and their stipulation may be regarded and used as evidence at the hearing. The administrative law judge in such cases may require any additional evidence necessary to establish the facts to the administrative law judge's satisfaction.

§9.26. *Official Notice.* The administrative law judge may take official notice of judicially cognizable facts, and of generally recognized facts within the area of the agency's specialized knowledge. A party that desires the administrative law judge to take official notice of particular facts must make a motion that the administrative law judge do so, stating with specificity the facts, material, records, or documents encompassed in the motion. A party who opposes the motion will have the opportunity to contest the requested action. The administrative law judge may also sua sponte take official notice of facts, material, records, or documents on giving the parties an opportunity to contest the facts, material, records, or documents to be officially noticed.

§9.27. *Reporters and Transcripts.* In all proceedings when requested by the administrative law judge, the agency, or by any party, a court reporter shall make a stenographic record of the hearing.

§9.28. Telephone Hearings.

(a) The administrative law judge may, with consent of all parties, conduct all or part of a hearing by telephone. Documentary evidence to be offered during a telephone hearing must be mailed by the proponent to all parties and the administrative law judge prior to hearing.

(b) The following may be considered a failure to appear for a telephone hearing and grounds for default, if the conditions exist for more than 20 minutes after the scheduled time for hearing:

- (1) failure to answer the telephone;
- (2) failure to free the telephone for a hearing; or
- (3) failure to be ready to proceed with the hearing as scheduled.

§9.29. *Recovery of Agency Costs.* The administrative law judge may allocate costs incurred by the agency among the parties. Such costs may include, but shall not be limited to, the estimated, fully allocated cost of agency employees participating in the hearing, internal and external or out-of-pocket expenses incurred by the agency, administrative law judge fees and expenses,

court reporter fees and expenses, investigative costs, witness fees and deposition expenses, witnesses' travel expenses, reasonable fees for professional services of expert witnesses, and the reasonable cost of a study, analysis, audit or other project the administrative law judge finds to have been necessary in preparation of the agency's case.

§9.30. *Filing of Exceptions and Replies To The Proposal for Decision.* Any party of record may, within ten days after the date of service of a proposal for decision, file exceptions to the proposal for decision. Replies to such exceptions may be filed within ten days after the last day for filing of such exceptions. Copies of exceptions and replies must be served on all parties of record.

§9.31. Consideration of Proposal for Decision.

(a) The agency head(s) may:

- (1) adopt the proposal for decision, in whole or in part;
- (2) modify and adopt the proposal for decision, in whole or in part;
- (3) decline to adopt the proposal for decision, in whole or in part;
- (4) remand the proceeding for further examination by the administrative law judge; or
- (5) direct the administrative law judge to give further consideration to the proceeding with or without reopening the hearing.

(b) If on remand additional evidence is received which results in a substantial revision of the administrative law judge's recommendation for final action, a new proposal for decision shall be prepared and served on the parties and they shall be given an opportunity to file exceptions and make replies to the new proposal for decision the same as if it were the original proposal for decision.

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 November 7, 1995.

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Everette D. Jobe
General Counsel
Finance Commission of
Texas

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

Subchapter C. Appeals to Finance Commission

• 7 TAC §§9.51-9.57

The new sections are adopted under Government Code, §2001.004(1) and §2001.021(b), which require all administrative agencies to adopt rules of practice stating the nature and requirements of all available formal and informal procedures and to adopt rules regarding petitions for adoption of rules.

Texas Banking Act, §1.012(a)(5), Act of May 18, 1995, 74th Legislature, Chapter 914, §1, 1995 Texas Session Law Service 4451, 4461, authorizes the finance commission to adopt rules necessary or reasonable to facilitate the fair hearing and adjudication of matters before the banking commissioner and the finance commission. As required by the Texas Banking Act, §1.012(b), the commission considered the need to promote a stable banking environment, provide the public with convenient, safe, and competitive banking services, preserve and promote the competitive parity of state banks with national banks and other depository institutions in this state consistent with the safety and soundness of state banks and the state bank system, and allow for economic development within this state.

Texas Civil Statutes, Article 350, §7, authorizes the finance commission to adopt rules necessary to implement Article 350 (governing regulation of currency exchange and transmission licensees).

Texas Civil Statutes, Article 489d, §9E, as added by Act of May 27, 1995, 74th Legislature, Chapter 916, §8, 1995 Texas Session Law Service 4558, 4562, authorizes the finance commission to adopt rules necessary for the enforcement and orderly administration of the Sale of Checks Act.

Texas Civil Statutes, Article 548b, §2, authorizes the Department of Banking to adopt rules concerning matters incidental to the enforcement and orderly administration of Article 548b (governing the sale of prepaid funeral services or merchandise).

Texas Banking Act, §1.013, Act of May 18, 1995, 74th Legislature, Chapter 914, §1, 1995 Texas Session Law Service 4451, 4461, authorizes the finance commission to adopt rules applicable to state savings associations or to savings banks. Texas Civil Statutes, Article 489e, §4.04(2), and Article 852a, §8.01(2), also authorize the savings and loan commissioner and the finance commission to adopt procedural rules for deciding applications filed with the savings and loan commissioner or the savings and loan department.

Texas Banking Act, §1.014, Act of May 18, 1995, 74th Legislature, Chapter 914, §1, 1995 Texas Session Law Service 4451, 4462, authorizes the finance commission to adopt rules necessary for supervising the consumer credit commissioner and for ensuring compliance with Title 79, Revised Statutes (Texas Civil Statutes, Article 5069-1.01 et seq). Texas Civil Statutes, Article 5069-3.12(1), also authorizes the finance commission to adopt rules necessary for the enforcement of Chapter 3 (Articles 5069-3.01

et seq, relating to regulated loans). Texas Civil Statutes, Article 5069-51.09(b), further authorizes the consumer credit commissioner to adopt rules necessary for the enforcement of the Texas Pawn Shop Act (Articles 5069-51.01 et seq, relating to regulation of pawn shops).

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

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TRD-9514378 Everette D. Jobe
General Counsel
Finance Commission of
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For further information, please call: (512) 475-1300

Subchapter D. Court Appeals

• 7 TAC §9.71, §9.72

The new sections are adopted under Government Code, §2001.004(1) and §2001.021(b), which require all administrative agencies to adopt rules of practice stating the nature and requirements of all available formal and informal procedures and to adopt rules regarding petitions for adoption of rules.

Texas Banking Act, §1.012(a)(5), Act of May 18, 1995, 74th Legislature, Chapter 914, §1, 1995 Texas Session Law Service 4451, 4461, authorizes the finance commission to adopt rules necessary or reasonable to facilitate the fair hearing and adjudication of matters before the banking commissioner and the finance commission. As required by the Texas Banking Act, §1.012(b), the commission considered the need to promote a stable banking environment, provide the public with convenient, safe, and competitive banking services, preserve and promote the competitive parity of state banks with national banks and other depository institutions in this state consistent with the safety and soundness of state banks and the state bank system, and allow for economic development within this state.

Texas Civil Statutes, Article 350, §7, authorizes the finance commission to adopt rules necessary to implement Article 350 (governing regulation of currency exchange and transmission licensees).

Texas Civil Statutes, Article 489d, §9E, as added by Act of May 27, 1995, 74th Legislature, Chapter 916, §8, 1995 Texas Session Law Service 4558, 4562, authorizes the finance commission to adopt rules necessary for the enforcement and orderly administration of the Sale of Checks Act.

Texas Civil Statutes, Article 548b, §2, authorizes the Department of Banking to adopt rules concerning matters incidental to the enforcement and orderly administration of Article 548b (governing the sale of prepaid funeral services or merchandise).

Texas Banking Act, §1.013, Act of May 18, 1995, 74th Legislature, Chapter 914, §1, 1995 Texas Session Law Service 4451, 4461, authorizes the finance commission to adopt rules applicable to state savings associations or to savings banks. Texas Civil Statutes, Article 489e, §4.04(2), and Article 852a, §8.01(2), also authorize the savings and loan commissioner and the finance commission to adopt procedural rules for deciding applications filed with the savings and loan commissioner or the savings and loan department.

Texas Banking Act, §1.014, Act of May 18, 1995, 74th Legislature, Chapter 914, §1, 1995 Texas Session Law Service 4451, 4462, authorizes the finance commission to adopt rules necessary for supervising the consumer credit commissioner and for ensuring compliance with Title 79, Revised Statutes (Texas Civil Statutes, Articles 5069-1.01 et seq). Texas Civil Statutes, Article 5069-3.12(1), also authorizes the finance commission to adopt rules necessary for the enforcement of Chapter 3 (Articles 5069-3.01 et seq, relating to regulated loans). Texas Civil Statutes, Article 5069-51.09(b), further authorizes the consumer credit commissioner to adopt rules necessary for the enforcement of the Texas Pawn Shop Act (Article 5069-51.01 et seq, relating to regulation of pawn shops).

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 November 7, 1995.

TRD-9514379 Everette D. Jobe
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For further information, please call: (512) 475-1300

Subchapter E. Rulemaking

• 7 TAC §§9.81-9.84

The new sections are adopted under Government Code, §2001.004(1) and §2001.021(b), which require all administrative agencies to adopt rules of practice stating the nature and requirements of all available formal and informal procedures and to adopt rules regarding petitions for adoption of rules.

Texas Banking Act, §1.012(a)(5), Act of May 18, 1995, 74th Legislature, Chapter 914, §1, 1995 Texas Session Law Service 4451, 4461, authorizes the finance commission to adopt rules necessary or reasonable to facilitate the fair hearing and adjudication of matters before the banking commissioner and the finance commission. As required by the Texas Banking Act, §1.012(b), the commission considered the need to promote a stable banking environment, provide the public with convenient, safe, and competitive banking services, preserve and promote the competitive parity of state banks with national banks

and other depository institutions in this state consistent with the safety and soundness of state banks and the state bank system, and allow for economic development within this state.

Texas Civil Statutes, Article 350, §7, authorizes the finance commission to adopt rules necessary to implement Article 350 (governing regulation of currency exchange and transmission licensees).

Texas Civil Statutes, Article 489d, §9E, as added by Act of May 27, 1995, 74th Legislature, Chapter 916, §8, 1995 Texas Session Law Service 4558, 4562, authorizes the finance commission to adopt rules necessary for the enforcement and orderly administration of the Sale of Checks Act.

Texas Civil Statutes, Article 548b, §2, authorizes the Department of Banking to adopt rules concerning matters incidental to the enforcement and orderly administration of Article 548b (governing the sale of prepaid funeral services or merchandise).

Texas Banking Act, §1.013, Act of May 18, 1995, 74th Legislature, Chapter 914, §1, 1995 Texas Session Law Service 4451, 4461, authorizes the finance commission to adopt rules applicable to state savings associations or to savings banks. Texas Civil Statutes, Article 489e, §4.04(2), and Article 852a, §8.01(2), also authorize the savings and loan commissioner and the finance commission to adopt procedural rules for deciding applications filed with the savings and loan commissioner or the savings and loan department.

Texas Banking Act, §1.014, Act of May 18, 1995, 74th Legislature, Chapter 914, §1, 1995 Texas Session Law Service 4451, 4462, authorizes the finance commission to adopt rules necessary for supervising the consumer credit commissioner and for ensuring compliance with Title 79, Revised Statutes (Texas Civil Statutes, Article 5069-1.01 et seq). Texas Civil Statutes, Article 5069-3.12(1), also authorizes the finance commission to adopt rules necessary for the enforcement of Chapter 3 (relating to regulated oans, Article 5069-3.01 et seq). Texas Civil Statutes, Article 5069-51.09(b), further authorizes the consumer credit commissioner to adopt rules necessary for the enforcement of the Texas Pawn Shop Act (Article 5069-51.01 et seq, relating to regulation of pawn shops).

§9.81. Rulemaking. Rulemaking proceedings must comply with Government Code, Chapter 2001, Subchapter B (§§2001.021 et seq), and with Texas Civil Statutes, Article 5069-3.12(1) and Article 5069-51.09(b), if applicable.

§9.82. Petitions to Initiate Rulemaking Proceedings. Petitions to initiate rulemaking proceedings pursuant to Government Code, §2001.021, must be submitted to the agency in writing. A petition must include:

(1) a brief explanation of the proposed rule;

(2) the full text of the proposed rule, and, if the petition is to modify an existing rule, the text of the proposed rule prepared in the same manner as an amendment to legislation that clearly identifies any words to be added or deleted from the existing text by underlining new language and striking through language to be deleted;

(3) a concise explanation of the legal authority to adopt the proposed rule, including a specific reference to the particular statute or other authority that authorizes it;

(4) an explanation of how the public would be benefitted by the adoption of the proposed rule;

(5) all available data or information showing a need for the proposed rule; and

(6) such other or additional information as the agency may request.

§9.83. Agency Action On Petitions to Initiate Rulemaking Proceedings.

(a) When the agency receives a rulemaking petition, the agency shall review it for compliance with the requirements of §9.82 of this title (relating to Petitions). If the petition is determined to comply, the agency shall notify the applicant that it has been accepted for filing and the petition will be processed in accord with Government Code, §2001.021(c). If the petition is determined not to comply, the agency shall notify the applicant in writing of all deficiencies found and give the petitioner an opportunity to cure them by filing an amended petition. If no amended petition curing the deficiencies is filed with the agency by 5:00 p.m. on the 15th day following the date that the agency mailed a notice of deficiencies to the applicant, the petition shall be deemed denied for the reasons stated in the deficiency notice without the necessity of further action.

(b) If a petition is accepted for filing, within 60 days of the date that the petition was accepted for filing, the agency must either deny the petition for reasons stated in writing or initiate a rulemaking proceeding.

§9.84 Hearings on Proposed Rules.

(a) The agency shall grant an opportunity for a public hearing before adoption of any proposed rule as required by Government Code, §2001.029(b); Texas Civil Statutes, Article 5069-51.09(b); or other applicable statute.

(b) The hearing may be held by the agency head(s) or by the administrative law judge or by any other person designated by the agency head(s). In the exercise of discretion, the agency head(s) may impose rea-

sonable time limits on presentation of evidence and argument, determine the order of the presentations, and conduct the hearing in a manner suitable to the particular proceeding. Public hearings on proposed rules are neither contested cases nor full legal adversary proceedings. Ex parte prohibitions do not apply.

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

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

◆ ◆ ◆ Part II. Texas Department of Banking

Chapter 10. Trust Companies

• 7 TAC §10.1

The Finance Commission of Texas (the commission) adopts new §10.1, regarding transition standards for trust companies required to increase paid-in capital under recent changes in law, with nonsubstantive changes to the proposed text as published in the August 8, 1995, issue of the *Texas Register* (20 TexReg 5973).

Texas Civil Statutes, Article 342-1101, §2(b), and Article 342-1108(a), were amended by Act of May 18, 1995, §2(a) and §2(g), 74th Legislature, Chapter 914, 1995 Texas Session Law Service 4451, 4542-4544 (the Act) (§1 of which is the Texas Banking Act), to require a trust company to have paid-in capital of "not less than \$1 million." Prior to amendment, the minimum paid-in capital was \$500,000. Under §2(j) of the Act, an existing trust company must achieve the new required level of paid-in capital, referred to in more modern parlance as capital and surplus, by September 1, 2000, and the commission "may adopt rules specifying procedures for ratable increases in capital and surplus ... and for deferrals and extensions of time for a trust company acting in good faith to achieve minimum required capital and surplus."

The adopted section implements §2(j) of the Act. A trust company is required to achieve a proportionate increase in capital and surplus each year over the five year period. Under the section, each year becomes the "first year" for purposes of determining proportionality. In other words, a trust company must, by September 1, 1996, increase its capital and surplus by one-fifth of the difference between \$1 million and its capital and surplus (if a lower amount) on September 1, 1995, since the trust company has five years to complete the transition to higher capital. In similar fash-

ion, a trust company must, by September 1, 1997, increase its capital and surplus by one-fourth of the difference between \$1 million and its capital and surplus (if a lower amount) on September 1, 1996, since the trust company has only four years remaining to complete the transition to higher capital. The fractions in succeeding years are one-third, one-half, and finally all of the difference between \$1 million and capital and surplus at the beginning of the relevant period.

While the Act requires \$1 million in capital and surplus by September 1, 2000, measurement at each preceding September 1st is problematic, and the commission has chosen the September 30th Statement of Condition and Income date as the measurement date in the adopted section, technically September 30th of each year.

Finally, the adopted section allows the banking commissioner to accept an alternate capital accumulation plan on application by a trust company if the plan satisfies the objectives of the Act and this section; and permits the banking commissioner to grant limited extensions of time to a trust company that in good faith is attempting to achieve the higher capital level.

No comments were received regarding adoption of the new section.

The nonsubstantive changes to the text of the adopted section are necessary to update citation forms for recently enacted legislation, delete inadvertent references to "participation shares" (a bank attribute not possessed by trust companies), clarify language in §10(c), delete an unnecessary definition of "certified surplus," modify §10(e) to incorporate certain restrictions in the Texas Banking Act that are applicable to trust companies and clarify that this section overrides those restrictions to achieve its purpose, use September 30th statement of condition and income as the measurement date rather than third quarter call report in §10.1(a)(2), in §10.1(d), use September 30th of each year as the date by which capital increases must be made instead of the third quarter of each year, specify in §10(b) and §10(g) that the Commissioner may reduce minimum capital and surplus on application to comply with the Texas Banking Act and to add a caption to §10.1(h).

The new section is adopted under Act of May 18, 1995, §2(j), 74th Legislature, Chapter 914, 1995 Texas Session Law Service 4451, 4545, which provides the commission with the authority to adopt rules requiring ratable increases in capital and surplus and permitting deferrals and extensions of time for a trust company to achieve minimum required capital and surplus.

§10.1. Ratable Increases in Required Capital.

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

(1) Act of May 18, 1995—The Act of May 18, 1995, 74th Legislature,

Chapter 914, 1995 Texas Session Law Service 4451.

(2) Beginning restricted capital—At any time, the level of restricted capital of a trust company as determined by the immediately preceding September 30th Statement of Condition and Income filed by the trust company, subject to correction or restatement as a result of examination.

(3) Capital—An amount determined as:

(A) the sum of:

(i) the par value of all shares of the trust company having a par value that have been issued;

(ii) the consideration fixed by the board in the manner provided by the Texas Business Corporation Act for all shares of the trust company without par value that have been issued, except a part of that consideration that:

(I) has been actually received;

(II) is less than all of that consideration; and

(III) the board, by resolution adopted not later than the 60th day after the date of issuance of those shares, has allocated to surplus with the prior approval of the banking commissioner; and

(iii) an amount not included in clauses (i) and (ii) of this subparagraph that has been transferred to capital of the trust company, on the payment of a share dividend or on adoption by the board of a resolution directing that all or part of surplus be transferred to capital, minus each reduction made as permitted by law; less

(B) all amounts otherwise included in subparagraph (A)(i) and (ii) of this definition that are attributable to the issuance of securities by the trust company and that the commissioner determines, after notice and an opportunity for hearing, should be classified as debt rather than equity securities.

(4) Commissioner—The banking commissioner of Texas.

(5) Restricted capital—The sum of capital and surplus of a trust company.

(6) Surplus—The amount by which the assets of a trust company exceed its liabilities, capital, and undivided profits.

(7) Trust company—A corporate entity that possesses a Texas charter to do business as a trust company, issued

pursuant to Texas Civil Statutes, Article 342-1101, §1(b), or Article 342-1101, §4, and is not exempt from capital standards pursuant to §10.10 and §10.11 of this chapter (relating to Trust Companies).

(8) Undivided profits—The part of equity capital of a trust company equal to the balance of its net profits, gains, and losses since the date of its formation, minus subsequent distributions to shareholders and transfers to surplus or capital under share dividends or appropriate board resolutions. The term includes amounts allocated to undivided profits as a result of a merger.

(b) Purpose. Under Texas Civil Statutes, Article 342-1101, §2(b), and Article 342-1108(a), a trust company is required to possess minimum capital and surplus of not less than \$1 million or a higher amount set by the commissioner under Texas Civil Statutes, Article 342-1101, §2(b), or Article 342-1108(b). Minimum capital and surplus may be reduced by the commissioner, upon application, under Texas Civil Statutes, Article 342-1108(c). Prior to amendment in 1995, the minimum capital was \$500,000. Under the Act of May 18, 1995, §2(j), an existing trust company must achieve the new required level of capital and surplus by September 1, 2000. This section provides for ratable increases in capital and surplus and for deferrals and extensions of time for a trust company acting in good faith to achieve minimum required capital and surplus, and further provides standards for the commissioner to alter the minimum capital standard applicable to a particular trust company.

(c) Minimum Restricted Capital. Except as otherwise provided in this section, the trust company shall have and maintain minimum restricted capital of not less than \$1 million.

(d) Transition for Under-Capitalized Trust Company.

(1) A trust company with restricted capital as of September 1, 1995, that is less than the minimum restricted capital required by subsection (c) or (g) of this section must increase its restricted capital annually thereafter, by the end of September 30th of each year, according to the following schedule:

(A) September 30, 1996—by a sufficient amount to cause restricted capital to equal such company's beginning restricted capital plus at least 20% of the difference between the minimum restricted capital required at that time and such company's restricted capital as of the preceding September 30th;

(B) September 30, 1997—by a sufficient amount to cause restricted capi-

tal to equal such company's beginning restricted capital plus at least 25% of the difference between the minimum restricted capital required at that time and such company's restricted capital as of the preceding September 30th;

(C) September 30, 1998—by a sufficient amount to cause restricted capital to equal such company's beginning restricted capital plus at least 33% of the difference between the minimum restricted capital required at that time and such company's restricted capital as of the preceding September 30th;

(D) September 30, 1999—by a sufficient amount to cause restricted capital to equal such company's beginning restricted capital plus at least 50% of the difference between the minimum restricted capital required at that time and such company's restricted capital as of the preceding September 30th; and

(E) September 30, 2000—by a sufficient amount to cause restricted capital to equal at least the minimum restricted capital required at that time. Thereafter, the trust company shall have and maintain at least the minimum restricted capital required by subsection (c) or (g) of this section.

(2) The implementation schedule set forth in paragraph (1) of this subsection is a minimal requirement, and does not authorize a reduction of capital and surplus for a trust company that has more capital and surplus than is required for restricted capital under the implementation schedule but less than is required under subsection (c) or (g) of this section. Any trust company that possesses restricted capital in excess of minimal requirements or that achieves the minimum transition level of restricted capital prior to the required deadlines in the transition schedule may not reduce its restricted capital without the express written consent of the commissioner.

(e) Changes in Restricted Capital. Except as required by subsection (d) of this section or as provided by the Texas Banking Act, §3.103, restricted capital may not be increased or reduced without the prior written consent of the commissioner.

(f) Extensions of Time. Upon application by a trust company subject to subsection (d) of this section, the commissioner, in the exercise of discretion, may grant one or more extensions to a trust company to permit additional time to achieve the required restricted capital levels if, in the commissioner's opinion, the trust company has made a good faith effort to achieve such restricted capital levels.

(g) Modifications in Minimum Restricted Capital. Notwithstanding subsection (c) of this section, the commissioner may, on application, and on a case by case basis and in the exercise of discretion consistent with protecting safety and soundness, reduce the amount of minimum restricted capital, or may grant extensions of time to achieve required, periodic adjustments in the minimum restricted capital for such trust company. Among the safety and soundness factors to be considered by the commissioner in the exercise of discretion are the nature and type of business conducted; the nature and degree of liquidity in assets held in a corporate capacity; the amount of fiduciary assets under management; the type of fiduciary assets held and the depository of such assets; the complexity of fiduciary duties and degree of discretion undertaken; the competence and experience of management; the extent and adequacy of internal controls; the presence or absence of annual unqualified audits by an independent certified public accountant; the reasonableness of business plans for retaining or acquiring additional restricted capital; and the existence and adequacy of insurance obtained or held by the trust company for the purpose of protecting its customers, beneficiaries and grantors.

(h) Inapplicability to New Trust Company. This section does not create any presumption regarding the adequacy of the capital structure proposed for a new trust company in a charter application to the commissioner.

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

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Everette D. Jobe
General Counsel
Texas Department of
Banking

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

◆ ◆ ◆
• 7 TAC §10.3

The Finance Commission of Texas (the commission) adopts new §10.3, regarding the imposition and collection of examination fees from trust companies, to provide for recovery of the expenses of examination and the cost of maintenance and operation of the Texas Department of Banking (the department) and the cost of enforcing The Texas Banking Code, Chapter XI, more specifically Texas Civil Statutes, Articles 342-1101 et seq, with nonsubstantive changes to the proposed text as published in the July 28, 1995, issue of the *Texas Register* (20 TexReg 5569).

Under the adopted section, the department will charge trust companies \$500 per examiner per day for examination of fiduciary activities, plus incurred expenses. The section contains an avenue of appeal for disputed examination fees. The intent of the finance commission is that each of the department's programs are self-funding, and the adopted fees will recoup costs of operation directly attributable or allocable to trust company regulation.

No comments were received regarding adoption of the new section.

The appeal provisions of the section as proposed potentially misstate the law regarding appeal of an agency decision that is not a contested case, see *S.C. San Antonio, Inc., v. Department of Human Services*, 891 S.W.2d 773, 776 (Tex. App.-Austin 1995, writ denied) (motion for rehearing of application for writ of error pending). Therefore, references to a potential right of judicial review are deleted to avoid misleading the regulated industry. Provision for hearing remain in the section as adopted and will be appealable to the extent provided by law. Technical corrections are made in section §10.3(a) to clarify the language and in §10.3(c) and (d)(1) to make the timing of payment on appeal consistent.

The new section is adopted under the Texas Banking Act (the Act), §1.012(a)(4), as added by Act of May 18, 1995, 74th Legislature, Chapter 914, §1, 1995 Texas Session Law Service 4451, which authorizes the commission to provide for the recovery of the cost of maintenance and operation of the department and the cost of enforcing the Act through the imposition and collection of ratable and equitable fees for notices, applications, and examinations; under Texas Civil Statutes, Article 342-1103, §3, which authorize the banking commissioner to annually determine examination fees applicable to trust companies; and Texas Civil Statutes, Article 342-1106(b), which authorize the commission to adopt general rules and regulations as may be necessary to accomplish the purposes of trust company regulation. As required by the Texas Banking Act, §1.012(b), the commission has considered the need to promote a stable trust company environment, provide the public with convenient, safe, and competitive trust services, and allow for economic development within this state.

§10.3. Examination Fees

(a) A trust company shall pay to the department a fee for examination calculated at a uniform rate of \$500 per examiner per day to recoup the salary expense of examiners plus a proportionate share of department overhead allocable to the examination function.

(b) In connection with an examination, a trust company shall reimburse the department for actual travel expenses incurred, including mileage, public transportation, food, and lodging, in addition to paying the examination fee set forth in subsection (a) of this section.

(c) Examination fees and expenses

are due no later than the 30th day after a bill for fees and expenses is submitted to the trust company. Failure to pay examination fees and expenses or file a request for hearing within the time period may subject the trust company to enforcement proceedings.

(d) Dispute of examination fees and expenses.

(1) A trust company may dispute the amount of examination fees and expenses assessed in connection with an examination by paying the amount of fees and expenses that are undisputed and filing a written request for hearing with the banking commissioner on or before the 30th day after a bill for fees and expenses is submitted to the trust company. If the trust company does not request a hearing in writing within the time period allowed, the assessed fees and expenses are final and nonappealable.

(2) A requested hearing must be held not later than the 30th day after the date the request was received by the banking commissioner unless the parties agree to a later hearing date. Each party shall be given written notice by personal delivery or by registered or certified mail, return receipt requested, of the date set by the banking commissioner for the hearing not later than the 11th day before that date. The hearing shall be conducted as provided by Chapter 9 of this title (relating to Rules of Procedure).

(3) After the hearing, the banking commissioner shall affirm or modify the assessed examination fees and expenses by written order.

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

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

Chapter 13. Practice and Procedure

The Finance Commission of Texas (the commission) adopts the repeal of the entirety of Chapter 13 of Title 7, §§13.1, §§13.3-13.20 (Subchapter A), §§13.50-13.56 (Subchapter B), and §§13.101-13.104 (Subchapter C), concerning practice and procedure before the commission and the banking commissioner, without changes to the proposed text as published in the July 28, 1995, issue of the *Texas*

Register (20 TexReg 5570). Notice of the adoption of each subchapter repeal is published separately as required by the *Texas Register*, preceded by this common preamble.

Chapter 13 of Title 7 conflicts with the adoption of new, omnibus rules governing practice and procedure before the finance commission and each of the three agencies under its jurisdiction: the Texas Department of Banking, the Office of Consumer Credit Commissioner, and the Savings and Loan Department, and thus must be repealed simultaneously with such adoption. These new rules, in Title 7, Chapter 9, Subchapters A-E, are adopted in this issue of the *Texas Register*.

No comments were received regarding adoption of the repeals.

Subchapter A. Hearing Procedures

• 7 TAC §§13.1, 13.3-13.20

The repeals are adopted under the Government Code, §2001.004(1) and §2001.021(b), which requires all administrative agencies to adopt rules of practice stating the nature and requirements of all available formal and informal procedures and petitions for rulemaking, and Texas Banking Act, §1.012(a)(5), Act of May 18, 1995, 74th Legislature, Chapter 914, 1995 Texas Session Law Service 4451, 4461, which authorizes the commission to adopt rules necessary or reasonable to facilitate the fair hearing and adjudication of matters before the banking commissioner and the commission. As required by the Texas Banking Act, §1.012(b), the commission considered the need to promote a stable banking environment, provide the public with convenient, safe, and competitive banking services, preserve and promote the competitive parity of state banks with national banks and other depository institutions in this state consistent with the safety and soundness of state banks and the state bank system, and allow for economic development within this state.

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

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Subchapter B. Appeals to Finance Commission

• 7 TAC §§13.50-13.56

The repeals are adopted under the Government Code, §2001.004(1) and §2001.021(b),

which requires all administrative agencies to adopt rules of practice stating the nature and requirements of all available formal and informal procedures and petitions for rulemaking, and Texas Banking Act, §1.012(a)(5), Act of May 18, 1995, 74th Legislature, Chapter 914, 1995 Texas Session Law Service 4451, 4461, which authorizes the commission to adopt rules necessary or reasonable to facilitate the fair hearing and adjudication of matters before the banking commissioner and the commission. As required by the Texas Banking Act, §1.012(b), the commission considered the need to promote a stable banking environment, provide the public with convenient, safe, and competitive banking services, preserve and promote the competitive parity of state banks with national banks and other depository institutions in this state consistent with the safety and soundness of state banks and the state bank system, and allow for economic development within this state.

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

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Texas Department of
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Subchapter C. Rulemaking

• 7 TAC §§13.101-13.104

The repeals are adopted under the Government Code, §2001.004(1) and §2001.021(b), which requires all administrative agencies to adopt rules of practice stating the nature and requirements of all available formal and informal procedures and petitions for rulemaking, and Texas Banking Act, §1.012(a)(5), Act of May 18, 1995, 74th Legislature, Chapter 914, 1995 Texas Session Law Service 4451, 4461, which authorizes the commission to adopt rules necessary or reasonable to facilitate the fair hearing and adjudication of matters before the banking commissioner and the commission. As required by the Texas Banking Act, §1.012(b), the commission considered the need to promote a stable banking environment, provide the public with convenient, safe, and competitive banking services, preserve and promote the competitive parity of state banks with national banks and other depository institutions in this state consistent with the safety and soundness of state banks and the state bank system, and allow for economic development within this state.

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

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Chapter 25. Prepaid Funeral Contracts

Subchapter B. Regulation of Licenses

• 7 TAC §25.10

The Texas Department of Banking (the department) adopts new §25.10, concerning record-keeping requirements for prepaid funeral benefits permit holders who sell insurance-funded prepaid funeral contract. Section 25.10, published in the July 28, 1995, issue of the *Texas Register* (20 TexReg 5571), has been adopted with changes which are nonsubstantive.

The department has adopted new §25.10 in conjunction with amendments to §25.11 of this title (relating to record keeping requirements for trust-funded contracts) published in the July 28, 1995, issue of the *Texas Register* (20 TexReg 5573). The amendment to §25.11 limit the scope of §25.11 to record maintenance requirements for trust-funded prepaid funeral contracts, and new §25.10 applies exclusively to record maintenance for insurance-funded contracts. Previously, §25.11 established record-keeping requirements for both types of contracts. Since new §25.10 and amendment to §25.11 tailor record keeping requirements to the types of records that a permittee must maintain for insurance-funded contracts and for trust-funded prepaid funeral contracts, respectively, the requirements are more specific than they have been previously and, therefore, promote clarity and accuracy.

New §25.10 specifies where records are to be maintained and the periods of time certain documents are to be retained. In addition, it provides that an affected permit holder must maintain a general file consisting of those documents the permit holder for the most part was previously required to maintain under §25.11. New §25.10 also requires the permit holder to keep in its general file a list of insurance conversions and the regulatory orders approving those conversions, a copy of the post-conversion summary furnished to the department for each conversion, and, in certain cases, copies of Texas Department of Insurance (TDI) examinations and annual reports for the last three years and list of insurance agents licensed by the TDI with their respective TDI agent numbers.

Under new §25.10, an affected permit holder is required to follow most of the record-keeping requirements pertaining to individual files that it was required to follow under §25.11 and, additionally, maintain copies of any revocable or irrevocable assignments,

the data face sheet of the insurance policy or annuity contract funding each contract, any at-need contract or alternative filings, evidence of payment of a cancellation or maturity benefit, and various documents to be maintained in "reduced paid-up policy" files.

The affected permit holder also must maintain an historical contract record, payment-receipt records, an in-force policy register, and certain reports, all of which are described in new §25.10. Furthermore, this new section requires the permit holder to maintain a copy of each original trust-funded prepaid funeral contract that has been converted to insurance funding and the payment history records for each such contract prior to conversion.

As adopted, §25.10 generally mirrors those provisions pertaining to exceptions, relocation of records and timely filing that are contained in §25.11.

The department received four sets of written comments on various provisions of the proposed new section; no comment expressly stated, however, that its author was for or against the section as a whole.

The following comments resulted in changes to the adopted section:

1. An individual commenting on behalf of the Office of the Public Insurance Counsel (OPIC) requested that §25.10(g)(3), which allows the permit holder to request exceptions to record keeping requirements, require a showing of "good cause" for granting an exception.

2. OPIC also suggested that the department define the term "final post-enhancement summary," which appears in §25.10(b)(9). Although the department believes definition is unnecessary, it has chosen, for consistency, to substitute the term "post-conversion summary," used in proposed new §25.25 of this title (relating to conversion from trust to insurance-funded benefits), published in the August 1, 1995, issue of the *Texas Register* (20 TexReg 5663).

3. An individual commenting on behalf of Forethought Life Insurance Company (Forethought) objected to the requirement in §25.10(b)(10) that permit holders maintain agent records and the examination and annual reports of a life insurance company. The department has determined that it can readily obtain this information from other sources and, therefore, has deleted this provision from the section as adopted.

4. An individual commenting on behalf of Homesteaders Life Insurance Company (Homesteaders) stated it was "unnecessary and duplicative" to require a permit holder to maintain separate files for each prepaid funeral contract since insurers routinely maintain individual files for each policy. Although separate files have proved most efficient for examination purposes, the department has determined that hard copies of these files need not be maintained separately if the permit holder is capable of retrieving them separately; the department has modified §25.10(c)(1) accordingly.

5. Homesteaders also commented that file contents should be the same for active and

inactive contracts. The department agrees: subsection (c)(3), (4), and (5) of this section provide, respectively, that each matured contract, canceled contract, and reduced paid-up policy file must contain, among other things, "copies of all documents required for an outstanding contract." The department believes that use of the term "inactive contracts" is confusing on this point and has, accordingly, deleted it from the adopted section as superfluous.

6. At the request of FSP, the department changed subsection (c)(3)(D) and (4)(B) of the new section to indicate that a copy of the payment check is sufficient to satisfy the requirements under those subsections.

7. In response to FSP's objection to the permit holder's maintaining all corporate records at the record's depository, the department limited the type of corporate records a permit holder is required to maintain under subsection (f) of this section. Under the section as adopted, the permit holder is required to maintain all corporate minutes and any records pertaining to actual or anticipated regulatory action or litigation that could result in the permit holder's insolvency.

8. Forethought, Homesteaders, and FSP objected to record retention of matured and cancelled files for ten years under §25.10(c)(3) and (4) respectively, as costly and unnecessary. After reflection, the department reduced the retention period to three years.

The proposed section also received certain comments which, after thorough examination, the agency rejected without making the requested changes.

1. OPIC recommended that §25.10(b)(11), which requires a permit holder to maintain copies of its correspondence with the department, should also require it to maintain copies of any correspondence from the Texas Funeral Services Commission ("TFSC") or TDI. In order to limit the volume of documents the permit holder must retain, the department will continue to request this information directly from TFSC or TDI, as the case may be, when it is needed. A requirement to retain such correspondence would most appropriately be addressed in rules adopted by TFSC or TDI.

2. OPIC also encouraged the department to establish penalties provisions for violations of new §25.10. Penalties for such violations are, however, already set out in Texas Civil Statutes, Article 548b, §4 and §9, and further reference would serve no significant purpose. Furthermore, no other section of Chapter 25 of this title refers to penalty provisions in the Act; as a consequence, the department has determined a reference to penalties in §25.10 would be inconsistent and confusing.

3. Forethought also objected to the requirements in §25.10(c)(4), (5), and (10) that the permit holder maintain certain records because the permit holder is not a party to the insurance policy and does not have access to such information. The department disagrees: under the Act, §8(a), a permit holder must maintain such records as will enable the department to determine whether the seller is

complying with the provisions of the Act. The department has no authority to obtain information or records from the insurer. The permit holder makes a business decision to associate with an insurance company to issue policies funding prepaid funeral contracts and is in a position to require that, as a condition of doing business, the insurer provide it with such records as the department needs. The permit holder can readily protect itself through contracting with the insurer to provide needed records. Also, with respect to consolidated records, under the Act, §2, the department may, by rule, require a permit holder to maintain records in such form as will promote the orderly administration of the Act

4. An individual commenting on behalf of Funeral Security Plans, Inc. (FSP), indicated that it is unreasonable to impose new record keeping requirements on permittees who have previously converted contracts from trust-funded to insurance-funded contracts; and, therefore, such permittees should be exempt from certain record keeping requirements set out in subsections (c)(2), (d)(3) and (d)(4) of the new section. The department declines to amend the new section in this manner. Most permit holders can meet the requirements of these provisions; those who cannot must apply for an exception for good cause under subsection (g)(3) of the new section.

5. In addition, Forethought commented that the section "mandates the maintenance of consolidated records without specifying a time frame in which this information must be maintained." Although this observation about subsection (d) of the new section is technically accurate, the absence of a time frame indicates that the permit holder must maintain these records for the duration of its prepaid funeral operations.

6. Homesteaders requested the department to eliminate the requirement that certain records be balanced under subsection (d)(3) of this section. The department rejected this request because balancing serves as a useful examination tool to establish the accuracy of the records.

7. Homesteaders commented that there is no "outstanding balance owed" under the insurance-funded contract and, therefore, §25.10(d)(3)(E) should be amended to apply exclusively to trust-funded contracts. The department disagrees: a permit holder is responsible for knowing the balance due on a prepaid funeral benefits contract, and it is reasonable for the department to request this information for each such contract.

8. Homesteaders objected to reporting the amounts of premiums collected under §25.10(d)(3)(F) and (G) and to requiring permit holders (other than insurers) to provide information under §25.10(d)(4) that is generally available only from the insurer's records. Homesteaders reasoned that the insurer's responsibilities to the contract purchaser are controlled by the insurance contract and the amount of premiums collected and other data referenced in these provisions is confidential and proprietary to the insurer. The department rejects this logic. As regulator, the department is responsible for ascertaining what

funds have been collected and remitted to the insurer within the statutory time frame and for determining other information relating to preneed contracts that is required under the adopted section as referenced; as a consequence, the department must deny Homesteaders request to delete these requirements.

9. The department also rejected FSP's argument that subsection (c)(3)(A) of the new section should only apply to non-guaranteed preneed contracts. The Act, §8(a), mandates that each permit holder shall maintain such records as the department needs to determine whether the permit holder is complying with the Act. The department requires at-need contacts to be retained in the individual files in order to determine whether all pre-need services have been furnished and, thereby, provide protection to the pre-need purchaser.

10. In comments FSP submitted regarding this section, FSP asked whether, as a consequence of its conversion of contracts from trust to insurance funding, it will be required to comply with both new §25.10 and proposed §25.11 when it is adopted. The answer is no. Once all trust-funded contracts have been converted to insurance funding, only §25.10 applies.

11. FSP objected to the requirement in subsection (c)(1) of this section that individual files contain correspondence related to that file and suggested that the permit holder be required, instead, to make purchaser correspondence available for examinations on request. The department recognizes that it would be costly for out-of-state permit holders to make duplicate copies of correspondence normally maintained at corporate offices out of state. Individual arrangements can be made for good cause under the exception provision in subsection (g) of this section.

The new section is adopted pursuant to the department's rule-making authority under Texas Civil Statutes, Article 548b (the Act), §2, which authorize the department to adopt rules regarding any matter "incidental to the enforcement and orderly administration" of the Act. Requiring permittees to maintain specific records that are available to the department at examination enables the department to enforce the Act.

§25.10 Record Keeping Requirements for Insurance-Funded Contracts.

(a) Application. This section applies to a permit holder who sells or maintains insurance-funded prepaid funeral benefit contracts. Unless the Department of Banking (the department) is petitioned for and agrees to a different location under subsection (g)(3) of this section, all specified records must be made available to the department for examination at the physical location in Texas that the permit holder has designated in written notice to the department on file at the time of the examination.

(b) General files. A permit holder subject to this section must maintain general files regarding its prepaid funeral benefits

operations. Such files may be maintained in hard-copy form or on microfiche or in an electronic database from which they may be reasonably retrieved in hard-copy form. These files must contain the original or a copy of the following:

(1) the initial permit application and the latest approved renewal permit application for the permit holder and its last filed annual report, if any;

(2) the current permit issued to the permit holder by the department;

(3) each contract form approved for sales transacted after the effective date of this section for so long as there are outstanding contracts using such form;

(4) all department-approved insurance depository letters received within the last three years and all insurance depository letters pertaining to active contracts;

(5) the most current financial statement of the permit holder or, if not available, of the parent corporation;

(6) each department-approved agent appointment made and resignation given within the last three years and all appointments that are still active;

(7) all examination reports made by the department for the previous three years;

(8) all Texas Department of Insurance approved insurance policies used in conjunction with the sale of prepaid funeral contracts or the conversion of trust-funded contracts for the last three years and all insurance policies used for such purposes that are funding new contracts or contracts that are outstanding;

(9) a list of insurance conversions performed for the last three years, a copy of each order approving such conversions, and a copy of the post-conversion summary provided to the department for each conversion;

(10) all correspondence with the department within the past three years.

(c) Individual files.

(1) Each permit holder subject to this section shall maintain a prepaid funeral benefits contract file on each purchaser. These files must be either maintained separately or capable of retrieval separately for outstanding contracts (including reduced paid-up policy contracts), matured contracts, and canceled contracts. Files may be maintained either chronologically or alphabetically in hard-copy form or on microfiche or in an electronic database from which they may be reasonably retrieved in hard-copy form. Each individual file should contain all correspondence pertaining to the contract for that file.

(2) Each file pertaining to an outstanding contract must contain copies of the prepaid funeral benefits contract, any revocable and irrevocable assignments, and the data face sheet of the insurance policy or annuity contract funding the contract.

(3) Each file pertaining to a matured contract must be retained for three years. Each such file must contain copies of all documents required for an outstanding contract and a completed department withdrawal form or evidence of department withdrawal approval, where required. Each matured contract file must also contain a copy of:

(A) the at-need contract or itemization of services performed and merchandise transferred; or, if the preneed funeral contract relates only to the opening and closing of a grave, the cemetery internment order;

(B) the certified death certificate;

(C) the certificate of performance of contract services executed by the decedent's personal representative; and

(D) evidence of payment to the servicing funeral home, e.g., a copy of payment check or check stub.

(4) Each file pertaining to a canceled contract must be retained for three years. Each such file must contain copies of all documents required for an outstanding contract and a completed department withdrawal form or evidence of department withdrawal approval, where required. Each canceled contract file must also contain a copy of:

(A) the purchaser's original notice of cancellation; and

(B) evidence of payment of cancellation benefit, e.g., a copy of payment check or check stub.

(5) Each file pertaining to a reduced paid-up policy must be retained for three years. Each reduced paid-up policy file must contain copies of all documents required for an outstanding contract and a copy of the permit holder's letter to the purchaser informing the purchaser of contract status. Each reduced paid-up policy file must also include copies of an election form indicating the purchaser has chosen reduced paid-up status, unless the policy has automatic reduced paid-up provisions.

(d) Consolidated records. Each permit holder subject to this section shall maintain the following records regarding its

prepaid funeral benefits operations for both new and conversion sales in hard copy form or on microfiche or in an electronic database from which they may be reasonably retrieved in hard-copy form:

(1) an historical contract register reflecting all prepaid funeral contracts and policies and a notation of the status of the contracts and policies as outstanding, matured, canceled, or reduced paid-up;

(2) payment-receipt records which detail individual payment histories indicating payments collected;

(3) an in-force policy register maintained either chronologically by date of policy issuance or alphabetically by the insured's name, balanced at least quarterly to the individual files and insurance company records relating to the active preneed contracts. The reconciliations should be retained for review by the examiner for a period of three years. The in-force register must accumulate to grand totals for all policies with respect to the information required under subparagraphs (D), (E), (G), and (H) of this paragraph and contain the following information for each policy or contract at a minimum:

(A) the insured's name;

(B) policy number or numbers;

(C) age or date of birth of insured;

(D) face amount of prepaid funeral contract;

(E) outstanding balance owed under all provisions of the prepaid funeral contract;

(F) date of policy issuance;

(G) premium amount;

(H) premiums collected to date; and

(I) death benefit, face amount of policy, or insurance in force, whichever is applicable; and

(4) the lapsed policy report, cash surrender policy report, death maturity claim report, and reduced paid-up report, maintained either chronologically by date of policy issuance or alphabetically by the insured's name. Each of these reports must be retained for a period of three years and contain at a minimum:

(A) the insured's name;

(B) the date of policy issuance;

(C) the policy number or numbers;

(D) the date the policy matured, lapsed, or was surrendered or cancelled;

(E) the amount of in-force coverage or face value of insurance which has been paid, reduced, deleted, or transferred.

(e) Conversions. A permit holder subject to this section shall maintain a file copy of the original trust-funded prepaid funeral contracts that have been converted to insurance funding and the payment history records for each converted contract prior to conversion.

(f) Corporate records. Corporate records of a permit holder subject to this section pertaining to actual or anticipated regulatory action or litigation that could result in the permit holder's insolvency and all corporate minutes must be maintained and made available to the department at each examination.

(g) Exceptions.

(1) A permit holder that sells only insurance-funded contracts is not required to maintain records that are applicable only to trust-funded contracts.

(2) With respect to contracts sold prior to the effective date of this section, a permit holder will not violate this section if it cannot produce records required under this section which were not previously required by statute or rule.

(3) A permit holder may apply to the Commissioner for an exception to the record keeping requirements other than as provided under this subsection. An exception may be granted for good cause only by prior written approval of the Commissioner.

(h) Relocation of Records. Prior to changing the location where required records are maintained or where the examination is to be performed, a permit holder must notify the department, specifying the new address in writing, and, if the change in location requires the granting of an exception, comply with subsection (g)(3) of this section.

(i) Maintenance of Files. Documents and records required to be maintained under this section must be filed within 30 days of receipt. Cash received must be

posted within 30 days of receipt, and cash withdrawn on death maturity must be posted within 30 days of actual withdrawal.

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 November 7, 1995.

TRD-9514395

Everette D Jobe
General Counsel
Texas Department of
Banking

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

◆ ◆ ◆ • 7 TAC §25.11

The Texas Department of Banking (the department) adopts an amendment to §25.11, concerning record-keeping requirements for prepaid funeral benefits permit holders who sell trust-funded prepaid funeral contracts. The amendment, published in the July 28, 1995, issue of the *Texas Register* (20 TexReg 5573), have been adopted with changes which are nonsubstantive.

The department has adopted amendments to §25.11 in conjunction with the adoption of new §25.10 of this title, (relating to record keeping requirements for insurance-funded contracts) published in the July 28, 1995, issue of the *Texas Register* (20 TexReg 5571).

The amendment to §25.11 limits the scope of §25.11 to record maintenance requirements for trust-funded prepaid funeral contracts, and new §25.10 applies exclusively to record maintenance for insurance-funded contracts. Previously, §25.11 established record-keeping requirements for both types of contracts. Since amendment to §25.11 and new §25.10 tailor recordkeeping requirements to the types of records that a permittee must maintain for trust-funded and insurance-funded prepaid funeral contracts, respectively, the requirements are more specific than they have been previously and, therefore, promote clarity and accuracy.

Amendment to §25.11 deletes references to insurance-related documents and specify where records are to be maintained and the periods of time certain documents are to be retained. The amendment provides that an affected permit holder must maintain a general file consisting of those documents the permit holder for the most part was required to maintain under §25.11 prior to the amendment. The permit holder is also required to keep in its general files copies of all trust agreements and all preneed abandoned property reports that have been filed within the last three years. In addition, the department is entitled to access certain corporate records at each examination.

As amended, §25.11 requires an affected permit holder to keep, in the appropriate indi-

vidual contract file, all correspondence pertaining to the given contract; any revocable or irrevocable assignments; any at-need contract or alternative filings; evidence of payment of a cancellation or maturity benefit; and, under certain circumstances, the certificate of performance of contract services and evidence of payment to the servicing funeral home.

The amendment also provides that the trust-funded contract register must indicate the date of contract purchase and the beneficiary's name, if different from the purchaser's, and the individual ledgers for each contract purchaser must reflect the date of contract purchase. Finally, other amendments were adopted for accuracy or clarification or to achieve consistency in organization or terminology within this section and with new §25.10.

Six speakers commented on various provisions of the proposed §25.11 at a public hearing held on September 18, 1995. In addition, the department received five sets of written comments. Numerous comments were made with respect to the record keeping requirements; however, no comment expressly stated that its author was for or against the section as a whole. In addition to changes to the proposed amendments that resulted from comments the department received, changes were made to this section for clarification and for consistency with new §25.10.

The following comments resulted in changes to the proposed section:

1. An individual commenting on behalf of Amey Funeral Home (Amey), an individual commenting on behalf of the Texas Funeral Directors Association (TFDA), an individual commenting on behalf of Gonzales Funeral Home (Gonzales), an individual commenting on behalf of Funeral Security Plans, Inc. (FSP), an individual commenting on behalf of Simplicity Plan of Texas (SPT), an individual commenting on behalf of Southwest Guaranty Trust Company (SWGT) and an individual commenting on behalf of Service Corporation International (SCI) objected to the subsection (c)(3) requirement that the matured contract file be retained for ten years, the consensus being that this is an excessive period of time resulting in unnecessary cost to the permit holder. The department has determined that retention of such files for a three-year period will be adequate to protect the consumer and public.

2. Amey, TFDA, Gonzales, FSP, SPT, SCI, and SWGT objected to the requirement in subsection (c)(4) that the canceled contract file be retained for ten years, as retention for such period is also excessive and expensive. The department has determined that retention of these files for a three-year period will be adequate to protect the consumer and public.

3. TFDA observed that permit holders that centralize banking functions also will find it burdensome to meet the requirement of subsection (c)(4)(B) of this section through obtaining copies of cancelled checks. The department feels strongly that the permit holder must be able to provide evidence that cancellation benefits have been paid. The

department has, however, at the request of Amey, TFDA and FSP, added language indicating that a copy of a check or check stub will sufficiently provide evidence of payment. For consistency, the department has also clarified that the payment check or check stub is sufficient to satisfy the requirements under subsection (c)(3)(C) of this section as well.

4. TFDA and SPT requested that the permit holder be allowed to retain an agent to keep all or part of its records at the agent's place of business where the permit holder could be audited. The department rejected the request, noting that the department examines records where they are located with the permit holder bearing travel costs associated with an out-of-state examination. The department did, however, change this section to allow the permit holder to notify the department in writing as to where its records are maintained in Texas. If good cause exists for the permit holder's inability to comply with subsection (a) of the section as adopted, it can apply for an exception under subsection (f)(3) of the section.

5. TFDA and Gonzales objected that, under subsection (b)(14) of this section, correspondence must be maintained for ten years. The department has determined that retention of correspondence for three years is sufficient to protect consumers and the public.

6. TFDA complained that requiring permit holders to retain all contract forms approved by the department within the last three years was overly burdensome. This subsection (b)(3) requirement, as well as the requirement that permit holders retain all contract forms currently in use, has been eliminated. The section as adopted has been amended to require the retention of each contract form approved for sales transacted after the section becomes effective for the period of time that there are outstanding contracts using such form.

7. TFDA, FSP, SCI, and SWGT objected to the expansion of the retention period in subsection (b)(7) of this section for the unmatured contract register runs. The department, after review, determined that it would be sufficient to require the permit holder to produce the register runs quarterly, rather than monthly, and retain them for three years. Quarterly runs are necessary to efficient and effective departmental examinations.

8. FSP requested clarification of the term "at need contract" appearing in subsection (c)(3)(A) of this section. In addition, TFDA and SCI objected to the requirement of an at-need contract on the basis that many cemeteries do not currently use it and the cost of implementing a procedure that includes it would be prohibitive. In response to this request and objection, the department has expanded upon this subsection to clarify its meaning by adding alternative record keeping requirements: in lieu of the at-need contract, the permit holder can retain an itemization of services performed and merchandise transferred or, if the preneed funeral contract relates only to the opening and closing of graves, the cemetery interment order.

9. TFDA observed that permit holders that centralize banking functions will find it bur-

densome to meet the requirement of subsection (c)(3)(C) of this section. The department added language clarifying that this record keeping function is not required of a permit holder if the funeral service is performed by a permit holder related by common ownership to it.

10. TFDA and FSP noted that subsection (c)(4)(H) of this section seemed to be a restatement of information requested in subsection (c)(4)(E), (F), and (G) of this section. The department has clarified these provisions to show that they require different information.

11. TFDA, Gonzales, FSP, SPT, and SWGT objected to the subsection (e) requirement that the permit holder maintain all corporate records at the record's depository. In response, the department has limited the type of corporate records a permit holder is required to maintain. Under the section as adopted, the permit holder is required to maintain all corporate minutes and any records pertaining to actual or anticipated regulatory action or litigation that could result in the permit holder's insolvency.

12. TFDA requested clarification of subsection (h) of this section and, additionally asked, as did SWGT, that the time frame for posting and filing be increased from 30 to 45 days. SCI requested that the time frame be increased to 60 days. The department has clarified the rule but believes the time frame for posting and filing is adequate. The Act, §6, requires a permittee to deposit monies collected pursuant to a prepaid funeral contract within 30 days of the date collected. The department believes good business practices dictate that posting should occur near the time of deposit.

13. FSP requested clarification of the term "currently in use" in subsection (b)(3) of this section. The department has clarified which contracts it intended this phrase to identify.

The proposed section also received certain comments which, after thorough examination, the agency rejected without making the requested changes.

1. Amey questioned the value of requiring the permit holder to maintain records under subsection (d)(1)(D) of this section reflecting the date of contract purchase, and FSP indicated it would be burdensome for it to search all its contracts to maintain information in the form required by this subsection. This information is important to the examiner in that the contract date indicates what records have not been examined. For contracts executed prior to the effective date of this section, a permit holder is not required to maintain this information. The retention of this information prospectively will promote the efficiency and effectiveness of departmental examinations.

2. The department rejected Amey's protest of the department's ability to access corporate minutes under subsection (e). The Act, §7, authorizes the department to examine "such records as the Department may require to enable it to determine whether the seller is complying with the provisions" of the Act. The Act, §8, indicates that the department may access information relative to the financial condition of the permit holder. The minutes

contain various information pertinent to the permit holder's prepaid funeral operations, including information relevant to the financial condition of the business, that would enable the department to determine if the permit holder is in compliance with the Act.

3. TFDA objected to additional requirements to the general file, including the following: the last filed annual report, required pursuant to subsection (b)(1) of this section; depository letters, as described in subsection (b)(4) of this section; agent resignations and appointments set out in subsection (b) (6) of this section; trust agreements, as required by subsection (o)(9) of this section; preneed abandoned property reports specified in subsection (b) (11) of this section; records of a trustee/depository, as required under subsection (b)(12) of this section; and a listing of certain investments, as described in subsection (b)(13) of this section. Many of these records cover a three-year period, which TFDA, SCI and SWGT find burdensome and costly. The department has rejected these requests for changes because all the information subject to these objections, including information to be retained for a three-year period, is necessary for examinations to flow properly and efficiently, and in general, such information is currently maintained by permit holders.

4. TFDA objected to the requirement that the individual files contain any revocable and irrevocable assignments. The department considers this information, which is currently maintained by the vast majority of permit holders, to be necessary for examinations to flow properly and efficiently.

5. TFDA commented that the additional record keeping requirements set out in subsection (d)(1)(B), (D), (4)(C), (D), (F), (G), and (H) of this section will necessitate considerable effort to reprogram existing software and will be too costly. The department rejected this comment; examinations will run more efficiently and effectively with this documentation.

6. The department rejected TFDA's request that subsection (f) of this section explicitly state "that if there is no violation then there is no citation." Rather than employing the generalized statement that TFDA has requested, the department has accurately stated in subsection (f)(2) of this section specific circumstances under which the permit holder will not violate record keeping requirements.

7. The department rejected TFDA's request that subsections (f)(3) and (g) of this section include examples of exceptions. The department declines to do so. Requests for exceptions will be judged on their merits on a case-by-case basis.

8. An individual commenting on behalf of Clarksville Funeral Home (Clarksville) stated that the department should not require an original certified copy of the death certificate in each matured contract file. This comment obviously resulted from a misreading of subsection (c)(3)(B) of this section which specifically provides for copies.

9. FSP objected to the requirement in subsection (c)(1) of this section that individual

files contain correspondence related to that file and suggested that the permit holder be required, instead, to make purchaser correspondence available for examinations on request. The department recognizes that it would be costly for out-of-state permit holders to make duplicate copies of correspondence normally maintained at corporate offices out of state. Individual arrangements can be made for good cause under the exception provision in subsection (f) of this section.

10. FSP complained that evidence of payment under subsection (c)(3)(C) of this section is unnecessary in that a certificate of performance is required. The department rejects this argument: a permit holder is responsible for ascertaining that the contract has been fully performed to the satisfaction of all parties and that all payments under the contract have been made.

11. FSP indicated it would be burdensome for it to search all its contracts to maintain information in the form required by subsection (d)(1)(B) of this section. For contracts executed prior to the effective date of this section, a permit holder is not required to maintain this information. The retention of this information prospectively will promote the efficiency and effectiveness of departmental examinations.

12. TFDA and SCI questioned the need for any expansion to record keeping requirements, commenting that the requirements add additional costs without achieving additional protection for the public. The department needs the additional requirements to promote its ability to effectively regulate the industry and protect the consumer.

The new section is adopted pursuant to the department's rule-making authority under Texas Civil Statutes, Article 548b (the Act), §2, which authorize the department to adopt rules regarding any matter "incidental to the enforcement and orderly administration" of the Act. Requiring permittees to maintain specific records that are available to the department at examination enables the department to enforce the Act.

§25.11. Record Keeping Requirements for Trust-Funded Contracts.

(a) Application. This section applies to a permit holder who sells or maintains trust-funded prepaid funeral benefit contracts. Unless the Department of Banking (the department) is petitioned for and agrees to a different location under subsection (f)(3) of this section, all specified records must be made available to the department for examination at the physical location in Texas that the permit holder has designated in written notice to the department on file at the time of the examination.

(b) General file. A permit holder subject to this section must maintain general files regarding its prepaid funeral benefits operations. Such files may be maintained in hard-copy form or on microfiche or in an electronic database from which they may be reasonably retrieved in hard-copy form.

These files must contain the original or a copy of the following:

(1) the initial permit application and the latest approved renewal permit application for the permit holder and its last filed annual report, if any;

(2) the current permit issued to the permit holder by the department;

(3) each contract form approved for sales transacted after the effective date of this section for so long as there are outstanding contracts using such form;

(4) all department-approved depository letters received within the last three years and all depository letters pertaining to active contracts;

(5) the most current financial statement of the permit holder or, if not available, of the parent corporation;

(6) each department-approved agent appointment made and resignation given within the last three years and all appointments that are still active;

(7) the register run made at the close of the preceding quarter for unmatured contracts, which runs shall be retained for a period of three years;

(8) all examination reports made by the department within the past three years;

(9) all trust agreements approved by the department within the past three years and all trust agreements that are still active;

(10) all investment plans and reports submitted to the department within the past three years and all such plans and reports that apply to active trust funds;

(11) all preneed abandoned property reports filed with the department and the Texas State Treasurer within the past three years;

(12) records of the trustee/depository, balanced at least quarterly, reflecting at a minimum all savings account statements, certificate of deposit records (both principal and interest), and/or trust statements for the past three years;

(13) a listing of investments that, for the past three years, do not meet the criteria established in Texas Civil Statutes, Article 548b, §5A(d) through (g), updated at least quarterly; and

(14) all correspondence with the department within the past three years.

(c) Individual files.

(1) Each permit holder subject to this section shall maintain a prepaid funeral benefits contract file on each purchaser. These files must be maintained separately for outstanding contracts, ma-

tured contracts, and canceled contracts. Files may be maintained either chronologically or alphabetically in hard-copy form or on microfiche or in an electronic database from which they may be reasonably retrieved in hard-copy form. Each individual file should contain all correspondence pertaining to the contract for that file.

(2) Each file pertaining to an outstanding contract must contain copies of the prepaid funeral benefits contract and any revocable and irrevocable assignments.

(3) Each file pertaining to a matured contract must be retained for three years. Each such file must contain copies of all documents required for an outstanding contract, a completed department withdrawal form or evidence of department withdrawal approval, where required, and a computation of earnings withdrawal, if applicable, unless computation procedures are otherwise documented in the general file. Each matured contract file must also contain a copy of:

(A) the at need contract or itemization of services performed and merchandise transferred; or, if the preneed funeral contract relates only to the opening and closing of a grave, the cemetery interment order;

(B) the certified death certificate; and

(C) if the service is performed by an entity other than the permit holder or a permit holder related by common ownership, the certificate of performance of contract services executed by the decedent's personal representative and evidence of payment to the servicing funeral home, e.g., a copy of the payment check or check stub.

(4) Each file pertaining to a canceled contract must be retained for three years. Each such file must contain copies of all documents required for an outstanding contract and a completed department withdrawal form or evidence of department withdrawal approval, where required, and a computation of earnings withdrawal, if applicable, unless otherwise documented in the general file. Each canceled contract file must also contain a copy of:

(A) the purchaser's original notice of cancellation; and

(B) evidence of payment of the cancellation benefit, e.g., a copy of the payment check or check stub.

(d) Other records. Each permit holder subject to this section shall maintain

the following records regarding its prepaid funeral benefits operations in hard-copy form or on microfiche or in an electronic database from which they may be reasonably retrieved in hard-copy form:

(1) contract register indicating:

(A) the contract number;

(B) the date of purchase;

(C) the purchaser's name;

(D) the beneficiary's name (if different from the purchaser's name);

(E) the amount of the contract; and

(F) final disposition of the contract;

(2) cash receipts records reflecting payments collected;

(3) deposit records reflecting payments deposited;

(4) individual ledgers for each contract purchaser, balanced at least quarterly to the control ledger and to the records of the trustee/depository, reflecting the:

(A) contract purchaser's name;

(B) contract number;

(C) the date of purchase;

(D) the face amount of the prepaid funeral contract;

(E) total finance charges payable under the contract, if any;

(F) total retention allowable under the contract, if any;

(G) beginning contract balance;

(H) amounts paid on the contract itemized to reflect retention, finance charges and principal paid with individual cumulative totals;

(I) earnings on deposits, if any; and

(J) total amount of the trust; and

(5) a control ledger for all purchasers, balanced at least quarterly to the individual ledgers and to the records of the trustee/depository, reflecting:

(A) the cumulative total of contracts issued, matured and canceled;

(B) deposits of payments;

(C) withdrawal of payments;

(D) net amount of payments on deposit;

(E) earnings of deposit accounts;

(F) earnings withdrawn on deposit accounts; and

(G) net amount of earnings.

(e) Corporate records. Corporate records of a permit holder subject to this section pertaining to actual or anticipated regulatory action or litigation that could result in the permit holder's insolvency and all corporate minutes must be maintained and made available to the department at each examination.

(f) Exceptions.

(1) A permit holder that sells only trust-funded contracts is not required to maintain records that are applicable only to insurance-funded contracts.

(2) With respect to contracts sold prior to the effective date of this section or amendments hereto, a permit holder will not violate this section if it cannot produce records required under this section which were not previously required by statute or rule.

(3) A permit holder may apply to the Commissioner for an exception to the record keeping requirements other than as provided under this subsection. An exception may be granted only for good cause by prior written approval of the Commissioner.

(g) Relocation of Records. Prior to changing the location where required records are maintained or where the examination is to be performed, a permit holder must notify the department, specifying the new address in writing, and, if the change in location requires the granting of an exception, comply with subsection (f)(3) of this section.

(h) Maintenance of Files. Documents and records required to be maintained under this section must be filed within thirty days of receipt. Cash received must be posted within 30 days of receipt, and cash

withdrawn on death maturity must be posted within 30 days of the actual withdrawal.

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 November 7, 1995.

TRD-9514396

Everette D. Jobe
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Banking

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

TITLE 16. ECONOMIC REGULATION

Part I. Railroad Commission of Texas

Chapter 3. Oil and Gas Division

Conservation Rules and Regulations

• 16 TAC §§3.8, 3.76, 3.98

The Railroad Commission of Texas (the commission) adopts amendments to §3.8, relating to pollution control and oil and gas waste haulers, respectively; §3.76, relating to fees, performance bonds and alternate forms of financial security required to be filed; and new §3.98, relating to standards for management of hazardous oil and gas waste. The amendments to §3.8 and §3.76; and new §3.98 shall take effect on midnight, March 31, 1996. The amendments and new section are adopted with changes to the proposed text as published in the May 12, 1995, issue of the *Texas Register* (20 TexReg 3529).

The amendment to §3.8(d) specifies that disposal of hazardous waste in accordance with the provisions of new §3.98 is authorized under §3.8 and that used oil is to be managed in accordance with the provisions of 40 Code of Federal Regulations (CFR), Part 279.

Section 3.8(f) has been amended to specify that recyclable hazardous oil and gas wastes that are not exempt from regulation under new §3.98 (such as spent solvents) may be transported only by transporters who are qualified under state and federal law to transport hazardous waste. Further, §3.8(f) has been amended to provide that compliance with the manifest requirements of new §3.98 satisfies the requirement of §3.8(f) that an operator obtain a minor permit to dispose of waste at a facility permitted or licensed by another state or agency.

The amendment to §3.76, relating to fees, performance bonds and alternate forms of financial security required to be filed, conforms §3.76 to the provisions of new §3.98 by

referring to the hazardous waste generation fees assessed under new §3.98.

New §3.98 establishes standards for management of hazardous oil and gas waste that arises out of or incidental to the drilling for or producing of oil and gas (including transportation of oil and gas), brine mining activities, and exploration, development, and production of geothermal resources ("hazardous oil and gas waste"). Upon delegation of authority to the commission by the Environmental Protection Agency (EPA) under the Resource Conservation and Recovery Act (RCRA), new §3.98 will also regulate hazardous waste generated in connection with gas processing activities at gas plants and activities at repressurization and pressure maintenance plants.

Section 3.98 is intended to prevent pollution of surface and subsurface waters of the state and to prevent injury to life or property that may be caused by mismanagement of hazardous oil and gas waste.

Oil and gas wastes that are exempt from federal hazardous waste regulation are also exempt from regulation under new §3.98. Under the federal exemption, wastes that are intrinsic to and uniquely associated with oil and gas exploration, development, or production operations are exempt from hazardous waste regulation under RCRA.

A partial list of wastes associated with oil, gas, and geothermal exploration, development, and production that are considered exempt from hazardous waste regulation under RCRA can be found in EPA's "Regulatory Determination for Oil and Gas and Geothermal Exploration, Development and Production Wastes," 53 *Federal Register* 25,466 (July 6, 1988). A further explanation of the exemption can be found in the "Clarification of the Regulatory Determination for Wastes from the Exploration, Development and Production of Crude Oil, Natural Gas and Geothermal Energy," 58 *Federal Register* 15,284 (March 22, 1993). These exempt wastes include:

Produced water

Drilling fluids and drill cuttings

Drilling fluids and cuttings from offshore operations disposed on-shore

Rigwash

Well completion, treatment, and stimulation fluids

Workover wastes

Basic sediment & water and other tank bottom sludge from storage facilities that hold product and exempt waste

Accumulated materials such as hydrocarbons, solids, sand, and emulsion from production separators, fluid treating vessels, and production impoundments

Pit sludges and contaminated bottoms from storage or disposal of exempt wastes

Gas plant dehydration wastes, including glycol-based compounds, glycol filters, filter media, backwash, and molecular sieves

Gas plant sweetening wastes for sulfur re-

removal, including amine, amine filters, amine filter media, backwash, precipitated amine sludge, iron sponge, and hydrogen sulfide scrubber liquid and sludge

Cooling tower blowdown

Spent filters, filter media, and backwash (assuming the filter itself is not hazardous and the residue in it is from an exempt waste stream)

Packing fluids

Produced sand

Pipe scale, hydrocarbon solids, hydrates, and other deposits removed from piping and equipment prior to transportation

Pigging wastes from gathering lines

Wastes from subsurface gas storage and retrieval, except for the listed non-exempt wastes

Constituents removed from produced water before it is injected or otherwise disposed of

Liquid hydrocarbons removed from the production stream but not from oil refining

Gases removed from the production stream, such as hydrogen sulfide and carbon dioxide, and volatilized hydrocarbons

Materials ejected from a producing well during blowdown

Waste crude oil from primary field operations and production

Light organics volatilized from exempt wastes in reserve pits or impoundments or production equipment

Liquid and solid wastes generated from exempt wastes by crude oil and tank bottom reclaimers

Non-exempt oil and gas wastes, or wastes associated with the exploration, development, or production of oil or gas that are not exempt from hazardous waste regulation under RCRA include:

Unused fracturing fluids or acids

Gas plant cooling tower cleaning wastes

Painting wastes

Oil and gas service company wastes, such as empty drums, drum rinsate, vacuum truck rinsate, sandblast media, painting wastes, spent solvents, spilled chemicals, and waste acids

Vacuum truck and drum rinsate from trucks and drums transporting or containing non-exempt waste

Used equipment lubrication oils

Waste compressor oil, filters, and blowdown

Used hydraulic fluids

Waste solvents

Waste in transportation pipeline-related pits

Caustic or acid cleaner

Boiler cleaning wastes

Boiler refractory bricks

Incinerator ash

Laboratory wastes

Sanitary wastes

Pesticide wastes

Radioactive tracer wastes

Drums, insulation, and miscellaneous solids

New §3.98 defines terms applicable to management of hazardous oil and gas waste. In particular, the definition of "generation site" in new §3.98 differs from the definition found in the federal regulations. The federal definition is based on a plant-type concept, *i.e.*, that waste streams are generated on a relatively continuous basis within the four corners of a building.

Hazardous waste generation activities regulated by the commission under new §3.98 will not, in most cases, fit the plant-type concept. Activities regulated by the commission under new §3.98 will most typically involve numerous field operations covering a wide geographic area, and long-line operations such as pipeline operations. Therefore, the definition of "generation site" more effectively defines the types of locations at which activities regulated under new §3.98 occur.

New §3.98 provides standards for generators of hazardous oil and gas waste. These standards closely parallel standards applicable to generators under federal hazardous waste regulations.

New §3.98 includes a specific provision for episodic generation of hazardous oil and gas wastes in recognition of the fact that most generation sites regulated under the section will not generate significant quantities of hazardous waste on a day-to-day basis. Rather, many of the facilities regulated by the commission under new §3.98 will generate significant quantities of hazardous waste on a periodic, or episodic, basis, such as during a maintenance operation or in connection with a discharge event.

With minor exceptions, new §3.98 prohibits the on-site treatment, storage, and disposal of hazardous oil and gas waste. New §3.98 does, however, allow on-site treatment during the applicable accumulation time period in tanks and containers that meet the requirements of the section. New §3.98 also provides for collection at centralized locations of wastes generated at sites that are considered conditionally exempt small quantity generation sites. The generation sites and the centralized collection facility must be owned or operated by one person and the owner or operator must register the centralized collection facility with the commission. Further, in connection with immediate response activities following a discharge, and as authorized under an emergency permit, certain on-site treatment, storage, or disposal activities may be authorized under new §3.98.

New §3.98 also includes standards for hazardous oil and gas waste transporters. These requirements are virtually identical to federal requirements for transporters of hazardous oil and gas waste. New §3.98 allows hazardous oil and gas wastes to be transported by any transporter who is qualified under state and federal laws to transport hazardous waste, whether or not that transporter is a permitted

oil and gas waste hauler. Some wastes hauled to recycling and reclamation facilities are exempt from these transporter requirements. However, certain recyclable or reclaimable wastes, such as spent solvents, are not exempt from the transporter requirements.

New §3.98 does not provide for issuance of permits to treat, store, or dispose of hazardous oil and gas waste. Because only very small quantities of hazardous oil and gas waste are actually generated, the commission does not anticipate that there will be sufficient demand from the regulated community for permits to treat, store, or dispose of hazardous oil and gas waste to justify development of a program for issuing these types of permits. Instead, the commission believes that its resources will be better used through implementing standards that will ensure that hazardous oil and gas waste is properly managed and safely transported to a facility authorized to treat, store, dispose of, recycle, or reclaim the waste. Such authorized facilities include facilities permitted by the Texas Natural Resource Conservation Commission and the United States Environmental Protection Agency.

New §3.98 also contains a schedule of fees to be collected from generators of hazardous oil and gas waste.

Two persons commented on the proposed conforming amendments to §3.8. One commenter commended the commission for providing in the proposed rule that compliance with the hazardous waste manifest requirements of §3.98 will satisfy the minor permit requirements of §3.8. The commission appreciates this comment. No change was made in response to this comment.

The second commenter requested that §3.8 be revised to allow a generator to obtain a minor permit that would remain in effect for a period of one year, rather than for 30 days. The commenter stated that such a provision would eliminate redundant efforts to obtain monthly authorization for hazardous oil and gas waste shipments to the same treatment, storage, or disposal facility. The commission notes that such extended authorizations may currently be obtained under letter of authority, rather than a minor permit, from the appropriate district office. No change was made in response to this comment.

One person commented on the proposed conforming amendment to §3.76. The commenter indicated that the commission should not assess any fees for generation of hazardous oil and gas waste. As discussed more fully in the response to comments on proposed §3.98(z), the commission is required under state law to assess fees for generation of hazardous oil and gas waste. No change was made in response to this comment.

One commenter stated concern that proposed §3.98 will require unnecessary administrative burdens without benefit to public health or the environment. This commenter's concern arose from the proposed definition of "generation site," particularly for pipelines. As discussed in the response to comments on proposed §3.98(b), the definition of "genera-

tion site" has been revised. Further, the commission notes that the requirements of §3.98 are reflective of current federal requirements for management of hazardous waste.

One commenter suggested that the statement of purpose in proposed §3.98(a) be revised to refer to hazardous oil and gas waste rather than hazardous waste generated in connection with oil and gas exploration, development, and production operations because hazardous oil and gas waste is precisely defined in the proposed regulation. The commission agrees and has revised §3.98(a) as suggested by this commenter.

One commenter requested clarification of the relationship between the scope of the commission's authority under proposed §3.98 and the scope of the federal exemption from hazardous waste regulation for certain oil and gas wastes. Under state law, the commission has jurisdiction over wastes generated in connection with oil and gas exploration, development, and production operations, including activities associated with "the storage, handling, reclamation, gathering, transportation, or distribution of oil or gas prior to the refining of such oil or prior to the use of such gas in any manufacturing process or as a residential or industrial fuel." See Texas Natural Resource Code, §91.101. Under federal law, wastes generated in connection with operations to locate or remove oil or gas from the ground or to remove impurities from such substances and that are intrinsic to and uniquely associated with primary field operations are exempt from federal hazardous waste regulation. See "Regulatory Determination for Oil and Gas and Geothermal Exploration, Development and Production Wastes," 53 *Federal Register* 25,466 (July 6, 1988) and "Clarification of the Regulatory Determination for Wastes from the Exploration, Development and production of Crude Oil, Natural Gas and Geothermal Energy," 48 *Federal Register* 15, 248 (March 22, 1993). As more fully explained in the cited materials, the federal exemption from hazardous waste regulation covers only a portion of the universe of oil and gas wastes (i.e., wastes that are subject to the commission's jurisdiction). Thus, the requirements of §3.98 will apply with respect to wastes under the commission's jurisdiction that are not covered by the federal exemption from hazardous waste regulation.

One commenter expressed support for the incorporation into §3.98 of the federal exemption from hazardous waste regulation for certain oil and gas wastes. The commission appreciates this comment. No change was made in response to this comment.

One commenter indicated that the proposed definition of "authorized recycling or reclamation facility" in proposed §3.98(b)(4) should be revised to require that such a facility have a RCRA permit, if required under federal law, and be registered with the appropriate state agency. The commission agrees with this commenter that the definition of "authorized recycling or reclamation facility" should be revised to require that such a facility have any necessary RCRA permit. The commission disagrees with the suggested state registration requirements, however, because not all

recycling or reclamation facilities are required to be registered under state law. The commission has revised this definition to specify that an authorized recycling or reclamation facility must have a RCRA permit if required by federal law.

One commenter suggested that the definition of "discharge or hazardous waste discharge" in proposed §3.98(b)(16) be limited to releases "outside of a structure or facility that has been built to control a potential discharge." As under parallel federal regulations, the proposed definition of discharge or hazardous waste discharge refers to discharges "into or on any land or water." The definition as proposed is clear and consistent with federal regulations. Any discharge to land or water, whether or not it occurs within the confines of a structure that has been built to control the release, is a discharge for purposes of federal regulations. No change has been made in response to this comment.

One commenter indicated that proposed §3.98(b)(25) should be revised to require that EPA Form 8700-12 be delivered to either the EPA or the Texas Natural Resource Conservation Commission (TNRCC) or to the commission upon RCRA delegation. The commission agrees that §3.98 should be revised to provide that a generator of hazardous oil and gas waste seeking an EPA identification number should submit a completed EPA Form 8700-12 to the commission for processing. The commission has revised §3.98(b)(25), (g), and (n)(1) to provide that generators of oil and gas waste seeking EPA identification numbers should submit the completed Form 8700-12 to the commission for processing. A comparable change was not made to provisions of the rule regarding transporters because the rule contemplates use of a transporter who may have already obtained an EPA identification number from EPA, TNRCC, or another state.

Four persons submitted comments regarding the definition of the term "generation site" in proposed §3.98(b)(29). Two commenters proposed to revise the definition to clarify that major facilities (e.g., tank batteries and offshore platforms) are the focal point in the generation site definition and that pipeline systems that connect such facilities are not "interrelated" with them. The commenters also proposed revising the definition to provide that all pipeline systems, including rural pipeline gathering systems, as defined under pipeline safety regulations of the commission and the United States Department of Transportation (DOT), are covered under subsection (b)(29)(B). The third commenter suggested replacing the term "physically interrelated" in subsection (b)(29)(A)(i) with "single operational unit operated by one operator and as recognized by the Railroad Commission" for consistency with other commission regulations applicable to oil and gas properties. The fourth commenter requested that a pipeline operator be given the option to classify an entire pipeline as a single generation site.

The commission generally agrees with the first three commenters and has revised the definition of "generation site" to more specifically target operational functions. Under the

revised definition, activities such as production and initial separation of oil and water at the tank battery; production and initial field treatment of gas; and injection of produced brine are different operational functions. The definition of pipeline system in §3.98(29)(B) has also been expanded to include gathering lines.

The commission disagrees with the fourth commenter and has not included in the rule an option to classify an entire pipeline system as one generation site. In discussions with various pipeline operators, it became clear that classifying an entire pipeline system as one generation site would create severe operational problems and increase operational costs for most pipeline owners and operators because of the transportation requirements applicable to SQGs and LQGs. Allowing a pipeline company to opt out of the proposed definition would create problems for enforcement staff because of the resulting variability in site designations among pipeline systems. It might also result in giving certain pipeline owners and operators an advantage over other pipeline owners and operators from the standpoint of fee payments because, under the definition as originally proposed, a single pipeline system might have a number of sites subject to fee payment. The commission notes that this commenter's concern was based at least in part on the practical impossibility of maintaining certain records, such as an emergency response plan, at a remote site such as an unattended compressor station. The commission agrees that, in such a situation, the pipeline system owner or operator can meet the requirements of this rule by maintaining the emergency response plan at the location from which response activities will be initiated.

One commenter requested the addition of a definition for "Railroad Commission identification number." The commenter intended that commission identification numbers, as well as EPA identification numbers, be used to identify hazardous oil and gas waste generation sites. The commission disagrees. As the rule is structured, there is no need for a definition of commission identification number. Where a specific identification number is required, the context of the provision makes it clear which commission identification number is referred to. Further, for operational convenience of operators, the term generation site has been defined without regard to conventional commission identification systems. No change was made in response to this comment.

One commenter felt that the definition of "hazardous substance" was superfluous because the definition of "reportable quantities" (RQs) refers to the specific Code of Federal Regulations (CFRs) that identify hazardous substances. In response to this comment, the commission has deleted the definition of the term "hazardous substance" in proposed §3.98(b)(34) and has renumbered succeeding paragraphs.

One commenter recommended including a definition of the term "land disposal" in the rule in order to facilitate compliance with the provisions of §3.98(e)(2). The commission agrees and has incorporated the suggested definition into new §3.98(b)(37) and renumbered paragraphs within subsection (b).

One commenter recommended that the definition of "owner" in proposed §3. 98(b)(45) be deleted and all subsequent references to "owner or operator" be changed to "operator." The commission disagrees with this commenter. In order to ensure that §3.98 is as stringent as federal regulations for generators of hazardous waste, §3.98 must reflect the "cradle to grave" responsibility for hazardous waste of owners as well as operators. No change was made in response to this comment.

Two persons commented on the definitions of "pressure maintenance plant" and "repressurizing plant" found in proposed §3.98(b)(48) and (54), respectively. The commenters suggested consolidating these terms in one definition and revising the definition to clarify that the terms refer only to plants where gas is processed for reinjection in association with a natural gas recycling project. The commission agrees with these commenters and has consolidated and revised the definitions in §3.98(b)(48), resulting in deletion of proposed §3.98(b)(54).

Two persons commented on the definition of "reportable quantity" in proposed §3.98(b)(53). The first commenter recommended revising the definition to clarify that the term refers to the quantity of material released within a 24-hour period. The second commenter stated that the definition was adequate but suggested that the provisions of 40 CFR, Part 117 be incorporated into §3.98 in their entirety.

The commission agrees with the first commenter and has revised the definition of "reportable quantity" to clarify that it refers to the quantity released within a 24-hour period. The commission disagrees with the second commenter because the provisions of 40 CFR, Parts 117 and 302 are too lengthy to be reasonably incorporated into §3.98. However, copies of 40 CFR, Parts 117 and 302, as well as other federal regulations incorporated into §3.98 by reference, will be available for inspection and copying at the commission's district offices as well as its Austin office.

One commenter noted that proposed §3.98(b)(72) (now §3.98(b)(71)) indicated that manifests can be obtained from TNRCC and asked that commission staff meet with TNRCC staff to discuss distribution of manifests. Based upon discussions with TNRCC staff, the commission has revised this provision to indicate that TNRCC hazardous waste manifests may be obtained from the commission.

One person commented on the definition of "vessel" in proposed §3.98(b) (75) (now §3.98(b)(74)). The commenter suggested clarifying the definition by specifically providing that a drilling or workover vessel may be treated as a generation site rather than as a vessel while it is stationary or fixed for the performance of its primary function. The commission generally agrees with the commenter and has revised this definition to exclude a drilling or workover vessel that is stationary or fixed for the performance of its primary function.

One commenter requested that the phrase "water (bulk shipment)" in proposed

§3.98(b)(78) (now §3.98(b)(77)) be revised to read "bulk shipment (by water)". The commission disagrees. The term "water (bulk shipment)" is intended to distinguish bulk shipments by water from other shipments by water, not from other types of bulk shipments. No change was made in response to this comment.

One commenter suggested clarifying the provisions of proposed §3.98(c)(1) (B) relating to mixtures of hazardous oil and gas waste and other waste materials transported from an authorized treatment, storage, or disposal facility. This commenter wanted the rule to reflect that a mixture of hazardous oil and gas waste and waste under TNRCC jurisdiction shall be considered hazardous waste under TNRCC jurisdiction. The commission agrees and has revised this provision as suggested by the commenter.

Five commenters voiced concerns regarding the provisions of proposed §3.98(f)(5) which indicate that a generator's classification may vary from month-to-month. Three commenters were concerned that when a generator becomes subject to a higher classification, he or she must immediately comply with the management standards applicable to that generator classification. One of these commenters felt this situation could be addressed by classifying a generator as an LQG only if he or she met the criteria for an LQG classification for three months in a calendar year. One commenter also had questions about the management standards that apply pending a final determination as to whether or not a particular waste is hazardous. The commenter supported the commission's use of its emergency permit authority to allow reduced management standards in such situations. The fourth commenter believed that waste generated during one month and accumulated on-site should be subject to more stringent management standards if the generator falls into a higher generator classification the following month.

In response to the first three commenters, the commission notes that federal regulations for hazardous waste, as reflected in this rule, allow a generator to avoid more stringent management standards for waste that has been determined to be hazardous oil and gas waste by being prepared to ship that waste off-site. See 51 *Federal Register* 10,154 (March 24, 1986). Further, federal regulations require that generator classification be determined monthly and not over any longer period of time. No change was made in response to these comments.

The commission disagrees with the fourth commenter regarding management standards applicable to generators whose classification varies from month-to-month. The provisions of proposed §3.98(f)(5) reflect EPA's interpretation of federal hazardous waste regulations. If hazardous waste that is generated in a month during which the total volume of hazardous waste generated exceeds 1,000 kg is mixed or combined with hazardous waste subject to reduced generator standards, then all of the hazardous waste is subject to full regulation. On the other hand, if hazardous waste that is generated in a month during which less than 1,000 kg of hazardous waste

was generated is stored separately from hazardous waste that is generated in a month during which more than 1,000 kg of hazardous waste was generated, the hazardous waste generated in the month during which less than 1,000 kg of hazardous waste was generated is subject to reduced management standards. See 51 *Federal Register* 10,154 (March 24, 1986). No change was made in response to this comment.

Three commenters requested that a longer period of time be provided for notification to the commission by a generator that has become subject to SQG or LQG requirements. Two commenters asked that the time be extended from ten days to 45 days or 60 days. The third commenter suggested that the notification be required prior to the first time that a generator transports hazardous oil and gas waste for treatment, storage, or disposal. The commission disagrees with these commenters. A period of ten days after a generator has qualified as an SQG or LQG is sufficient time to provide notification to the commission. The provisions as proposed are reflective of federal requirements for immediate notification. No change was made in response to these comments.

One commenter recommended clarifying that the management standards set forth in subsections (h)(2), (i), and (j) apply only to generators who accumulate waste on-site. The commission agrees and has revised these provisions as recommended.

Two commenters requested that the requirements applicable to CESQGs who mix hazardous waste and nonhazardous waste be clarified. The commenters' concern was that a CESQG might be reclassified at a higher generator classification if the volume of the waste mixture exceeded the volumetric cut-off for classification as a CESQG. The commenters also requested clarification of the consequences to the generator if such a mixture exhibited the characteristics of a hazardous waste.

These commenters are correctly concerned. As the rule clearly indicates, a CESQG may mix hazardous waste with nonhazardous waste and not be reclassified at a higher generator classification provided that the mixture does not exhibit a hazardous waste characteristic. If the mixture exhibits a hazardous waste characteristic, the generator's classification is determined based on the total volume of the mixture. In response to this comment, subsection (k)(3) was revised, however, to indicate that the mixture is considered hazardous only if it exhibits one or more of the hazardous waste characteristic(s) of the hazardous oil and gas waste in the mixture.

Three commenters requested that on-site remediation of hazardous waste, as provided for in subsection (x), be specifically authorized under subsection (m) (1). Two commenters indicated that the definition of treatment in proposed §3.98(b)(71) was so broad as to exclude remediation under subsection (x) and requested confirmation that on-site remediation would be allowed under (x) despite the prohibitions of subsection (m)(1). One commenter recommended that a new subsection (m)(4) be adopted; this sub-

section would waive permitting requirements for immediate response activities.

The commission agrees that a new provision should be added that waives permitting requirements during immediate response activities following a discharge. However, the commission has added the suggested language in a new subsection (x)(2), relating to discharges, rather than subsection (m). With respect to the comments regarding on-site remediation, the commission notes that if authorized under new subsection (x)(2) or an emergency permit issued under subsection (y), a discharge may be remediated on-site.

One commenter indicated that subsection (m)(2)(v) should be revised to indicate that a CESQG may send its waste to a permitted municipal or industrial facility only with prior approval of TNRCC's Special Waste Program. The commission notes that it is in the process of negotiating a Memorandum of Understanding with the TNRCC that may eliminate the need for approval of TNRCC's Special Waste Program for disposal of certain commission-regulated wastes at facilities permitted by TNRCC. Therefore, the revision recommended by this commenter has not been adopted. However, the commission has revised subsection (m)(2) to clarify that the disposal options set out therein are subject to all other applicable requirements of state and federal law.

Two commenters objected to certain of the requirements set out in subsection (m)(3) for Centralized Waste Collection Facilities (CWCFs). In particular, the commenters objected to the requirement that the owner or operator of a CWCF provide a map showing the location of all generation sites that might contribute waste to the CWCF. One of these commenters also recommended revising to (m)(3)(D) to state that a "person operating a CWCF shall not collect," rather than "store" certain quantities of waste at the CWCF.

The commission generally agrees with these commenters. The commission has revised subsection (m)(3) to provide that, in lieu of a map, the owner or operator of a CWCF may provide to the commission the lease name and number, field name and number, pipeline name and number, or other identifying information acceptable to the commission, of the CWCF and each generation site which may contribute waste to the CWCF. The commission believes that substitution of the word "maintain" is more appropriate than the substitution of the word "collect" for the word "store." The commission has made this change in subsection (m)(3)(D).

A third commenter was in favor of the proposed CWCF provision for CESQG sites under subsection (m)(3)(D).

Two persons commented on the proposed requirements for the use of the manifest in subsection (o)(4)(A) and (B). The commenters proposed that the wording of subsection (o)(4)(A) be revised to clarify that the operator must retain the manifest copy signed by the transporter, "obtain" one copy of the manifest signed by the operator of the designated facility, and "retain" it for three years. The commenter also proposed deletion of subparagraph (B). The commission

agrees and has revised the rule as recommended.

One commenter felt that the provision for the use of a hazardous waste manifest in lieu of a minor permit was not clearly an option for CESQGs and certain SQGs who are exempt from the manifest requirements. The commenter suggested the addition of a new subsection (o)(5) which would clarify that any generator who is exempt from the manifesting requirements of the rule may nevertheless use a manifest in lieu of a minor permit, if desired. The commission agrees that a generator exempt from the manifesting requirements may nevertheless satisfy the requirements of § 8 relating to minor permits by complying with the manifest requirements of this section applicable to SQGs and LQGs. Subsection (m)(2)(D) already includes such a provision.

One commenter suggested that subsections (p)-(s) (relating to packaging, labeling, marking, and placarding) be revised to provide that the transporter is responsible for meeting the requirements of such subsections. The commission disagrees. Federal regulations at 40 CFR, §§262.30-262.33 provide that the generator is responsible for proper packaging, labeling, marking, and placarding when hazardous waste is shipped. No change was made in response to this comment.

One commenter requested clarification of the recordkeeping requirements applicable during the course of any unresolved enforcement action. The commenter requested that proposed subsection (l)(5) be revised to indicate that recordkeeping in such an event would be required only "until the enforcement is resolved by the commission." The commenter also requested that the same revision be made in proposed subsection (w)(7)(E), relating to recordkeeping requirements applicable to transporters of hazardous oil and gas waste. The commission does not agree that clarification of these provisions is necessary. The language of the proposed rule clearly states that the extended recordkeeping requirements apply only during the course of the unresolved enforcement action. Once the enforcement matter is resolved, the extended recordkeeping requirement is no longer applicable. No change was made in response to this comment.

Six persons commented on the proposed requirement for submission of annual reports under subsection (u)(1)(A). Three of the five commenters requested that the proposed rule be revised to provide for biennial, rather than annual, reporting by SQGs and LQGs. The fourth commenter suggested that reporting requirements for SQGs be eliminated because SQGs are not required to submit annual reports under federal law. The fifth and sixth commenters requested confirmation of its understanding that waste management activities occurring during months in which an operator is classified as a CESQG are not required to be reported.

The commission disagrees with the first four commenters. The majority of the information required to be submitted by LQGs and SQGs in annual reports must be assimilated in order to determine fees payable to the commission for that year. The annual reporting require-

ments will not pose any extraordinary burden on SQGs and LQGs. The commission agrees with the fifth that waste management activities occurring during months in which a generator is a CESQG need not be reported. The commission has revised subsection (u)(1)(A) to clarify this issue.

Six commenters indicated that the discharge reporting requirements of subsection (x)(1)(A) were unreasonable because immediate notice of a spill or discharge is not always possible or practical. Two of the six commenters indicated that the reference to discharges that occur within a 24-hour period is redundant because a reportable quantity is based upon the amount of material discharged in a 24-hour period. The commission agrees and has revised this provision to require notification of a discharge of a reportable quantity of hazardous waste immediately upon discovery and has deleted the reference to discharges that occur "within a 24-hour period."

Three commenters requested that proposed subsection (x)(3)(B) be revised to provide for specific risk-based cleanup criteria, such as those promulgated by the TNRCC. The commenters were seeking pre-defined cleanup levels that would minimize the need for case-by-case negotiations with the commission. The commission agrees that risk-based cleanup standards may be appropriate in some spill cleanup situations and notes that subsection (x) allows risk-based cleanups of hazardous oil and gas waste. The commission plans to develop risk assessment guidelines in the future. However, until the commission has gained a level of experience regarding hazardous oil and gas waste cleanups, it is reasonable and appropriate to establish risk-based cleanup standards on a case-by-case basis. The commission does not anticipate unnecessary delays in processing requests for case-by-case approvals of cleanup standards due to the small universe of wastes regulated under this rule and the even smaller number of spills of such waste that are likely to occur. No change was made in response to this comment.

One person commented on the emergency permit requirements of the proposed rule. The commenter requested that the requirement for public notice, (y)(2)(F), be revised to require notice only if the duration of the emergency permit will exceed five days. The commenter felt that "as a practical matter, public notice would afford little or no benefit in those instances where emergency treatment, storage and disposal was completed prior to the time the public could be notified." The commission disagrees with this commenter. First, the five-day period specified in subsection (y)(2)(A) applies to the period during which a generator may act under an oral permit, not the time period during which notice of an emergency permit must be given. The purpose of public notice is to advise those potentially impacted by the discharge of the measures taken to address the discharge. Through the public notice process, the need for additional requirements under the emergency permit may come to light. No change was made in response to this comment.

One commenter also recommended adding a new subsection (y)(2)(G), which would state that an emergency permit would not be required for an immediate response activity authorized under the commenter's proposed subsection (m)(4), which has been incorporated into new subsection (x)(2). The commission disagrees. The provisions of new subsection (x)(2) make it clear that a permit is not required to undertake immediate response activities. No change was made in response to this comment.

Three commenters suggested that a new subsection (z)(1)(A)(iii) be incorporated into the rule. This provision would clarify that a generator who is classified as a CESQG during all 12 months of a calendar year would not be assessed a fee under this rule for that calendar year. The commission agrees and has added the recommended language to the rule.

Two commenters indicated that the fee provisions of the proposed rule were not consistent with the fee exemption in §91.605 of the Texas Natural Resources Code. The commenters argued that the statute provides that a generator is exempt from fees only if classified as a CESQG at all generation sites in the state. The commenters believed that generator fees should be "spread across as broad a base as possible to reduce the fee for each facility." The commission disagrees with these commenters. As a practical matter, an operator will only avoid imposition of fees if in fact he or she is a CESQG at all sites at which he or she generates hazardous oil and gas waste. If an operator is an SQG or LQG at any one site, he or she will be subject to fees under this rule. Further, assessing fees on conditionally exempt small quantity generation sites owned or operated by an operator who is an LQG or SQG at any one site during any one month of the year would impose excessive and costly recordkeeping burdens on generators. The burdens would effectively outweigh the regulatory benefits associated with qualifying as a CESQG. Further, such an approach would create significant compliance monitoring problems for the commission due to the need to track CESQG waste at all facilities throughout the year. No change was made in response to this comment.

Two commenters objected to the provisions of subsection (z)(2) which include wastes exempt from regulation under this rule by subsections (e)(3)(B) and (m)(2)(B) in the quantity of hazardous oil and gas waste generated for the purpose of calculating additional fees. The commission did not intend to penalize generators by including wastes exempt from the rule under subsections (e)(3)(B) and (m)(2)(B) within the total volume of hazardous oil and gas waste generated for purposes of calculating additional fees. Many of these exempted wastes are in fact exempt from regulation under the rule because they are recycled, reused, or reclaimed. If these wastes are not included in the total volume of hazardous oil and gas waste generated for purposes of calculating the additional fee, the generator will not be allowed to take credit for his or her efforts in recycling, reusing, or reclaiming these wastes. This provision has been revised to clarify the commission's intent that these wastes be reincluded for the

purpose of determining the total volume of hazardous oil and gas recycled, reused, or reclaimed during the year.

These two commenters also requested clarification that wastes recycled, reused, or reclaimed by third persons would be included in the total volume of waste recycled, reused, or reclaimed. The provisions regarding the additional fee do not require that the generator recycle, reuse, or reclaim his or her own wastes. The generator's hazardous oil and gas wastes that are recycled, reused, or reclaimed by third persons may be considered in determining whether the generator is subject to the additional fee. No change was made in response to this comment.

One commenter indicated that hazardous waste generated in an episodic event is usually difficult to recycle, reuse or reclaim. The commenter suggested that hazardous waste generated in an episodic event be excluded from the total volume of waste generated when determining the percentage of waste recycled, reused, or reclaimed.

The commission disagrees with this commenter. The commission notes that hazardous oil and gas waste generated in connection with a spill event may be excluded from the total volume of waste generated for purposes of calculating the base annual fee in subsection (z)(1) if the generator undertakes the waste minimization efforts required by subsection (z)(1). In the case of planned episodic events, however, the generator has an opportunity to explore ways to minimize the quantity of hazardous oil and gas waste generated as well as recycling, reuse, and reclamation opportunities. Further, planned episodic events will occur infrequently, minimizing the impact of inclusion of hazardous oil and gas wastes generated during such events in the volume of waste generated for purposes of fee calculation. No change was made in response to this comment.

One person indicated that the provisions of subsection (z)(1) regarding the 30-day period for submission of a report concerning a spill event should run from the time the spill is discovered. The commission agrees and has revised this provision to address this commenter's concern.

One commenter stated that the proposed rule did not clearly indicate whether the base annual fee in proposed subsection (z)(1) was to be applied to an operator or to individual generation sites owned or operated by that operator. The commenter requested that the proposed rule be revised to establish a maximum fee of \$1,000 per operator and that a regulatory program be developed to operate on a budget provided by the funds based on a maximum of \$1,000 per operator.

The base annual fee assessed under subsection (z)(1) is assessed on a site-by-site basis, not an operator-by-operator basis. Therefore, an operator who operates more than one generation site may be subject to more than one fee. The fee structure for the proposed rules was developed in accordance with the requirements under §91.605 of the Natural Resources Code which require that the fee be based upon the volumes of hazardous oil and gas waste generated and be sufficient to

fund the commission's hazardous oil and gas waste program. Placing a \$1,000 cap on the fee assessed against any one operator, regardless of the quantities of waste generated by that operator, would be less effective than the proposed fee structure in meeting the requirements of the statute. The commission also notes that the budget for the hazardous oil and gas waste program is the minimum required for implementation and enforcement of this rule. Finally, the commission notes that while the fees assessed in this rule may be high in comparison to other fees assessed against oil and gas operators by the commission, they are small in comparison to the other costs associated with management of hazardous oil and gas waste. No change was made in response to this comment.

Two commenters noted that the current regulatory structure for hazardous oil and gas wastes imposes no additional fees upon the oil and gas industry. The commenters opposed any fee structure that would further impact the oil and gas producer. The commission notes that it is required under §91.605 of the Texas Natural Resources Code to assess a fee for hazardous oil and gas waste generation. No change was made in response to this comment.

One commenter asked that the fees assessed under this rule be reduced. As discussed above, the fees assessed under this rule are the minimum necessary to fund implementation and enforcement of the commission's hazardous oil and gas waste program. No change was made in response to this comment. It is important to note, however, that the vast majority of oil and gas operators will be classified as CESQGs at all of their generation sites, and thus will be exempt from any fee under this rule.

One commenter requested that subsection (z) be revised to provide that hydrostatic test water subject to the requirements of this rule be eligible for the recycling, reuse or reclamation "credit" if it is injected into a producing formation in connection with an enhanced recovery project. The commission agrees that such "credit" should be available if such injection complies with federal hazardous waste regulations. The commission understands that the natural gas industry will be seeking clarification from EPA on this issue. In any event, no change to the text of the rule is necessary because such injection, if authorized, would be considered "reuse" by the commission eligible for the recycling, reuse and reclamation "credit."

One commenter noted that federal regulations allow the burning of hazardous waste for energy recovery. The commenter recommended that the rule should specifically allow such reuse to qualify for the recycling, reuse, or reclamation "credit." The commission notes that the burning of hazardous waste for energy recovery is addressed in subsection (e)(3)(B)(i) and (ii). Therefore, certain volumes of hazardous oil and gas waste burned for energy recovery are included in the volume of wastes recycled, reused, or reclaimed for purposes of determining whether the generator is subject to the additional fee assessed under subsection (z)(2).

One commenter expressed support for the

proposed fee structure with respect to CESQGs as provided by subsection (z). The commission appreciates this comment. No change was made in response to this comment.

To reflect the fact that the commission intended each reference to the Code of Federal Regulations in §3.98 to be to the most recent version of any such regulation, §3.98(bb) has been revised to refer to the 1994 edition of the code, as amended through November 7, 1995.

One commenter requested that the commission consider the addition of a new subsection to the rule that would "allow on-site mixing of hazardous wastes, disposal and remediation at the lease if it can be shown that the mixing of hazardous wastes does not constitute a hazard to human health or the environment." The commission notes that §3.98 does not prohibit the on-site mixing of one hazardous oil and gas waste with another hazardous oil and gas waste, provided the wastes are compatible. Further, the commission has attempted to include in the rule all possible avenues for on-site treatment, storage, and disposal that meet the requirements of federal law and that do not require a permit. Due to the administrative burdens to the commission associated with developing a hazardous oil and gas waste permitting program, as well as the fact that the commission anticipates that there would be little or no demand for hazardous oil and gas waste treatment, storage, or disposal permits, the commission has not created a process for issuance of hazardous oil and gas waste treatment, storage, or disposal permits. No change was made in response to this comment.

One commenter requested that the commission provide a list of permitted waste haulers to all operators prior to the effective date of the rule. The rule does not require that hazardous oil and gas waste be transported by a permitted oil and gas waste hauler. Therefore, the commission does not plan to distribute such a list to all operators. The commission notes, however, that it will provide such a list to individual operators upon request. Such requests should be directed to the waste hauler section of the Environmental Services Section of the commission. No change was made in response to this comment.

One commenter requested that the commission clarify the generator's liability after the transporter accepts hazardous oil and gas waste. Under federal law, a hazardous waste generator has "cradle to grave" liability for his or her hazardous waste. This rule does not alter that liability scheme. No change was made in response to this comment.

The following commenters expressed general support for the proposed amendments to §3.8 and §3.76 and proposed new §3.98: Texas Mid-Continent Oil and Gas Association; Pennzoil Company; Panhandle Eastern Corporation; Natural Gas Pipeline Company of America; El Paso Natural Gas Company; and ARCO.

The following commenters did not express either general support for or general opposi-

tion to the proposed amendments to §3.8 or §3.76 or proposed new §3.98: North Texas Oil and Gas Association; Gas Processors Association; Association of Texas Intrastate Natural Gas Pipelines; Texas Utilities Services, Inc.; Texas Independent Producers and Royalty Owners Association; and Texas Natural Resource Conservation Commission.

No commenters expressed general opposition to the proposed amendments to §3.8 or §3.76 or to proposed new §3.98.

The amendments and new sections are proposed under Texas Natural Resources Code, §81.052, which authorizes the commission to adopt all necessary rules for governing and regulating activities under its jurisdiction as set forth in Texas Natural Resources Code, §81.051; Texas Natural Resources Code, §85.042, which authorizes the commission to make and enforce rules pertaining to field operations that pose a danger to life or property; Texas Natural Resources Code, §141.012, which authorizes the commission to adopt rules relating to the exploration, production, and development of geothermal energy and associated resources; Texas Natural Resources Code, §91.101(4), which authorizes the commission to adopt rules relating to the discharge, storage, handling, transportation, reclamation, or disposal of oil and gas waste, as well as any other substance or material associated with any operation regulated by the commission under Texas Natural Resources Code, §91.101; Texas Natural Resources Code, §91.602, which authorizes the commission to adopt rules relating to the generation, transportation, treatment, storage, or disposal of hazardous oil and gas waste; and Texas Water Code, §27.036, which authorizes the commission to adopt rules relating to brine mining.

Texas Natural Resources Code, §§81.052, 85.042, 91.101, 91.601-605, and 141.001-141.018; and Texas Water Code, §27.036 is affected by these amendments and new section.

§3.8. (Rule 8) Water Protection.

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

(d) Pollution control

(1) Prohibited disposal methods. Except for those disposal methods authorized for certain wastes by paragraph (3) of this subsection, subsection (e) of this section, or §3.98 of this title (relating to standards for management of hazardous oil and gas waste), or disposal methods required to be permitted pursuant to §3.9 of this title (relating to disposal wells) (Rule 9) or §3.46 of this title (relating to fluid injection into productive reservoirs) (Rule 46), no person may dispose of any oil and gas wastes by any method without obtaining a permit to dispose of such wastes. The disposal methods prohibited by this paragraph include, but are not limited to, the unpermitted discharge of oil field brines, geothermal resource waters, or other mineralized waters, or drilling fluids into any watercourse or drainage way, including any

drainage ditch, dry creek, flowing creek, river, or any other body of surface water. For any disposal method required to be permitted pursuant to §3.75 of this title (relating to discharges to waters of the state) (Rule 77), no permit issued under this section or authorization contained in this section satisfies the requirements of §3.75.

(2)-(8) (No change.)

(9) Used Oil. Used oil as defined in §3.98 of this title (relating to standards for management of hazardous oil and gas waste), shall be managed in accordance with the provisions of 40 CFR, Part 279.

(e) (No change.)

(f) Oil and gas waste haulers.

(1) A person who transports oil and gas waste for hire by any method other than by pipeline shall not haul or dispose of oil and gas waste off a lease, unit, or other oil or gas property where it is generated unless such transporter has qualified for and been issued an oil and gas waste hauler permit by the commission. Hauling of inert waste, asbestos-containing material regulated under the Clean Air Act (42 U.S.C. §§7401 et seq), polychlorinated biphenyl (PCB) waste regulated under the Toxic Substances Control Act (15 U.S.C.A. §§2601 et seq), or hazardous oil and gas waste subject to regulation under §3.98 of this title (relating to standards for management of hazardous oil and gas waste), is excluded from this subsection. This subsection is not applicable to the hauling of oil and gas wastes for recycling. For purposes of this subsection, injection of salt water or other oil and gas waste into an oil and gas reservoir for purposes of enhanced recovery does not qualify as recycling. A person who has a salt water hauler permit does not need to apply for an oil and gas waste hauler permit until the person is scheduled to file an application for permit renewal.

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

(C) Each oil and gas waste hauler shall operate in strict compliance with the instructions and conditions stated on the permit which provide:

(i)-(v) (No change.)

(vi) This permit authorizes the permittee to use commission-permitted disposal systems for which the permittee has submitted affidavits from the disposal system operators stating that the permittee has permission to use the systems. These disposal systems are listed as an attachment to the permit. This permit also authorizes the permittee to use a disposal system operated under authority of a minor permit issued by the commission without submitting an affidavit from the disposal

system operator. In addition, this permit authorizes the permittee to transport hazardous oil and gas waste to any facility in accordance with the provisions of §3.98 (relating to standards for the management of hazardous oil and gas wastes), provided the shipment is accompanied by a manifest. Finally, this permit authorizes the transportation of oil and gas waste to a disposal facility permitted by another agency or another state provided the commission has granted separate authorization for the disposal.

(vii)-(x) (No change.)

(2) (No change.)

(g)-(i) (No change.)

§3.76. Fees, Performance Bonds and Alternate Forms of Financial Security Required to be Filed.

(a)-(p) (No change.)

(q) Hazardous waste generation fee. A person who generates hazardous oil and gas waste, as that term is defined in §3.98 of this title (relating to standards for management of hazardous oil and gas waste), shall pay to the commission the fees specified in subsection (z) of §3.98.

§3.98. Standards for Management of Hazardous Oil and Gas Waste.

(a) Purpose. The purpose of this section is to establish standards for management of hazardous oil and gas waste.

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

(1) Activities associated with the exploration, development, and production of oil or gas or geothermal resources—Activities associated with:

(A) the drilling of exploratory wells, oil wells, gas wells, or geothermal resource wells;

(B) the production of oil, gas, or geothermal resources, including:

(i) activities associated with the drilling of injection water source wells that penetrate the base of usable quality water;

(ii) activities associated with the drilling of cathodic protection holes associated with the cathodic protection of wells and pipelines subject to the jurisdiction of the commission to regulate the production of oil, gas, or geothermal resources;

(iii) activities associated with natural gas or natural gas liquids processing plants or reservoir pressure maintenance or repressuring plants;

(iv) activities associated with any underground natural gas storage facility, provided the terms "natural gas" and "storage facility" shall have the meanings set out in Texas Natural Resources Code, §91.173;

(v) activities associated with any underground hydrocarbon storage facility, provided the terms "hydrocarbons" and "underground hydrocarbon storage facility" shall have the meanings set out in Texas Natural Resources Code, §91.201; and

(vi) activities associated with the storage, handling, reclamation, gathering, transportation, or distribution of oil or gas prior to the refining of such oil or prior to the use of such gas in any manufacturing process or as a residential or industrial fuel;

(C) the operation, abandonment, and proper plugging of wells subject to the jurisdiction of the commission to regulate the exploration, development, and production of oil or gas or geothermal resources; and

(D) the discharge, storage, handling, transportation, reclamation, or disposal of waste or any other substance or material associated with any activity listed in subparagraphs (A)-(C) of this paragraph.

(2) Administrator—The administrator of the United States Environmental Protection Agency, or the administrator's designee.

(3) Authorized facility—Either:

(A) an authorized recycling or reclamation facility; or

(B) an authorized treatment, storage, or disposal facility.

(4) Authorized recycling or reclamation facility—A facility permitted in accordance with the requirements of 40 CFR, Parts 270 and 124 or Part 271, if required, at which hazardous waste that is to be recycled or reclaimed is managed and whose owner or operator is subject to regulation under:

(A) 40 CFR, §261.6(c) or an equivalent state program (relating to facilities that recycle recyclable materials); or

(B) 40 CFR, Part 266, Subparts C (relating to recyclable materials

used in a manner constituting disposal), F (relating to recyclable materials used for precious metal recovery), or G (relating to spent lead-acid batteries being reclaimed), or an equivalent state program.

(5) Authorized representative—The person responsible for the overall operation of all or any part of a facility or generation site.

(6) Authorized treatment, storage, or disposal facility—A facility at which hazardous waste is treated, stored, or disposed of that:

(A) has received either:

(i) a permit (or interim status) in accordance with the requirements of 40 CFR, Parts 270 and 124 (EPA permit); or

(ii) a permit (or interim status) from a state authorized in accordance with 40 CFR, Part 271; and

(B) is authorized under applicable state or federal law to treat, store, or dispose of that type of hazardous waste. If a hazardous oil and gas waste is destined to a facility in an authorized state that has not yet obtained authorization from the EPA to regulate that particular hazardous waste, then the designated facility must be a facility allowed by the receiving state to accept such waste and the facility must have a permit issued by the EPA to manage that waste.

(7) Centralized Waste Collection Facility or CWCF—a facility that meets the requirements of subsection (m)(3) of this section.

(8) Certification—A statement of professional opinion based upon knowledge and belief.

(9) CFR—Code of Federal Regulations.

(10) CESQG—A conditionally exempt small quantity generator, as described in subsection (f)(1) of this section (relating to generator classification and accumulation time).

(11) Commission—The Railroad Commission of Texas or its designee.

(12) Container—Any portable device in which material is stored, transported, treated, disposed of, or otherwise handled.

(13) Contaminated media—Soil, debris, residues, waste, surface waters, ground waters, or other materials containing hazardous oil and gas waste as a result of a discharge or clean-up of a discharge.

(14) Department of Transportation or DOT—The United States Department of Transportation.

(15) Designated facility—An authorized facility that has been designated on the manifest by the generator pursuant to the provisions of subsection (o)(1) of this section (relating to general manifest requirements)

(16) Discharge or hazardous waste discharge—The accidental or intentional spilling, leaking, pumping, pouring, emitting, emptying, or dumping of hazardous waste into or on any land or water.

(17) Disposal—The discharge, deposit, injection, dumping, spilling, leaking, or placing of any hazardous waste into or on any land or water so that such waste or any constituent thereof may enter the environment or be emitted into the air or discharged into any waters, including ground waters.

(18) Disposal facility—A facility or part of a facility at which hazardous waste is intentionally placed into or on any land or water, and at which waste will remain after closure.

(19) Elementary neutralization unit—A device consisting of a tank, tank system, container, transport vehicle, or vessel that is used for neutralizing wastes that are hazardous wastes:

(A) only because they exhibit the characteristic of corrosivity under the test referred to in subsection (e)(1)(D)(ii) of this section (relating to characteristically hazardous wastes); or

(B) they are identified in subsection (e)(1)(D) (i) of this section (relating to listed hazardous wastes) only because they exhibit the corrosivity characteristic.

(20) Empty container—A container or an inner liner removed from a container that has held any hazardous waste and that meets the requirements of 40 CFR, §261.7(b).

(21) Environmental Protection Agency or EPA—The United States Environmental Protection Agency.

(22) EPA Acknowledgment of Consent—The cable sent to the EPA from the United States Embassy in a receiving country that acknowledges the written consent of the receiving country to accept the hazardous waste and describes the terms and conditions of the receiving country's consent to the shipment.

(23) EPA hazardous waste number—The number assigned by the EPA to each hazardous waste listed in 40 CFR, Part 261, Subpart D, and to each characteristic identified in 40 CFR, Part 261, Subpart C.

(24) EPA identification number or EPA ID Number—The number assigned by the EPA to each hazardous waste generator, transporter, and treatment, storage, or disposal facility.

(25) EPA Form 8700-12—The EPA form that must be completed and delivered to the commission in order to obtain an EPA ID number.

(26) Executive director of the TNRCC—The executive director of the TNRCC or the executive director's designee.

(27) Facility—All contiguous land, including structures, other appurtenances, and improvements on the land, used for recycling, reclaiming, treating, storing, or disposing of hazardous waste. A facility may consist of several treatment, storage, or disposal operational units (e.g., one or more landfills, surface impoundments, or combinations thereof).

(28) Generate—To produce hazardous oil and gas waste or to engage in any activity (such as importing) that first causes a hazardous oil and gas waste to become subject to regulation under this section.

(29) Generation site—

(A) Except as provided in subparagraphs (B) (relating to pipelines) and (C) (relating to gas plants) of this paragraph, any of the following operational units that are owned or operated by one person and at which hazardous oil and gas waste is produced or where actions first cause a hazardous oil and gas waste to become subject to regulation:

(i) all oil and gas wells that produce to one set of storage or treatment vessels, such as a tank battery, the storage or treatment vessels, associated flowlines, and related land surface;

(ii) an individual injection or disposal facility, its related injection or disposal wells, associated injection lines, and related land surface;

(iii) an offshore platform; or

(iv) any other facility, including all structures, appurtenances, or other improvements associated with that facility that are geographically contiguous, but which may be divided by public or private right-of-way, provided the entrance and exit between the properties is at a crossroads intersection, and access is by crossing as opposed to going along, the right-of-way.

(B) In the case of a pipeline system (other than a field flowline or injection line system), an equipment station (such as a pump station, breakout station, or

compressor station) or any other location along a pipeline (such as a drip pot, pigging station, or rupture), together with any and all structures, other appurtenances, and improvements:

(i) that are geographically contiguous with or are physically related to an equipment station or other location described in this paragraph, but excluding any pipeline that connects two or more such stations or locations;

(ii) that are owned or operated by one person; and

(iii) at which hazardous oil and gas waste is produced or where actions first cause a hazardous oil and gas waste to become subject to regulation.

(C) A natural gas treatment or processing plant or a natural gas liquids processing plant.

(30) Generator—Any person, by generation site, whose act or process produces hazardous oil and gas waste or whose act first causes a hazardous oil and gas waste to become subject to regulation under this section, or such person's authorized representative.

(31) Geothermal energy and associated resources

Geothermal energy and associated resources as defined in Texas Natural Resources Code, §141.003(4).

(32) Hazardous oil and gas waste—Any oil and gas waste determined to be hazardous under the provisions of subsection (e) of this section (relating to hazardous waste determination).

(33) Hazardous oil and gas waste constituent—A hazardous waste constituent of hazardous oil and gas waste.

(34) Hazardous waste—A hazardous waste, as defined in 40 CFR, §261.3, including a hazardous oil and gas waste.

(35) Hazardous waste constituent—A constituent that caused the administrator to list a hazardous waste in 40 CFR, Part 261, Subpart D, or a constituent listed in table 1 of 40 CFR, §261.24.

(36) International shipment—The transportation of hazardous oil and gas waste into or out of the jurisdiction of the United States.

(37) Land disposal—The placement in or on the land, except as otherwise provided in 40 CFR, Part 268, including placement in a landfill, surface impoundment, waste pile, injection well, land treatment facility, salt dome formation, salt bed formation, or underground mine or cave, or placement in a concrete vault or bunker intended for disposal purposes.

(38) LQG—A large quantity generator, as described in subsection (f)(3) of this section (relating to generator classification and accumulation time).

(39) Management—The systematic control of the collection, source separation, storage, transportation, processing, treatment, recovery, and disposal of hazardous waste.

(40) Manifest—The shipping document required pursuant to the provisions of subsection (o) of this section (relating to manifests).

(41) Manifest document number—The twelve-digit identification number assigned to a generator by the EPA, plus a unique five-digit document number assigned to the manifest by the generator, or preprinted on the manifest, for recording and reporting purposes.

(42) Oil and gas waste—Waste generated in connection with activities associated with the exploration, development, and production of oil or gas or geothermal resources, or the solution mining of brine. Until delegation of authority under RCRA to the commission by EPA, the term "oil and gas waste" shall exclude hazardous waste arising out of or incidental to activities associated with natural gas treatment or natural gas liquids processing plants and reservoir pressure maintenance or repressurizing plants.

(43) On-site—At the generation site.

(44) Operator—The person responsible for the overall operation of a facility.

(45) Owner—The person who owns a facility or part of a facility.

(46) P-5 operator number—The number assigned by the commission to each person who conducts any of the activities specified in §3.1 of this title (relating to organization name to be filed and records kept) within the State of Texas.

(47) Person—An individual, firm, joint stock company, corporation, organization, government, governmental subdivision or agency, business trust, estate, trust, partnership, association, or any other legal entity.

(48) Pressure maintenance plant or repressurizing plant—A plant for processing natural gas for reinjection (for reservoir pressure maintenance or repressurizing) in a natural gas recycling project. These terms do not include a compressor station along a natural gas pipeline system or a pump station along a crude oil pipeline system.

(49) Primary exporter—Any person who is required to originate the manifest for a shipment of hazardous waste in

accordance with 40 CFR, Part 262, Subpart B, or equivalent state provision, that identifies a treatment, storage, or disposal facility in a receiving country as the facility to which the hazardous waste will be sent and any intermediary arranging for the export.

(50) Receiving country—A foreign country to which a hazardous waste is sent for the purpose of treatment, storage, or disposal (except short-term storage incidental to transportation).

(51) Reclaim—To process to recover a usable product or to regenerate.

(52) Recycle—To beneficially use, reuse, or reclaim hazardous waste.

(53) Reportable quantity—The quantity of a hazardous substance released in a 24-hour period that must be reported under the provisions of 40 CFR, Part 117 (for spills to water) or Part 302 (any spill).

(54) Resource Conservation and Recovery Act or RCRA—The federal Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976, as amended, 42 U.S.C. §6901, *et seq.*

(55) Reuse—To employ hazardous waste as an ingredient in an industrial process to make a product (other than recovery of distinct components of hazardous waste as separate end products) or effective substitution of hazardous waste for a commercial product used in a particular function or application.

(56) Sludge—Any solid, semi-solid, or liquid waste generated from a wastewater treatment plant or water supply treatment plant, or air pollution control facility, exclusive of the treated effluent from a wastewater treatment plant.

(57) Solid waste—Any waste identified in 40 CFR, §261.2.

(58) Solution mined brine—Brine extracted from a subsurface salt formation through dissolution of salt in the formation.

(59) SQG —A small quantity generator, as described in subsection (f) (2) of this section (relating to generator classification and accumulation time).

(60) State—Any of the 50 states that compose the United States, the District of Columbia, the Commonwealth of Puerto Rico, the U.S. Virgin Islands, Guam, American Samoa, or the Commonwealth of the Northern Mariana Islands.

(61) Storage—The holding of hazardous waste for a temporary period (excluding storage at the site of generation during the applicable accumulation time period specified in subsection (f) of this section), at the end of which the hazardous waste is recycled, reclaimed, treated, disposed of, or stored elsewhere.

(62) Tank—A stationary device designed to contain an accumulation of hazardous waste that is constructed primarily of non-earthen materials (*e. g.*, wood, concrete, steel, plastic) that provide structural support.

(63) Tank system—A tank and its associated ancillary equipment and containment system.

(64) TNRCC—The Texas Natural Resource Conservation Commission.

(65) Totally enclosed treatment facility—A facility for the treatment of hazardous waste that is directly connected to an industrial production process and that is constructed and operated in a manner that prevents the release of any hazardous waste or hazardous waste constituent into the environment during treatment (*e. g.*, a pipe in which waste acid is neutralized).

(66) Transfer facility—Any transportation-related facility including loading docks, parking areas, storage areas, and other similar areas where shipments of hazardous waste are held during the normal course of transportation.

(67) Transport vehicle—A motor vehicle or rail car used for the transportation of cargo. Each cargo-carrying body (trailer, railroad freight car, etc.) is a separate transport vehicle.

(68) Transportation—The movement of hazardous waste by air, rail, highway, or water.

(69) Transporter—A person engaged in the off-site transportation of hazardous waste.

(70) Treatment—Any method, technique, or process, including neutralization, designed to change the physical, chemical, or biological character or composition of any hazardous waste so as to neutralize such waste, to recover energy or material resources from the waste, or to render such waste non-hazardous or less hazardous, safer to transport, store, or dispose of, amenable for recovery or storage, or reduced in volume. The term does not include any activity that might otherwise be considered treatment that is exempt from regulation under this section (such as neutralization of caustic or acidic fluids in an elementary neutralization unit).

(71) TNRCC-Form 0311—The TNRCC Uniform Hazardous Waste Manifest form. This form can be obtained from the commission.

(72) United States—The 50 states, the District of Columbia, the Commonwealth of Puerto Rico, the U.S. Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

(73) **Used Oil**—Any oil that has been refined from crude oil, or any synthetic oil, that has been used and as a result of such use is contaminated by physical or chemical impurities.

(74) **Vessel**—Every description of watercraft used or capable of being used as a means of transportation on the water. The term does not include a structure that is or is designed to be, permanently affixed to one location, or a drilling or workover vessel that is stationary or fixed for the performance of its primary function.

(75) **Waste**—Any solid waste, as that term is defined in 40 CFR, §261.2.

(76) **Wastewater treatment unit**—A device (such as a hydrostatic test water treatment unit) that:

(A) is a tank or tank system comprising part of a wastewater treatment facility that is subject to regulation under either §§402 or 307(b) of the Clean Water Act, 33 U.S.C. §§1342 or 1317(b); and

(B) receives and treats or stores an influent wastewater that is a hazardous waste, that generates and accumulates a wastewater treatment sludge that is a hazardous waste, or treats or stores a wastewater treatment sludge that is a hazardous waste.

(77) **Water (bulk shipment)**—The bulk transportation of hazardous waste that is loaded or carried on board a vessel without containers or labels.

(c) **Applicability.**

(1) **General.**

(A) This section applies to any person who generates hazardous oil and gas waste and to any person who transports hazardous oil and gas waste.

(B) An owner or operator of a treatment, storage, or disposal facility regulated by the TNRCC's industrial and hazardous waste program, shall be subject to the standards for generators of hazardous waste found in Title 30, Texas Administrative Code, Chapter 335, Subchapter C (relating to TNRCC standards for generators) if the facility generates a new waste that contains hazardous oil and gas waste and waste regulated by the TNRCC's industrial and hazardous waste program.

(2) **Requirements Cumulative.** The provisions of this section are in addition to applicable provisions contained in any other section, order, policy, rule, or statutory authority of the commission. In the event of a conflict between this section and any other section, order, policy, or rule

of the commission, this section shall control.

(d) **General Prohibitions.** No person may cause, suffer, allow, or permit the collection, handling, storage, transportation, treatment, or disposal of hazardous oil and gas waste in a manner that would violate the provisions of this section.

(e) **Hazardous Waste Determination.**

(1) **Determination.** The operator of a facility where waste is generated shall determine if such waste is hazardous oil and gas waste as provided in this subsection. A hazardous oil and gas waste is a waste that:

(A) is defined in subsection (b) of this section (relating to definitions) as an oil and gas waste;

(B) is not described in 40 CFR, §261.4(a) (which describes wastes that are not considered solid wastes);

(C) is not described in 40 CFR, §261.4(b) (which describes solid wastes that are exempt from regulation under RCRA Subtitle C); and

(D) is identified as a hazardous waste either:

(i) in 40 CFR, Part 261, Subpart D (regarding listed hazardous wastes); or

(ii) in 40 CFR, Part 261, Subpart C (regarding characteristically hazardous wastes), as determined either:

(I) by testing the waste:

(-a-) in accordance with methods described in 40 CFR, Part 261, Subpart C; or

(-b-) in accordance with an equivalent method approved by the administrator under 40 CFR, §260.21; or

(II) by applying knowledge of the hazard characteristics of the waste in light of the materials or processes used.

(2) **Land Ban.** Each LQG and SQG shall determine whether the hazardous oil and gas waste it generates is prohibited from land disposal under the provisions of 40 CFR, Part 268. If the waste is prohibited from land disposal, the LQG or SQG must comply with all applicable provisions of 40 CFR, Part 268 (relating to management of land ban wastes) prior to disposing of such waste.

(3) **Exclusions and Exemptions.**

(A) Notwithstanding the provisions of subsection (e)(1) of this section, in the event the administrator determines, in accordance with the provisions of 40 CFR, §260.22, that a particular oil and gas waste that is considered a hazardous oil and gas waste because it meets criteria set out in subsection (e)(1)(D)(i) of this section (relating to listed hazardous wastes) should not be considered a hazardous waste, such waste shall be exempt from regulation under this section.

(B) Notwithstanding the provisions of subsection (e)(1) of this section the following are exempt from regulation under this section:

(i) any oil and gas waste described in 40 CFR, §261.6(a)(2) (relating to recyclable materials) that is managed as provided in applicable provisions of 40 CFR, Part 266, Subparts C-H, and 40 CFR, Parts 270 and 124;

(ii) any oil and gas waste described and recycled, reclaimed, or reused as provided in 40 CFR, §261.6(a)(3) (relating to recyclable materials);

(iii) used oil that is not considered a hazardous waste under the provisions of 40 CFR, §279.10(b) and that is managed as provided in 40 CFR, Part 279;

(iv) dielectric fluid containing polychlorinated biphenyls (PCB's) and electric equipment containing such fluid that are regulated under 40 CFR, Part 761 and that are hazardous only because they exhibit the characteristic of toxicity for D018-D043 under the test required under subsection (e)(1)(D)(ii) of this section, (relating to characteristically hazardous wastes);

(v) debris, as that term is defined in 40 CFR, §268.2, that is an oil and gas waste:

(I) that contains or contained a hazardous oil and gas waste listed in 40 CFR, Part 261, Subpart D or that exhibits or exhibited a hazardous waste characteristic identified in 40 CFR, Part 261, Subpart C; and

(II) that has been treated using one of the required destruction technologies specified in Table 1 of 40 CFR, §268.45 or that is determined by the administrator to be no longer contaminated with hazardous oil and gas waste; and

(vi) hazardous oil and gas waste remaining in an empty container.

(f) **Generator Classification and Accumulation Time.**

(1) Conditionally Exempt Small Quantity Generator.

(A) To be classified as a conditionally exempt small quantity generator (CESQG) during any calendar month, a generator of hazardous oil and gas waste must:

(i) generate no more than 100 kilograms (220.46 pounds) of hazardous oil and gas waste in that calendar month; and

(ii) accumulate no more than 1,000 kilograms (2204.60 pounds) of hazardous oil and gas waste on-site at any one time.

(B) Except as provided in subsection (f)(5) of this section, a CESQG must comply with all requirements of this section applicable to CESQGs.

(C) If a CESQG generates in one calendar month, or accumulates on-site at any one time, more than a total of one kilogram (2.20 pounds) of any acute hazardous waste listed in 40 CFR, §§261.31, 261.32 or 261.33(e) or a total of 100 kilograms (220.46 pounds) of contaminated media resulting from the clean up of a discharge into or on any land or water of any acute hazardous waste listed in 40 CFR, §§261.31, 261.32, or 261.33(e), all such acute hazardous wastes must be managed as though generated by an LQG. The LQG accumulation time period for such acute hazardous wastes shall begin at such time as the maximum quantity specified in this subparagraph is exceeded.

(2) Small Quantity Generator.

(A) To be classified as a small quantity generator (SQG) in any calendar month, a generator of hazardous oil and gas waste must:

(i) generate less than 1,000 kilograms (2204.60 pounds) of hazardous oil and gas waste in that calendar month;

(ii) not allow any particular quantity of hazardous oil and gas waste to remain on-site for a period of more than:

(I) 180 days from the date that particular quantity was generated; or

(II) 270 days from the date that particular quantity was generated, but only if the waste must be transported or offered for transport to a treatment, storage, or disposal facility that is located a distance of 200 miles or more from the point of generation; and

(iii) not accumulate more than 6000 kilograms (13, 227.60 pounds) of hazardous oil and gas waste on-site at any one time.

(B) An SQG must accumulate all hazardous oil and gas waste in tanks or containers that meet the requirements of this section and, except as provided in subsection (f)(5) of this section, comply with all requirements of this section applicable to SQGs.

(C) The accumulation period specified in subsection (f)(2)(A)(ii) of this section may be extended an additional 30 days if the commission, at its sole discretion, determines that unforeseen, temporary, and uncontrollable circumstances require that hazardous oil and gas waste remain on-site for a longer time period.

(3) Large Quantity Generators.

(A) Any generator of hazardous oil and gas waste not classified as a CESQG or SQG is classified as a large quantity generator (LQG).

(B) An LQG must accumulate hazardous oil and gas waste in tanks or containers that meet the requirements of this section and, except as provided in subsection (f)(5) of this section, comply with all other requirements of this section applicable to LQGs.

(C) An LQG shall not accumulate any particular quantity of hazardous oil and gas waste on-site for more than 90 days from the date that particular quantity was generated, unless an extension to such 90-day period has been granted in accordance with the provisions of subsection (f)(4)(D) of this section.

(D) The 90-day accumulation period specified in subsection (f)(4)(C) of this section may be extended an additional 30 days if the commission, at its sole discretion, determines that unforeseen, temporary, and uncontrollable circumstances require that hazardous oil and gas waste remain on-site for longer than 90 days.

(4) Accumulation in Containers

(A) Notwithstanding the foregoing provisions of subsection (f) of this section, an LQG or SQG may accumulate in containers up to 55 gallons of hazardous oil and gas waste or a total of one quart of acute hazardous wastes listed in 40 CFR, §261.33(e) without having to manage such hazardous oil and gas waste in accord-

ance with the accumulation time limits applicable to LQGs or SQGs or with the provisions of subsections (g) (relating to preparedness and prevention), (r) (relating to contingency plan and emergency procedures), (s) (relating to personnel training), (t) (relating to standards for use of containers), and (u) (standards for use of tank systems) of this section, provided that the requirements of subsection (f)(4)(B) of this section are met.

(B) All hazardous oil and gas waste subject to the exemption of subsection (f)(4)(A) of this section must be accumulated in containers that:

(i) are at a location that is:

(I) under the control of the generator; and

(II) at or near the point of generation;

(ii) meet the applicable requirements of 40 CFR, §§265.171, 265.172, and 265.173(a) (relating to container condition, compatibility of waste with container, and closing containers); and

(iii) are marked with the words "Hazardous Waste" or with other words that identify the contents of the containers.

(C) If the amount of hazardous waste accumulated on-site at or near the point of generation exceeds the maximum amount specified in subsection (f)(4)(A) of this section, the generator must, with respect to such excess waste, comply with all applicable provisions of this section within three days of the date that such maximum amount is exceeded.

(5) Episodic Generation. Except as otherwise provided in this paragraph, if a generator's classification varies from one month to another, the hazardous oil and gas waste generated during any particular month shall be managed in accordance with the requirements applicable to the generator's classification for that month.

(A) If hazardous oil and gas waste generated by a generator who is classified as a CESQG during a particular month is mixed with waste generated in a month during which the generator is considered an LQG, the mixture shall be managed in accordance with the standards applicable to LQGs.

(B) If hazardous oil and gas waste generated by a generator who is classified as a CESQG during a particular

month is mixed with waste generated in a month during which the generator is considered an SQG, the mixture shall be managed in accordance with the standards applicable to SQGs.

(C) If hazardous oil and gas waste generated by a generator who is classified as an SQG during a particular month is mixed with waste generated in a month during which the generator is considered an LQG, the mixture shall be managed in accordance with the standards applicable to LQGs.

(g) Notification. A person who is considered an LQG or SQG under the provisions of this section must notify the commission of the activities of such person that are subject to the provisions of this section and obtain an EPA ID number by filing the prescribed form (currently EPA Form 8700-12) with the commission. Such notification must be made upon the later of 90 days after the effective date of this section or within ten days of the date that the LQG or SQG becomes subject to the provisions of this section.

(h) Preparedness and Prevention.

(1) General. In addition to all other applicable requirements of this section, all generators of hazardous oil and gas waste shall employ reasonable and appropriate measures (considering the nature and location of the facility and the types and quantities of hazardous oil and gas waste maintained at the site) in the operation and maintenance of his or her generation site to minimize the possibility of a fire, explosion, or any unplanned sudden or non-sudden release of hazardous oil and gas wastes or hazardous oil and gas waste constituents to air, soil, or surface water that could threaten human health or the environment.

(2) LQGs and SQGs. LQGs and SQGs who accumulate hazardous oil and gas waste at the generation site must comply with the provisions applicable to owners or operators of 40 CFR, Part 265, Subpart C (relating to preparedness and prevention).

(i) Contingency Plan and Emergency Procedures.

(1) LQGs. LQGs who accumulate hazardous oil and gas waste at the generation site must comply with the provisions applicable to owners or operators of 40 CFR, Part 265, Subpart D (relating to contingency plan and emergency procedures).

(2) SQGs. SQGs who accumulate hazardous oil and gas waste at the generation site must comply with the provisions of 40 CFR, §262.34(d)(5) (relating to emergency response).

(j) Personnel Training. LQGs who accumulate hazardous oil and gas waste at the generation site must comply with the provisions applicable to owners or operators of 40 CFR, §265.16 (relating to personnel training).

(k) Standards for Use of Containers.

(1) LQGs. LQGs accumulating hazardous oil and gas waste in containers must:

(A) comply with the provisions applicable to owners or operators of 40 CFR, Part 265, Subpart I (relating to use and management of containers);

(B) clearly mark each container being used to accumulate hazardous oil and gas waste on-site, in a manner and location visible for inspection, with the date accumulation of such hazardous oil and gas waste begins; and

(C) clearly label or mark each container being used to accumulate hazardous oil and gas waste on-site with the words "Hazardous Waste."

(2) SQGs. SQGs accumulating hazardous oil and gas waste in containers must:

(A) comply with the provisions applicable to owners or operators of 40 CFR, Part 265, Subpart I, except §265.176 (relating to distance from property lines);

(B) clearly mark each container being used to accumulate hazardous oil and gas waste on-site, in a manner and location visible for inspection, with the date accumulation of such hazardous oil and gas waste begins; and

(C) clearly label or mark each container being used to accumulate hazardous oil and gas waste on-site with the words "Hazardous Waste."

(3) CESQGs. The provisions of this paragraph apply to CESQGs only.

(A) Hazardous oil and gas waste generated by a CESQG may be mixed with non-hazardous waste even though the resultant mixture exceeds the quantity limitations of subsection (f)(1) of this section, unless the mixture exhibits any of the hazardous waste characteristics of the hazardous oil and gas waste in the mixture, as determined under subsection (e)(1)(D)(ii) of this section.

(B) If a CESQG's wastes are mixed with used oil, the mixture is subject to the requirements 40 CFR, Part 279 if the mixture is destined to be burned for energy recovery. Any material produced from such a mixture by processing, blending, or other treatment is also so regulated if it is destined to be burned for energy recovery.

(1) Standards for Use of Tank Systems.

(1) LQGs. LQGs accumulating hazardous oil and gas waste in tanks must:

(A) comply with the provisions applicable to owners or operators of 40 CFR, Part 265, Subpart J, except §265.197(c) and §265.200;

(B) comply with the provisions applicable to owners or operators of 40 CFR, §265.111 and §265.114 (relating to closure performance standards and disposal of contaminated equipment and media); and

(C) clearly label or mark each tank being used to accumulate hazardous oil and gas waste with the words "Hazardous Waste".

(2) SQGs. SQGs accumulating hazardous oil and gas waste in tanks must:

(A) comply with the provisions of 40 CFR, §265.201 (relating to accumulation of waste in tanks by small quantity generators); and

(B) clearly label or mark each tank being used to accumulate hazardous oil and gas waste with the words "Hazardous Waste".

(m) Disposition of Hazardous Oil and Gas Waste

(1) On-site Treatment, Storage, Disposal, Recycling, and Reclamation. Except as otherwise specifically provided in this section, no person may treat, store, dispose of, recycle, or reclaim any hazardous oil and gas waste on-site.

(2) Transport to Authorized Facility.

(A) Except as otherwise specifically provided in this section and subject to all other applicable requirements of state or federal law, a generator of hazardous oil and gas waste must send his or her waste to one of the following categories of facilities for treatment, storage, disposal, recycling, or reclamation:

(i) an authorized recycling or reclamation facility;

(ii) an authorized treatment, storage, or disposal facility;

(iii) a facility located outside the United States, provided that the requirements of subsection (v)(1) of this section (relating to exports of hazardous waste) are met;

(iv) a transfer facility, provided that the requirements of subsection (w)(3) of this section are met;

(v) if the waste is generated by a CESQG, a facility permitted, licensed, or registered by a state to manage municipal or industrial solid waste; or

(vi) if the waste is generated by a CESQG, a centralized waste collection facility (CWCF) that meets the requirements of subsection (m)(3) of this section.

(B) Notwithstanding any contrary provision of this subsection, hazardous oil and gas wastes may be treated or stored on-site in an elementary neutralization unit or a totally enclosed treatment facility. If a hazardous oil and gas waste that is ignitable under 40 CFR, §261.21 (other than DOO1 High TOC Subcategory wastes defined in 40 CFR, §268.42, Table 2) or that is corrosive under 40 CFR, §261.22 is being treated in an elementary neutralization unit or a wastewater treatment unit to remove the characteristic before land disposal, the owner or operator must comply with the requirements of 40 CFR, §264.17(b).

(C) While waste is being accumulated on-site in accordance with the provisions of subsection (f) of this section, a generator may treat hazardous oil and gas waste on-site in tanks or containers that comply with the applicable provisions of subsections (k) and (l) of this section.

(D) For purposes of §3.8(f)(1)(C)(vi) (relating to oil and gas waste haulers), the manifest for shipment of hazardous oil and gas waste to a designated facility (a facility designated on the manifest by the generator pursuant to the provisions of subsection (o)(1) of this section) shall be deemed commission authorization for disposal at a facility permitted by another agency or another state.

(3) Centralized Collection of Hazardous Oil and Gas Waste.

(A) Centralized Waste Collection Facility. Provided that the requirements of this paragraph are met, a person may maintain at a CWCF hazardous oil and gas waste that is generated:

(i) by that person; and

(ii) at sites where that person is considered a CESQG under the provisions of this section.

(B) Prior to receipt of oil and gas hazardous waste generated off-site, a person who operates a CWCF must register with the commission by filing with the commission a notice that includes the following information:

(i) a map showing the location of the CWCF and each individual hazardous oil and gas waste generation site that may contribute waste to the collection facility. In lieu a map, the person who operates the CWCF may provide to the commission the name and lease number, field name and number, or other identifying information acceptable to the commission, of the CWCF and each generation site that may contribute waste to the collection facility;

(ii) the person's P-5 operator number; and

(iii) the EPA ID number for the CWCF, if any.

(C) All hazardous oil and gas waste received at the CWCF must be kept in closed containers that are marked with the words "Hazardous Waste."

(D) A person operating a CWCF shall not maintain at the CWCF at any one time more than 5000 kilograms of hazardous oil and gas waste or more than five quarts of any hazardous oil and gas waste that is listed in 40 CFR, §261.33(e) (acute hazardous waste).

(n) EPA ID Numbers.

(1) Generators. No LQG or SQG may transport or offer for transportation any hazardous oil and gas waste until such generator has obtained an EPA ID number by filing the prescribed form (currently EPA Form 8700-12) with the commission.

(2) Transporters. No LQG or SQG may allow his or her hazardous oil and gas waste to be transported by a transporter that does not have an EPA ID number.

(3) Treatment, Storage, or Disposal Facilities. Except in the case of facilities specified in subsection (m)(2)(A)(iii), (vi), and (v) of this section, no LQG or SQG may send his or her hazardous oil and gas waste to a treatment, storage, or disposal facility unless that facility:

(A) is a designated facility as defined in this section; and

(B) has an EPA ID number.

(o) Manifests.

(1) General Requirements.

(A) Except as provided in subsection (o)(1)(B) of this section, each time an LQG or SQG transports hazardous oil and gas waste or offers hazardous oil and gas waste for transportation to an authorized facility, such generator must prepare a manifest form. If the waste was generated in the State of Texas and is being transferred to an authorized facility located within the State of Texas, the generator shall use the form prescribed by the TNRCC. If the authorized facility is located outside the State of Texas, the generator must refer to subsection (o)(2) of this section to determine which manifest form to use.

(B) The generator must specify on the manifest one authorized facility to handle the hazardous oil and gas waste described on the manifest (the "primary designated facility").

(C) The generator may also specify on the manifest one alternate authorized facility to handle the hazardous oil and gas waste (the "alternate designated facility") in the event an emergency prevents delivery of the hazardous oil and gas waste to the primary designated facility.

(D) If the transporter is unable to deliver the hazardous oil and gas waste to the primary designated facility or the alternate designated facility, the generator must either specify another authorized facility to which the hazardous oil and gas waste can be delivered or instruct the transporter to return the hazardous oil and gas waste to the generator. If the generator specifies another authorized facility to which the hazardous oil and gas waste can be delivered, the generator shall instruct the transporter to revise the manifest to show this facility as the designated facility (see subsection (w)(6) of this section relating to transporter's inability to deliver waste).

(E) An SQG is not required to comply with the provisions of this subsection (relating to manifests) if:

(i) the SQG's hazardous oil and gas waste is reclaimed under a contractual agreement (the "hazardous waste reclamation agreement") pursuant to which:

(I) the type of hazardous oil and gas waste and frequency of shipments are specified in the agreement; and

(II) the vehicle used to transport the hazardous oil and gas waste to the hazardous waste reclamation facility and to deliver regenerated material back to the generator is owned and operated by the hazardous waste reclamation facility;

(ii) the SQG maintains a copy of the hazardous waste reclamation agreement in his or her files for a period of at least three years after termination or expiration of the reclamation agreement; and

(iii) the SQG complies with the provisions of 40 CFR, § 58.7(a)(10) (relating to land ban wastes subject to tolling agreements) if the waste is determined to be prohibited from land disposal under subsection (e)(2) of this section (relating to land ban wastes).

(2) Manifests Required for Out-of-State Domestic Shipments.

(A) If the hazardous oil and gas waste was generated within the United States, but outside the State of Texas, and is being transported to an authorized facility located within the State of Texas, the generator must use the form prescribed by the TNRCC.

(B) If the hazardous oil and gas waste was generated within the State of Texas and is being transported to an authorized facility located within the United States but outside the State of Texas (the "consignment state"), the manifest specified by the consignment state shall be used. If the consignment state does not specify a particular manifest form for use, then the generator shall use the form prescribed by the TNRCC.

(3) Number of Copies. The manifest must consist of at least the number of copies that will provide the generator, each transporter, and the owner or operator of the designated facility with one copy each for their records and one additional copy to be returned to the generator by the owner or operator of the designated facility to which the waste was delivered (in accordance with the provisions of 40 CFR, §264.71 and §265.71, or state equivalent).

(4) Use of the Manifest.

(A) The generator must:

(i) sign the manifest certification by hand;

(ii) obtain the handwritten signature of the initial transporter and date of acceptance of the shipment by the initial transporter on the manifest;

(iii) retain one copy of the manifest signed by the initial transporter

until the copy signed by the operator of the designated facility (in accordance with 40 Code of Federal Regulations §264.71, §265.71, or state equivalent) is received;

(iv) give the transporter the remaining copies of the manifest; and

(v) obtain one copy of the manifest, signed by the owner or operator of the designated facility that received the hazardous oil and gas waste, and retain that copy for three years from the date the hazardous oil and gas waste was accepted for shipment by the initial transporter.

(B) For shipments of hazardous oil and gas waste within the United States solely by water (bulk shipments only), the generator must send three copies of the manifest, dated and signed in accordance with the provisions of paragraph (4)(A) of this subsection (relating to use of the manifest), to either:

(i) the owner or operator of the designated facility; or

(ii) if exported by water, the last water transporter expected to handle the hazardous oil and gas waste in the United States. Copies of the manifest are not required for each transporter.

(C) For rail shipments of hazardous oil and gas waste within the United States that originate at the generation site, the generator must send at least three copies of the manifest, dated and signed in accordance with the provisions of paragraph (4)(A) of this subsection (relating to use of the manifest), to:

(i) the next non-rail transporter, if any;

(ii) the designated facility, if transported solely by rail; or

(iii) if exported by rail, the last rail transporter expected to handle the hazardous oil and gas waste in the United States.

(D) For shipments of hazardous oil and gas waste to a designated facility located outside the State of Texas and in an authorized state that has not yet obtained authorization from the EPA to regulate that particular waste as hazardous, the generator must determine that the owner or operator of the designated facility agrees to sign and return the manifest to the generator (in accordance with the applicable provisions of 40 CFR, §264.71 or §265.71), and that any out-of-state transporter agrees to comply with the applicable requirements of subsection (w)(4) of this section (relating to manifest requirements for transporters).

(p) Packaging. Before transporting hazardous oil and gas waste or offering hazardous oil and gas waste for transportation off-site, an LQG or SQG must package the hazardous oil and gas waste in accordance with the applicable DOT packaging regulations set out in 49 CFR, Parts 173, 178, and 179.

(q) Labeling. Before transporting hazardous oil and gas waste or offering hazardous oil and gas waste for transportation off-site, LQGs and SQGs must label each package that contains hazardous oil and gas waste in accordance with the applicable DOT regulations set out in 49 CFR, Part 172.

(r) Marking.

(1) General. Before transporting hazardous oil and gas waste or offering hazardous oil and gas waste for transportation off-site, LQGs and SQGs must mark each package that contains hazardous oil and gas waste in accordance with the applicable DOT regulations set out in 49 CFR, Part 172.

(2) Non-Bulk Packaging. Before transporting hazardous oil and gas waste or offering hazardous oil and gas waste for transportation off-site, LQGs and SQGs must mark each package that contains hazardous oil and gas waste and is of a size specified in 40 CFR, §262.32(b) (110 gallons or less), with the following words and information. Such words and information must be displayed in accordance with the applicable requirements of 49 CFR, §172.304. The generator must include his or her name and address and the manifest document number in the appropriate space: HAZARDOUS WASTE-Federal Law Prohibits Improper Disposal. If found, contact the nearest police or public safety authority or the U.S. Environmental Protection Agency. Generator's Name and Address: _____ Manifest Document Number: _____

(s) Placarding. Before transporting hazardous oil and gas waste or offering hazardous oil and gas waste for transportation off-site, LQGs and SQGs must placard the vehicle or vehicles used to transport such hazardous oil and gas waste, or offer to the initial transporter the appropriate placards. Appropriate placards shall be determined according to DOT regulations set out in 49 CFR, Part 172, Subpart F.

(t) Recordkeeping

(1) Waste Determination. Each LQG and SQG shall keep records of any and all test results, waste analyses, or other determinations made in accordance with subsection (e) of this section (relating to hazardous waste determination), for at least three years from the date that the waste was last sent to an authorized facility.

(2) Annual Reports. A copy of all reports required in subsection (u)(1) of this section (relating to annual reports), shall be retained by the generator for a period of at least three years from the due date of the report.

(3) Exception Reports. A copy of all reports required under subsection (u)(2) of this section (relating to exception reports), shall be retained by the generator for a period of at least three years from the due date of the report.

(4) Inspection Reports. A copy of each inspection report required under this section shall be retained by the generator for a period of at least three years from the due date of the report.

(5) Extension. The periods of record retention specified in subsection (t)(1)-(4) of this section are extended automatically during the course of any unresolved enforcement action regarding the regulated activity or upon request by the commission.

(u) Reporting.

(1) Annual Reports. Any generator who is classified as an LQG or SQG during any calendar month of a calendar year shall prepare and submit a single copy of an annual report to the commission on the biennial reporting form prescribed by the EPA (currently EPA Form 8700-13A). The report shall be filed on or before the first day of March of the following calendar year and shall be accompanied by the fee assessed under the provisions of subsection (z) of this section. The annual report must contain a certification signed by the generator. The annual report must cover activities occurring at the generation site during the month(s) of the reporting year that the site was classified as a small or large quantity generation site, and must include the following information:

(A) the name of the generator followed by the generator's P-5 operator number in parentheses, the EPA ID number for the generation site, and the address of the generation site or other site-identifying information (such as the lease number, unit number, or T-4 number (in the case of pipelines));

(B) the calendar year covered by the report;

(C) the name, EPA ID number, if any, and address for each authorized facility within the United States to which hazardous oil and gas waste was shipped during the year;

(D) the name and EPA ID number of each transporter used during the year for shipments to an authorized facility within the United States;

(E) a description, EPA hazardous waste number (from 40 CFR, Part 261, Subpart C or D), United States DOT hazard class, and quantity of each hazardous oil and gas waste shipped to an authorized facility within the United States. This information must be listed by the EPA ID number of each facility to which hazardous oil and gas waste was shipped. If the waste was shipped to an authorized facility that does not have an EPA ID number, the type of facility (reclamation or recycling) must be designated on the report;

(F) a description of the efforts undertaken during the year to reduce the volume and toxicity of hazardous oil and gas waste generated; and

(G) a description of the changes in volume and toxicity of hazardous oil and gas waste actually achieved during the year in comparison to previous years, to the extent such information is available.

(2) Exception Reports.

(A) An LQG who does not receive a copy of the manifest with the handwritten signature of the owner or operator of the designated facility within 35 days from the date the hazardous oil and gas waste was accepted by the initial transporter for shipment must contact the transporter and, if necessary, the owner or operator of the designated facility to determine the status of the hazardous oil and gas waste shipment.

(B) An LQG must submit an exception report to the commission if he or she has not received a copy of the manifest with the handwritten signature of the owner or operator of the designated facility within 45 days from the date the hazardous oil and gas waste was accepted by the initial transporter for shipment. The exception report must include:

(i) a legible copy of the manifest for that shipment of hazardous oil and gas waste for which the generator does not have confirmation of delivery; and

(ii) a letter signed by the generator explaining the efforts taken to locate the hazardous oil and gas waste and the results of those efforts.

(C) An SQG who does not receive confirmation of delivery of hazard-

ous oil and gas waste by receipt of a copy of the manifest with the handwritten signature of the owner or operator of the designated facility within 60 days from the date the hazardous oil and gas waste was accepted by the initial transporter for shipment, must submit to the commission an exception report. The exception report must include:

(i) a legible copy of the manifest for which the generator does not have confirmation of delivery; and

(ii) a notation, either typed or handwritten, indicating that the generator has not received confirmation of delivery of the shipment to the designated facility.

(D) In the case of interstate shipments of hazardous oil and gas waste for which a manifest has not been returned within 45 days of acceptance of the hazardous oil and gas waste for shipment by the initial transporter, an LQG or SQG shall notify the appropriate regulatory agency of the state in which the designated facility is located, and the appropriate regulatory agency of each state in which the shipment may have been delivered, that the manifest has not been received. If a state required to be notified under this section has not received interim or final authorization pursuant to the RCRA, the LQG or SQG shall notify the administrator that the manifest has not been returned.

(3) Additional Reporting. The commission may require any generator of hazardous oil and gas waste to furnish additional reports concerning the quantities and disposition of hazardous oil and gas waste generated.

(v) Additional Requirements Applicable to International Shipments.

(1) Exports.

(A) Any person who exports hazardous oil and gas waste to a foreign country must comply with the requirements of 40 CFR, Part 262, Subpart E.

(B) Primary exporters of hazardous oil and gas waste generated within the State of Texas must submit to the commission a copy of the annual report submitted to the administrator in compliance with 40 CFR, §262.56.

(2) Imports. Any person who imports hazardous oil and gas waste generated outside the United States into the State of Texas shall be considered the generator of such hazardous oil and gas waste for the purposes of this section. Such person must comply with the applicable provisions of this section, except that:

(A) the name and address of the foreign generator and the importer's name, address, and EPA ID number shall be substituted on the manifest in place of the generator's name, address, and EPA ID number;

(B) the importer or the importer's agent must sign and date the certification and obtain the signature of the initial transporter in place of the generator's certification statement on the manifest; and

(C) the importer shall use the manifest form prescribed by the TNRCC, or its successor.

(w) Standards Applicable to Transporters of Hazardous Oil and Gas Waste. The following standards apply to persons who transport hazardous oil and gas waste generated by LQGs and SQGs. The requirements of this subsection do not apply in the case of hazardous oil and gas waste generated by CESQGs.

(1) Scope.

(A) This subsection establishes standards for persons transporting hazardous oil and gas waste from the generation site to any designated facility. The provisions of this section do not apply with respect to on-site movements of hazardous oil and gas waste.

(B) In addition to the provisions of this subsection, a transporter must comply with standards applicable to generators of hazardous oil and gas waste if he or she mixes hazardous oil and gas wastes of different DOT shipping descriptions by placing them into a single container. If a transporter mixes a hazardous oil and gas waste with a hazardous waste that is not considered a hazardous oil and gas waste, the transporter must comply with the standards applicable to generators of hazardous wastes found at Title 30, Texas Administrative Code, Chapter 335, Subchapter C (the TNRCC's standards for generators of hazardous waste).

(2) Permits and EPA ID Numbers. No transporter may transport hazardous oil and gas waste unless he or she has an EPA ID number. The transporter may obtain an EPA ID number by filing the prescribed form (currently EPA Form 8700-12) with the appropriate regulatory entity (either EPA, TNRCC, the commission, or another state).

(3) Transfer Facility Requirements. No transporter may store manifested hazardous oil and gas waste at a transfer facility for any period of time unless:

(A) the hazardous oil and gas waste is packaged in containers that meet the requirements of subsection (p) of this section, (relating to packaging); and

(B) the hazardous oil and gas waste is stored at the transfer facility for no longer than ten days.

(4) Manifest Requirements.

(A) A transporter may not accept hazardous oil and gas waste for shipment from a generator unless it is accompanied by a manifest signed in accordance with the provisions of subsection (o)(4) of this section, (relating to use of the manifest).

(B) Before transporting hazardous oil and gas waste, the transporter must sign and date the manifest acknowledging acceptance of the hazardous oil and gas waste from the generator. The transporter must return a signed copy of the manifest to the generator before leaving the generation site.

(C) The transporter must ensure that the manifest accompanies the shipment of hazardous oil and gas waste. In the case of exports, the transporter must ensure that a copy of the EPA Acknowledgment of Consent is attached to the manifest.

(D) A transporter may not accept hazardous oil and gas waste for export from a primary exporter or other person if:

(i) the transporter knows that the shipment does not conform to the EPA Acknowledgment of Consent; or

(ii) except in the case of shipments by rail, an EPA Acknowledgment of Consent is not attached to the manifest (or shipping paper in the case of exports by water (bulk shipment)).

(E) A transporter who delivers a hazardous oil and gas waste to another transporter or to the designated facility must:

(i) obtain the date of delivery and the handwritten signature of the other transporter or of the owner or operator of the designated facility on the manifest;

(ii) retain one copy of the manifest in accordance with the provisions of subsection (w)(7) of this section (relating to recordkeeping); and

(iii) give the remaining copies of the manifest to the accepting

transporter or owner or operator of the designated facility.

(F) The requirements of subsection (w)(4)(C), (D), (E), and (G) of this section do not apply to water (bulk shipment) transporters if:

(i) the hazardous oil and gas waste is delivered by water (bulk shipment) to the designated facility;

(ii) a shipping paper containing all the information required on the manifest (excluding the EPA ID numbers, generator certification, and signatures) and, for exports, an EPA Acknowledgment of Consent, accompanies the hazardous oil and gas waste;

(iii) the delivering transporter obtains the date of delivery and handwritten signature of the owner or operator of the designated facility on either the manifest or the shipping paper;

(iv) the person delivering the hazardous oil and gas waste to the initial water (bulk shipment) transporter obtains the date of delivery and signature of the water (bulk shipment) transporter on the manifest and forwards it to the designated facility; and

(v) a copy of the shipping paper or manifest is retained by each water (bulk shipment) transporter in accordance with the provisions of subsection (w)(7) of this section (relating to recordkeeping).

(G) For shipments involving rail transportation, the requirements of subsection (w)(4)(C), (D), (E), and (F) of this section do not apply and the following requirements do apply:

(i) when accepting hazardous oil and gas waste from a non-rail transporter, the initial rail transporter must:

(I) sign and date the manifest acknowledging acceptance of the hazardous oil and gas waste;

(II) return a signed copy of the manifest to the non-rail transporter;

(III) forward at least three copies of the manifest to:

(-a-) the next non-rail transporter, if any;

(-b-) the designated facility, if the shipment is delivered to that facility by rail; or

(-c-) the last rail transporter designated to handle the hazardous oil and gas waste in the United States; and

(IV) retain one copy of the manifest and rail shipping paper in accordance with the provisions of subsection (w)(7) of this section (relating to recordkeeping);

(ii) rail transporters must ensure that a shipping paper containing all the information required on the manifest (excluding the EPA ID numbers, generator certification, and signatures) and, for exports, an EPA Acknowledgment of Consent, accompanies the hazardous oil and gas waste at all times;

(iii) when delivering hazardous oil and gas waste to the designated facility, a rail transporter must:

(I) obtain the date of delivery and handwritten signature of the owner or operator of the designated facility on the manifest or the shipping paper (if the manifest has not been received by the facility); and

(II) retain a copy of the manifest or signed shipping paper in accordance with the provisions of subsection (w)(7) of this section (relating to recordkeeping);

(iv) when delivering hazardous oil and gas waste to a non-rail transporter, a rail transporter must:

(I) obtain the date of delivery and the handwritten signature of the next non-rail transporter on the manifest; and

(II) retain a copy of the manifest in accordance with the provisions of subsection (w)(7) of this section (relating to recordkeeping);

(v) before accepting hazardous oil and gas waste from a rail transporter, a non-rail transporter must sign and date the manifest and provide a copy to the rail transporter.

(H) Transporters who transport hazardous oil and gas waste out of the United States must:

(i) indicate on the manifest the date the hazardous oil and gas waste left the United States;

(ii) sign the manifest and retain one copy in accordance with the provisions of subsection (v)(1) of this section;

(iii) return a signed copy of the manifest to the generator; and

(iv) give a copy of the manifest to a United States customs official

at the point of departure from the United States.

(I) A transporter accepting hazardous oil and gas waste for shipment from an SQG need not comply with the requirements of subsection (w)(4) and (7) of this section provided that:

(i) the hazardous oil and gas waste is being transported pursuant to a reclamation agreement that meets the requirements of subsection (o)(1)(E) of this section;

(ii) the transporter records, on a log or shipping paper, the following information for each shipment:

(I) the name, address, and EPA ID number of the generator of the hazardous oil and gas waste;

(II) the quantity of hazardous oil and gas waste accepted;

(III) all DOT required shipping information;

(IV) the date the hazardous oil and gas waste is accepted;

(iii) the transporter carries this record when transporting the hazardous oil and gas waste to the reclamation facility; and

(iv) the transporter retains these records for a period of at least three years after termination or expiration of the agreement.

(5) Delivery of Waste. The transporter must deliver the entire quantity of hazardous oil and gas waste accepted from a generator or a transporter to:

(A) the primary designated facility;

(B) the alternate designated facility, if the hazardous oil and gas waste cannot be delivered to the primary designated facility because an emergency prevents delivery;

(C) the next designated transporter; or

(D) for exports, the location designated in the EPA Acknowledgment of Consent.

(6) Inability to Deliver Waste. If the hazardous oil and gas waste cannot be delivered as provided in subsection (w)(5) of this section the transporter must contact

the generator for further directions and must revise the manifest according to the generator's instructions.

(7) Recordkeeping.

(A) A transporter of hazardous oil and gas waste must keep a copy of the manifest signed by the generator, himself or herself, and the next transporter or the owner or operator of the designated facility for a period of three years from the date the hazardous oil and gas waste was accepted by the initial transporter.

(B) For shipments delivered to the designated facility by water (bulk shipment), each water (bulk shipment) transporter must retain a copy of the shipping paper containing all the information required in 40 CFR, §263.20(e)(2) for a period of three years from the date the hazardous oil and gas waste was accepted by the initial transporter.

(C) For shipments of hazardous oil and gas waste by rail within the United States:

(i) the initial rail transporter must keep a copy of the manifest and shipping paper with all the information required in 40 CFR, §263.20(f)(2) for a period of three years from the date the hazardous oil and gas waste was accepted by the initial transporter; and

(ii) the final rail transporter must keep a copy of the signed manifest (or the shipping paper if signed by the designated facility in lieu of the manifest) for a period of three years from the date the hazardous oil and gas waste was accepted by the initial transporter.

(D) A transporter who transports hazardous oil and gas waste out of the United States must keep, for a period of three years from the date the hazardous oil and gas waste was accepted by the initial transporter, a copy of the manifest indicating that the hazardous oil and gas waste left the United States.

(E) The periods of retention referred to in subsection (w)(7) of this section are extended automatically during the course of any unresolved enforcement action regarding the regulated activity or upon request by the commission.

(x) Discharges.

(1) Reporting Requirements.

(A) Commission. A person subject to regulation under this section shall immediately notify the commission upon

discovery of any discharge in which a reportable quantity of a hazardous oil and gas waste is discharged. Such notification shall be made by contacting the appropriate commission district office.

(B) Federal. Persons subject to regulation under this section shall comply with applicable reporting requirements of 40 CFR, Parts 117, 263, and 302.

(2) Initial Response.

(A) Immediate Action. Upon discovery of a discharge of hazardous oil and gas waste, the generator or transporter must take appropriate immediate action to protect human health and the environment (e.g., notify local authorities, where appropriate, and dike the discharge area).

(B) Permitting Exemption. The prohibition of on-site treatment, storage, disposal, recycling, or reclamation activities in subsection (m)(1) of this section does not apply to activities performed by a person engaged in treatment or containment activities during immediate response to a discharge of hazardous oil and gas waste; an imminent and substantial threat of a discharge of hazardous oil and gas waste; or a discharge of a substance which, when discharged, would become a hazardous oil and gas waste, provided that:

(i) any hazardous oil and gas waste associated with such discharge is managed in accordance with applicable provisions of subsections (h) (relating to preparedness and prevention), (i) (relating to personnel training), (k) (relating to standards for use of containers), and (l) (standards for use of tank systems) of this section; and

(ii) the applicable discharge reporting requirements of subsection (x) of this section are complied with.

(C) Continued Measures. The provisions of subparagraph (B) of this paragraph do not apply to activities that continue or are initiated after the immediate response is over. Such activities are subject to all applicable requirements of this section.

(3) Discharge Clean Up.

(A) The generator or transporter shall recover as much as of the spilled material as can be recovered by ordinary physical means as soon as possible after discovery of the spill.

(B) The generator or transporter shall clean up the site at which the discharge occurred to background levels as

soon as reasonably possible. As an alternative to clean-up to background levels, the generator or transporter must take such action as may be required or approved by the commission so that the hazardous oil and gas waste discharge no longer presents a hazard to human health or the environment, taking into consideration the geology and hydrology of the discharge site, the nature and quantity of the hazardous oil and gas waste discharged, and the present and anticipated future use of the discharge site.

(C) If an official (state or local government or a federal agency) acting within the scope of his or her official responsibilities determines that immediate removal of the hazardous oil and gas waste associated with a discharge is necessary to protect human health or the environment, that official may authorize the removal of the hazardous oil and gas waste by transporters who do not have EPA ID numbers and without the preparation of a manifest.

(y) Emergency Permits.

(1) General. Notwithstanding any other provision of this section, the commission may authorize by emergency permit the treatment, storage, or disposal of hazardous oil and gas waste where the commission finds that a discharge of hazardous oil and gas waste poses a danger to life or property.

(2) Requirements. An emergency permit:

(A) may be oral or written. If oral, a written permit must be issued within five days of issuance of the oral permit;

(B) shall have a term of not more than 90 days;

(C) shall clearly specify the manner and location of authorized treatment, storage, and disposal activities;

(D) may be terminated by the commission without notice if the commission determines that termination is appropriate to protect human health and the environment;

(E) shall incorporate, to the extent possible and not inconsistent with the emergency situation, all applicable requirements of 40 CFR, Parts 264, 266, and 270; and

(F) shall be accompanied by a public notice published in a daily or local newspaper of general circulation in the area affected by the activity and broadcast over local radio stations. The notice shall in-

clude:

(i) the name and address of the office granting the emergency authorization;

(ii) the name and location at which the permitted activities will take place;

(iii) a brief description of the hazardous oil and gas wastes involved;

(iv) a brief description of the actions authorized and reasons for authorization of such actions; and

(v) the duration of the emergency permit.

(z) Fees.

(1) Base fee.

(A) Except as provided in subparagraph (B) of this paragraph:

(i) each generator who is classified as an LQG during any calendar month of a calendar year shall pay to the commission a base annual fee for generation of hazardous oil and gas waste of \$1,000;

(ii) each generator who is not classified as an LQG during any calendar month of a calendar year, but is classified as an SQG during a calendar month of that calendar year, shall pay to the commission a base annual fee for generation of hazardous oil and gas waste of \$200; and

(iii) no annual fee for generation of hazardous oil and gas waste shall be assessed against a generator who is classified as a CESQG during all months of the entire calendar year in which he or she generates hazardous oil and gas waste.

(B) For purposes of determining the base fee as provided in subparagraph (A) of this paragraph, generator classification shall be determined after excluding quantities of hazardous oil and gas waste generated in connection with a spill or discharge, including contaminated soil, media, and debris, if, within 30 days after discovery of such spill or discharge, the generator files a one-page typewritten report with the commission that describes:

(i) the nature and quantity of spilled or discharged material;

(ii) the reason for or cause of the spill or discharge; and

(iii) the steps that have been or will be taken by the generator to minimize the likelihood of a similar spill or discharge at that site.

(2) Additional fee. The base annual fee determined according to the provisions of paragraph (1) of this subsection

shall be doubled if less than 50% of the hazardous oil and gas wastes generated at the site during the entire calendar year are recycled, reused or reclaimed. For purposes of calculating the percentage of hazardous oil and gas wastes that are recycled, reused, or reclaimed, hazardous oil and gas wastes excluded from regulation under this section by the provisions of subsection (e)(3)(B)(i)-(iii) of this section, (relating to exclusions and exemptions from hazardous oil and gas waste classification) and subsection (m)(2)(B) of this section, (relating to elementary neutralization units, totally enclosed treatment facilities, and wastewater treatment units) shall be included in the quantity of hazardous oil and gas waste recycled, reused, or reclaimed. The wastes excluded from regulation under this section under the provisions of subsections (e)(3)(B)(i)-(iii) and (m)(2)(B) of this section shall not be included when calculating the quantity of waste generated for purposes of determining generator classification.

(3) Fee payment. The base fee and any additional fee assessed under this subsection shall be paid to the commission on or before the first day of March of the year following the calendar year in which the waste was generated. Fees assessed under this subsection shall be tendered to the commission with the annual report (see subsection (u)(1) of this section).

(aa) Penalties. A person subject to regulation under this section is subject to the penalties prescribed in the Texas Natural Resources Code if such person does not comply with the requirements of this section.

(bb) Federal Regulations. All references to the Code of Federal Regulations (CFR) in this section are references to the 1994 edition of the Code, as amended through November 7, 1995. The following federal regulations are adopted by reference and copies can be obtained at the William B. Travis Building, 1701 North Congress, Austin, Texas 78711: 40 CFR, Parts 116, 117, 124, 264, 266, 268, 270, 271, 279, and 302; 40 CFR, Part 261, Subparts A, C, and D; 40 CFR, Part 262, Subparts B and E; 40 CFR, Part 265, Subparts C, D, I, and J (except §265.197(c) and §265.200); 40 CFR, §§260.21, 260.22, 262.34(d)(5), 265.16, 265.111, 265.114, and 265.201; 49 CFR, Parts 172, 173, 178, and 179; and 49 CFR, §171.15 and §171.16. Words and terms used in the federal regulations adopted by reference shall have the meanings given in the federal regulations adopted by reference or in 40 CFR, §260.10, unless otherwise specified. Where the term "State Director" is applicable in the federal regulations adopted by reference, it should be interpreted to mean "commission."

(cc) Effective Date. The provisions of this section shall operate prospectively

and shall take effect at midnight on March 31, 1996.

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 November 7, 1995.

TRD-9514444

Mary Ross McDonald
Acting General Counsel
Railroad Commission of
Texas

Effective date: April 1, 1996

Proposal publication date: May 12, 1995

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

Chapter 15. Alternative Fuels Research and Education Division

General Rules of Practice and Procedure

• 16 TAC §15.22, §15.26

The Railroad Commission of Texas adopts amendments to §15.22, relating to reports and remittance of loading rack fees, and §15.26, relating to the penalty for failure to report as required, without changes to the proposed text as published in the September 26, 1995, issue of the *Texas Register* (20 TexReg 7783). The commission adopts these amendments to ease the regulatory burden on loading rack operators. Under current regulations, to avoid a late fee, payments must be postmarked on or before the 25th of the month following the month in which a delivery was made, regardless whether the 25th falls on a Saturday, Sunday or legal holiday. Under the adopted amendments, no late fee would be assessed on payments postmarked on the first business day following the 25th day of a month in which the 25th fell on a Saturday, Sunday or legal holiday.

No comments were received regarding adoption of the amendments.

The amendments are adopted under Texas Natural Resources Code, §113.246, which requires the commission to adopt rules necessary for the administration, collection, reporting, and payment of the fees payable or collected under Texas Natural Resources Code, Chapter 113, Subchapter I.

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 November 7, 1995.

TRD-9514443

Mary Ross McDonald
Acting General Counsel
Railroad Commission of
Texas

Effective date: November 28, 1995

Proposal publication date: September 28, 1995

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

Part IV. Texas Department of Licensing and Regulation

Chapter 78. Talent Agencies

• 16 TAC §§78.80-78.82

The Texas Department of Licensing and Regulation adopts amendments to §§78.80-78.82, concerning talent agencies. The sections are adopted with changes to the proposed text as published in the August 8, 1995, issue of the *Texas Register* (20 TexReg 5984).

The amendments add fees for registration and administration and for filing an updated certificate of registration.

The justification for the additional fees is that the fees currently in place are far below the amount required by the department to cover the cost of registration and enforcement of the Act.

Since the department is required to structure fees for each statute to pay for its own regulation, fees must be increased dramatically. The amendments will bring the projected revenue closer to covering the administration and enforcement costs.

In order to ease the impact of payment of the additional fees, the adoption was changed to allow payment in three equal installments.

The amendments will function by bringing the program into closer conformity with state law.

The Department received ten comments from talent agencies who were opposed to the amended rules.

No comments were received in favor of the amendments.

However, the Department believes there is no alternative to raising fees in an effort to cover cost of the program. The Department mailed a survey to all registered talent agencies in which the agencies were asked to designate a schedule of payments that the Department could adopt by rule.

The majority of the responses to the survey favored the approach we are adopting.

The amendments are adopted under Texas Civil Statutes, Article 5221a-9, which authorizes the department to register and regulate talent agencies.

§78.80. Fees—Original Registration.

(a) The fee for filing an original talent agency certificate of registration is \$100.

(b) The fee for registration and administration is \$500.

(c) the filing fee and registration and administration fees may be paid in full at the time of registration or in three equal payments of \$200 each as follows:

- (1) \$200 at registration;
 - (2) \$200 on the first day of the fourth month after registration; and
 - (3) \$200 on the first day of the eighth month after registration.
- (d) Failure to remit the second or third payment to the department by the 10th day of the month due will be grounds for action to suspend or revoke the license.

§78.81. Fees—Renewal Registration.

(a) The annual filing fee for renewing a talent agency certificate of registration is \$100.

(b) The annual fee for registration and administration at renewal is \$500.

(c) the filing fee and registration and administration fees may be paid in full at the time of renewal or in three equal payments of \$200 each as follows:

- (1) \$200 at time of renewal;
- (2) \$200 on the first day of the fourth month after renewal; and
- (3) \$200 on the first day of the eighth month after renewal.

(d) Failure to remit the second or third payment to the department by the 10th day of the month due will be grounds for action to suspend or revoke the license.

(e) A late fee of \$50 will be charged for renewal applications post-marked between midnight of the day the current certificate of registration expires and midnight of the 30th day after the expiration.

§78.82. Fees—Updated or Duplicate Registration.

(a) A \$100 fee will be charged for filing an updated certificate of registration.

(b) A \$25 fee will be charged for printing a duplicate certificate of registration.

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 November 3, 1995.

TRD-9514249

Jack W. Garison
Executive Director
Texas Department of
Licensing Regulation

Effective date: December 1, 1995

Proposal publication date: August 8, 1995

For further information, please call: (512) 463-7357

TITLE 22. EXAMINING BOARDS

Part XXIII. Texas Real Estate Commission

Chapter 535. Provisions of the Real Estate License Act

Suspension and Revocation of Licensure

• 22 TAC §535.164

The Texas Real Estate Commission adopts the repeal of §535.164, concerning disclosure of agency, without changes to the proposed text as published in the August 25, 1995, issue of the *Texas Register* (20 TexReg 6580).

Repeal of the section is necessary to eliminate conflicts between the section's agency disclosure requirements and those contained in Senate Bill Number 489, passed by the 74th Legislature, Regular Session, to be effective January 1, 1996. Senate Bill Number 489 amends Texas Civil Statutes, Article 6573a, §15C, to require real estate licensees to provide parties in a real estate transaction with copies of a statutory statement regarding agency relationships and permits agency disclosure to be made orally or in writing. Licensees will be permitted by law to reproduce the statement in formats of their own choice as long as the statement is in at least ten point type.

No comments were received regarding adoption of the repeal.

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

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

Issued in Austin, Texas, on November 6, 1995.

TRD-9514293

Mark A. Moseley
General Counsel
Texas Real Estate
Commission

Effective date: January 1, 1996

Proposal publication date: August 25, 1995

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

Part XXXIV. Texas State Board of Social Worker Examiners

Chapter 781. Social Worker Licensure

The Texas State Board of Social Worker Examiners (board) adopts amendments to

§§781.102, 781.215, 781.217, 781.303, 781.305, 781.309-781.311, 781.402, 781.501, and 781.603-781.605, concerning the licensing and regulation of social workers. Section 781.501 is adopted with changes to the proposed text as published in the July 18, 1995, issue of the *Texas Register* (20 TexReg 5133). Sections 781.102, 781.215, 781.217, 781.303, 781.305, 781.309-781.311, 781.402, and 781.603-781.605 are adopted without changes and will not be republished. The board will consider adoption of the amendment to §781.401 at the December, 1995 meeting.

Specifically, §781.102 adds the definition of "exploitive behavior." Section 781.215 is being amended to state the form of the temporary and provisional license. Section 781.217 is being amended to reflect the increase in penalty fees due to the increase in the examination fee effective June 1, 1995. In addition, an administrative fee is being added for the administrative costs incurred for suspending licenses under Attorney General or court orders on delinquent child support payments. Section 781.303 is being amended to state that applicants need to reapply if they do not complete the application process in the specified amount of time. Section 781.305 is being amended to state the length of time an individual has to wait before reapplying for licensure if he or she has surrendered a license during an investigation or if he or she has had their license revoked. Section 781.309 is being amended to limit the number of temporary licenses an applicant may be granted. Section 781.310 is being amended to help clarify the process of an applicant who has failed the licensing examination more than three times. Section 781.311 is being amended to state the requirements of the board for an applicant's request for a probated license. Section 781.402(gg) is being added to inform a licensee that he or she must comply with the rules adopted under the Family Code, Chapter 11, §11.12(b) while conducting court ordered social studies. Section 781.501 is being amended to reflect the law change under the Family Code, Chapter 232 which states that the board may suspend a license upon receipt of a final court or attorney general's order suspending a license due to failure to pay child support. Section 781.603(k) is being added to clarify the responsibilities of the board with a complaint that has been dismissed as unsubstantiated. Section 781.604 has been amended to clarify for applicants and individuals renewing their license the procedures required if they have been convicted of a felony or misdemeanor. Section 781.605 is being amended to help clarify a licensee's responsibilities while the license is suspended.

These sections assure the appropriate regulation of social workers and continue to identify competent practitioners.

COMMENT: Concerning §781.402(o), one commenter stated that the restriction on sexual contact with a former client should be limited to a specific time period such as five years.

RESPONSE: The board will be considering this restriction at its December 1995 meeting and has made no change at this time.

COMMENT: Concerning §781.603, one commenter submitted a petition on behalf of 73 individuals asking that the board amend its rules to provide for the purging of records related to complaints that were determined to be unsubstantiated.

RESPONSE: The board will be looking into adopting a policy retention schedule which will include the areas of complaints, but has made no change to the section at this time.

COMMENT: Concerning all of the amendments one commenter writing on behalf of the National Association of Social Workers-Texas Chapter stated their approval of the proposed rules changes.

RESPONSE: The board appreciates the support of NASW-Texas Chapter.

A minor editorial change was made to §781.501 for clarification purposes.

Subchapter A. General Provisions

• 22 TAC §781.102

The amendment is adopted under the Texas Professional Social Work Act, Human Resources Code, Chapter 50, §50.006, which provides the Texas State Board of Social Worker Examiners with the authority to adopt rules that are necessary to administer the Act; §50.009 and §50.023, which provides authority to establish fees; and §50.014, which provides authority for rules relating to examinations and alternative methods of determining competency.

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 November 2, 1995.

TRD-9514213 Catherine Clancy
Chair
Texas State Board of
Social Worker
Examiners

Effective date: November 24, 1995

Proposal publication date: July 18, 1995

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

Subchapter B. The Board

• 22 TAC §781.215, §781.217

The amendments are adopted under the Texas Professional Social Work Act, Human Resources Code, Chapter 50, §50.006, which provides the Texas State Board of Social Worker Examiners with the authority to adopt rules that are necessary to administer the Act; §50.009 and §50.023, which provides authority to establish fees; and §50.014, which provides authority for rules relating to examinations and alternative methods of determining competency.

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 November 2, 1995.

TRD-9514214 Catherine Clancy
Chair
Texas State Board of
Social Worker
Examiners

Effective date: November 24, 1995

Proposal publication date: July 18, 1995

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

Subchapter C. Licenses and Licensing Process

• 22 TAC §§781.303, 781.305, 781.309-781.311

The amendments are adopted under the Texas Professional Social Work Act, Human Resources Code, Chapter 50, §50.006, which provides the Texas State Board of Social Worker Examiners with the authority to adopt rules that are necessary to administer the Act; §50.009 and §50.023, which provides authority to establish fees; and §50.014, which provides authority for rules relating to examinations and alternative methods of determining competency.

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 November 2, 1995.

TRD-9514215 Catherine Clancy
Chair
Texas State Board of
Social Worker
Examiners

Effective date: November 24, 1995

Proposal publication date: July 18, 1995

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

Subchapter D. Code of Ethics and Professional Standards of Practice

• 22 TAC §781.402

The amendment is adopted under the Texas Professional Social Work Act, Human Resources Code, Chapter 50, §50.006, which provides the Texas State Board of Social Worker Examiners with the authority to adopt rules that are necessary to administer the Act; §50.009 and §50.023, which provides authority to establish fees; and §50.014, which provides authority for rules relating to examinations and alternative methods of determining competency.

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 November 2, 1995.

TRD-9514216

Catherine Clancy
Chair
Texas State Board of
Social Worker
Examiners

Effective date: November 24, 1995

Proposal publication date: July 18, 1995

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

Subchapter E. License Renewal and Continuing Education

• 22 TAC §781.501

The amendment is adopted under the Texas Professional Social Work Act, Human Resources Code, Chapter 50, §50.006, which provides the Texas State Board of Social Worker Examiners with the authority to adopt rules that are necessary to administer the Act; §50.009 and §50.023, which provides authority to establish fees; and §50.014 which provides authority for rules relating to examinations and alternative methods of determining competency.

§781.501. General.

(a)-(g) (No change.)

(h) The board upon receipt of a final court or attorney general's order will suspend a license due to failure to pay child support per the Family Code, Chapter 232. The individual must pay a reinstatement fee set out in §781.217 of this title (relating to Fees).

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 November 2, 1995.

TRD-9514217 Catherine Clancy
Chair
Texas State Board of
Social Worker
Examiners

Effective date: November 24, 1995

Proposal publication date: July 18, 1995

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

Subchapter F. Complaints and Violations

• 22 TAC §§781.603-781.605

The amendments are adopted under the Texas Professional Social Work Act, Human Resources Code, Chapter 50, §50.006, which provides the Texas State Board of Social Worker Examiners with the authority to adopt rules that are necessary to administer the Act; §50.009 and §50.023, which provides authority to establish fees; and §50.014, which provides authority for rules relating to

examinations and alternative methods of determining competency.

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 November 2, 1995.

TRD-9514218

Catherine Clancy
Chair
Texas State Board of
Social Worker
Examiners

Effective date: November 24, 1995

Proposal publication date: July 18, 1995

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

TITLE 30. ENVIRONMENTAL QUALITY

Part I. Texas Natural Resource Conservation Commission

Chapter 114. Control of Air Pollution From Motor Vehicles

The Texas Natural Resource Conservation Commission (TNRCC or commission) adopts the repeal of §§114.3, 114.6, and 114.7, concerning Inspection Requirements, Hardship Eligibility Criteria, and Inspection and Maintenance Fees, and new §114.3, concerning Inspection Requirements. The repeals and new section are adopted without changes to the proposed text as published in the August 11, 1995, issue of the *Texas Register* (20 TexReg 6078).

Senate Bill (SB) 178, passed by the 74th Texas Legislature, 1995, gives implementation responsibility for an interim motor vehicle emissions Inspection and Maintenance (I/M) program to the Texas Department of Public Safety (DPS) and directs the TNRCC to adopt emergency rules to repeal conflicting requirements as soon as possible. On June 14, 1995, the TNRCC adopted emergency rules that repealed §§114.3, 114.6, and 114.7, concerning Inspection Requirements, Hardship Eligibility Criteria, and Inspection and Maintenance Fees. In addition, the TNRCC adopted on an emergency basis new §114.3, concerning Inspection Requirements. Those adoptions were published in the June 23, 1995, issue of the *Texas Register* (20 TexReg 4523). Now, the TNRCC adopts new §114.3 and repeals §§114.3, 114.6, and 114.7 on a permanent basis.

The new §114.3 requires motorists to comply with air pollution emission control requirements included in the annual vehicle safety inspection program. The new section also requires that the rules and regulations adopted by the DPS be completely and properly performed prior to the issuance of a vehicle inspection certificate.

The repealed §114.6 established the hardship eligibility criteria and the repealed §114.7 set fees for inspections and fees associated with conducting tests. The DPS has the option to establish such standards for their program.

A public hearing was held on September 12, 1995, at which one person representing the El Paso Chamber of Commerce presented testimony. In addition, one written comment was received from an individual.

The commenter representing the El Paso Chamber of Commerce did not oppose the rules currently formalized by the TNRCC, but commented on the availability of information on the rules proposed, specifically pertaining to notification to and involvement by stakeholders. The commenter acknowledged that the TNRCC had complied with state and federal requirements when publishing the public hearing notice in newspapers and the *Texas Register*. However, the commenter felt that stakeholders involved in this rulemaking should have been notified of developments directly by fax or mail as well.

The commission is committed to providing the best customer service possible, and will make every effort to ensure effective notification in future I/M rulemakings.

An individual opposed the proposed repeals and the transfer of the I/M program to the DPS. The commenter stated that I/M is an air quality problem and should be handled by the TNRCC, rather than the DPS. The commenter admitted that the transfer is a Texas Legislature requirement, but wanted to go on record as opposing the legislation.

The commission notes the comments, but intends to comply with SB 178, which binds the commission to reinstate the I/M program that was in place prior to January 1, 1995, and for the DPS to administer it.

• 30 TAC §§114.3, 114.6, 114.7

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

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 November 1, 1995.

TRD-9514271

Kevin McCalla
Director, Legal Services
Division
Texas Natural Resource
Conservation
Commission

Effective date: November 27, 1995

Proposal publication date: August 11, 1995

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

• 30 TAC §114.3

The new section is adopted under the Texas Health and Safety Code, Texas Clean Air Act (TCAA), §382.017, which provides the

TNRCC with the authority to adopt rules consistent with the policy and purposes of the TCAA.

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 November 1, 1995.

TRD-9514272

Kevin McCalla
Director, Legal Services
Division
Texas Natural Resource
Conservation
Commission

Effective date: November 27, 1995

Proposal publication date: August 11, 1995

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

TITLE 34. PUBLIC FINANCE

Part I. Comptroller of Public Accounts

Chapter 3. Tax Administration

Subchapter J. Petroleum Products Delivery Fee

• 34 TAC §3.152

The Comptroller of Public Accounts adopts an amendment to §3.152, concerning imposition and collection of the petroleum products delivery fee, without changes to the proposed text as published in the August 11, 1995, issue of the *Texas Register* (20 TexReg 6108).

House Bill 2587, as passed by the 74th Legislature, 1995, amended the Water Code, Chapter 26, to increase the fees imposed on the withdrawal of petroleum products from a bulk facility storage tank for delivery directly into a cargo tank or barge for transportation to another location other than another bulk facility in Texas for distribution or sale. This amendment implements that legislation.

No comments were received regarding adoption of the amendment.

The amendment is adopted under the Tax Code, §111.002, which provides the comptroller with the authority to prescribe, adopt, and enforce rules relating to the administration and enforcement of the provisions of the Tax Code, Title 2.

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 November 2, 1995.

TRD-9514227

Martin Cherry
Chief, General Law
Comptroller of Public
Accounts

Effective date: November 24, 1995

Proposal publication date: August 11, 1995
For further information, please call: (512)
463-4028

◆ ◆ ◆
**Subchapter L. Motor Fuels
Tax**

◆ ◆ ◆
• 34 TAC §3.200

The Comptroller of Public Accounts adopts new §3.200, concerning transportation services for public school districts, without changes to the proposed text as published in the August 15, 1995, issue of the *Texas Register* (20 TexReg 6197).

Commercial transportation companies providing transportation services for public school districts in Texas may claim an exemption from motor fuels taxes under the Tax Code, Chapter 153. Applications for the exemption and records requirements are set forth.

Comments were received from the Texas Bus Association, Inc. and Saegert, Angenend & Augustine in support of subsection (f) of this section.

The new section is adopted under the Tax Code, §111.002, which provides the comptroller with the authority to prescribe, adopt, and enforce rules relating to the administration and enforcement of the provisions of the Tax Code, Title 2.

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

Issued in Austin, Texas, on November 2, 1995.

TRD-9514226
Martin Cherry
Chief, General Law
Comptroller of Public
Accounts

Effective date: November 24, 1995

Proposal publication date: August 15, 1995
For further information, please call: (512)
463-4062

◆ ◆ ◆
Subchapter GG. Insurance Tax
• 34 TAC §3.811

The Comptroller of Public Accounts adopts an amendment to §3.811, concerning election by reciprocal or interinsurance exchange pursuant to the Insurance Code, Article 4.11C, with changes to the proposed text as published in the July 28, 1995, issue of the *Texas Register* (20 TexReg 5605).

The change occurs in subsection (g) and adopts by reference the form number for Reciprocal or Interinsurance Exchange Election.

The amendment is being made to incorporate changes enacted under House Bill 1461, 73rd Legislature, 1993, Chapter 685, §3.13, effective September 1993, regarding duties transferred to the Comptroller of Public Accounts in the collection of insurance taxes; specifically, in the tax rate to be used in calculating

premium taxes due from reciprocal or interinsurance exchanges. The rule adopts an amended reciprocal or interinsurance exchange election form by reference.

No comments were received regarding adoption of the amendment.

The amendment is adopted under the Tax Code, §111.002, which provides the comptroller with the authority to prescribe, adopt, and enforce rules relating to the administration and enforcement of the provisions of the Tax Code, Title 2.

The amendment implements the Insurance Code, Articles 4.10, §10, 4.11B, and 4.11C.

§3.811. *Election by Reciprocal or Interinsurance Exchange Pursuant to the Insurance Code, Article 4.11C.*

(a) Reciprocal or interinsurance exchanges are subject to premium taxes as are all other licensed insurance carriers. A reciprocal or interinsurance exchange must either affirmatively elect to be subject to the tax imposed under the Insurance Code, Article 4.10, or it will be subject to the tax imposed under the Insurance Code, Article 4.11B.

(b) Election. Under the Insurance Code, Article 4.11C, a reciprocal or interinsurance exchange may elect to be taxed under Article 4.10.

(1) To make the election, a reciprocal or interinsurance exchange must submit a statement in writing on a form prescribed by the comptroller making such an election. The comptroller has developed form 25-208 for this purpose. This form must be filed no later than the 31st day before the beginning of the tax year the election is to be effective.

(2) A reciprocal or interinsurance exchange that elects to be taxed under the Insurance Code, Article 4.10, will continue to be taxed under that article for each tax year until written notice is given to the comptroller that the election is withdrawn. The notice of withdrawal must be filed with the comptroller not later than the 31st day before the beginning of the tax year for which the withdrawal is to be effective.

(c) If a reciprocal or interinsurance exchange does not file an election as provided by this section or has withdrawn the election, the reciprocal or interinsurance exchange is subject to the tax imposed under the Insurance Code, Article 4.11B.

(d) The Insurance Code, Article 4.10, §10, imposes a tax equal to 3.5% of the gross premium receipts of insurance carriers transacting business under the authority of this article. An insurance carrier may qualify for a lower tax rate of 2.4% or 1.6% under the Insurance Code, Article 4.10, based on a comparison of the percent-

age of Texas investments owned by the carrier to investments in a similar or comparison state.

(e) The Insurance Code, Article 4.11B, imposes on each reciprocal or interinsurance exchange transacting business in this state an annual tax equal to 1.7% of its gross premium receipts.

(f) Failure to file and pay taxes as provided under the Insurance Code, Article 4.10, §10, Article 4.11B, or Article 4.11C, will subject the taxpayer to penalty and interest under the Tax Code, Title 2, Subtitles A and B.

(g) The Comptroller of Public Accounts adopts by reference form 25-208, Reciprocal or Interinsurance Exchange Election. Copies of the form are available for public inspection at the Office of the Secretary of State, *Texas Register* Division, or may be obtained from the Comptroller of Public Accounts, Account Maintenance-Insurance, 111 East 17th Street, Austin, Texas 78774-0100. Copies may also be requested by calling toll free at 1-800-252-1387. In Austin, call 463-4600.

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 November 1, 1995.

TRD-9514191
Martin Cherry
Chief, General Law
Comptroller of Public
Accounts

Effective date: November 23, 1995

Proposal publication date: July 28, 1995

For further information, please call: (512)
463-4028

◆ ◆ ◆
• 34 TAC §3.820

The Comptroller of Public Accounts adopts an amendment to §3.820, concerning premium tax paid by certain purchasing groups, without changes to the proposed text as published in the July 28, 1995, issue of the *Texas Register* (20 TexReg 5605).

The amendment clarifies the requirements for reporting and payment of tax by purchasing groups. Purchasing groups purchase liability insurance on a group basis to cover their similar or related liability exposures. Purchasing groups may obtain insurance through licensed companies, registered risk retention groups, unauthorized companies, or independently procured through transactions occurring outside the state. The rule specifies the circumstances under which purchasing groups are directly responsible for payment of tax.

No comments were received regarding adoption of the amendment.

The amendment is adopted under the Tax Code, §111.002, which provides the comp-

troller with the authority to prescribe, adopt, and enforce rules relating to the administration and enforcement of the provisions of the Tax Code, Title 2.

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

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

TRD-9514194
Martin Cherry
Chief, General Law
Comptroller of Public
Accounts

Effective date: November 23, 1995

Proposal publication date: July 28, 1995

For further information, please call: (512) 463-4028

◆ ◆ ◆
• 34 TAC §3.821

The Comptroller of Public Accounts adopts the repeal of §3.821, concerning surplus lines agent's semiannual tax report, without changes to the proposed text as published in the July 28, 1995, issue of the *Texas Register* (20 TexReg 5606).

The report form, which the rule requires to be completed semiannually, is obsolete and no longer used by the Comptroller of Public Accounts. House Bill 1461, 73rd Legislature, 1993, transferred tax collection responsibilities to the Comptroller of Public Accounts and enacted the Insurance Code, Article 1.04 D, §(c), which gives the comptroller the authority to prescribe appropriate report forms. Form 25-104 has been created by the comptroller for the collection of surplus lines insurance tax. This section is being repealed in order that a substantially revised section dealing with the same subject matter may be adopted in §3.824 concerning Semiannual Tax Report.

No comments were received regarding adoption of the repeal.

The repeal is adopted under the Tax Code, §111.002, which provides the comptroller with the authority to prescribe, adopt, and enforce rules relating to the administration and enforcement of the provisions of the Tax Code, Title 2.

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

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

TRD-9514192
Martin Cherry
Chief, General Law
Comptroller of Public
Accounts

Effective date: November 23, 1995

Proposal publication date: July 28, 1995

For further information, please call: (512) 463-4028
◆ ◆ ◆

Part III. Teacher Retirement System of Texas

Chapter 41. Insurance

• 34 TAC §41.13

The Teacher Retirement System of Texas (TRS) adopts new §41.13, without changes to the proposed text as published in the August 15, 1995, issue of the *Texas Register* (20 TexReg 6198). The section concerns the participation of public school districts in the Texas Public School Employees Group Insurance Program.

The rule implements the Insurance Code, Article 3.50-4, §7A.

The section establishes the requirements school districts must meet in order to be eligible to participate in the Texas Public School Employees Group Insurance Program. It also establishes the consequences of non-participation and discontinuance of participation by a school district.

No comments were received regarding adoption of the new section.

The new section is adopted under the Insurance Code, Article 3.50-4, which authorizes the Board of Trustees of the Teacher Retirement System to adopt rules reasonably necessary to implement the program.

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 November 3, 1995.

TRD-9514258
Charles Dunlap
Executive Director
Teacher Retirement
System of Texas

Effective date: November 24, 1995

Proposal publication date: August 15, 1995

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

TITLE 37. PUBLIC SAFETY AND CORRECTIONS

Part III. Texas Youth Commission

Chapter 91. Discipline and Control

• 37 TAC §§91.3, 91.9, 91.11

The Texas Youth Commission (TYC) adopts amendments to §91.3 and §91.11, concerning rules of conduct contraband and dress; and disciplinary transfer/assigned minimum length of stay consequence and §91.9, concerning parole revocation consequences. Section 91.3 and §91.11 are adopted with changes to the proposed text as published in the September 26, 1995, issue of the *Texas*

Register (20 TexReg 7819). Section 91.9 is adopted without changes and will not be republished.

The justification for amending the sections is to provide for community removal of youth who commit a major rule violation.

The amendments will allow juvenile parolees to be moved from community supervision to a residential facility of restricted community access on commission of a major rule violation.

No comments were received regarding adoption of the amendments.

The amendments are adopted under the Human Resources Code, §61.034, which provides the Texas Youth Commission with the authority to make rules appropriate to the proper accomplishment of its functions, and §61.081, which provides the Texas Youth Commission authority to resume care and custody of youth released under supervision.

The proposed rules implement the Human Resource Code, §61.034.

§91.3. Rules of Conduct, Contraband and Dress.

(a) Policy. Texas Youth Commission (TYC) facilities and programs maintain youth discipline to the extent necessary to keep order and provide a safe and constructive environment for youth, staff and visitors. Youth are expected to follow agencywide rules of conduct, contraband and dress. Violations of the rules result in disciplinary consequences that are proportional to the severity and extent of the violation and follow appropriate due process. Rules in this policy may be restated in greater detail or otherwise adapted to accommodate a particular program in order to help clarify expected behavior in that program. All adapted or restated rules will remain consistent with the general rules of conduct. The rules are posted in a conspicuous area accessible to youth in each facility and program.

(b) Rules.

(1) Rules of Conduct. It is a violation to knowingly violate or attempt to violate or help someone else violate any of the Rules of Conduct. Repeated violations of any rule of conduct will result in more serious disciplinary consequences.

(A) A major rule violation is any of the following acts for which major consequences may be levied. Major consequences include referral to criminal court, disciplinary movement and/or reclassification and/or assignment of a minimum length of stay.

(i) Violate any law of Texas or of the United States

(ii) Escape or attempt escape

(iii) Cause physical pain or bodily injury to one's self or to another person

(iv) Possess a weapon

(v) Inhale, ingest or otherwise consume or import into the body any controlled substance or intoxicant, or refuse to take a drug test

(vi) Intentionally damage or destroy property which causes a loss of \$100 or more

(vii) Fail on two or more occasions to comply with conditions of release under supervision and/or a written reasonable request of staff that is either present in the ICP or is validly related to previous high risk behavior.

(B) Minor misbehavior is willful behavior which breaks rules for which minor consequences, called on-site disciplinary consequences, may be levied. Minor consequences include loss of privileges, restriction, or confiscation of contraband. Minor misbehaviors are:

(i) Take, use or damage property without proper permission

(ii) Possess items instructed not to possess including contraband

(iii) Be with someone told not to be with

(iv) Threaten to cause harm to someone

(v) Engage in inappropriate physical or sexual contact

(vi) Engage in tattooing self or other or ear piercing

(vii) Engage in setting a fire without permission from staff

(viii) Lend, borrow, or trade personal property without permission from staff

(ix) Curse or use disrespectful language or behavior toward another

(x) Fail to report to someone in authority when told to do so

(xi) Enter restricted areas without proper permission

(xii) Use or possess tobacco in places where it is prohibited

(xiii) Disrupt an authorized activity

(xiv) Deliberately disobey a reasonable request of staff

(xv) Miss scheduled activities or curfew time

(xvi) Gamble

(xvii) Fail to follow the dress code

(xviii) Fail to report others' misconduct

(2) Contraband. Consistent with the Rules of Conduct, youth in a residential program which is under contract to TYC or operated by TYC shall not have contraband. Contraband items will be confiscated and disposed of in accordance with GOP.71.03, §93.23 of this title (relating to Disposition of Unauthorized Items Seized). Contraband includes:

(A) anything which it is a crime to possess under municipal ordinances or state or federal law, (including solvent inhalants, drugs, and alcohol);

(B) narcotics paraphernalia;

(C) items which can be used, made, or adapted to use as weapons;

(D) pictures which depict sexually explicit male or female nudity or sexual acts, including magazines or periodicals which routinely publish such pictures;

(E) items such as posters or clothing with slogans, mottos or emblems which are obscene, advocate illegal or immoral conduct, hold individuals or groups up to ridicule or reinforce delinquent sub-cultural values or in any way disrupt programs or activities; and

(F) money in excess of the amount permitted by facility rules.

(3) Dress Code. Any youth in a residential program operated by TYC must dress in accordance with these rules.

(A) Clothing will be clean, fit properly, and be appropriate to the activity at all times.

(B) Undergarments must be worn and must not show. Females will wear bras.

(C) Patches, embroidery, buttons, and writing on clothing must not signify anything about drugs, alcohol, sex, obscene language, violent acts, or show disrespect to any group or class of people.

(D) Shoes or acceptable footwear will be worn as appropriate to the activity at all times.

(E) Boys will not wear earrings.

(4) Hair.

(A) Youth in TYC programs are required to wear their hair in a standardized style.

(B) Hair should be clean and well groomed

(C) Males in community-based residential programs may wear hair that extends no lower than the collar of a dress shirt in the back or past the ear lobes on the side.

(D) Youth must be clean shaven.

(5) Symbolic Expression. A facility superintendent/facility administrator may adopt rules for the facility to prohibit any symbolic expression(s) that have been shown to precipitate violent behavior which endangers the safety of youth, staff or visitors at the facility. All rules adopted by a superintendent/facility administrator and approved by the director of institutions/director of community services must be clearly communicated to each youth and posted at the same place as other rules set out in this policy.

§91.11. *Disciplinary Transfer/Assigned Minimum Length of Stay Consequence.*

(a) Policy. A youth may, for disciplinary reasons and under certain conditions, be transferred to an appropriate placement and/or assigned a minimum length of stay except that a youth on parole shall not be transferred into a placement of high restriction. Disciplinary transfer and assignment of a minimum length of stay are considered major consequences and require a level II hearing.

(b) Rules.

(1) Restrictions.

(A) The youth's halfway house superintendent, community corrections officer supervisor or institutional caseworker (primary service worker) may request that the regional director or institutional superintendent schedule a level II hearing.

(B) The appropriate regional director or institutional superintendent may schedule a level II hearing and may cancel the hearing at any time.

(C) A level II hearing will not be held if TYC staff receive information that criminal or delinquent proceedings

against the youth are planned or anticipated by local authorities. Exceptions may be made in writing by the deputy executive director or designee when the behavioral incident considered for discipline is clearly separate from the behavioral incident considered by the court and when justified by the staff requesting the hearing.

(D) If a felony offense is found at a level II hearing, it must be documented in the hearing manager's report which is filed in the casework subfile.

(E) A level II hearing should be held prior to a disciplinary transfer. When good cause compels a prehearing movement of the youth, the hearing shall be held within three consecutive days after the movement.

(F) A high risk offense is any major rule violation which may result in a classification other than general or violator of CINS probation.

(2) Criteria and Disposition.

(A) If it is found at a level II hearing that the youth has failed on two or more occasions to comply with the conditions of release under supervision and/or a written reasonable request of staff that is either present in the ICP or is validly related to previous high risk behavior, a youth may be:

(i) transferred to a placement of equal or more restriction than the youth's most recent permanent placement, or

(ii) assigned a disciplinary minimum length of stay but only at the present placement.

(B) If it is found at a level II hearing that the youth has committed any major rule violation other than that set out in subparagraph (A) of this paragraph, the youth may be:

(i) transferred to a placement of equal or more restriction than the youth's most recent permanent placement; and/or

(ii) assigned a disciplinary minimum length of stay.

(C) If the hearing manager determines there are extenuating circumstances incident to the violation(s) proved at a level II hearing, the youth is neither transferred nor assigned a minimum length of stay, but the hearing manager shall notify the administrator responsible for the program to which the youth is assigned so

appropriate disciplinary action may be taken.

(3) Assigned Minimum Length of Stay.

(A) An assigned minimum length of stay under this policy shall only be for offenses that meet criteria and shall not exceed six months.

(B) Following a level II hearing at which a youth is assigned a minimum length of stay, the institutional superintendent or regional director shall request approval by the director of institutions or director of community services for assignment of a minimum stay.

(i) The institutional superintendent or regional director submits the following to the director of institutions or director of community services:

(I) Hearing Manager's Report of a Level II Hearing;

(II) Cover memo including the administrator's recommended minimum length of stay; and

(III) Background information on the youth;

(-a-) date of arrival
(-b-) committing offense

(-c-) grounds for the hearing (explain)

(-d-) current classification

(-e-) description of precipitating incident

(-f-) youth's adjustment in the program

(ii) The department of legal services reviews the material, comments, and provides a recommendation and all information to the director of institutions or director of community services.

(iii) The director of institutions or director of community services reviews the assigned stay and may approve, disapprove, or modify the length of stay. Materials submitted for review are returned to the program administrator with the decision.

(4) Completing/Reducing Assigned Minimum Length of Stay.

(A) A youth assigned a minimum length of stay may remain in the current program or be transferred and re-

main in the new placement until the assigned length of stay and other program completion criteria are completed.

(B) The institutional superintendent or the regional director of the location where the youth is placed, to complete the assigned minimum length of stay may submit to the director of institutions and director of community services a reduction in the assigned stay based on the youth's behavior and progress toward ICP objectives.

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

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

TRD-9514453

Steve Robinson
Executive Director
Texas Youth Commission

Effective date: December 1, 1995

Proposal publication date: September 26, 1995

For further information, please call: (512) 483-5244

◆ ◆ ◆
Part XIII. Texas
Commission on Fire
Protection

Chapter 531. Fire Alarm Rules

• 37 TAC §§531.6, 531.7, 531.10, 531.13, 531.14, 531.16, 531.18, 531.20-531.23

The Texas Commission on Fire Protection adopts amendments to §§531.6, 531.7, 531.10, 531.13, 531.14, 531.16, 531.18, and 531.20-531.23, concerning regulation of the business of inspecting, planning, certifying, leasing, selling, servicing, testing, installing, monitoring, and maintaining fire alarm or fire detection devices and systems, without changes to the proposed text as published in the September 8, 1995, issue of the *Texas Register* (20 TexReg 7038).

The justification for this section is that there will be an improvement in the quality of fire protection afforded to the citizens of the state without an increase in the cost of doing business to licensed firms and employees who sell, install, and service fire alarm equipment.

The amendment to §531.6 adds the definition of "Primary Registered Firm". The amendment to §531.7 updates NFPA Standards 11, 11A, 13, 13D, 13R, 17 and 17A to 1994 and NFPA Standard 25 to 1995; and deletes NFPA 13A. The amendments to §531.10 and §531.13 delete language referring to remote stations. The amendment to §531.13 also deletes language relating to a fire alarm planning superintendent license. The amendment to §531.14 corrects typographical and grammatical errors. The amendment to §531.16 adds language that requires the certifying li-

censee to be licensed under the ACR number of the primary registered firm and to be present for the final acceptance test prior to certification. The amendment to §531.16 also adds language that gives authority to a residential fire alarm superintendent to supervise the maintenance and servicing of all fire detection and alarm devices. It also deletes language regarding fire alarm systems that utilize a single non-dedicated telephone line to transmit the system signals to a monitoring firm. The amendment to §531.18 adds language for clarification to the Fire Alarm System Installation Inspection Form. The amendment to §531.20 adds language for clarification to the Fire Alarm Installation Record. The amendment to §531.21 deletes language "or agent" from subsection (e). It also adds language to subsection (g) for clarification. The amendment to §531.22 deletes language stating that the fire alarm system is in compliance with applicable standards adopted at the time of installation; and adds language that states that the contractor shall comply with the provisions set forth in §531.20(g) of this same chapter. The amendment to §531.23 corrects a typographical error.

No comments were received regarding adoption of the amendments.

The amendments are adopted under the Texas Insurance Code, Article 5.43-2, §§4, 4A, and 6, which provides the Texas Commission on Fire Protection with the authority to adopt rules necessary to its administration through the state fire marshal for the protection and preservation of life and property in controlling the requirements for planning, certifying, leasing, selling, servicing, installing, monitoring, or maintaining of fire alarms or fire detection devices or systems.

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 November 6, 1995.

TRD-9514329 Jack Woods
General Counsel
Texas Commission on Fire
Protection

Effective date: November 27, 1995

Proposal publication date: September 8, 1995

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

TITLE 40. SOCIAL SERVICES AND ASSISTANCE

Part I. Texas Department of Human Services

Chapter 3. Income Assistance Services

The Texas Department of Human Services (DHS) adopts amendments to §§3.202, 3.3202, 3.3502, 3.5001, and 3.5002, without

changes to the proposed text as published in the October 6, 1995, issue of the *Texas Register* (20 TexReg 8182).

The justification for the amendments is to define businesses that may participate in processing Electronic Benefit Transfer of Aid to Families with Dependent Children (AFDC) benefits; to define the term "entertainment;" and to change the United States Department of Agriculture's division that administers the Food Stamp program to Food and Consumer Services.

The amendments will function by ensuring that AFDC clients will have more flexibility and opportunity in cashing benefits without negative public image.

The department received no comments regarding adoption of the amendments.

Subchapter B. Administration

• 40 TAC §3.202

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

The amendment implements the Human Resources Code, §22.001 and §33.002.

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

Issued in Austin, Texas, on November 7, 1995.

TRD-9514432 Nancy Murphy
Section Manager, Media
and Policy Services
Texas Department of
Human Services

Effective date: December 1, 1995

Proposal publication date: October 6, 1995

For further information, please call: (512) 438-3765

Subchapter FF. Civil Rights

• 40 TAC §3.3202

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

The amendment implements the Human Resources Code, §22.001 and §33.002.

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

Issued in Austin, Texas, on November 7, 1995.

TRD-9514433 Nancy Murphy
Section Manager, Media
and Policy Services
Texas Department of
Human Services

Effective date: December 1, 1995

Proposal publication date: October 6, 1995

For further information, please call: (512) 438-3765

Subchapter II. Redemption Procedures

• 40 TAC §3.3502

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

The amendment implements the Human Resources Code, §22.001 and §33.002.

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

Issued in Austin, Texas, on November 7, 1995.

TRD-9514434 Nancy Murphy
Section Manager, Media
and Policy Services
Texas Department of
Human Services

Effective date: December 1, 1995

Proposal publication date: October 6, 1995

For further information, please call: (512) 438-3765

Subchapter OO. Electronic Benefit Transfer (EBT) Retailer Requirements

• 40 TAC §3.5001, §3.5002

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

The amendments implement the Human Resources Code, §22.001 and §33.002.

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

Issued in Austin, Texas, on November 7, 1995.

TRD-9514435 Nancy Murphy
Section Manager, Media
and Policy Services
Texas Department of
Human Services

Effective date: December 1, 1995

Proposal publication date: October 6, 1995

For further information, please call: (512) 438-3765

Chapter 15. Medicaid Eligibility

The Texas Department of Human Services (DHS) adopts amendments to §§15.420, 15.435, 15.460, and 15.475, and adopts new §15.453 and §15.461, concerning resources and income, in its Medicaid Eligibility rule chapter, without changes to the proposed text as published in the September 22, 1995, issue of the *Texas Register* (20 TexReg 7586).

The justification for the amendments and new sections is to include Long Term Care Medicaid eligibility rules concerning conversion of a resource; Indian-related exemptions from income and resources; and wage-related exemptions.

The amendments and new sections will function by ensuring that DHS eligibility policy is in compliance with federal guidelines.

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

Subchapter D. Resources

• 40 TAC §15.420, §15.435

The amendments are adopted under the Human Resources Code, Title 2, Chapters 22 and 32, which provides the department with the authority to administer public and medical assistance programs; and under Texas Civil

Statutes, Article 4413(502), §16, which provide the Health and Human Services Commission with the authority to administer federal medical assistance funds.

The amendments implement the Human Resources Code §§22.001-22.024 and §§32.001-32.042.

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

Issued in Austin, Texas, on November 7, 1995.

TRD-9514436

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

Effective date: December 1, 1995

Proposal publication date: September 22, 1995

For further information, please call: (512) 438-3765



Subchapter E. Income

• 40 TAC §§15.453, 15.460, 15.461, 15.475

The amendments and new sections are adopted under the Human Resources Code,

Title 2, Chapters 22 and 32, which provides the department with the authority to administer public and medical assistance programs; and under Texas Civil Statutes, Article 4413(502), §16, which provide the Health and Human Services Commission with the authority to administer federal medical assistance funds.

The amendments and new sections implement the Human Resources Code §§22.001-22.024 and §§32.001-32.042.

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

Issued in Austin, Texas, on November 7, 1995.

TRD-9514437

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

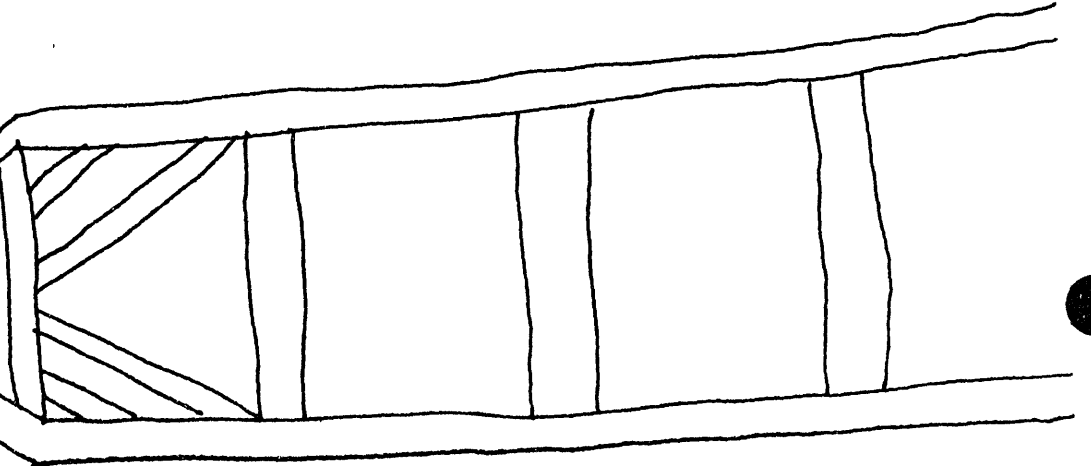
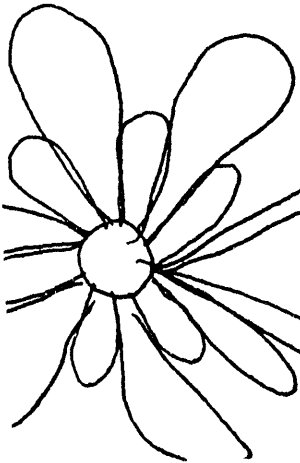
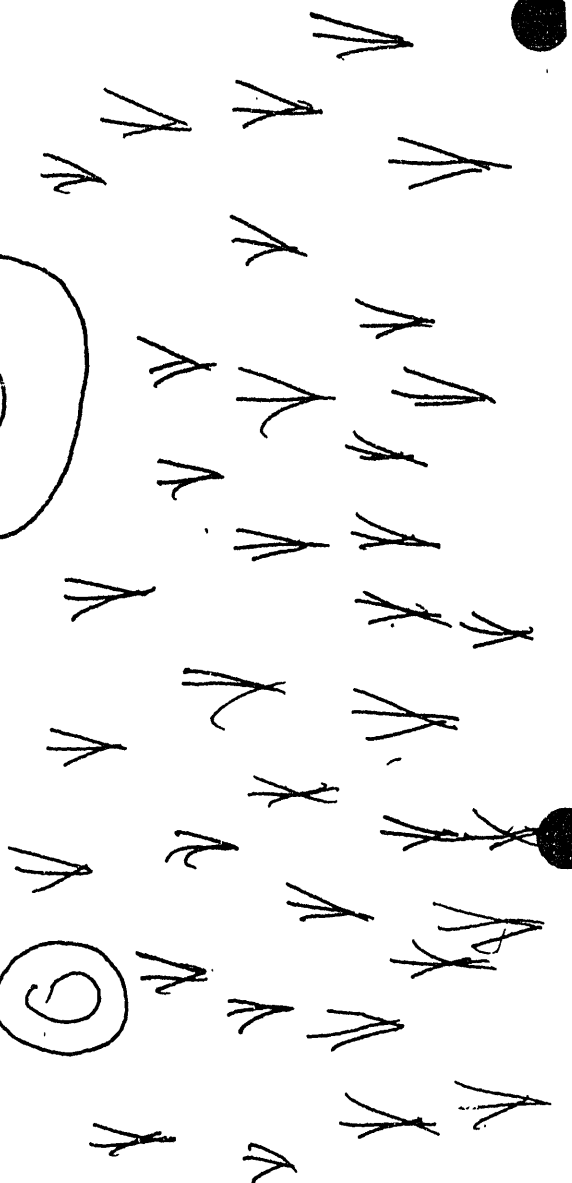
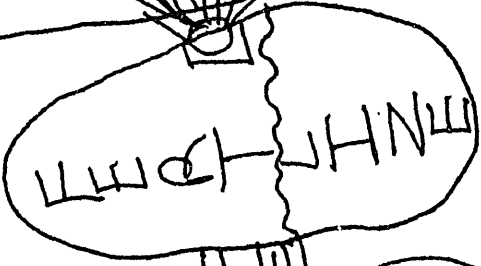
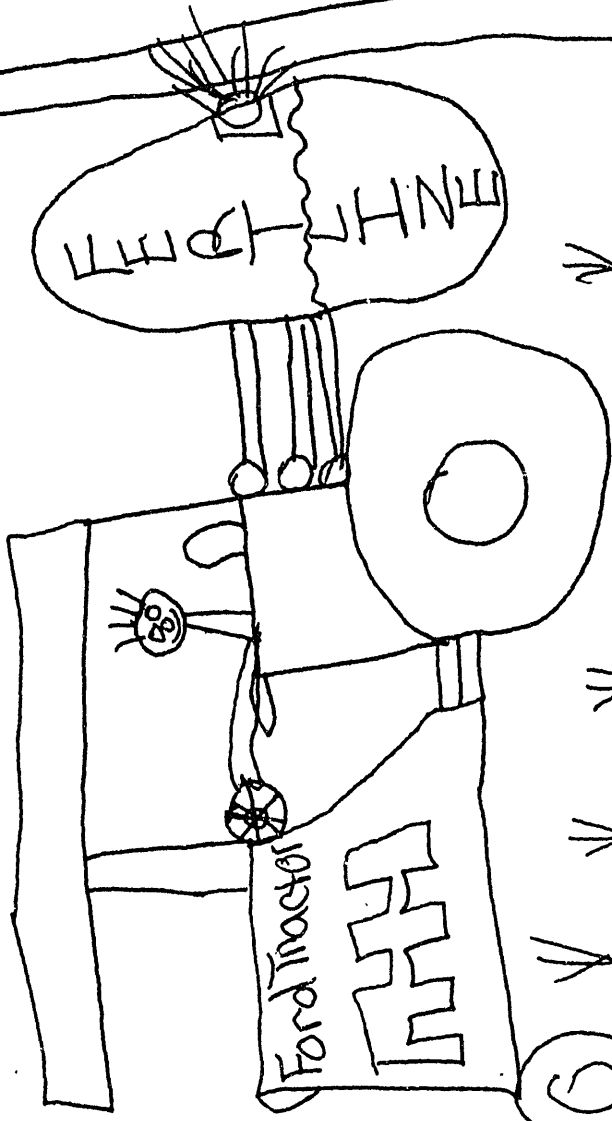
Effective date: December 1, 1995

Proposal publication date: September 22, 1995

For further information, please call: (512) 438-3765



Name: Ashley Schoenfeld
Grade: 6
School: Moulton Elementary School, Moulton ISD



TABLES AND GRAPHICS

Graphic material from the emergency, proposed, and adopted sections is published separately in this tables and graphics section. Graphic material is arranged in this section in the following order: Title Number, Part Number, Chapter Number and Section Number.

Graphic material is indicated in the text of the emergency, proposed, and adopted rules by the following tag: the word "Figure" followed by the TAC citation, rule number, and the appropriate subsection, paragraph, subparagraph and so on. Multiple graphics in a rule are designated as "Figure 1" followed by the TAC citation, "Figure 2" followed by the TAC citation.

Figure 1 - 4 TAC §7.3(g)

Calendar year January 1, 1996 Renewals

Renewal Date	Company Name	Expiration Date
January 1, 1996	A,B	December 31, 1996
January 1, 1996	C	December 31, 1996
January 1, 1996	D,E	December 31, 1996
January 1, 1996	F,G,H,I	December 31, 1996
January 1, 1996	J,K,L,M	March 31, 1997
January 1, 1996	N,O,P,Q	June 30, 1997
January 1, 1996	R,S	September 30, 1997
January 1, 1996	T,U,V,W,X,Y,Z	December 31, 1997

Calendar year 1997 Renewals

Renewal Date	Company Name	Expiration Date
January 1, 1997	A,B	March 31, 1998
January 1, 1997	C	June 30, 1998
January 1, 1997	D,E	September 30, 1998
January 1, 1997	F,G,H,I	December 31, 1998
April 1, 1997	J,K,L,M	March 31, 1999
July 1, 1997	N,O,P,Q	June 30, 1999
October 1, 1997	R,S	September 30, 1999
January 1, 1998	T,U,V,W,X,Y,Z	December 31, 1999

Figure 1: 7 TAC §3.37.

First determine the bank's assessable asset group, then:

Steps	Assessment Calculation	Assessable Asset Group			
1	For assessable assets of at least . . .	\$0	\$10 Million	\$25 Million	\$40 Million
	But not greater than . . .	\$10 Million	\$25 Million	\$40 Million	\$70 Million
2	Take the total assessable assets over:	\$0	\$10 Million	\$25 Million	\$40 Million
3	And multiply by this percentage:	0.0610668%	0.0285323%	0.0129468%	0.0127916%
4	Add this result to the base assessment amount of:	\$1,000	\$7,107	\$11,387	\$13,329
5	And multiply the total by the percentage corresponding to the bank's examination frequency factor to get the assessment:	<i>(As Per Department Memo No. 95-03)</i>			
	6-month frequency	162%	162%	162%	162%
	12-month frequency	100%	100%	100%	100%
	18-month frequency	85%	85%	85%	85%

Steps	Assessment Calculation	Assessable Asset Group			
1	For assessable assets of at least . . .	\$70 Million	\$100 Million	\$250 Million	\$1 Billion
	But not greater than . . .	\$100 Million	\$250 Million	\$1 Billion	"
2	Take the total assessable assets over:	\$70 Million	\$100 Million	\$250 Million	\$1 Billion
3	And multiply by this percentage:	0.0121225%	0.0075111%	0.0047745%	0.0047179%
4	Add this result to the base assessment amount of:	\$17,166	\$20,803	\$32,069	\$67,878
5	And multiply the total by the percentage corresponding to the bank's examination frequency factor to get the assessment:	<i>(As Per Department Memo No. 95-03)</i>			
	6-month frequency	162%	162%	162%	162%
	12-month frequency	100%	100%	100%	100%
	18-month frequency	85%	85%	85%	85%

Figure 1: 7 TAC §3.38.

First determine the agency's assessable asset group, then:

Step	Assessment Calculation:	Assessable Asset Group			
1	For assessable assets of at least . . .	\$0	\$10 Million	\$25 Million	\$40 Million
	But not greater than . . .	\$10 Million	\$25 Million	\$40 Million	\$70 Million
2	Take the total assessable assets over:	\$0	\$10 Million	\$25 Million	\$40 Million
3	And multiply by this percentage:	0.0652469%	0.0065574%	0.0060984%	0.0054730%
4	For the assessment, add this result to the base assessment amount of:	\$0	\$6,525	\$7,508	\$8,423

Step	Assessment Calculation:	Assessable Asset Group			
1	For assessable assets of at least . . .	\$70 Million	\$100 Million	\$250 Million	\$1 Billion
	But not greater than . . .	\$100 Million	\$250 Million	\$1 Billion	"
2	Take the total assessable assets over:	\$70 Million	\$100 Million	\$250 Million	\$1 Billion
3	And multiply by this percentage:	0.0050753%	0.0051357%	0.0009891%	0.0009853%
4	For the assessment, add this result to the base assessment amount of:	\$10,065	\$11,588	\$19,291	\$26,709

Figure 1: 7 TAC §15.2(b)

Fee	Type of Filing
\$5,000.00	Application for Bank or Trust Company Charter pursuant to the Texas Banking Act, §3.003 or §3.502, or Texas Civil Statutes, Article 342-1101
\$4,000.00	Request for authorization for a merger, a similar business combination, or a purchase of assets pursuant to the Texas Banking Act, §3.301 or §3.401
\$2,500.00	Request for authorization of each additional merger if more than one affiliated merger is to occur simultaneously
\$1,500.00	Branch Application (standard) pursuant to the Texas Banking Act, §3.203, and 7 TAC §15.42
\$1,500.00	Branch Relocation Application (standard) pursuant to 7 TAC §15.42(k)
\$ 500.00	Standard Subsidiary Notice Letter pursuant to the Texas Banking Act, §5.103
\$4,000.00	Non-standard Subsidiary Notice Letter pursuant to the Texas Banking Act, §5.103 (f) if additional information and analysis is required
\$5,000.00	Application regarding Acquisition of Control pursuant to the Texas Banking Act, §4.002
\$ 200.00	Notice to change home office to an existing branch with no abandonment of community pursuant to the Texas Banking Act, §3.202(b)
\$1,500.00	Application to relocate home office or branch pursuant to Texas Banking Act, §3.202(c) or §3.203
\$ 500.00	Application to relocate branch or home office - short distance (one mile or less) with no abandonment of the community pursuant to Texas Banking Act, §3.202(c) or §3.203
\$ 500.00	Expedited Application pursuant to 7 TAC §15.3
\$3,000.00	Application for Foreign Bank Agency License pursuant to the Texas Banking Act, §9.004
\$ 500.00	Registration of Representative Office pursuant to the Texas Banking Act, §9.006
\$ 200.00	Amendment of Bank or Trust Company Charter pursuant to Texas Banking Act, §3.101
\$ 500.00	Filing a copy of an application pursuant to Texas Banking Act, §8.301, to acquire a bank or bank holding company
\$ 500.00	Filing a copy of an application pursuant to Texas Banking Act, §8.304, to acquire a nonbank entity
\$ 100.00	Request for a "no objection" letter to use a name containing a term listed in Texas Banking Act, §8.004(b) by an entity other than a depository institution or trust company
\$ 500.00	Request for authorization to invest in treasury stock pursuant to Texas Banking Act, §5.102
\$ 500.00	Request for authorization to increase or reduce capital and surplus pursuant to Texas Banking Act, §3.103
\$ 500.00	Application for trust company exemption pursuant to Texas Civil Statutes, Article 342-1103, §6, and 7 TAC §10.10(b)(1)(A)

QUALIFIED DOMESTIC RELATIONS ORDER
Texas County and District Retirement System

This Order is intended to meet the requirements for a "qualified domestic relations order" relating to the TEXAS COUNTY AND DISTRICT RETIREMENT SYSTEM, hereinafter called the "Plan". This Order is an integral part of the Decree of Divorce signed on (DATE OF DIVORCE DECREE). In compliance with those requirements the following is specified:

1. This qualified domestic relations order assigns a portion of the benefits payable under the Plan to (NAME OF ALTERNATE PAYEE) in recognition of (HIS/HER) marital rights in (NAME OF PARTICIPANT)'s benefits payable under the Plan.

2. Participant in the Plan is (NAME OF PARTICIPANT), whose last known mailing address is (PARTICIPANT'S ADDRESS), whose birth date is (BIRTH DATE), and whose Social Security Number is (NUMBER).

3. Alternate Payee is (NAME OF ALTERNATE PAYEE), whose last known mailing address is (ALTERNATE PAYEE'S ADDRESS), whose birth date is (BIRTH DATE), and whose Social Security Number is (NUMBER). Participant and Alternate Payee became married on (DATE OF MARRIAGE).

4. A portion of any benefit payable with respect to Participant which Participant, or Participant's designated beneficiary, surviving spouse, or estate may become entitled to receive from the Plan, by way of a return of accumulated contributions or by way of any annuity that may become payable as a result of Participant's participation in the Plan is hereby awarded to Alternate Payee, such portion to be determined by multiplying (FRACTION) by the Community Property Ratio based on (*select and complete one of the following*):

_____ accumulated contributions between the following dates:

_____ and _____.

_____ total creditable service between the following dates:

_____ and _____.

5. The provisions of 34 Texas Administrative Code, §109.13 and §109.14 are incorporated herein by reference.

SIGNED this _____ day of _____, 19____.

JUDGE PRESIDING

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).

Advisory Commission on State Emergency Communications

Thursday, November 16, 1995, 10:00 a.m.

William P. Hobby Building, 333 Guadalupe Street, Tower II, Fourth Floor, Conference Room A

Austin

Poison Center Coordinating Committee Meeting

AGENDA:

The Committee will call the meeting to order and recognize guests; hear public comment; hear reports and discuss and take Committee action, as necessary: demonstration and discussion of Phase II poison center workstations and features; election of officers; committee structure and assignments; discussion of changes to by-laws; update on public education, A. TDH marketing campaign, B. Dr. Kelly Video Production; and adjourn.

Contact: Jim Goerke, 333 Guadalupe Street, Austin, Texas 78701, (512) 305-6911.

Persons requesting interpreter services for the hearing- and speech-impaired should contact Velia Williams at (512) 305-6933 at least two working days prior to the meeting.

Filed: November 7, 1995, 10:56 a.m.

TRD-9514350



Texas Department of Agriculture

Monday, November 13, 1995, 1:30 p.m.

Room 300, Uvalde County Courthouse

Uvalde

Wintergarden Spinach Producers Board

AGENDA:

Discussion and action: Procedures for collection-review list of collection points; notification of collection points; collection of assessment, producer receipt, and refund request forms; review revisions on items pertaining to procedures for collection.

Administrative arrangements-administrative office; accountant; address, telephone number, etc.

Operating procedures-procedure for reviewing and selecting projects; setting date for projects; setting date for projects to be submitted; discussion on appointment of advisory committee; review bonding requirements.

Setting date and time for next meeting.

Adjourn.

Contact: Don Laffere, P.O. Box 305, Batesville, Texas 78829, (210) 376-4385.

Filed: November 2, 1995, 3:39 p.m.

TRD-9514200

Wednesday, December 6, 1995, 10:00 a.m.

Texas Department of Agriculture, 1700

North Congress Avenue, Room 928

Austin

Office of Hearings

AGENDA:

Administrative hearing to review alleged violation of Texas Agriculture Code, Annotated, §13.0035(b) by Central Ace Hardware.

Contact: Joyce C. Arnold, P.O. Box 12847, Austin, Texas 78711, (512) 475-1668.

Filed: November 7, 1995, 2:39 p.m.

TRD-9514411

Tuesday, December 19, 1995, 10:00 a.m.

Texas Department of Agriculture, 1700 North Congress Avenue, Room 928B

Austin

Office of Hearings

AGENDA:

Administrative hearing to review alleged violation of 4 Texas Administrative Code, §3.56 by Thomas Wilde.

Contact: Joyce C. Arnold, P.O. Box 12847, Austin, Texas 78711, (512) 475-1668.

Filed: November 3, 1995, 3:11 p.m.

TRD-9514255



Texas Animal Health Commission

Wednesday, November 15, 1995, 2:00 p.m.

2105 Kramer Lane
Austin
Finance Subcommittee

AGENDA:

1. Approval of minutes from the meeting of August 30, 1995
2. Discussion and possible action on fiscal year 1995 operating budget
3. Discussion and possible action on IR feasibility studies:

MAC to DOS conversation
System/database redesign

Our-sourcing

4. Update on discussion of and possible action on IR staffing levels
5. Public comment
6. Adjournment

Contact: Jo Anne Conner, P.O. Box 12966,
Austin, Texas 78711-2966, (512) 719-0714.

Filed: November 3, 1995, 9:02 a.m.

TRD-9514222

Thursday, November 16, 1995, 8:30 a.m.

2015 Kramer Lane

Austin

Commission Meeting

AGENDA:

Approval of minutes of the August 31, 1995; report of the executive director and approval of actions for the period August 30, 1995 to November 16, 1995; presentation of awards; report of the Finance Committee and possible action on recommendations; vesicular stomatitis update; consideration for proposing amendments to regulations: Cattle Brucellosis-§§35.1, 35.2, and 35.6; Fever Ticks-§41.1; discussion and recommendations to propose amendments to Chapter 55, §5.6; Chapter 49; Chapter 51, §51.4; Chapter 33; progress report on implementation plan for Texas TB management plan; report and action on Bi-National Committee recommendations regarding TB status of Mexican states relative to §43.2; consideration for adopting amendments to Chapter 43, §43.2; briefing report on central office operations; public comment; set date for next commission meeting and adjournment.

Contact: Jo Anne Conner, P.O. Box 12966,
Austin, Texas 78711-2966, (512) 719-0714.

Filed: November 7, 1995, 8:09 a.m.

TRD-9514331

Texas Commission for the Blind

Friday, November 17, 1995, 8:15 a.m.

Holiday Inn Airport, 6911 North IH-35

Austin

Joint meeting of the Governing Board and the Consumer Advisory Committee

AGENDA:

1. Welcome and introduction
 2. Remarks by Board Chairman
 3. Overview of planning process
 4. What is success?
 5. How do I measure success?
- Break
6. Investing in individual success
 7. How do 282,000 Texas measure success?
 8. Investing in statewide success
- Lunch

9. Consumer value statements

10. Staff value statements

11. Closing comments-Executive Director
Adjournment

Contact: Rita Finlay, P.O. Box 12866,
Austin, Texas 78711, (512) 459-2591.

Filed: November 7, 1995, 9:35 a.m.

TRD-9514338

Texas School for the Blind and Visually Impaired

Friday, November 17, 1995, 9:00 a.m.

1100 West 45th Street, Room 116

Austin

Board of Trustees, Subcommittee on Finance and Audit

AGENDA:

Approval of minutes from September 29, 1995 meeting; legacy revenue report; legacy budget report; operating budget report; contingency fund report; report on capital improvements; report from internal auditor

Contact: Marjorie L. Heaton, 1100 West 45th Street, Austin, Texas 78756, (512) 206-9133.

Filed: November 8, 1995, 3:10 p.m.

TRD-9514497

Friday, November 17, 1995, 9:00 a.m.

1100 West 45th Street, Room 110

Austin

Board of Trustees, Subcommittee on Policies

AGENDA:

Review and discussion of policies on November 17, 1995 agenda

Contact: Marjorie L. Heaton, 1100 West 45th Street, Austin, Texas 78756, (512) 206-9133.

Filed: November 8, 1995, 3:24 p.m.

TRD-9514498

Friday, November 17, 1995, 9:00 a.m.

1100 West 45th Street, Room 151

Austin

Board of Trustees, Subcommittee on Personnel

AGENDA:

Consideration of personnel policies; report on affirmative action plan; consideration of internal auditor's performance appraisal

Contact: Marjorie L. Heaton, 1100 West 45th Street, Austin, Texas 78756, (512) 206-9133.

Filed: November 8, 1995, 4:00 p.m.

TRD-9514501

Friday, November 17, 1995, 10:00 a.m.

1100 West 45th Street, Room 116

Austin

Board of Trustees

AGENDA:

Approval of minutes from September 29, 1995 board meeting; approval of board policies; approval of Summer 1996 programs and calendar; approval of day care facility on the campus of TSBVI; report on TSBVI's affirmative action plan; planning and goal setting for TSBVI.

Contact: Marjorie L. Heaton, 1100 West 45th Street, Austin, Texas 78756, (512) 206-9133.

Filed: November 8, 1995, 3:31 p.m.

TRD-9514499

Texas Boll Weevil Eradication Foundation

Thursday, November 16, 1995, 8:00 a.m.

3103 Oldham Lane

Abilene

Committee Meetings

AGENDA:

8:00 a.m. Steering Committee

Opening comments; discussion and approval of: minutes of September 27, 1995 meeting, recommendations from Robert Hughes Association, Incorporated, next

meeting time and place; and discussion of other business.

10:00 a.m. Assessment Committee

Opening remarks and introduction; discussion and action on: report from Texas Boll Weevil Eradication Foundation staff, recommendations for policy changes, new meeting time and place; and discussion of other business.

1:00 p.m. Discussion and action on Lower Rio Grande Valley recall referendum

Contact: Frank Myers, P.O. Box 5089, Abilene, Texas 79608-5089, (915) 672-2800, 1-(800)-687-1212.

Filed: November 3, 1995, 4:04 p.m.

TRD-9514263

Thursday, November 16, 1995, 8:00 a.m.

3103 Oldham Lane

Abilene

Committee Meetings

AGENDA:

8:00 a.m. Steering Committee

Opening comments; discussion and approval of: minutes of September 27, 1995 meeting, recommendations from Robert Hughes Association, Incorporated, next meeting time and place; and discussion of other business.

10:00 a.m. Assessment Committee

Opening remarks and introduction; discussion and action on: report from Texas Boll Weevil Eradication Foundation staff, recommendations for policy changes, new meeting time and place; and discussion of other business.

1:00 p.m. Discussion and action on Lower Rio Grande Valley recall referendum

Contact: Frank Myers, P.O. Box 5089, Abilene, Texas 79608-5089, (915) 672-2800, 1-(800)-687-1212.

Filed: November 3, 1995, 4:36 p.m.

TRD-9514267

Thursday, November 16, 1995, 8:00 a.m.

3103 Oldham Lane

Abilene

Revised Agenda

Committee Meetings, Board Meeting

AGENDA:

This notice is a revision to the previously filed meeting notice: The 8:00 a.m. meeting will be a meeting of the Insurance Steering Committee rather than Steering Committee as previously filed. The 1:00 p.m. meeting is a meeting of the full board to which an agenda item has been added for swearing in of a newly appointed board member.

Contact: Frank Myers, P.O. Box 5089, Abilene, Texas 79608-5089, (915) 672-2800, 1-(800)-687-1212.

Filed: November 6, 1995, 9:40 a.m.

TRD-9514279

Texas Bond Review Board

Tuesday, November 14, 1995, 9:00 a.m.

300 West 15th Street, Committee Room, #5, Clements Building, Fifth Floor

Planning Session

AGENDA:

I. Call to Order

II. Approval of Minutes

III. Discussion of Proposed Issues

A. Texas Alcoholic Beverages Commission-lease purchase of police automobiles

B. University of Texas Health Science Center at Houston-lease purchase of multimedia PBX system

C. University of Texas System-Constitutional Appropriation Bonds, Series 1995 for construction at UT-Pan American

D. Stephen F. Austin State University-Consolidated Review Bonds

E. Stephen F. Austin State University-Constitutional Appropriation Bonds

F. Texas Public Finance Authority-Revenue Bonds, Series 1996A for state office buildings in Austin and Fort Worth and air quality improvements in state office buildings in Travis County

G. Texas Public Finance Authority-Revenue Bonds, Series 1996B for laboratory facilities for Texas Department of Health

H. General Services Commission-refinancing of lease with option to purchase office building in Austin

I. Texas Turnpike Authority-Dallas North Tollway System Revenue Bonds, Series 1995

J. Texas Turnpike Authority-Subordinated loan agreement between Texas Turnpike Authority, Texas Department of Transportation and the Federal Highway Administration

K. Texas Turnpike Authority-Dallas North Tollway System Revenue Refunding Bonds, Series 1997

IV. Other Business

Discussion of amendments to rules for private activity bond allocation program

V. Adjourn.

Contact: Albert L. Bacarisse, 300 West

15th Street, Suite 409, Austin, Texas 78701, (512) 463-1741.

Filed: November 6, 1995, 4:13 p.m.

TRD-9514321

Texas Department of Commerce

Wednesday, November 15, 1995, 10:00 a.m.

Frank Erwin Center, Burnt Orange Room, 1707 Red River

Austin

Texas Defense Economic Adjustment Advisory Council Meeting and Statewide Conference

AGENDA:

I. Texas Defense Economic Adjustment Advisory Council Meeting

II. Welcoming Remarks-Governor George Bush

III. Keynote Address-Robert Bayer, Deputy Assistance Secretary, Office of Economic Adjustment, Department of Defense

IV. Paul Dempsey-Director, Office of Economic Adjustment, Department of Defense

V. Pedro Garza-Deputy Assistant Secretary, U.S. Department of Commerce

VI. Panel Discussions

Panel 1-Federal and State Financial Incentives for Business Retention and Expansion

Panel 2-Technology Transfer and Defense Diversification

Panel 3-Human Resources

Panel 4-Environmental Issues

Persons with disabilities who plan to attend this meeting and who may need auxiliary aids or services are requested to contact Audra Lipe at (512) 936-0105 at least two days before this meeting so that appropriate arrangements can be made. Please contact Audra Lipe at (512) 936-0105 if you need assistance in having English translated to Spanish.

Contact: Audra Lipe, 1700 North Congress Avenue, Austin, Texas 78701, (512) 936-0105.

Filed: November 3, 1995 4:19 p.m.

TRD-9514328

Comptroller of Public Accounts

Friday, November 10, 1995, 9:00 a.m.

Capitol Extension, Room E1.012

Austin

Board Meeting for the Prepaid Higher Education Tuition Fund

AGENDA:

I. Training session for board members: Overview of legislation establishing the board, role and function of the board, open meetings law, open records law, administrative procedure law, conflict of interest laws and ethics policies

II. call to order

III. Discussion of program structure and design, tax implications and preliminary program pricing

IV. Discussion and vote on approval of various issues related to program structure and proposed program rules

V. Discussion and vote on selection of program consultants

VI. Discussion of other business, including future meeting dates

VII. Adjournment

Contact: Wardaleen Belvin, 111 East 17th Street, Room 131, Austin, Texas 78774, (512) 463-4384.

Filed: November 2, 1995, 3:27 p.m.

TRD-9514199

◆ ◆ ◆
Conservatorship Board

Monday, November 13, 1995, 2:00 p.m.

710 Brazos, Perry Brooks Building

Austin

AGENDA:

Call to order; approval of October 23, 1995 minutes; action on administrative decisions in the matter of the license; Immaculata Santee, agree final order, and Ronald V. Whittington, motion for order of dismissal; approval of Regional Advisory Consortium (RAC); report on six points from the third Sixty-Day Report; status of the first 35 suspended providers, presentation of the criteria used to resolve the portion of the payments that may possibly be paid in services, status of interagency memoranda of understanding, outcome systems, including "big picture" data as to what the agency is doing and how well it is being done, status of relocation plans and current floor space, presentation of the flow chart of funding process and procedures for amendments to funding during the year; executive session to discuss personnel matters; reconvene and adjournment.

Contact: Conrad Alexander, 710 Brazos, Austin, Texas 78701, (512) 867-8147.

Filed: November 3, 1995, 9:15 a.m.

TRD-9514223

Monday, November 13, 1995, 2:00 p.m.

710 Brazos, Perry Brooks Building

Austin

Emergency Revised Agenda

AGENDA:

Review of available funds for prevention and treatment.

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

Contact: Conrad Alexander, 710 Brazos, Austin, Texas 78701, (512) 867-8147.

Filed: November 8, 1995, 4:00 p.m.

TRD-9514502

◆ ◆ ◆
Texas State Board of Examiners of Professional Counselors

Thursday, November 16, 1995, 8:30 a.m.

Suite S-402, The Exchange Building, 8407 Wall Street

Austin

Ad Hoc Examination Committee

AGENDA:

The committee will discuss and possibly act on: preliminary results on electronic testing; review of Ohio pilot items; inactive examination questions; and selection of next meeting date.

Contact: Dr. Jim Zukowski, 1100 West 49th Street, Austin, Texas 78756, (512) 834-6628. To request an accommodation under the ADA, please contact Renee Rusch, ADA Coordinator in the Office of Civil Rights at (512) 458-7627 or TDD at (512) 458-7708 at least two days prior to the meeting.

Filed: November 8, 1995, 4:00 p.m.

TRD-9514503

Friday, November 17, 1995, 8:00 a.m.

Suite S-402, The Exchange Building, 8407 Wall Street

Austin

Testing and Continuing Education

AGENDA:

The committee will discuss and possibly act on: correspondence from the following relating to the examination process (Sandi Black; Ann Bosarge; and Sister Karen Kudiac); contract with the Ohio Counselor and Social Worker Board; report concerning current testing matters (statistics, concerns, etc.); National Certification Examination of

the Art Therapy Credentials Board; and examination security issues.

Contact: Kathy Craft, 1100 West 49th Street, Austin, Texas 78756, (512) 834-6628. To request an accommodation under the ADA, please contact Renee Rusch, ADA Coordinator in the Office of Civil Rights at (512) 458-7627 or TDD at (512) 458-7708 at least two days prior to the meeting.

Filed: November 8, 1995, 4:01 p.m.

TRD-9514509

Friday, November 17, 1995, 9:00 a.m.

Suite S-402, The Exchange Building, 8407 Wall Street

Austin

Rules Committee

AGENDA:

The committee will discuss and possibly act on: petition for rule change submitted by Ben Boaz; request for rule interpretation(s) from Henry Straw and Travis Broesche; examination security issues; proposed rule amendments to 22 Texas Administrative Code (TAC), Chapter 681; comments to proposed rule amendments 22 TAC, Chapter 681; and adoption of rule amendments to 22 TAC, Chapter 681.

Contact: Kathy Craft, 1100 West 49th Street, Austin, Texas 78756, (512) 834-6628. To request an accommodation under the ADA, please contact Renee Rusch, ADA Coordinator in the Office of Civil Rights at (512) 458-7627 or TDD at (512) 458-7708 at least two days prior to the meeting.

Filed: November 8, 1995, 4:01 p.m.

TRD-9514510

Friday, November 17, 1995, 11:00 a.m.

Suite S-402, The Exchange Building, 8407 Wall Street

Austin

Public and Professional Relations

AGENDA:

The committee will discuss and possibly act on topics for the May, 1996 newsletter.

Contact: Kathy Craft, 1100 West 49th Street, Austin, Texas 78756, (512) 834-6628. To request an accommodation under the ADA, please contact Renee Rusch, ADA Coordinator in the Office of Civil Rights at (512) 458-7627 or TDD at (512) 458-7708 at least two days prior to the meeting.

Filed: November 8, 1995, 4:02 p.m.

TRD-9514511

Friday, November 17, 1995, 11:30 a.m.

Suite S-402, The Exchange Building, 8407 Wall Street

Austin

Applications Committee

AGENDA:

The committee will discuss and possibly act on applications or requests of the following persons (Sharon Anglea; Rabia Clark; Joanna Sanders; Henry Straw; and others).

Contact: Kathy Craft, 1100 West 49th Street, Austin, Texas 78756, (512) 834-6628. To request an accommodation under the ADA, please contact Renee Rusch, ADA Coordinator in the Office of Civil Rights at (512) 458-7627 or TDD at (512) 458-7708 at least two days prior to the meeting.

Filed: November 8, 1995, 4:02 p.m.

TRD-9514512

Friday, November 17, 1995, 1:30 p.m.

Suite S-402, The Exchange Building, 8407 Wall Street

Austin

Administration and Finance Committee

AGENDA:

The committee will discuss and possibly act on: financial report; request for Attorney General's Opinion relating to "August Sweep of Funds"; recommendation(s) for travel; board policy and procedure manual; records security and recovery of records in case of disasters; attendance at the American Association of State Counseling Board's annual conference in Albuquerque, New Mexico, in January.

Contact: Kathy Craft, 1100 West 49th Street, Austin, Texas 78756, (512) 834-6628. To request an accommodation under the ADA, please contact Renee Rusch, ADA Coordinator in the Office of Civil Rights at (512) 458-7627 or TDD at (512) 458-7708 at least two days prior to the meeting.

Filed: November 8, 1995, 4:02 p.m.

TRD-9514513

Saturday, November 18, 1995, 9:00 a.m.

Room N-218, The Exchange Building, 8407 Wall Street

Austin

AGENDA:

The board will discuss and possibly act on: approval of the minutes from the August 19, 1995 meeting; persons who wish to appear before the board; appreciation resolution for Daniel Boone; proposal for decision relating to R. H.O.; board order relating to R.H.O.; proposal for decision relating to F.L.M.; board order relating to F.L.M.;

interpretation of standardized projective techniques; approval of 1995 annual report; applications committee report (applications or requests of the following persons (Sharon Anglea; Rabia Clark; Joanne Sanders; Henry Straw; and others); complaints committee report (response to correspondence from Texas Counseling Association relating to the board's complaint procedures); testing and continuing education committee (correspondence from the following relating to the examination process (Sandi Black; Ann Bosarge; and Sister Karen Kudiac); contract with the Ohio Counselor and Social Worker Board; current testing matters (statistics; concerns, etc.); National Certification Examination of the Art Therapy Credentials Board; and examination security issues); rules committee report (petition for rule change submitted by Ben Boaz; request for rule interpretation(s) from Henry Straw and Travis Broesche; examination security issues; proposed amendments to 22 Texas Administrative Code (TAC), Chapter 681; comments to proposed rule amendments to 22 TAC, Chapter 681; and adoption of rule amendments to 22 TAC, Chapter 681); administration and finance committee (financial report; request for Attorney General's Opinion relating to "August Sweep of Funds"; recommendation(s) for travel; board policy and procedure manual; records security and recovery of records in the event of a disaster; and attendance at the American Association of State Counseling Board's manual conference in Albuquerque, New Mexico, in January); and public professional relations committee report (topics for the May, 1996 newsletter); settlement of the D. Rettberg case; and setting future meeting dates.

Contact: Kathy Craft, 1100 West 49th Street, Austin, Texas 78756, (512) 834-6628. To request an accommodation under the ADA, please contact Renee Rusch, ADA Coordinator in the Office of Civil Rights at (512) 458-7627 or TDD at (512) 458-7708 at least two days prior to the meeting.

Filed: November 8, 1995, 4:01 p.m.

TRD-9514508

Saturday, November 18, 1995, 1:00 p.m.

Room S-402, The Exchange Building, 8407 Wall Street

Austin

Complaint Committee

AGENDA:

The committee will discuss and possibly act on: discussion with representatives of Texas Counseling Association concerning committee procedures and nature of complaints; request by John M. Abell concerning sufficient avenues of rehabilitation; and pending complaints (94-C008; 94-C042; 94-C044;

94-C053; 94-C054; 94-C058; 94-C074; 94-C107; 94-C116; 95-C012; 95-C016; 95-C017; 95-C018; 95-C021; 95-C023; 95-C025; 95-C031; 95-C034; 95-C039; 95-C040; 95-C042; 95-C044; 95-C046; 95-C047; 95-C048; 95-C049; 95-C050; 95-C053; 95-C055; 95-C058; 95-C062; 95-C065; 95-C066; 95-C067; 95-C068; 95-C069; 95-C070; 95-C071; 95-C074; 95-C075; 95-C076; 95-C077; 95-C078; 95-C079; 95-C080; 95-C081; 95-C082; 95-C083; 95-C084; 95-C086; 95-C087; 95-C090; 95-C091; 95-C092; 95-C093; 95-C094; 95-C095; 95-C096; 95-C097; 95-C098; 95-C099; 95-C100; 96-C001; 96-C002; 96-C003; 96-C004; 96-C005; 96-C006; 96-C007; 96-C008; 96-C009; 96-C010; 96-011; 96-C012; 96-C013; and 96-C014).

Contact: Kathy Craft, 1100 West 49th Street, Austin, Texas 78756, (512) 834-6628. To request an accommodation under the ADA, please contact Renee Rusch, ADA Coordinator in the Office of Civil Rights at (512) 458-7627 or TDD at (512) 458-7708 at least two days prior to the meeting.

Filed: November 8, 1995, 4:02 p.m.

TRD-9514514

Texas Department of Criminal Justice

Thursday, November 16, 1995, 8:00 a.m.

Dallas Medallion Hotel, 4099 Valley View Lane

Dallas

Human Resources Committee

AGENDA:

- I. Call to order
- II. Employee mediation process
- III. Employee drug testing
- IV. Other items
- V. Adjourn

Persons with disabilities who plan to attend this meeting and who need auxiliary aids or services as interpreters for persons who are deaf or hearing impaired, readers, large print or Braille, are required to contact Ananda Ogden (512) 463-9472 at least two work days prior to the meeting so that appropriate arrangements can be made.

Contact: Meredith Johnson, P.O. Box 13084, Austin, Texas 78711, (512) 475-3250.

Filed: November 3, 1995, 4:21 p.m.

TRD-9514515

Thursday, November 16, 1995, 9:00 a.m.

Dallas Medallion Hotel, 4099 Valley View Lane

Dallas

Program Committee

AGENDA:

I. Diagnostic process

II. Windham School District

A. General discussion

B. Report on plan for targeting offenders for maximum impact

III. Substance Abuse Treatment Program

A. General discussion

B. Report on substance abuse program reorganization

IV. Report on Governor's Volunteer Awards Banquet

V. Discussion of next meeting

VI. Adjourn

Persons with disabilities who plan to attend this meeting and who need auxiliary aids or services as interpreters for persons who are deaf or hearing impaired, readers, large print or Braille, are required to contact Amanda Ogden (512) 463-9472 at least two work days prior to the meeting so that appropriate arrangements can be made.

Contact: Meredith Johnson, P.O. Box 13084, Austin, Texas 78711, (512) 475-3250.

Filed: November 8, 1995, 4:21 p.m.

TRD-9514516

Thursday, November 16, 1995, 1:30 p.m.

Dallas Medallion Hotel, 4099 Valley View Lane

Dallas

Facilities Committee

AGENDA:

I. Authorization for construction/remodeling

II. Items furnished to subcommittee for information

Persons with disabilities who plan to attend this meeting and who need auxiliary aids or services as interpreters for persons who are deaf or hearing impaired, readers, large print or Braille, are required to contact Amanda Ogden (512) 463-9472 at least two work days prior to the meeting so that appropriate arrangements can be made.

Contact: Meredith Johnson, P.O. Box 13084, Austin, Texas 78711, (512) 475-3250.

Filed: November 8, 1995, 4:21 p.m.

TRD-9514517

Thursday, November 16, 1995, 2:30 p.m.

Dallas Medallion Hotel, 4099 Valley View Lane

Dallas

Special Committee on Board Policies

AGENDA:

1. Review of policy changes

A. BP 01.06-Texas Board of Criminal Justice responsibility

B. BP 01.05-Texas Board of Criminal Justice operating policy

C. BP 01.03-Delegation of authority to manage and administer the Texas Department of Criminal Justice

D. BP 01.07-Standards of conduct for Board of Criminal Justice members

E. BP 10.05-Delegation of authority for construction approval

F. BP 14.66-Purchases for agriculture industry

G. BP 14.67-HUB purchasing

H. BP 14.68-HUB contracting

II. Board rule

A. Amendment to procedures for appearing before the Board (37 TAC §151.4)

III. Other items

IV. Adjourn

Persons with disabilities who plan to attend this meeting and who need auxiliary aids or services as interpreters for persons who are deaf or hearing impaired, readers, large print or Braille, are required to contact Amanda Ogden (512) 463-9472 at least two work days prior to the meeting so that appropriate arrangements can be made.

Contact: Meredith Johnson, P.O. Box 13084, Austin, Texas 78711, (512) 475-3250.

Filed: November 8, 1995, 4:21 p.m.

TRD-9514518

Thursday, November 16, 1995, 4:00 p.m.

Dallas Medallion Hotel, 4099 Valley View Lane

Dallas

Windham School Board of Trustees

AGENDA:

1. Regular session

A. Consent items

1. Minutes of the September 14, 1995, meeting

2. Dual employment requests

B. Discussion and action items

1. Strategic plan

2. Plan for targeting offenders for maximum impact

C. Public comment

Persons with disabilities who plan to attend this meeting and who need auxiliary aids or services as interpreters for persons who are deaf or hearing impaired, readers, large print or Braille, are required to contact Amanda Ogden (512) 463-9472 at least two work days prior to the meeting so that appropriate arrangements can be made.

Contact: Meredith Johnson, P.O. Box 13084, Austin, Texas 78711, (512) 475-3250.

Filed: November 8, 1995, 4:22 p.m.

TRD-9514519

Thursday, November 16, 1995, 4:30 p.m.

Dallas Medallion Hotel, 4099 Valley View Lane

Dallas

Texas Board of Criminal Justice

AGENDA:

1. Executive session

A. Discussion with attorneys concerning: Alberti v. Sheriff of Harris County; Castillo v. Cameron County; Crowson; DeAmicis, et al. v. TDCJ; DeVonish v. Garza; Dougherty; Ex parte Sims; Gaines; Green International v. TDCJ; Guajardo v. McCoter; Daniel Johnson; Lamar; MKK/North Star v. TDCJ; Moore; Nueces County v. TBCJ; Ruiz; Shoppe; Spears; Strain cases. (Closed in accordance with §551.071, Government Code.)

B. Discussion of matters made confidential under State Bar Disciplinary Rules of Professional Conduct. (Closed in accordance with §551.071, Government Code.)

C. Discussion of personnel matters. (Closed in accordance with §551.074, Government Code.)

Persons with disabilities who plan to attend this meeting and who need auxiliary aids or services as interpreters for persons who are deaf or hearing impaired, readers, large print or Braille, are required to contact Amanda Ogden (512) 463-9472 at least two work days prior to the meeting so that appropriate arrangements can be made.

Contact: Meredith Johnson, P.O. Box 13084, Austin, Texas 78711, (512) 475-3250.

Filed: November 8, 1995, 4:22 p.m.

TRD-9514520

◆ ◆ ◆
East Texas State University

Friday, November 10, 1995, 9:00 a.m.

East Texas State University-Texarkana,
2600 Robison Road, Room 180

Texarkana

Board of Regents

AGENDA:

Additional agenda item:

II. Student and university advancement

2. University housing

Contact: Charles Turner, East Texas State University, Commerce, Texas 75429, (903) 886-5539.

Filed: November 2, 1995, 4:04 p.m.

TRD-9514202

◆ ◆ ◆
Texas Education Agency

Monday, November 27, 1995, 8:30 a.m.

Marigold Room, Holiday Inn Town Lake, 20 North IH-35

Austin

Advisory Committee for Professional Development and Appraisal for Texas Teachers

AGENDA:

Discussion with Commissioner Moses regarding development of the new teacher appraisal system; election of chair of the advisory committee for professional development and appraisal for Texas teachers; updates on developmental sites for professional development and appraisal; discussion of due process related to appraisal discussion of approaches to using test data for improving instruction and learning; discussion of activities related to piloting the new teacher appraisal system.

Contact: Dr. Nolan Wood, 1701 North Congress Avenue, Austin, Texas 78701, (512) 463-0925.

Filed: November 7, 1995, 11:19 a.m.

TRD-9514351

Monday, December 4, 1995, 10:00 a.m.

Room 1.104, William B. Travis Building, 17th and Congress Avenue

Austin

Public Committee on Public Education Information (PCPEI)

AGENDA:

1. Call to order

2. Old business

New members

Texas Education Agency Data Approval Committee (TEADAC); status report plan for information management and communication; status report Texas Education Telecommunications Network (TETN)

Development of products using sensitive data

Public Access Team final report

Office of the State Auditor: Texas Education Agency Assistance Project

Policy Committee 1995 suggestions/recommendations: Status

3. New business

Open forum

Preliminary discussions on requested information collections

Organization Database Project: Update and issues

Proposed changes to 1996-1997 data standards

Planning for 1997-1998 data standards

Software: Accessibility to PRIMS data demonstrations

Contact: Nancy Vaughn, 1701 North Congress Avenue, Austin, Texas 78701, (512) 463-8110.

Filed: November 8, 1995, 3:32 p.m.

TRD-9514500

◆ ◆ ◆
Advisory Commission on State Emergency Communications

Monday, November 13, 1995, 5:00 p.m.

ACSEC Conference Room, 333 Guadalupe Street, Suite 2-212

Austin

Audit Committee Meeting

AGENDA:

The Committee will call the meeting to order and recognize guests; hear public comment; hear reports and discuss and take commission action, as necessary: GTE remittance audit; internal auditor's year end report for FY 1995; proposed audit plan for FY 1996; September 11, 1995 committee meeting minutes; adjourn.

Contact: Jim Goerke, 333 Guadalupe Street, Austin, Texas 78701, (512) 305-6911.

Filed: November 3, 1995, 11:10 a.m.

TRD-9514232

Tuesday, November 14, 1995, 9:00 a.m.

John F. Reagan Building, Room 106

Austin

Poison Control Implementation Committee

AGENDA:

The Committee will call the meeting to

order and recognize guests; hear public comment; hear reports, discuss and take commission action as necessary: Poison Control Program Financial report; Texas Department of Health Intersagency Services budget; Public Education Activities; Poison Control Coordinating Committee report; Poison Center Network FY 1995 General Telecommunications costs; Phase II, Telecommunications System implementation; September 11, 1995, committee meeting minutes; adjourn.

Contact: Jim Goerke, 333 Guadalupe Street, Austin, Texas 78701, (512) 305-6911.

Filed: November 3, 1995, 11:56 a.m.

TRD-9514237

Tuesday, November 14, 1995, 10:30 a.m.

John F. Reagan Building, Room 106

Austin

Planning and Implementation Committee

AGENDA:

The Committee will call the meeting to order and recognize guests; hear public comment; hear reports, discuss and take commission action as necessary; regulatory and legislative issues to include, but not limited to: [agenda items before both planning and implementation and administration committees.]; Federal Communications Commission (FCC) proceedings [NPRMs for Wireless, E911 Systems, and other matters]; Texas Public Utility Commission (PUC) proceedings, House Bill 2128; Proposed Rule 251.8, guidelines and standards for Certificated Telecommunications Utilities; plan amendments for Capital Area Planning Council, East Texas Council of Governments, Lower Rio Grande Valley Development Council, Golden Crescent Regional Planning Commission, Brazos Valley Development Council, and Kerr County 9-1-1 District; consideration of comments received and adoption of Rule 251.7, guidelines for implementing integrated services; consideration of potential statewide bid on mapped ALI/Integrated Services; FY 1995 Year End surcharge report; Texas Association of Regional Councils' recommended changes to ACSEC's policies and procedures to facilitate strategic planning; final report on ACSEC monitoring guide; September 11, 1995 committee meeting minutes; adjourn.

Contact: Jim Goerke, 333 Guadalupe Street, Austin, Texas 78701, (512) 305-6911.

Filed: November 3, 1995, 1:05 p.m.

TRD-9514239

Tuesday, November 14, 1995, 1:15 p.m.

John F. Reagan Building, Room 101

Austin

Administration Committee

AGENDA:

The Committee will call the meeting to order and recognize guests; hear public comment; hear reports, discuss and take commission action, as necessary; ACSEC financial reports; agency public education activities; regulatory and legislative issues to include, but not limited to: Federal Communications Commission (FCC) proceedings [NPRMs for wireless and E911 systems, cellular priority access, telephone number portability; and other matters] Texas Public Utility Commission (PUC) proceedings, House Bill 2128; proposed Rule 251.8, guidelines and standards for Certificated Telecommunications Utilities; consideration of comments received and adoption of Rule 255.4, definition of equivalent local access line, as amended; consideration of comments received and adoption of Rule 255.7, 9-1-1 service fee and surcharge billing authorization, as amended; consideration and discussion of notification to all telecommunication carriers, including wireless providers of 9-1-1 service fee assessment; FY 1995 year end surcharge report; administrative budget amendments for Heart of Texas Council of Governments, Golden Crescent Regional Planning Commission, Brazos Valley Development Council, and West Central Texas Council of Governments; Final Report on ACSEC Monitoring Guide, Report on ACSEC Administration Task Analysis Activities; September 11, 1995 committee meeting minutes; adjourn.

Contact: Jim Goerke, 333 Guadalupe Street, Austin, Texas 78701, (512) 305-6911.

Filed: November 3, 1995, 1:06 p.m.

TRD-9514240

Tuesday, November 14, 1995, 3:00 p.m.

John F. Reagan Building, Room 101

Austin

Addressing Committee

AGENDA:

The Committee will call the meeting to order and recognize guests; hear public comment; hear reports, discuss and take commission action as necessary; FY 1995 year end surcharge report; Texas Association of Regional Councils' recommended changes to ACSEC's policies and procedures to facilitate strategic planning; addressing plan amendments for Texoma Council of Governments and West Central Texas Council of Governments; review and consider strategic plan process and the reallocation of addressing funds; status of statewide addressing activities; final report on ACSEC monitoring guide; September 11, 1995, committee meeting minutes; adjourn.

Contact: Jim Goerke, 333 Guadalupe Street, Austin, Texas 78701, (512) 305-67911.

Filed: November 3, 1995, 1:08 p.m.

TRD-9514241

Tuesday, November 14, 1995, 3:00 p.m.

John F. Reagan Building, Room 101

Austin

Emergency Revised Agenda

Addressing Committee Meeting

AGENDA:

The committee will call the meeting to order and recognize guests; hear public comment; hear reports, discuss and take commission action as necessary; Fiscal Year 1995 year end surcharge report; Texas Association of Regional Councils' recommended changes to ACSEC's policies and procedures to facilitate strategic planning; addressing plan amendments for Texoma Council of Governments and West Central Texas Council of Governments, and Kerr County 9-1-1 District; review and consider strategic plan process and the reallocation of addressing funds; status of statewide addressing activities; final report on ACSEC monitoring guide, September 11, 1995, committee meeting minutes; and adjourn.

Reason for emergency: To take action on Emergency Communications District (ECD) request for budget approval to proceed with program initiatives.

Persons requesting interpreter services for the hearing- and speech-impaired should contact Velia Williams at (512) 305-6933 at least two working days prior to the meeting.

Persons requesting interpreter services for the hearing- and speech-impaired should contact Velia Williams at (512) 305-6933 at least two working days prior to the meeting.

Contact: Jim Goerke, 333 Guadalupe Street, Austin, Texas 78701, (512) 305-6911.

Filed: November 9, 1995, 11:00 a.m.

TRD-9514538

Wednesday, November 15, 1995, 8:30 a.m.

John F. Reagan Building, Room 106

Austin

Commission Meeting

AGENDA:

The Commission will call the meeting to order and recognize guests; hear public comment; hear reports and take commission action, as necessary; presentations to outgoing commissioners; miscellaneous reports; Audit Committee report; Administration Committee reports; break; Planning and Im-

plementation Committee report; Addressing Committee report, Poison Control Implementation Committee report; September 12, 1995 meeting minutes; Adjourn.

Contact: Jim Goerke, 333 Guadalupe Street, Austin, Texas 78701, (512) 305-6911.

Filed: November 3, 1995, 1:11 p.m.

TRD-9514242

Wednesday, November 15, 1995, 8:30 a.m.

John F. Reagan Building, Room 108

Austin

Emergency Revised Agenda

Commission Meeting

AGENDA:

The commission will call the meeting to order and recognize guests; hear public comment; hear reports and take commission action, as necessary; presentations to outgoing commissioners; miscellaneous reports; Audit Committee Report; Administration Committee report; break; Planning and Implementation Committee report; Addressing Committee report, Poison Control Implementation Committee report; September 12, 1995 meeting minutes; and adjourn.

Reason for emergency: To take action on Emergency Communications District (ECD) request for budget approval to proceed with program initiatives.

Contact: Jim Goerke, 333 Guadalupe Street, Austin, Texas 78701, (512) 305-6911.

Filed: November 9, 1995, 11:00 a.m.

TRD-9514539

Texas Commission on Fire Protection

Friday, November 17, 1995, 9:00 a.m.

12675 North Research Boulevard and 6121 IH-35 North

Austin

Commission

AGENDA:

I. Budget and Strategic Plan subcommittees will meet at 9:00 a.m. on November 17, 1995. The subcommittees may develop recommendations to be presented to the full commission, including, but not limited to, revisions to the strategic plan, changes in budget priorities, and reorganization of the agency. The subcommittees may also review and discuss the Texas Commission on Fire Protection Performance Review by the Texas Comptroller of Public Accounts, the self-evaluation report submitted to the Sun-

set Commission, and the October 11, 1995 letter from the State Auditor, to determine their potential impact on subcommittee recommendations to be made to the full commission. The subcommittees may meet either separately or together.

II. Discussion and possible action regarding agency operating budget

III. Discussion regarding revisions to the strategic plan, reorganization of the agency, and the Performance Review done by the State Comptroller.

IV. Discussion and possible action on future meeting dates.

Contact: Carol Menchu, 12675 North Research Boulevard, Austin, Texas 78759, (512) 918-7100.

Filed: November 8, 1995, 1:23 p.m.

TRD-9514482

Wednesday-Thursday, November 29-30, 1995, 9:00 a.m.

12675 North Research Boulevard

Austin

Fire Protection Personnel Advisory Committee

AGENDA:

Orientation of new committee members. Discussion/approval of previous minutes. Overview and staff briefing of agenda items. Election of officers. New matters for future meeting agendas. Report of Testing Committee with discussion/possible action on recommendations. Discussion and possible action regarding: proposed new standards and curriculum for fire cause and origin investigator certification for persons other than peace officers; commission certification requirements in all disciplines of fire protection personnel for individuals from other jurisdictions accredited through IFSAC; commission requirements for individuals from Texas seeking accreditation through IFSAC; changes to 37 TAC Chapter 425 concerning Fire Protection Instructors; 37 TAC Chapter 437 concerning Fees; 37 TAC Chapter 439 concerning Examinations; recognition of Department of Public Safety, Division of Emergency Management, Hazardous Materials courses; requirements for higher levels of certification for all disciplines of fire protection personnel. Reports from staff on the status of revisions to NFPA standards. Discussion/possible action on public comments concerning rules pending before the commission on relating to fire protection personnel.

Contact: Carol Menchu, 12675 North Research Boulevard, Austin, Texas 78759, (512) 918-7100.

Filed: November 2, 1995, 12:49 p.m.

TRD-9514185

Saturday, December 2, 1995, 9:00 a.m.

12675 North Research Boulevard

Austin

Volunteer Fire Fighter Advisory Committee

AGENDA:

Call to order. Approval of minutes. New matters from committee members and the public for future committee meetings. Election of officers. Discussion and possible action on: 37 TAC Chapter 471; 37 TAC Chapter 473; 37 TAC Chapter 476; 37 TAC Chapter 478; suggestions for increasing communication with volunteer fire fighters; increasing cooperation with the State Firemen and Fire Marshal's Association; request from the commission to consult with Texas Engineering Extension Service; proposed changes concerning individuals accredited by IFSAC. Reports from staff on status of revisions to NFPA standards. Discussion and possible action on future meeting dates.

Contact: Carol Menchu, 12675 North Research Boulevard, Austin, Texas 78759, (512) 918-7100.

Filed: November 2, 1995, 12:49 p.m.

TRD-9514184

Office of the Governor

Wednesday, November 15, 1995, 10:00 a.m.

1100 Congress Avenue, State Capitol Extension, Room E1.004, Extension Auditorium

Austin

Joint Meeting-Transitional Oversight Committee on Workforce Development and Working Group

AGENDA:

- I. Call to order
- II. Agency reports
- III. Invited testimony
- IV. Public testimony
- V. Adjourn

Contact: Richard Evans, P.O. Box 12428, Austin, Texas 78711, (512) 463-1823.

Filed: November 6, 1995, 9:52 a.m.

TRD-9514280

Texas Department of Health

Tuesday, November 14, 1995, 10:00 a.m.

1308 Magoffin Street

El Paso

Midwifery Board, Education Committee

Emergency Meeting

AGENDA:

The committee will discuss and possibly act on completion of education rules.

Reason for emergency: Unforeseeable circumstances.

Contact: Cecilia Nobles, 1100 West 49th Street, Austin, Texas 78756, (512) 458-7700. To request an accommodation under the ADA, please contact Renee Rusch, ADA Coordinator in the Office of Civil Rights at (512) 458-7627 or TDD at (512) 458-7708 at least two days prior to the meeting.

Filed: November 8, 1995, 4:00 p.m.

TRD-9514504

Texas Historical Commission

Saturday, November 18, 1995, 9:00 a.m.

1700 North Congress Avenue, Room 118

Austin

State Board of Review

AGENDA:

- I. Announcements
- II. Election of new officers
- III. Review of nominations to the National Register of Historic Places:
 - A) Elgin Commercial Historic District, Elgin, Bastrop County
 - B) Scottish Rite Cathedral, San Antonio, Bexar County
 - C) David J. Woodward House/San Antonio Woman's Club, San Antonio, Bexar County
 - D) Western Union Building, Dallas, Dallas County
 - E) Dallas High School, Dallas, Dallas County
 - F) Wynn Seale School, Corpus Christi, Nueces County
 - G) Livingston-Hess House, San Antonio, Bexar County
 - H) Dr. James M. and Dove Stewart House, Katy, Harris County
 - I) Trueheart-Fowlkes-Neill House, Fort Davis, Jeff Davis County
 - J) Hunt County Courthouse, Greenville, Hunt County
 - K) 611 East Jones Avenue, Beeville, Bee County
 - L) 2815 Smith Street, Houston, Harris County
 - M) Sisters of Mercy Convent/Carmelite

- Monastery, Stanton, Martin County
- IV. Report by Committee on Bylaws
- V. New business
- VI. Adjourn meeting

Contact: David Arrieta, 1511 Colorado, Austin, Texas 78701, (512) 463-6006, Fax (512) 475-3122.

Filed: November 8, 1995, 4:23 p.m.

TRD-9514523

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Texas Department of Housing and Community Affairs

Monday, November 13, 1995, 11:00 a.m.

1400 North Congress Avenue, Room E1.016, Capitol Extension Building

Austin

Board Meeting

AGENDA:

The Board of Texas Department of Housing and Community Affairs will meet to consider and possibly act on: minutes of September 29, 1995; resolution approving selection of master servicer, approving pledge of self insurance fund, ratification of Finance Committee/Executive Directors actions and other actions taken in connection with issuance of 1995 Series A, B, and C bonds; Fairway Ridge Development application for interim construction; border housing initiative of single family loan; resolution reflecting notice of serious interest for purchase of RTC properties of Oregon Street, Monarch Apartments, and Durrwood Apartments; allocation to Texas State Affordable Housing for: down payment assistance funds (HOME) \$3.0 million grant; contract for deed funds (HOME) \$2.0 million grant; award of grant in amount not exceed \$4,500,000 to Texas State Affordable Housing for: subsidized home purchase loans; contract for deed; single family interim construction; multi family acquisition; award of loan to the Texas State Affordable Housing Corporation for down payment assistance revolving fund; approval of consolidated plan; submission of proposed rule 21.20 of Texas Administrative Code for publication in *Texas Register* relating to reporting requirements for Housing Finance Corporation; resolution authorizing and ratifying seller/servicer applications to and agreements with Federal Home Loan Mortgage and Department of Housing and Urban Development; report from Tax Credit Committee-recommendations for determinations on tax credit applications for 1995B Round; recommendations on HOME Program awards for HOME/LHTC multi-family properties; executive session-

consultation with attorney under §551.071(2) of the Texas Government Code; anticipated litigation (general counsel to give report on litigation under §551.071 and §551.103, Texas Government Code litigation exception); proposed restructure of mutual benefit bonds/settlement agreement; personnel matters regarding duties/responsibilities under §551.074 of Texas Government Code; action in open session on items in executive session; adjourn.

Contact: Larry Paul Manley, 811 Barton Springs Road, Suite 500, Austin, Texas 78704, (512) 475-3934.

Filed: November 3, 1995, 4:51 p.m.

TRD-9514268

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Texas State Affordable Housing Corporation

Monday, November 13, 1995, 9:00 a.m.

1400 North Congress Avenue, Room E1.016, Capitol Extension

Austin

Board of Directors Meeting

AGENDA:

The Board of Texas State Affordable Housing Corporation will meet to consider and possibly act upon the following: minutes of September 29, 1995; discussion/proposed action on amended and restated articles of incorporation and by-laws; resignation/appointment of Secretary of Corporation; resolution regarding signature authority; resolution ratifying lease of office space in El Cenizo, Texas/contracts relating to loan servicing; resolution authorizing/ratifying seller/servicer applications to and agreements with Government National Mortgage Association, Federal National Mortgage Association, Federal Home Loan Mortgage and Department of Housing and Urban Development; resolution authorizing/ratifying request for grant of funds from department to originate and administer down payment assistance loans and contract request for deed loans under the HOME Program; resolution authorizing and ratifying request for grant of funds in amount not to exceed \$4,500,000 from the department for: subsidized home purchase loans; contract for deed; single family interim construction; and multi-family acquisition; resolution authorizing and ratifying request for loan from down payment assistance revolving fund; ratification on application for certification for eligibility under Affordable Housing Disposition Program; consultation with attorney under §551.071(2) of Texas Government Code; anticipated litigation (general counsel to give report on litigation under §551.071 and §551.103, Texas Government Code litigation exception). D&A Realty,

Inc. bankruptcy proceeding pending in U.S. Bankruptcy Court of Southern District of Texas, Laredo Division; personnel matters, duties and responsibilities, §551.074 of Texas Government Code; action in open session on items in executive session; adjourn.

Contact: Larry Paul Manley, 811 Barton Springs Road, Suite 500, Austin, Texas 78704, (512) 475-3934.

Filed: November 3, 1995, 4:58 p.m.

TRD-9514270

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Texas Department of Human Services

Friday, November 17, 1995, 11:00 a.m.

701 West 51st Street, First Floor, East Tower, Public Hearing Room

Austin

Texas Board of Human Services

AGENDA:

1. Approval of the minutes of October 20, 1995.
2. Chair's comments and announcements.
3. Benefits in the AFDC Program.
4. Amendments to the Medicaid nursing facility moratorium rules.
5. Rule changes regarding health assessments in the primary home care program.
6. Proposed rule changes regarding transportation of clients in the DAHS program.
7. Increase of functional eligibility score for home-delivered meals and emergency response services.
8. Amendment to the Tel-Assistance program.
9. Amendments to policies and procedures.
10. Budget adjustment.
11. Commissioner's report: a. Advisory Committee appointments. b. Historically underutilized business program status. c. Office on services to persons with disabilities fiscal year 1995 annual report. d. Announcements and comments. e. Tracking of board action items.

Contact: Sherron Heinemann, P.O. Box 149030, Austin, Texas 78714-9030, (512) 438-3048.

Filed: November 9, 1995, 9:09 a.m.

TRD-9514533

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Texas Department of Information Resources

Friday, November 17, 1995, 9:00 a.m.

WPC Building, Fifth Floor, Committee Room Two, 300 West 15th Street

Austin

Board

AGENDA:

1. Call to order, roll call and witness registration

2. Consideration of 1996 business plan
Consideration of final adoption of 1996 operating budget
3. Consideration of final adoption of State Strategic Plan for Information Resources Management
4. Consideration and approval of renewal of interagency agreement between Angelo State University and the Department of Information Resources for development of the West Texas Disaster Recovery and Operations Center (WTDROC)
5. Status on Sunset Review
6. Internal audit report of the Cooperative Contracts Program
7. Review of Information Technology Services Section
8. Review of initiatives regarding electronic commerce including X.500 directory services
9. Executive director's report
10. Other business

Adjournment

Contact: Yvonne Montgomery, 300 West 15th Street, Suite 1300, Austin, Texas 78701, (512) 475-1715.

Filed: November 6, 1995, 3:27 p.m.

TRD-9514314

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Texas Department of Insurance

Friday, November 17, 1995, Noon

Offices of Justice of the Peace, Judge Antonio Torres Judicial Building, Second Floor, 974 East Harrison Street

Brownsville
454-95-1550.e

AGENDA:

In the Appeal of Narciso Cortez, Jr., from a Decision of the Texas Catastrophe Property Insurance Association (TCPIA)

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

Filed: November 6, 1995, 3:27 p.m.

TRD-9514313

Wednesday, November 22, 1995, 9:00 a.m.

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

Austin
454-95-1248.G

AGENDA:

Second Prehearing Conference in the Matter of Private Passenger and Commercial Automobile Insurance Benchmark Rates and Flexible Band Setting.

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

Filed: November 7, 1995, 9:30 a.m.

TRD-9514336

Wednesday, November 22, 1995, 1:00 p.m.

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

Austin
454-95-1549.C

AGENDA:

To consider whether disciplinary action should be taken against William W. Grigsby, Albany, Texas, who holds a Group I, Legal Reserve Life Insurance 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: November 7, 1995, 9:30 a.m.

TRD-95143336

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Legislative Budget Board

Wednesday, November 15, 1995, 9:30 a.m.

Senate Chamber, State Capitol

Austin

AGENDA:

Approve minutes; consider making a budget execution proposal pursuant to Chapter 317, Government Code, and any other business.

Persons with disabilities who plan to attend this meeting and who may need auxiliary aids or services such as interpreters for persons who are deaf or hearing impaired, readers, large print or Braille, are requested to contact Tom Abernathy at (512) 463-1200, two working days prior to the meeting so that appropriate arrangements can be made.

Contact: John Keel, Third Floor, John H. Reagan Building, 105 West 15th Street, Austin, Texas 78701, (512) 463-1200.

Filed: November 8, 1995, 4:33 p.m.

TRD-9514524

Texas Department of Licensing and Regulation

Wednesday, November 15, 1995, 9:00 a.m.

920 Colorado, E.O. Thompson Building, Fourth Floor, Room 420

Austin

Enforcement Division, Air Conditioning

AGENDA:

According to the complete agenda, the Department will hold an Administrative Hearing to consider the possible denial of an air conditioning and refrigeration contractor's license for Charles T. Hilton, applicant, in accordance with 16 Texas Administrative Code, (TAC), §75.91, Texas Revised Civil Statutes, Annotated, Article 8861 (the Act) and Article 9100; the Texas Government Code, Chapter 2001, (APA); and 16 TAC, Chapter 75.

Contact: Paula Hamje, 920 Colorado, E.O. Thompson Building, Austin, Texas 78701, (512) 463-3192.

Filed: November 7, 1995, 2:14 p.m.

TRD-9514405

Monday, November 20, 1995, 10:00 a.m.

E. O. Thompson Building, 920 Colorado, Fourth Floor Conference Room

Austin

Enforcement Division

AGENDA:

To hear public comment on the proposal to adopt the following rules:

Chapter 61-Boxing, Subchapter B-Elimination Tournaments

All facilities are accessible to persons with disabilities. Under the Americans with Disabilities Act, persons who plan to attend this meeting and require ADA assistance are requested to contact Caroline Jackson at (512) 463-7348 at least two working days prior to the meeting so that appropriate arrangements can be made.

Contact: Jimmy G. Martin, 920 Colorado, Austin, Texas 78711, (512) 463-7356.

Filed: November 3, 1995, 3:10 p.m.

TRD-9514253

Monday, November 20, 1995, 10:00 a.m.

E. O. Thompson Building, 920 Colorado, Fourth Floor Conference Room

Austin

Enforcement Division

AGENDA:

To hear public comment on the proposal to adopt the following rules:

Chapter 61-Boxing, Subchapter B-
Elimination Tournaments

All facilities are accessible to persons with disabilities. Under the Americans with Disabilities Act, persons who plan to attend this meeting and require ADA assistance are requested to contact Caroline Jackson at (512) 463-7348 at least two working days prior to the meeting so that appropriate arrangements can be made.

Contact: Jimmy G. Martin, 920 Colorado, Austin, Texas 78711, (512) 463-7356.

Filed: November 3, 1995, 3:17 p.m.

TRD-9514257

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Texas State Board of Medical Examiners

Friday, November 3, 1995, 1:30 p.m.

1812 Centre Creek Drive, Suite 300

Austin

Emergency Revised Agenda

Texas State Board of Physician Assistant Examiners

AGENDA:

In addition to previously posted agenda, the following have been added: report and recommendations from the Disciplinary Committee and consideration and approval of an Agreed Order on Eric James Ess, PA.

Reason for Emergency: Information has come to the attention of the agency and requires prompt consideration.

Contact: Pat Wood, P.O. Box 149134, Austin, Texas 78714-9134, (512) 834-7728, Ext. 402 or Fax: (512) 834-4597.

Filed: November 2, 1995, 4:28 p.m.

TRD-9514207

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Midwestern State University

Thursday, November 9, 1995, 2:00 p.m.

3410 Taft Boulevard, Hardin Board Room
Wichita Falls

Board of Regents Executive Committee

AGENDA:

The Executive Committee will tour and see a demonstration of the interactive television studio located in the Moffett Library. The committee will review and approve August 3, 1995 committee minutes and a nominating committee will be appointed to review the university president's contract for 1996-1997. The committee will receive recommendations and discuss the Americans with Disabilities Act (ADA) report, the

five-year campus plan update, the Bolin Science Hall renovation project, Allied Health Science Building/Architect proposals, and construction of a new parking lot on West Campus Drive.

Contact: Deborah L. Barrow, 3410 Taft Boulevard, Wichita Falls, Texas 76308, (817) 689-4212.

Filed: November 6, 1995, 11:50 a.m.

TRD-9514295

Thursday, November 9, 1995, 3:30 p.m.

3410 Taft Boulevard, Hardin Board Room
Wichita Falls

Board of Regents Finance and Audit Committee

AGENDA:

The Finance Committee will review minutes of the committee meeting August 3, 1995 and will receive recommendations and discuss the internal audit plan 1994-1995 year-end summary report, Summer school budget, approval of funds for production of university information brochure and viewbook, general endowment fund report, and ratification of items \$15,000 and under in fiscal years 1994-1995 and fiscal years 1995-1996 approved by president per board authorization.

Contact: Deborah L. Barrow, 3410 Taft Boulevard, Wichita Falls, Texas 76308, (817) 689-4212.

Filed: November 6, 1995, 11:50 a.m.

TRD-9514296

Thursday, November 9, 1995, 4:00 p.m.

3410 Taft Boulevard, Hardin Board Room
Wichita Falls

Board of Regents Personnel and Curriculum Committee

AGENDA:

The Personnel and Curriculum Committee will review minutes of the committee meeting August 3, 1995. Information will be received concerning enrollment and small class reports in the Fall semester 1995, and the last day enrollment report for the Summer 1995 sessions. The committee will receive recommendations and consider position changes in the fiscal years 1994-1995 and fiscal years 1995-1996 budgets, faculty moving to non-tenure track status, faculty development leave with compensation, change in status for Delphi Instructors, position change for International Student Advisor, and a new position in the Clark Student Center. Policy Manual revisions will be presented as follows: 2.37, committee modification; 3.223, staff educational incentive program wording modification; 4.117, Clark Student Center Ballroom extra hours rental fees for off-campus groups; and a

new policy regarding E-Mail use.

Contact: Deborah L. Barrow, 3410 Taft Boulevard, Wichita Falls, Texas 76308, (817) 689-4212.

Filed: November 6, 1995, 11:50 a.m.

TRD-9514297

Thursday, November 9, 1995, 4:30 p.m.

3410 Taft Boulevard, Hardin Board Room
Wichita Falls

Board of Regents Student Services Committee

AGENDA:

The Student Services Committee will review minutes of the committee meeting August 3, 1995 and will receive information concerning Homecoming 1995.

Contact: Deborah L. Barrow, 3410 Taft Boulevard, Wichita Falls, Texas 76308, (817) 689-4212.

Filed: November 6, 1995, 11:50 a.m.

TRD-9514298

Thursday, November 9, 1995, 5:00 p.m.

3410 Taft Boulevard, Hardin Board Room
Wichita Falls

Board of Regents University Development Committee

AGENDA:

The University Development Committee will review minutes of the committee meeting August 3, 1995. Summaries of gifts, grants and pledges September 1, 1994-August 31, 1995 will be presented for review of the board. A resolution of appreciation will be presented regarding the Moore Collection, now held in the Moffett Library, which traces the history of printing.

Contact: Deborah L. Barrow, 3410 Taft Boulevard, Wichita Falls, Texas 76308, (817) 689-4212.

Filed: November 6, 1995, 11:50 a.m.

TRD-9514299

Thursday, November 9, 1995, 5:15 p.m.

3410 Taft Boulevard, Hardin Board Room
Wichita Falls

Board of Regents Athletics Committee

AGENDA:

The Athletics Committee will review minutes of the committee meeting August 3, 1995 and will receive recommendations and discuss Title IX compliance, the junior varsity soccer program and 1996-1997 athletics scholarships.

Contact: Deborah L. Barrow, 3410 Taft Boulevard, Wichita Falls, Texas 76308, (817) 689-4212.

Filed: November 6, 1995, 11:51 a.m.

TRD-9514300

Friday, November 10, 1995, 9:00 a.m.

3410 Taft Boulevard, Hardin Board Room

Wichita Falls

Board of Regents

AGENDA:

The Board of Regents will consider the minutes of the August 4, 1995, August 24, 1995, September 8, 1995 and October 5, 1995 Board of Regents meetings and review the financial reports for the months of July, August and September 1995. The Board will consider recommendations and receive information from the Executive, Finance and Audit, Personnel and Curriculum, Student Services, University Development and Athletics Committee. The Board of Regents of Midwestern State University reserves the right to discuss any item in Executive Session whenever legally justified and properly posted in accordance with the Texas Open Meetings Act, Article 6252-17.

Contact: Debrorah L. Barrow, 3410 Taft Boulevard, Wichita Falls, Texas 76308, (817) 689-4212.

Filed: November 5, 1995, 4:48 p.m.

TRD-9514327

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Texas National Guard Armory Board

Saturday, November 18, 1995, 9:00 a.m.

301 East Regis

Lubbock

AGENDA:

Administrative Matters

Executive Director's Update

Construction/Renovation/Maintenance Update

Property/Leases

Establish Date of Next Meeting

Contact: Sandra Hille, P.O. Box 5426, Austin, Texas 78763, (512) 406-6907.

Filed: November 7, 1995, 2:14 p.m.

TRD-9514406

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Texas Natural Resource Conservation Commission

Thursday, November 16, 1995, 9:30 a.m.

12118 North Interstate 35, Building E, Room 201S

Austin

AGENDA:

The Commission will consider approving the following matters on the agenda: Industrial Hazardous Waste Class 2 Modification; consideration of hearing request; public water supply enforcement; municipal waste discharge enforcement; municipal solid waste enforcement; sludge enforcement; industrial hazardous waste enforcement; petroleum storage tank enforcement; air quality enforcement; resolution; rules; motion for rehearing; executive session; the commission will consider items previously posted for open meeting and at such meeting verbally postponed or continued to this date. With regard to any item, the commission may take various actions, including but not limited to rescheduling an item in its entirety or for particular action at a future date or time. (Registration for 9:30 agenda starts 8:45 until 9:25)

Contact: Doug Kitts, 12100 Park 35 Circle, Austin, Texas 78753, (512) 239-3317.

Filed: November 3, 1995, 2:32 p.m.

TRD-9514250

Thursday, November 16, 1995, 9:30 a.m.

12118 North Interstate 35, Building E, Room 201S

Austin

AGENDA:

Commission will consider two addendums to November 16 agenda (1) rules; water district accounting manual" and "annual audit report requirements for Texas Water Districts and Authorities (2) 30 TAC Chapter 330, Subchapter A, Subchapter D, and Subchapter E.

Contact: Doug Kitts, 12100 Park 35 Circle, Austin, Texas 78753, (512) 239-3317.

Filed: November 6, 1995, 10:49 a.m.

TRD-9514289

Friday, November 17, 1995, 10:30 a.m.

Southern Methodist University, President's Room, 3034 Daniel Street

Dallas

Weather Modification Advisory Committee

AGENDA:

The committee will review and make recommendation on a weather-modification permit application and a weather-modification license application; and the committee will hear staff reports on the use of hail cannons in Southwest Texas, and activities of the Texas Experiment in Augmenting Rainfall Through Cloud-Seeding (TEXARC) project.

Contact: George W. Bomar, P.O. Box 13087, Austin, Texas 78711-3087, (512) 239-0770.

Filed: November 8, 1995, 3:54 p.m.

TRD-9514493

Thursday, November 30, 1995 10:00 a.m.

Building E-Room 201S, 12118 North IH-35 (TNRCC Complex)

Austin

AGENDA:

For a hearing before an administrative law judge of the State Office of Administrative Hearings on an application by Rancho Del Lago, Inc., to amend its water Certificate of Convenience and Necessity (CCN) Number 12745 to expand the area to which it provides water utility service in Blanco and Comal Counties, Texas. The proposed utilities service area is located approximately 25 miles north-by-northwest of downtown New Braunfels, Texas. SOAH Docket Number 582-95-1622.

Contact: Susan Prior, P.O. Box 13087, Austin, Texas 78711-3087, (512) 512-239-4100.

Filed: November 7, 1995, 3:26 p.m.

TRD-9514417

Monday, December 4, 1995, 10:00 a.m.

Building A-Room 310A and D, 12124 Park 35 Circle (TNRCC Complex)

Austin

AGENDA:

For a hearing before an administrative law judge of the State Office of Administrative Hearings on an application by THINGS, Inc. doing business as T & C Water Co. for an increase in water rates effective October 1, 1995, for its service area located in Tarrant County, Texas, SOAH Docket Number 582-95-1621.

Contact: Susan Prior, P.O. Box 13087, Austin, Texas 78711-3087, (512) 512-239-4100.

Filed: November 7, 1995, 3:27 p.m.

TRD-9514419

Monday, December 4, 1995, 10:00 a.m.

Building C-Room 131E, 12124 Park 35 Circle (TNRCC Complex)

Austin

AGENDA:

For a hearing before an administrative law judge of the State Office of Administrative Hearings on an application by Great Western Utilities Company for an increase in water and sewer rates effective July 28, 1995, for its service area located in Montgomery County, Texas. SOAH Docket Number 585-95-1623.

Contact: Susan Prior, P.O. Box 13087, Austin, Texas 78711-3087, (512) 512-239-4100.

Filed: November 7, 1995, 3:26 p.m.

TRD-9514418

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

Building C-Room 131E, 12124 Park Circle
(TNRCC Complex)

Austin

AGENDA:

For a hearing before an administrative law judge of the State Office of Administrative Hearings on an application by Trent Water Works for an increase in water rates effective August 15, 1995, for its service area located in Brazoria and Waller Counties, Texas SOAH Docket Number 582-95-1624.

Contact: Susan Prior, P.O. Box 13087, Austin, Texas 78711-3087, (512) 512-239-4100.

Filed: November 7, 1995, 3:27 p.m.

TRD-9514420

◆ ◆ ◆
Texas Board of Nursing Facility Administrators

Thursday, November 16, 1995, 9:00 a.m.

Midland/Laredo Room, Saint Anthony Hotel, 300 East Travis

San Antonio

Complaints Committee

AGENDA:

The committee will discuss and possibly act on the following complaints (06-94-04-01207, 06-94-04-01225, 06-94-04-01283; 94-00024; 94-00039; 94-00047; 95-NFA-00084; 95-NFA-00094; 95-NFA-00098; 95-NFA-00110; 95-NFA-00117; 95-NFA-00119; 95-NFA-00137; 95-NFA-00140; and 95-NFA-00157).

Contact: Bobby Schmidt, 1100 West 49th Street, Austin, Texas 78756, (512) 834-6787. To request an accommodation under the ADA, please contact Renee Rusch, ADA Coordinator in the Office of Civil Rights at (512) 458-7627 or TDD at (512) 458-7708 at least two days prior to the meeting.

Filed: November 8, 1995, 4:00 p.m.

TRD-9514505

Thursday, November 16, 1995, 1:00 p.m.

Midland/Laredo Room, Saint Anthony Hotel, 300 East Travis

San Antonio

Education Committee

AGENDA:

The committee will discuss and possibly act on the following applicant educational requests (Larry Carlson; Wallace Duvall/Lead

Instructor Wayland Baptist University/Licensed Nursing Facility Administrator requests that his school be allowed to train prospective administrators-in-training in homes less than 60, but more than 50 licensed by the State of Texas; Angela Kleypas; Keith Yockey; Steven Goings; and Gray Kilpatrick); and approval/denial of the following general education requests (SUNY Institute of Technology at Utica/Rome; Ashby Institute for Professional Development; Hendrick Medical Center; Wayland Baptist University use of licensed nursing facilities with less than 60 beds; North Lake College request for approval of a continuing education program not approved in advance by the board; North Lake College request for approval of their 200-hour academic courses; South Texas Health Care Consultants request for continuing education (CE) sponsorship approval; and Senior Information Services of America request for CE sponsorship approval.

Contact: Bobby Schmidt, 1100 West 49th Street, Austin, Texas 78756, (512) 834-6787. To request an accommodation under the ADA, please contact Renee Rusch, ADA Coordinator in the Office of Civil Rights at (512) 458-7627 or TDD at (512) 458-7708 at least two days prior to the meeting.

Filed: November 8, 1995, 4:01 p.m.

TRD-9514506

Friday, November 17, 1995, 9:00 a.m.

Midland/Laredo Room, St. Anthony Hotel, 300 East Travis

San Antonio

AGENDA:

The board will discuss and possibly act on: approval of minutes from September 22, 1995; committee reports (Complaints Committee; Education Committee; Policies and Procedures Committee); proposed board rule changes; board chair report; and executive secretary report.

Contact: Bobby Schmidt, 1100 West 49th Street, Austin, Texas 78756, (512) 834-6787. To request an accommodation under the ADA, please contact Renee Rusch, ADA Coordinator in the Office of Civil Rights at (512) 458-7627 or TDD at (512) 458-7708 at least two days prior to the meeting.

Filed: November 8, 1995, 4:01 p.m.

TRD-9514507

◆ ◆ ◆
Texas State Board of Pharmacy

Tuesday-Wednesday, November 14-15, 1995, 9:00 a.m.

1812 Centre Creek, Room 203

Austin

Board Business Meeting and Public Hearing

AGENDA:

The board will commence in open session to: 1) hear testimony regarding proposed amendments to §§291.31-291.34, 291.36, 391.72-291.74, 309.2 and 309.3; 2) consider for approval board business meeting minutes for August 2-3, 1995; 3) consider for adoption proposed amendments to §§283.9, 291.6, 295.5, 291.10, 283.2, 283.4-283.6, and 281.24 and proposed repeal of §§291.111-291.115; 4) consider for proposal as a new rule §291.23 regarding pilot or demonstration projects; 5) hear reports, discuss and take action on the Strategic Plan process for fiscal years 1997-2001; appointment of Strategic Planning and Budget Committee and Legislative Appropriation Request for fiscal year 1998-1999; TSBP office move; status of Health Professions Council; guidelines for the acquisition of practical experience hours for Oklahoma pharmacy students; implementation of pharmacy-related and other legislation; veterinary pharmacies; External Pharmacy Doctorate Program; and the TSBP policy for training requirements for sterile products preparation by pharmacists and technicians; 6) consider a petition for approval to act as a preceptor submitted by Mary J. Treadway, R.Ph.; 7) review and approve contract for audits of payment vouchers and transactions after payment or posting; 8) hear reports on recent conferences and events; 9) discuss and receive update on upcoming conferences and events; 10) hear report on status of active/pending complaints; 11) consider proposal for decision in TSBP vs. Larry J. Perry; 12) consider and take action on proposed agreed board orders; 13) executive session to consider the proposal for decision in TSBP vs. Larry J. Perry and personnel matters, agreed board orders, and possible litigation; 14) discuss items to be placed on agenda for February board meeting.

Contact: Gay Dodson, 8505 Cross Park #110, Austin, Texas 78754-4594, (512) 832-0661.

Filed: November 6, 1995, 11:44 a.m.

TRD-9514294

◆ ◆ ◆
Texas Department of Protective and Regulatory Services

Wednesday, November 15, 1995, 10:00 a.m.

2355 North Stemmons Freeway, 12th Floor, Executive Conference Room

Dallas

AGENDA:

1. Call to order. Executive session. The Texas Board of Protective and Regulatory Services will meet in closed executive session to consider applicants for the position of executive director pursuant to §551.074 of the Texas Government Code. 3. Adjournment.

Contact: Michael Gee, P.O. Box 149030, Mail Code E-554, Austin, Texas 78714-9030.

Filed: November 8, 1995, 9:26 a.m.

TRD-9514452

Wednesday, November 15, 1995, 10:00 a.m.

2355 North Stemmons Freeway, 12th Floor, Executive Conference Room

Texas Board of Protective and Regulatory Services

AGENDA:

1. Call to order. 2. Executive session. The Texas Board of Protective and Regulatory Services will meet to consider applicants for the position of executive director pursuant to §551.074 of the Texas Government Code. 3. Adjournment.

Contact: Michael Gee, P.O. Box 149030, Mail Code E-554, Austin, Texas 78714-9030.

Filed: November 7, 1995, 2:05 p.m.

TRD-9514866

Thursday, November 16, 1995, 6:30 p.m.

Driskill Hotel, 604 Brazos Street, Sul Ross Conference Room

Austin

AGENDA:

1. Call to order. 2. Executive session. The Texas Board of Protective and Regulatory Services will meet in closed executive session to consider applicants for the position of executive director pursuant to §551.074 of the Texas Government Code. 3. Adjournment.

Contact: Michael Gee, P.O. Box 149030, Mail Code E-554, Austin, Texas 78714-9030.

Filed: November 8, 1995, 9:41 a.m.

TRD-9514466

Texas Department of Public Safety

Tuesday, November 14, 1995, 10:00 a.m.

DPS Headquarters, 5805 North Lamar Boulevard

Austin

Public Safety Commission

AGENDA:

Approval of minutes

Budget matters

Internal audit report

Personnel matters

Pending and contemplated litigation

Real estate matters

Public comment

Miscellaneous and other unfinished business

Discharge appeal hearing of DPS employee Norman Fulcher, Jr.

Contact: James Wilson, 5805 North Lamar Boulevard, Austin, Texas 78752, (512) 465-2000, Ext. 3700.

Filed: November 2, 1995, 2:32 p.m.

TRD-9514195

Public Utility Commission of Texas

Wednesday, November 22, 1995, 10:00 a.m.

7800 Shoal Creek Boulevard

Austin

AGENDA:

The Commissioners will hear a presentation by the Lower Colorado River Authority (LCRA) on its Integrated Resource Planning Process.

Contact: Paula Mueller, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0241.

Filed: November 3, 1995, 3:49 p.m.

TRD-9514259

Monday, November 27, 1995, 9:00 a.m.

7800 Shoal Creek Boulevard

Austin

AGENDA:

A Hearing on the Merits will be held by the State Office of Administrative Hearings in Docket Number 14963-application of Plexnet, Inc. for a service provider certificate of operating authority. This application was filed on November 6, 1995. Plexnet Communications plans to provide, on a resell basis, monthly recurring, flat-rate local exchange service including extended area service, toll restriction, call control options, tone dialing, custom calling services, Caller ID and any other services which are available on a resell basis from the underlying

incumbent local exchange carrier or other certificated carrier within the service area of Plexnet Communications pursuant to §3.2532 of the Public Utility Regulatory Act of 1995. Plexnet Communications plan to provide local exchange service in the geographic area which exactly follows the local exchange boundaries of the following underlying local exchange companies within the state of Texas: Southwestern Bell Telephone, GTE Southwest, Inc., United Telephone of Texas, Inc., Centel and any other electing Local Exchange Company. Persons who wish to intervene or otherwise participate in these proceedings should make appropriate filings or comments to the Commission by November 17, 1995.

Contact: Paula Mueller, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

Filed: November 7, 1995, 2:51 p.m.

TRD-9514412

Texas Real Estate Commission

Friday, November 10, 1995, 10:00 a.m.

Conference Room 235A, TREC Headquarters Office, 1101 Camino La Costa

Austin

Forms Committee

AGENDA:

The committee will discuss and possible determine the final appearance of a statutory information statement about agency.

For ADA assistance, call Nancy Guevremont at (512) 465-3923 at least two days prior to meeting.

Contact: Mark A. Moseley, P.O. Box 12188, Austin, Texas 78711-2188, (512) 465-3900.

Filed: November 2, 1995, 1:48 p.m.

TRD-9514186

Texas Residential Property Insurance

Friday, November 17, 1995, 9:30 a.m.

333 Guadalupe, Rooms 1250A and 1264, Tower I

Austin

Market Assistance Program Executive Committee

AGENDA:

1. Working Group 1 Issues (Room 1264-9:30 a.m.-Noon)

-Anti-Trust statement

- Eligibility
 - Criteria for mandatory participation
 - Monitoring MAP activity
 - Suggestions for designating underserved areas
 - Other House Bill 1367 provisions that relate to MAP
- Working Group 2 Issues (Room 1250A-9:30 a.m.-Noon)
- Anti-Trust statement
 - Participating insurers
 - Participating agents
 - Operations
 - Other House Bill 1367 provisions that relate to MAP
2. General Meeting (Room 1264-1:00 p.m.-3:00 p.m.)

- Anti-Trust statement
- Public input forum
- Administrative matters
- Member's expenses, scheduling
- Working group reports and discussion
- TDI staff draft of parts of proposed plan of operation
- Purpose and scope, authority, definitions, policy forms and types of coverage, rates, executive committee, amendments, immunity from liability, termination of MAP
- Any other general business

Contact: Lyndon Anderson, 333 Guadalupe Street, Austin, Texas 78701, (512) 322-2235.

Filed: November 3, 1995, 3:10 p.m.

TRD-9514252

◆ ◆ ◆
Texas State Soil and Water Conservation Board

Tuesday, November 14, 1995, 7:30 p.m.

311 North Fifth Street, Hearings Room Temple

AGENDA:

Joint meeting with Board of Directors of the Association of Texas Soil and Water Conservation Districts to discuss future conservation program needs.

Contact: Robert G. Buckley, P.O. Box 658, Temple, Texas 76503, (817) 773-2250, TEX-AN 820-1250.

Filed: November 3, 1995, 1:55 p.m.

TRD-9514243

Friday, November 15, 1995, 8:00 a.m.

311 North Fifth Street, Hearings Room Temple

AGENDA:

Minutes from September 20, 1995 board meeting; district director appointments; annual statewide meeting of SWCD directors held in Galveston, October 16-18, 1995; update on district director elections; Association of Texas SWCDs business report; Section 319 status report; Senate Bill 503 status report; allocation of Senate Bill 503 cost share funds; Texas Coastal Management Program; consider request for waiver of cost share rules; memorandum of agreement with Texas Natural Resources Conservation Commission; memorandum of agreement with Texas Water Development Board; cooperative agreement with Upper Leon Soil and Water Conservation District Number 525; Atrazine Detection in Marlin's City Lake; water quality assessment in North Bosque River; public information/education report; employee training update; pesticides in groundwater protection plan; board member travel; reports from agencies and guests; fiscal year 1995 district financial status report; expenditure report for two months ending October 31, 1995; fiscal year 1996 operating budget amendments; fiscal year 1996 Subchapter H funds allocations; fiscal year 1995 supplemental technical assistance funds report; update on 1995 Farm Bill; Galveston Bay National Estuary Program; Corpus Christi Bay National Estuary Program; next regular scheduled board meeting-January 16, 1996; report on organization of a Texas Association of watershed sponsors.

Contact: Robert G. Buckley, P.O. Box 658, Temple, Texas 76503, (817) 773-2250, TEX-AN 820-1250.

Filed: November 3, 1995, 1:56 p.m.

TRD-9514244

◆ ◆ ◆
Texas Guaranteed Student Loan Corporation

Thursday, November 16, 1995, 11:00 a.m.

13809 North Highway 183, Suite 1000 Austin

Revised Agenda

Planning Committee

AGENDA:

1. Call to order
2. Legislative/regulatory update
3. Discussion of current planning/budget process
4. Discussion of role of Planning Committee

5. Discussion of board retreat

6. Adjourn

Contact: Pat Boulton, 13809 North Highway 183, Austin, Texas 78750, (512) 219-4550.

Filed: November 8, 1995, 1:57 p.m.

TRD-9514486

◆ ◆ ◆
Board of Tax Professional Examiners

Monday, November 13, 1995, 9:30 a.m.

333 Guadalupe Street, Hearing Room 100 Austin

Regular Quarterly Meeting

AGENDA:

Call to order, determine the presence of a quorum, recognition of visitors, executive session: The board may convene in executive session under the authority of Title 5, Chapter 551, §551.074(a)(1) and (2) of the Government Code to deliberate the appointment, employment, evaluation, reassignment, duties, discipline or dismissal of a public officer or employee and/or to hear a complaint or charge against an officer or employee, to wit: Peter A. Stone, Executive Director, reconvene executive session: if the board meets in executive session, discussion and any appropriate action on non-registered county tax assessor collectors, approval of the minutes of the board's August 13, 1995 regular quarterly meeting, discussion and any appropriate action on the approval of persons for reclassification, certification and recertification, report from Walter Stoneham, Chairman of the Professional Standards Committee, on the committee's activities and recommendations resulting from their July 19, 1995 meeting. Discussion and any appropriate action on possible amendments to the Property Taxation Professional Certification Act (Texas Civil Statutes, Article 8885) that may be proposed by the board and recommended for passage to the 75th Legislature, Regular Session, discussion and any appropriate action on proposed amendments to 22 Texas Administrative Code Chapters 621-630. Discussion and any appropriate action on proposed amendments to the board's policies and procedures, discussion and any appropriate action on Chairman Trevino's proposal to replace the Budget Committee with a Budget-Legislative Liaison Committee and the appointment of members to that committee, discussion and any appropriate action on a proposal to eliminate the completion of a Demonstration Appraisal as an education requirement for Class IV Appraiser (i.e., Registered Professional Appraiser, RPA) and replace that requirement with a course in reading, interpreting and

understanding appraisal reports by fee appraisers, discussion and any appropriate action on the board's education and examination program, executive director's report, public comments on any subject will be received without discussion, and adjournment.

Contact: Peter A. Stone, 333 Guadalupe Street, Tower 2, Suite 520, Austin, Texas 78701-3942, (512) 305-7300.

Filed: November 6, 1995, 3:30 p.m.

TRD-9514316

Monday, November 13, 1995, 9:30 a.m.
333 Guadalupe Street, Hearing Room 100
Austin

Workshop Meeting

AGENDA:

Call to order, determine the presence of a quorum, recognition of visitors, discussion of Property Taxation Professional Certification Act (Texas Civil Statutes, Article 8885), discussion of 22 Texas Administrative Code Chapters 621-630, discussion of the board's policies and procedures including the committees created by board policy and procedure, ad hoc committees; etc., discussion of a proposal by Chairman Trevino to change the Budget Committee into a Budget-Legislative Liaison Committee, the duties and responsibilities of that committee and the appointment of members to that committee, discussion of the board's education and examination program, discussion of a proposal by Darla Doss to eliminate the completion of a Demonstration Appraisal as an education requirement for Class IV Appraiser (i.e., Registered Professional Appraiser, RPA) and replace that requirement with a course in reading, interpreting and understanding appraisal reports by fee appraisers, discussion of required reports prepared and submitted by the board to other agencies, report of the complaint committee's October 13, 1995, meeting, receive input on any relevant subject by any board member or person for possible consideration at future workshops and/or meetings and adjournment.

Contact: Peter A. Stone, 333 Guadalupe Street, Tower 2, Suite 520, Austin, Texas 78701-3942, (512) 305-7300.

Filed: November 6, 1995, 3:30 p.m.

TRD-9514315

◆ ◆ ◆
**The Texas A&M University
System, Board of Regents**

Tuesday, November 7, 1995, 10:00 a.m.

The Lancaster Hotel, 701 Texas Avenue,
Suite 1207

Houston

Revised Agenda

Board of Regents

AGENDA:

Addition: Adoption of a resolution congratulating Texas A&M International University on its 25th Anniversary Celebration and Phase I Dedication.

Contact: Vickie Running, The Texas A&M University System, College Station, Texas 77843, (409) 845-9600.

Filed: November 2, 1995, 11:20 a.m.

TRD-9514168

◆ ◆ ◆
Texas State Technical College System

Friday, November 17, 1995, 1:00 p.m.

Texas State Technical College System,
Conference Room, 3801 Campus Drive

Waco

Board of Regents

AGENDA:

Discussion and Review of the following TSTC Policy Committee Minute Orders and Reports:

Committee of the Whole-1:00 p.m.

Policy Committee for Instruction and Students Services-1:45 p.m.

Policy Committee for Human Resources and Development-2:15 p.m.

Policy Committee for Facilities-2:45 p.m.

Policy Committee for Fiscal Affairs-3:30 p.m.

Committee of the Whole-4:30 p.m.

Contact: Sandra J. Krumnow, 3801 Campus Drive, Waco, Texas 76705, (817) 867-4890.

Filed: November 7, 1995, 3:10 p.m.

TRD-9514414

Saturday, November 18, 1995, 9:45 a.m.

Texas State Technical College Waco, Student Recreation Center Multi-Purpose Room, 3801 Campus Drive

Waco

Board of Regents

AGENDA:

Following Item VI of the agenda and shown at Item VII the Board of Regents will go into executive session in accordance with Chapter 551 of the Texas Government Code for the specific purpose provided in §§551.071, 551.072, 551.074, and 551.075 and will discuss the following:

Marie Christina Lucio vs. Texas State Technical College and J. Gilbert Leal, consideration of potential litigation and complaint by Donna Alvarez Naylor, State of Texas vs. L. D. Truitt, Roy Savage, and Ron DeSpain, David Snyder and Eldon Davidson vs. The Texas State Technical College System, consideration of potential litigation and complaint by Donna Alvarez Naylor, status of Amarillo transfer and related issues, consultation with General Counsel relative to expenditure of HEAF funds.

Contact: Sandra J. Krumnow, 3801 Campus Drive, Waco, Texas 76705, (817) 867-4890.

Filed: November 7, 1995, 3:11 p.m.

TRD-9514416

Saturday, November 18, 1995, 9:45 a.m.

Texas State Technical College Waco, Student Recreation Center Multi-Purpose Room, 3801 Campus Drive

Waco

Revised Agenda

AGENDA:

Following Item VI of the agenda and shown at Item VII the Board of Regents will go into closed meeting in accordance with Chapter 551 of the Texas Government Code for the specific purpose provided in §§551.071, 551.072, 551.074, and 551.075 and will discuss the following:

Maria Christina Lucio vs. Texas State Technical College and J. Gilbert Leal, consideration of potential litigation and complaint by Donna Alvarez Naylor, State of Texas vs. L. D. Truitt, Roy Savage, and Ron DeSpain, David Snyder and Eldon Davidson vs. The Texas State Technical College System, consideration of potential litigation and complaint by Donna Alvarez Naylor, status of Amarillo transfer and related issues, consultation with General Counsel relative to expenditure of HEAF funds.

Contact: Sandra J. Krumnow, 3801 Campus Drive, Waco, Texas 76705, (817) 867-4890.

Filed: November 7, 1995, 4:45 p.m.

TRD-9514438

Saturday, November 18, 1995, 9:30 a.m.

Texas State Technical College Waco, Student Recreation Center Multi-Purpose Room, 3801 Campus Drive

Waco

Board of Regents

AGENDA:

The Board of Regents will discuss and act on the following minute orders:

Requests for budget change, audit plan, amendment to student health insurance fee, amended tuition and fee schedule fiscal year 1996 relating to senior citizen tuition fee exemption for up to six credit hours, lease agreement with Central Texas Economic Development District, approval of additional student service fee allocation at Texas State Technical College Waco, acceptance of the net distributable cash flow of Village Oaks Apartments, authority to expend HEAF funds at Texas State Technical College Waco, lease agreement with A&K Foam and Packaging, lease agreement with Fraser Industries, Inc., ratification of Executive Committee's action of October 13, 1995, rejection of all bids to repair roof damage at Texas State Technical College Sweetwater, resolution of appreciation for Texas utilities, approval of plans and specifications for the construction of the Health Science Building, resolution of appreciation for Jere J. Ruff, Mollie Anna Solomon, and Ricardo Gutierrez, annual operating plan for Rolling Plains Technical Foundation.

Contact: Sandra J. Krumnow, 3801 Campus Drive, Waco, Texas 76705, (817) 867-4890.

Filed: November 7, 1995, 3:10 p.m.

TRD-9514415

University Interscholastic League

Thursday, November 9, 1995, 9:00 a.m.

Red Lion Hotel, IH-35 North at Highway 290

Austin

State Executive Committee

AGENDA:

AA. Alleged violations of music regulations and falsification of documents, former school district personnel, Hemphill ISD

BB. Case referred by District 6 AAAA executive committee requesting penalty of public reprimand for school district personnel Brian Strother, Stephenville ISD, for violation basketball practice rules

CC. Alleged violation of athletic code, inappropriate interactions with a game official, school district personnel Tommy Roberts, San Benito High School

DD. Alleged violation of athletic code, inappropriate interactions with a game official, school district personnel Mike Farda, Irving Nimitz High School

EE. Case referred by District 8 AAAAA executive committee requesting a penalty of public reprimand to Michael Hughes, school district personnel, Arlington Martin High School for knowingly violating eligibility rules

FF. Case referred by District 18 AAAA executive committee requesting a penalty of public reprimand to Jim Moore, school district personnel, Conroe Oak Ridge High School for allowing a student to participate who was not reported on the eligibility blank

Contact: C. Ray Daniel, 3001 Lake Austin Boulevard, Austin, Texas 78701, (512) 471-5883.

Filed: November 3, 1995, 9:23 a.m.

TRD-9514224

Board for Lease of University Lands

Tuesday, November 14, 1995, 10:00 a.m.

Center for Energy and Economic Diversification, 1400 North FM 1788

Midland

AGENDA:

1. Approval of September 14, 1995, minutes of the Board for Lease meeting

2. Approval of tracts offered and opening of bids received on or before 10:00 a.m., Tuesday, November 14, 1995, for Regular Oil and Gas Lease Sale Number 88.

3. Approval of tracts offered and opening of bids received on or before 10:00 a.m., Tuesday, November 14, 1995, for Frontier Oil and Gas Lease Sale Number 88-A.

4. Lease procedures and terms for Regular Oil and Gas Lease Sale Number 89-A.

5. Report on take in-kind crude oil sales contracts dated effective December 1, 1995.

6. Approval of lease awards to highest bidders for Regular Oil and Gas Lease Sale Number 88.

7. Approval of lease awards to highest bidders for Frontier Oil and Gas Lease Sale Number 88-A.

Persons with disabilities who plan to attend the meeting and who may need auxiliary aids or services may contact Kathy Cope at (512) 499-4462 at least two work days prior to the meeting date so that appropriate arrangements can be made.

Contact: Mary Burke, 201 West Seventh Street, Austin, Texas 78701, (512) 499-4462.

Filed: November 6, 1995, 3:44 p.m.

TRD-9514318

The University of Texas System

Thursday, November 9, 1995, 10:00 a.m.

Concho and San Saba Rooms, Second Floor, E. H. Hereford University Center, U. T. Arlington, 301 West Second

Arlington

Revised Agenda

Board of Regents and Standing Committees

AGENDA:

Additional item to the agenda filed on October 30, 1995, consideration of a resolution determining method of sale and projects to be financed or refinanced by The Board of Regents of The University of Texas System, Revenue Financing System Bonds, Series 1996A and Series 1996B, designating the senior managing underwriter for such bonds, and taking other actions relating thereto.

Contact: Arthur H. Dilly, 201 West Seventh Street, Austin, Texas 78701-2981, (512) 499-4402.

Filed: November 2, 1995, 12:42 p.m.

TRD-9514183

Texans' War on Drugs

Tuesday, November 14, 1995, 9:00 a.m.

313 East Anderson Lane, Suite 101

Austin

Board of Directors Meeting

AGENDA:

1) Call to order

2) Establish quorum

3) Approval of minutes

4) Corporate resolutions

5) Executive session

6) Action on matters discussed in executive session

7) President's report:

a) Financial report

b) Service delivery report

c) Executive report

8) Planning for the future

9) Set next meeting dates

10) Other business

11) Adjourn

Contact: William Halsell, 313 East Anderson Lane, Suite 101, Austin, Texas 78752-1222, (512) 452-0141.

Filed: November 6, 1995, 2:52 p.m.

TRD-9514312

Texas Water Development Board

Wednesday, November 15, 1995, 3:00 p.m.

Stephen F. Austin Building, Room 513F,
1700 North Congress Avenue

Austin

Finance Committee

AGENDA:

1. Consider approval of the minutes of the meeting of October 18, 1995.
2. Consider a grant/loan to Webb County, Texas for the construction of wastewater improvements to provide service to the Larga-Vista subdivision (Economically Distressed Areas Program).
3. Consider a grant/loan to the City of Del Rio (Val Verde County) for the construction of water and wastewater improvements to provide service to the Val Verde Park Estates Subdivision (Economically Distressed Areas Program).
4. Briefing and discussion on the potential change to repurchase price and contract conditions of the board's ownership interest in the Franklin County Water District, Lake Cypress Springs Reservoir.
5. Briefing and discussion on a possible financial assistance application from the Upper Trinity Regional Water District (Denton County) for a regional non-potable water system to serve the Denton County Fresh Water Supply District Number 1A.
6. Briefing on status of the Lower Valley Water District's (formerly El Paso County Lower Valley Water District Authority) request for an increase in EDAP, SRF, and Water Supply funding for their Phase II and Phase III projects.
7. Quarterly briefing on investments.
8. Briefing on present and future EDAP projects.
9. Report on the status of approved contracts.
10. May consider items on the agenda of the November 16, 1995 Board or TWRFA meeting.

Additional non-committee board members may be present to deliberate but will not vote in the committee meeting.

Contact: Craig D. Pedersen, P.O. Box 13231, Austin, Texas 78711, (512) 463-7847.

Filed: November 7, 1995, 3:48 p.m.

TRD-9514423

Wednesday, November 15, 1995, 4:00 p.m.

Stephen F. Austin Building, Room

513-F, 1700 North Congress Avenue

Austin

Audit Committee

AGENDA:

1. Consider approval of the minutes of the meeting of September 20, 1995.
2. Briefing on current audit activities of the internal auditor.
3. Briefing on external audit activities of the Development Fund Audit Section.
4. Briefing on general accounting items.
5. May discuss items on the agenda of the November 16, 1995 Board or TWRFA meeting.

Additional non-committee board members may be present to deliberate but will not vote in the committee meeting.

Contact: Craig D. Pedersen, P.O. Box 13231, Austin, Texas 78711, (512) 463-7847.

Filed: November 7, 1995, 3:49 p.m.

TRD-9514424

Thursday, November 16, 1995, 9:00 a.m.

Stephen F. Austin Building, Room 118,
1700 North Congress Avenue

Austin

AGENDA:

The board will consider: minutes; executive, financial, and committee reports; resolution commending personnel; financial assistance for Muenster Water District, Sandy Land Underground Water Conservation District (UWCD), South Plains UWCD, Medina County UWCD, Commodore Cove Improvement District, Bexar Metropolitan Water District, New Caney Municipal Utility District, Zavala-Dimmitt Counties Water Improvement District #1, Webb County, cities of Palestine, Edinburg, Mont Belvieu, Shiner, Mission, and transfer of funds; contracts with cities of Pearland and Laredo and transfer of funds; agricultural conservation grants; memorandum of understanding with Texas State Soil and Water Conservation Board; transfer of funds for state match requirement; contract for financial advisory services; bond sales of \$5,000,000 for Water Quality Enhancement Account and \$100,000,000 for SRF and selection of underwriters/senior manager; federal disclosure requirements; facility planning procedures and restructure of Innovative/Alternative (I/A) Technology Pool, I/A projects and additional funding; contracts for facility planning in Hidalgo county and transfer of funds.

Contact: Craig D. Pedersen, P.O. Box 13231, Austin, Texas 78711, (512) 463-7847.

Filed: November 8, 1995, 2:58 p.m.

TRD-9514494

Texas Water Resources Finance Authority

Thursday, November 16, 1995, 9:00 a.m.

Stephen F. Austin Building, Room 118,
1700 North Congress Avenue

Austin

AGENDA:

1. Consider approval of the minutes of the meeting of October 19, 1995.
2. Consider execution of a contract for financial advisory services with the firm of First Southwest Company.
3. Consider authorizing the Development Fund Manager to execute the documents necessary to consent to the City of Willis' issuance of additional bonds.

Contact: Craig D. Pedersen, P.O. Box 13231, Austin, Texas 78711, (512) 463-7847.

Filed: November 8, 1995, 3:05 p.m.

TRD-9514495

Texas Workers' Compensation Commission

Friday, November 10, 1995, 9:30 a.m.

4000 South IH-35, Room 910-911, Southfield Building

Austin

Medical Advisory Committee

AGENDA:

1. Call to order
2. Review and possible approval of the September 15, 1995 minutes
3. Update on rules presented to commission
4. Update on designated doctor process
5. Review, discussion, and possible approval of the acute care inpatient hospital fee guideline
6. Discussion on MAC bylaws
7. Establish draft agenda
8. Establish next meeting date
9. Adjournment

Contact: Todd K. Brown, 4000 Smith IH-35, Austin, Texas 78704, (512) 440-5590.

Filed: November 2, 1995, 3:42 p.m.

TRD-9514201

Texas Workers' Compensation Insurance Fund

Wednesday, November 15, 1995, 1:00 p.m.

100 Congress Avenue, Suite 600

Austin

Board of Directors

AGENDA:

Call to order; roll call; review and approval of the minutes of the October 25, 1995, board meeting; action items; consideration of affiliation with National Council on Compensation Insurance; consideration of amendments to fund policies on governance and executive authority; election of replacement for Current Organizational Effectiveness member; election of Organizational Effectiveness Committee for 1996; financial report; fund status report; informational items; report of the Administrative Committee; report of the Audit Committee; report of the Finance Committee; report of the Operations Committee; public participation; executive session; action items resulting from executive session deliberations; announcements; and adjourn.

Contact: Jeanette Ward, 100 Congress Avenue, Austin, Texas 78701, (512) 404-7142.

Filed: November 7, 1995, 2:32 p.m.

TRD-9514408

Texas Workforce Commission

Tuesday, November 14, 1995, 9:00 a.m.
Room 644, TEC Building, 101 East 15th Street

Austin

AGENDA:

Prior meeting notes; staff reports; internal procedures of Commission Appeals; consideration and action on tax liability cases and higher level appeals in unemployment compensation cases listed on Texas Employment Commission Dockets 46 and 46A; discussion, consideration, and possible action with regard to transfer of programs pursuant to House Bill 1863; consideration and possible proposal of rules regarding certification of local workforce development boards; executive session to discuss *Lehmann, et al v. Texas Employment Commission and Walt Baker and Paz v. State of Texas, Texas Employment Commission*; actions, if any, resulting from executive session, and set date of next meeting.

Contact: C. Ed Davis, 101 East 15th Street, Austin, Texas 78778, (512) 463-2291.

Filed: November 6, 1995, 4:09 p.m.

TRD-9514319

Texas Council on Workforce and Economic Competitiveness

Friday, November 17, 1995, 8:30 a.m.

William B. Travis State Office Building,
1701 Congress Avenue, Room 1-104

Austin

Full Council

AGENDA:

8:30 a.m.—Call to order; announcements/committee assignments, approval of minutes, public comment; 9:00 a.m.—Policy briefing item; TCWEC budget; 9:15 a.m.—Action item: Council bylaws and recommendations on the Apprenticeship and Training Advisory Committee; 10:00 a.m.—Action item: Criteria for the establishment of workforce development boards; 10:30 a.m.—Break; 11:00 a.m.—Action item: Procedural policy for review and approval of waiver requests; 11:30 a.m.—Policy briefing item: Workforce Development area redesignation policy; 12:30 p.m.—Lunch; 1:30 p.m.—Policy briefing item: JTPA service delivery area designation for Alamo Council of Governments; 2:00 p.m.—Policy briefing item: Recommendations on the JTPA §123 Education Coordination Program; 2:30 p.m.—Briefing item: Strategic Planning Committee responsibilities/briefing item: Performance and Evaluation Committee responsibilities; 3:00 p.m.—Briefing item: Program Policy and Oversight Committee responsibilities; 3:30 p.m.—Adjourn.

Notice: Persons with disabilities who plan to attend this meeting and who may need auxiliary aids or services should contact Val Blaschke, (512) 912-7150 (or Relay Texas 1-800-735-2988), at least two days before this meeting so that appropriate arrangements can be made.

Contact: Val Blaschke, P.O. Box 2241, Austin, Texas 78768, (512) 912-7158.

Filed: November 8, 1995, 4:22 p.m.

TRD-9514521

Texas Youth Commission

Thursday, November 16, 1995, 9:00 a.m.

Jefferson County State School, FM 3514 at U.S. Highway 69

Beaumont

Board

AGENDA:

Approval of resolution authorizing an interagency agreement between the Texas Department of Criminal Justice, Texas Department of Mental Health and Mental Retardation and TYC for renovations at the

South Campus of the Vernon State Hospital (action).

Approval of resolution between the Texas Public Finance Authority and TYC for capital expenditures (action).

Report on agency follow-up with recommendations of the State Auditor regarding contract administration (information).

Report on the assessment and placement of youth for specialized treatment (information).

Report on substance abuse treatment funding (information).

Study of merging TYC/Texas Juvenile Probation Commission administrative functions (information).

Contact: Steve Robinson, P.O. Box 4260, Austin, Texas 78765, (512) 483-5001.

Filed: November 8, 1995, 2:46 p.m.

TRD-9514492

Regional Meetings

Meetings Filed November 2, 1995

The Angelina and Neches River Authority ANRA Board of Directors met in the Conference Room, 210 Lufkin Avenue, Lufkin, November 7, 1995, at 9:30 a.m. Information may be obtained from Gary L. Neighbors, P.O. Box 397, Lufkin, Texas 75901, (409) 632-7795. TRD-9514181.

The Brazos Valley Development Council Executive Committee met in the BVDC Conference Room, 1706 East 29th Street, Bryan, November 8, 1995, at 1:30 p.m. Information may be obtained from Tom Wilkinson, Jr., P.O. Drawer 4128, Bryan, Texas 77805-4128, (409) 775-4244. TRD-9514197.

The Concho Valley Council of Governments Executive Committee met at 5014 Knickerbocker Road, San Angelo, November 8, 1995, at 7:00 p.m. Information may be obtained from Robert R. Weaver, P.O. Box 60050, San Angelo, Texas 76906, (915) 944-9666. TRD-9514165.

The Deep East Texas Council of Governments Board of Directors and Grants Application Review Committee will meet at the Alabama-Coushatta Indian Reservation, Highway 190 West, Livingston, November 16, 1995, at 11:00 a.m. Information may be obtained from Walter G. Diggles, 274 East Lamar Street, Jasper, Texas 75951, (409) 384-5704. TRD-9514190.

The Denton Central Appraisal District Appraisal Review Board will meet at 3911 Morse Street, Denton, November 15, 1995, at 9:00 a.m. Information may be obtained from Kathy Williams, P.O. Box 2816, Den-

ton, Texas 76202-2816, (817) 566-0904. TRD-9514198.

The Hockley County Appraisal District Appraisal Review Board met at 1103 Houston, Levelland, November 7, 1995, at 7:00 a.m. Information may be obtained from Nick Williams, P.O. Box 1090, Levelland, Texas 79336, (806) 894-9654. TRD-9514206.

The Texas Municipal Power Agency (TMPA) Board of Directors met at the Gibbons Creek Steam Electric Station, Administration Building, 2-1/2 miles north of Carlos on FM-244, Carlos, November 9, 1995, at 9:00 a.m. Information may be obtained from Carl Shahady, P.O. Box 7000, Bryan, Texas 77805, (409) 873-2013. TRD-9514196.

The Nortex Regional Planning Commission Executive Committee will meet at The Galaxy Center #2 North, Suite 200, 4309 Jacksboro Highway, Wichita Falls, November 16, 1995, at Noon. Information may be obtained from Dennis Wilde, P.O. Box 5144, Wichita Falls, Texas 76307-5144, (817) 322-5281. TRD-9514187.

The San Antonio-Bexar County Metropolitan Planning Organization Fiscal Year 1997-1999 Transportation Improvement Program met at the Miguel Carrillo, Jr., Elementary School Cafeteria, 500 Price Street, San Antonio, November 8, 1995, at 7:00 p.m.; the Leon Valley Community Center, 6427 Evers Road, San Antonio, November 9, 1995, at 7:00 p.m.; the Fair Avenue Apartments Meeting Room, 1215 Fair Avenue, San Antonio, November 14, 1995, at 7:00 p.m.; and the Live Oak Civic Center, 8101 Pat Booker Road, San Antonio, November 16, 1995, at 7:00 p.m. Information may be obtained from Charlotte A. Roszelle, 434 South Main, Suite 205, San Antonio, Texas 78204, (210) 227-8651. TRD-9514205.

The Texas Council Risk Management Fund Executive Committee will meet at the Austin Omni Hotel, The Cellar, 700 San Jacinto, Austin, November 16, 1995, at 7:00 p.m. Information may be obtained from Spencer McClure, Westpark Building Three, Suite 240, 8140 Mopac Expressway, Austin, Texas 78759, (512) 794-9268. TRD-9514203.

The Texas Council Risk Management Fund Board of Trustees and Advisory Committee will meet at the Austin Omni Hotel, 700 San Jacinto, Austin, November 17, 1995, at 8:30 a.m. Information may be obtained from Spencer McClure, Westpark Building Three, Suite 240, 8140 Mopac Expressway, Austin, Texas 78759, (512) 794-9268. TRD-9514204.

The Wichita Falls MPO (Public Meeting) met at the Wichita Falls I.S.D. Administration Building, Board Room, 1104 Broad

Street, Wichita Falls, November 6, 1995, at 7:00 p.m. Information may be obtained from Richard E. Luedke, 1300 Seventh Street, Wichita Falls, Texas 76301, (817) 761-7447. TRD-9514182.

Meetings Filed November 3, 1995

The Andrews Center Board of Trustees met at 3205 West Erwin, Willow Brook Country Club, Tyler, November 9, 1995, at 1:30 p.m. Information may be obtained from Richard J. DeSanto, P.O. Box 4730, Tyler, Texas 75712, (903) 535-7338. TRD-9514256.

The Archer County Appraisal District Archer Appraisal District Board of Directors met at 101 South Center, Archer City, November 8, 1995, at 5:00 p.m. Information may be obtained from Edward H. Trigg, III, P.O. Box 1141, Archer City, Texas 76351, (817) 574-2172. TRD-9514220.

The Atascosa County Appraisal District Appraisal Review Board met at Fourth and Avenue J, Poteet, November 9, 1995, at 1:30 p.m. Information may be obtained from Vernon A. Warren, P.O. Box 139, Poteet, Texas 78065, (210) 742-3591. TRD-9514247.

The Austin-Travis County MHMR Center Human Resources Committee met at 1700 South Lamar Boulevard, Building #1, Suite 102A, Austin, November 8, 1995, at 4:30 p.m. Information may be obtained from Sharon Taylor, 1430 Collier Street, Austin, Texas 78704, (512) 447-4141. TRD-9514260.

The Austin-Travis County MHMR Center Public Relations Committee met at 1700 South Lamar Boulevard, Suite 102, Austin, November 9, 1995, at Noon. Information may be obtained from Sharon Taylor, 1430 Collier Street, Austin, Texas 78704, (512) 447-4141. TRD-9514261.

The Coleman County Water Supply Corporation Board of Directors met at 214 Santa Anna Avenue, Coleman, November 8, 1995, at 1:30 p.m. Information may be obtained from Davey Thweatt, 214 Santa Anna Avenue, Coleman, Texas 76834, (915) 625-2133. TRD-9514229.

The Dallas Area Rapid Transit Mayors' Task Force met at the Richardson Civic Center, City Hall, Richardson Room, 411 West Arapaho, Richardson, November 7, 1995, at 7:00 a.m. Information may be obtained from Sophia Rosales, P.O. Box 660163, Dallas, Texas 75266-0163, (214) 749-3264. TRD-9514246.

The Edwards Aquifer Authority Bylaws Committee met at the San Antonio Development Agency, 1170 East Commerce

Street, San Antonio, November 8, 1995, at 6:00 p.m. Information may be obtained from Mike Beldon, P.O. Box 15830, San Antonio, Texas 78212, (210) 222-2204. TRD-9514262.

The Ellis County Appraisal District Board of Directors met at 400 Ferris Avenue, Waxahachie, November 9, 1995, at 7:00 p.m. Information may be obtained from R. Rhodes, Jr., P.O. Box 878, Waxahachie, Texas 75165, (214) 937-3552. TRD-9514219.

The Guadalupe-Blanco River Authority Long Range Planning Committee met at the Coletto Creek Park and Reservoir, 365 Coletto Park Road, Fannin, November 10, 1995, at 1:30 p.m. Information may be obtained from W. E. West, Jr., P.O. Box 271, Seguin, Texas 78156-0271, (210) 379-5822. TRD-9514225.

The Hays County Appraisal District Board of Directors met at 21001 North IH-35, Kyle, November 9, 1995, at 3:30 p.m. Information may be obtained from Lynnell Sedlar, 21001 North IH-35, Kyle, Texas 78640, (512) 268-2522. TRD-9514254.

The Hickory Underground Water Conservation District Number 1 Board and Advisors met at 2005 South Bridge Street, Brady, November 9, 1995, at 7:00 p.m. Information may be obtained from Lorna Moore, P.O. Box 1214, Brady, Texas 76825, (915) 597-2785. TRD-9514245.

The Hunt County Appraisal District Board of Directors met at 4801 King Street, Greenville, November 9, 1995, at Noon. Information may be obtained from Shirley Smith, P.O. Box 1339, Greenville, Texas 75403, (903) 454-3510. TRD-9514228.

The Lower Colorado River Authority Planning and Public Policy Committee met at 3701 Lake Austin Boulevard, Hancock Building, Board Conference Room, Austin, November 7, 1995, at 9:00 a.m. Information may be obtained from Glen E. Taylor, P.O. Box 220, Austin, Texas 78767, (512) 473-3287. TRD-9514235.

The Lower Colorado River Authority Board of Trustees for LCRA's Benefit Plans met at 3701 Lake Austin Boulevard, Hancock Building, Board Room, Austin, November 7, 1995, at 1:00 p.m. Information may be obtained from Glen E. Taylor, P.O. Box 220, Austin, Texas 78767, (512) 473-4043. TRD-9514236.

The Lower Colorado River Authority Services Corporation met at 3701 Lake Austin Boulevard, Hancock Building, Board Conference Room, Austin, November 9, 1995, at 9:00 a.m. Information may be obtained from Glen E. Taylor, P.O. Box 220, Austin, Texas 78767, (512) 473-3287. TRD-9514234.

The Lower Rio Grande Valley Tech Prep

Associate Degree Consortium Board of Directors met in the Board Room, Conference Center, Texas State Technical College, 2424 Boxwood, Harlingen, November 8, 1995, at Noon. Information may be obtained from Pat Bubb, TSTC Conference Center, Harlingen, Texas 78550-3697, (210) 425-0729. TRD-9514231.

The Manville Water Supply Corporation Board met at Spur 277, Board Room, Coupland, November 9, 1995, at 7:00 p.m. Information may be obtained from Tony Graf, P.O. Box 248, Coupland, Texas 78615, (512) 272-4044. TRD-9514269.

The Panhandle Ground Water Conservation District Number 3 Board of Directors (Public Meeting) met at the District Office, 300 South Omohundro Street, White Deer, November 8, 1995, at 7:30 p.m. Information may be obtained from C. E. Williams, Box 637, White Deer, Texas 79097, (806) 883-2501. TRD-9514238.

The Sulphur-Cypress Soil and Water Conservation District #419 met at 1809 West Ferguson, Suite D, Mt. Pleasant, November 9, 1995, at 8:30 a. m. Information may be obtained from Beverly Amerson, 1809 West Ferguson, Suite D, Mt. Pleasant, Texas 75455, (903) 572-5411. TRD-9514221.

The Trinity River Authority of Texas Ten Mile Creek Regional Wastewater System Right-of-Way Committee met at 5300 South Collins Street, Arlington, November 10, 1995, at 10:30 a.m. Information may be obtained from James L. Murphy, P.O. Box 60, Arlington, Texas 76004, (817) 467-4343. TRD-9514230.

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**Meetings Filed November 6,
1995**

The Barton Springs/Edwards Aquifer Conservation District Board of Directors-Work Session met at 1124A Regal Row, Austin, November 9, 1995, at 3:00 p.m. Information may be obtained from Bill E. Couch, 1124A Regal Row, Austin, Texas 78748, (512) 282-8441, Fax: (512) 282-7016. TRD-9514304.

The Bastrop Central Appraisal District Appraisal Review Board met at 1200 Cedar Street, Bastrop, November 9, 1995, at 9:30 a.m. Information may be obtained from Dana Ripley, 1200 Cedar Street, Bastrop, Texas 78602, (512) 303-3536. TRD-9514275.

The Callahan County Appraisal District Board of Directors met at 130-A West Fourth Street, Baird, November 13, 1995, at 7:00 p.m. Information may be obtained from Jane Ringhoffer, P.O. Box 806, Baird, Texas 79504, (915) 854-1165. TRD-9514286.

The Coastal Bend Chief Elected Officials met at 5549 Leopard Street, Corpus Christi, November 9, 1995, at 1:00 p.m. Information may be obtained from Deborah Seeger, 1616 Martin Luther King Drive, Corpus Christi, Texas 78401, (512) 889-5300. TRD-9514301.

The Ellis County Appraisal District Appraisal Review Board will meet at 400 Ferris Avenue, Waxahachie, November 14, 1995, at 8:30 a.m. Information may be obtained from Dorothy Phillips, P.O. Box 878, Waxahachie, Texas 75165, (214) 937-3552. TRD-9514273.

The Erath County Appraisal District Board of Directors will meet at 1390 Harbin Drive, Stephenville, November 14, 1995, at 7:00 a.m. Information may be obtained from Vicky Greenough, 1390 Harbin Drive, Stephenville, Texas 76401, (817) 965-5434. TRD-9514288.

The Hale County Appraisal District Board of Directors will meet at 3314 Olton Road, Plainview, November 16, 1995, at 7:00 p.m. Information may be obtained from Linda Jaynes 3314 Olton Road, Plainview, Texas 79072, (806) 293-4226. TRD-9514326.

The Houston-Galveston Area Council Transportation Policy Council will meet at 20 Greenway Plaza, 10th Floor, Room 4, Houston, November 17, 1995, at 9:30 a.m. Information may be obtained from Alan C. Clark, P.O. Box 22777, Houston, Texas 77227-2777. (713) 627-3200. TRD-9514310.

The Jones County Appraisal District Board of Directors will meet at 1137 East Court Plaza, Anson, November 16, 1995, at 8:30 a.m. Information may be obtained from Susan Holloway, P.O. Box 348, Anson, Texas 79501, (915) 823-2422. TRD-9514302.

The Northeast Texas Rural Rail Transportation District Board met at 2821 Washington Street, Greenville, November 10, 1995, at 11:00 a.m. Information may be obtained from Sue Ann Harting, P.O. Box 306, Commerce, Texas 75428-0306. (903) 450-0140. TRD-9514317.

The Sabine Valley Center Personnel Committee met at 107 Woodbine Place, Administration Building, Judson Road, Longview, November 9, 1995, at 6:00 p.m. Information may be obtained from Inman White or LaVerne Moore, P.O. Box 6800, Longview, Texas 75608, (903) 237-2362. TRD-9514307.

The Sabine Valley Center Care and Treatment Committee met at 107 Woodbine Place, Administration Building, Judson Road, Longview, November 9, 1995, at 6:00 p.m. Information may be obtained from Inman White or LaVerne Moore, P.O. Box 6800, Longview, Texas 75608, (903)

237-2362. TRD-9514306.

The Sabine Valley Center Finance Committee met at 107 Woodbine Place, Administration Building, Judson Road, Longview, November 9, 1995, at 6:30 p.m. Information may be obtained from Inman White or LaVerne Moore, P.O. Box 6800, Longview, Texas 75608, (903) 237-2362. TRD-9514308.

The Sabine Valley Center Board of Trustees met at 107 Woodbine Place, Administration Building, Judson Road, Longview, November 9, 1995, at 7:00 p.m. Information may be obtained from Inman White or LaVerne Moore, P.O. Box 6800, Longview, Texas 75608, (903) 237-2362. TRD-9514309.

The Southeast Texas Regional Planning Commission Executive Committee will meet at 801 Main, Beaumont City Council Chambers, Beaumont, November 15, 1995, at 7:00 p.m. Information may be obtained from Jackie Vice Solis, P.O. Drawer 1387, Nederland, Texas 77627, (409) 727-2384. TRD-9514287.

The South Franklin Water Supply Corporation Board of Directors met at the Office of South Franklin Water Supply Corporation, 4430 Highway 115, South of Mount Vernon, November 13, 1995, at 7:00 p.m. Information may be obtained from Richard Zachary, P.O. Box 591, Mount Vernon, Texas 75457, (903) 860-3400. TRD-9514311.

The Upper Rio Grande Private Industry Council Upper Rio Grande Private Industry Council Board will meet at 1155 Westmoreland, Suite 211, El Paso, November 15, 1995, at 7:30 a.m. Information may be obtained from Norman R. Haley, 1155 Westmoreland, Suite 235, El Paso, Texas 79925, (915) 772-5627, Extension 406. TRD-9514320.

The West Central Texas Council of Governments (Revised Agenda.) Board of Directors and General Membership met at 1100 North Sixth Street, Abilene, November 13, 1995, at 7:00 p.m. Information may be obtained from Brad Helbert, 1025 EN Tenth Street, Abilene, Texas 79601, (915) 672-8544. TRD-9514305.

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**Meeting Filed November 7,
1995**

The Austin Transportation Study Policy Advisory Committee met at the Joe C. Thompson Conference Center, 26th and Red River, Room 2.102, Austin, November 13, 1995, at 6:00 p.m. Information may be obtained from Michael R. Aulick, P.O. Box 1088-Annex, Austin, Texas 78767, (512) 499-2275. TRD-9514356.

The Bexar-Medina-Atascosa Counties

Water Control and Improvement District Number 1 (Revised Agenda.) Board of Directors met at 226 State Highway 132, Natalia, November 13, 1995, at 8:00 a.m. Information may be obtained from Evelyn M. Sollock, P.O. Box 170, Natalia, Texas 78059, (210) 665-2132. TRD-9514409.

The Brown County Appraisal District Board of Directors met at 403 Fisk Avenue, Brownwood, November 13, 1995, at 7:00 p.m. Information may be obtained from Doran E. Lemke, 403 Fisk Avenue, Brownwood, Texas 76801, (915) 643-5676. TRD-9514421.

The Canyon Regional Water Authority Regular Board Meeting met at the Guadalupe Fire Training Facility, 850 Lakeside Pass Drive, New Braunfels, November 13, 1995, at 7:00 p.m. Information may be obtained from Gloria Kaufman, Route 2, Box 654 W, New Braunfels, Texas 78130-9579, (210) 609-0543. TRD-9514365.

The Central Texas Council of Governments Work Force Development Board of Central Texas will meet at 321 North Penelope, Belton, November 16, 1995, at 10:00 a.m. Information may be obtained from Susan Kamas, P.O. Box 729, Belton, Texas 76513, (817) 939-3771. TRD-9514337.

The Colorado County Appraisal District Board of Directors will meet at 400 Spring (County Courtroom), Columbus, November 14, 1995, at 1:30 p. m. Information may be obtained from Billy Youens, P.O. Box 10, Columbus, Texas 78934, (409) 732-8222. TRD-9514407.

The Elm Creek WSC Board met at 508 Avenue E, Moody, November 13, 1995, at 7:00 p.m. Information may be obtained from Debra Williams, 508 Avenue E, Moody, Texas 76657, (817) 853-3838. TRD-9514349.

The Gregg Appraisal District Board of Directors will meet at 2010 Gilmer Road, Longview, November 14, 1995, at 11:00 a.m. Information may be obtained from William T. Carroll, 2010 Gilmer Road, Longview, Texas 75604, (903) 759-0015. TRD-9514431.

The Guadalupe-Blanco River Authority Board of Directors will meet at 933 East Court Street, Seguin, November 14, 1995, at 2:30 p.m. Information may be obtained from W. E. West, Jr., P.O. Box 271, Seguin, Texas 78156-0271, (210) 379-5822. TRD-9514360.

The Guadalupe-Blanco River Authority Board of Directors will meet at 933 East Court Street, Seguin, November 14, 1995, at 2:30 p.m. Information may be obtained from W. E. West, Jr., P.O. Box 271, Seguin, Texas 78156-0271, (210) 379-5822. TRD-9514353.

The Guadalupe-Blanco River Authority

Board of Directors will meet at 933 East Court Street, Seguin, November 14, 1995, at 2:30 p.m. Information may be obtained from W. E. West, Jr., P.O. Box 271, Seguin, Texas 78156-0271, (210) 379-5822. TRD-9514357.

The Guadalupe-Blanco River Authority Board of Directors will meet at 933 East Court Street, Seguin, November 15, 1995, at 10:00 a.m. Information may be obtained from W. E. West, Jr., P.O. Box 271, Seguin, Texas 78156-0271, (210) 379-5822. TRD-9514354.

The Guadalupe-Blanco River Authority Board of Directors will meet at 933 East Court Street, Seguin, November 15, 1995, at 10:00 a.m. Information may be obtained from W. E. West, Jr., P.O. Box 271, Seguin, Texas 78156-0271, (210) 379-5822. TRD-9514361.

The Guadalupe-Blanco River Authority Board of Directors will meet at 933 East Court Street, Seguin, November 15, 1995, at 10:00 a.m. Information may be obtained from W. E. West, Jr., P.O. Box 271, Seguin, Texas 78156-0271, (210) 379-5822. TRD-9514358.

The Guadalupe-Blanco River Authority Board of Directors will meet at 933 East Court Street, Seguin, November 15, 1995, at 2:00 p.m. Information may be obtained from W. E. West, Jr., P.O. Box 271, Seguin, Texas 78156-0271, (210) 379-5822. TRD-9514362.

The Guadalupe-Blanco River Authority Board of Directors will meet at 933 East Court Street, Seguin, November 15, 1995, at 2:00 p.m. Information may be obtained from W. E. West, Jr., P.O. Box 271, Seguin, Texas 78156-0271, (210) 379-5822. TRD-9514355.

The Guadalupe-Blanco River Authority Board of Directors will meet at 933 East Court Street, Seguin, November 15, 1995, at 2:00 p.m. Information may be obtained from W. E. West, Jr., P.O. Box 271, Seguin, Texas 78156-0271, (210) 379-5822. TRD-9514359.

The High Plains Underground Water Conservation District Number 1 Board will meet at 2930 Avenue Q, Board Room, Lubbock, November 14, 1995, at 10:00 a.m. Information may be obtained from A. Wayne Wyatt, 2930 Avenue Q, Lubbock, Texas 79405, (806) 762-0181. TRD-9514403.

The Johnson County Central Appraisal District Board of Directors will meet at 109 North Main, Suite 201, Room 202, Cleburne, November 16, 1995, at 4:30 p.m. Information may be obtained from Priscilla A. Bunch, 109 North Main, Cleburne, Texas 76031, (817) 558-8100. TRD-9514352.

The Liberty County Central Appraisal District Board of Directors will meet at 315 Main Street, Liberty, November 15, 1995, at 9:30 a.m. Information may be obtained from Sherry Greak, P.O. Box 10016, Liberty, Texas 77575, (409) 336-5722. TRD-9514364.

The Liberty County Central Appraisal District Appraisal Review Board will meet at 315 Main Street, Liberty, November 16, 1995, at 9:30 a.m. Information may be obtained from Sherry Greak, P.O. Box 10016, Liberty, Texas 77575, (409) 336-5722. TRD-9514363.

The Local Government Investment Cooperative Board of Directors will meet at 1301 McKinney, Suite 5100, Houston, November 14, 1995, at 3:00 p. m. Information may be obtained from Patrick Shinkle, 7001 Preston Road, Suite 300, Dallas, Texas 75202, (214) 522-8830, Fax: (214) 522-7667. TRD-9514848.

The Middle Rio Grande Development Council met at the Uvalde Operations, 209 North Getty, Uvalde, November 10, 1995, at 2:30 p.m. Information may be obtained from Leodoro Martinez, Jr., P.O. Box 1199, Carrizo Springs, Texas 78834, (210) 876-3533. TRD-9514332.

The Middle Rio Grande Development Council Texas Review and Comment System will meet in the MRGDC Operations Conference Room, 209 North Getty, Uvalde, November 15, 1995, at 4:00 p.m. Information may be obtained from Erma Alejandro, 209 North Getty Street, Uvalde, Texas 78801, (210) 278-4151, Ext. 10 or Fax: (210) 278-2929. TRD-9514422.

The North Plan Ground Water Conservation District Number Two Regular Board Meeting will meet at 603 East First, Dumas, November 14, 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-9514330.

The Rio Grande Council of Governments Board of Directors will meet at the Rio Grande Council of Governments, 1100 North Stanton, Fourth Floor, El Paso, November 17, 1995, at 1:00 p.m. Information may be obtained from Lidia Flynn, 1100 North Stanton, Suite 610, El Paso, Texas 79902, (915) 533-0098. TRD-9514413.

The San Antonio River Authority Board of Directors will meet at 100 East Guenther Street, Board Room, San Antonio, November 15, 1995, at 2:00 p.m. Information may be obtained from Fred N. Pfeiffer, P.O. Box 830027, San Antonio, Texas 78283-0027, (210) 227-1373. TRD-9514333.

The Upshur County Appraisal District Appraisal Review Board will meet at Warren and Trinity Streets, Gilmer, November 20, 1995, at 9:00 a.m. Information may be

obtained from Louise Stracener, P.O. Box 280, Gilmer, Texas 75644-0280, (903) 843-3041. TRD-9514402.

The Wheeler County Appraisal District Board of Directors met in the County Commissioner's Courtroom, County Courthouse Square, Wheeler, November 13, 1995, at 5:00 p.m. Information may be obtained from Larry Schoenhals, P.O. Box 1200, Wheeler, Texas 79096, (806) 826-5900. TRD-9514343.

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**Meetings Filed November 8,
1995**

The Bexar-Medina-Atascosa Counties Water Control and Improvement District #1 Board of Directors met at 221 Highway 132, Natalia, November 13, 1995, at 8:00 a.m. Information may be obtained from John W. Ward III, P.O. Box 170, Natalia, Texas 78059, (210) 663-3519. TRD-9514450.

The Bexar-Medina-Atascosa Counties Water Control and Improvement District #1 Board of Directors met at 221 Highway 132, Natalia, November 13, 1995, at 8:00 a.m. Information may be obtained from John W. Ward III, P.O. Box 170, Natalia, Texas 78059, (210) 663-3519. TRD-9514451.

The Concho Valley Council of Governments Private Industry Council will meet at 5014 Knickerbocker Road, San Angelo, November 15, 1995, at 3:00 p.m. Information may be obtained from Monette Molinar, 5002 Knickerbocker Road, San Angelo, Texas 76904, (915) 944-9666. TRD-9514479.

The Dallas Housing Authority Dallas Housing Authority Board of Commissioners will meet at 4900 Hatcher Street, Frazier Courts Housing, Dallas, November 16, 1995, at 4:00 p.m. Information may be obtained from Elizabeth S. Horn, 3939 North Hampton Road, Dallas, Texas 75212, (214) 951-8301. TRD-9514454.

The Fort Bend Parkway Association Board will meet at 2929 Briarpark, Suite 600, Houston, November 16, 1995, at Noon. Information may be obtained from Robert R. Randolph, 2701 First City Tower, 1001 Fannin, Houston, Texas 77002-6760, (713) 758-2380. TRD-9514522.

The Gonzales County Appraisal District Agricultural Advisory Board met at 928 St. Paul, Gonzales, November 11, 1995, at 6:30 p.m. Information may be obtained from Connie Barfield or Glenda Strackbein, 928 St. Paul, Gonzales, Texas 78629, (210) 672-2879 or Fax: (210) 672-8345. TRD-9514496.

The Gray County Appraisal District Appraisal Review Board met at 815 North

Sumner, Pampa, November 13, 1995, at 1:30 p.m. Information may be obtained from Sherri Schaible, P.O. Box 836, Pampa, Texas 79066-0836, (806) 665-0791. TRD-9514465.

The Harris County Appraisal District Board of Directors will meet at 2800 North Loop West, Eighth Floor, Houston, November 15, 1995, at 9:30 a.m. Information may be obtained from Margie Hilliard, P.O. Box 920975, Houston, Texas 77292, (713) 957-5291. TRD-9514446.

The Heart of Texas Region MHMR Center Board of Trustees met at 11:45 a.m., 1100 South 12th Street, Waco, November 13, 1995, at 11:45 a.m. Information may be obtained from Helen Jasso, P.O. Box 890, Waco, Texas 76703, (817) 752-3451, Ext. 290. TRD-9514475.

The Henderson County Appraisal District Board of Directors will meet at 1751 Enterprise Street, Athens, November 14, 1995, at 5:30 p.m. Information may be obtained from Lori Fetterman, 1751 Enterprise Street, Athens, Texas 75751, (903) 675-9296. TRD-9514481.

The Kempner Water Supply Corporation Board of Directors will meet at Highway 190, Kempner, November 16, 1995, at 2:00 p.m. Information may be obtained from Donald W. Guthrie, P.O. Box 103, Kempner, Texas 76539, (512) 932-3701. TRD-9514478.

The Lometa Rural Water Supply Corporation Board of Directors met at 506 West Main Street, Lometa, November 13, 1995, at 7:00 p.m. Information may be obtained from Levi G. Cash or Tina L. Hodge, P.O. Box 158, Lometa, Texas 76853, (512) 752-3505. TRD-9514484.

The West Central Texas Council of Governments Executive Committee met at 1100 North Sixth Street, Abilene, November 13, 1995, at 6:00 p.m. Information may be obtained from Brad Helbert, 1025 East North Tenth Street, Abilene, Texas 79601, (915) 672-8544. TRD-9514480.

The Wise County Appraisal District Board of Directors will meet at 206 South State Street, Decatur, November 14, 1995, at 8:00 p.m. Information may be obtained from Freddie Triplett, 206 South State Street, Decatur, Texas 76234, (817) 627-3081. TRD-9514467.

The Wood County Appraisal District Board of Directors will meet at 210 Clark Street, Quitman, November 16, 1995, at 1:30 p.m. Information may be obtained from W. Carson Wages or Lou Brooke, P.O. Box 518, Quitman, Texas 75783-0518, (903) 763-4891. TRD-9514445.

**Meetings Filed November 9,
1995**

The Central Counties Center for MHMR Services Board of Trustees will meet at the Stagecoach Inn, 1 Main Street, Salado, November 18, 1995, at 9:00 a.m. Information may be obtained from Eldon Tietje, 304 South 22nd Street, Temple, Texas 76501, (817) 778-4841, Ext. 301. TRD-9514537.

The Deep East Texas Council of Governments Grants Application Review Committee will meet at the Alabama-Coushatta Indian Reservation, Highway 190 West, Livingston, November 16, 1995, at 11:00 a.m. Information may be obtained from Rusty Phillips, 274 East Lamar Street, Jasper, Texas 75951, (409) 384-5704. TRD-9514527.

The Jack County Appraisal District Board of Directors will meet at 210 North Church Street, Jacksboro, November 14, 1995, at 7:00 p.m. Information may be obtained from Gary L. Zeiter or Vicky L. Easter, P.O. Box 958, Jacksboro, Texas 76458, (817) 567-6301. TRD-9514532.

The North Central Texas Council of Governments Executive Board will meet at Centerpoint Two, 616 Six Flags Drive, Second Floor, Arlington, November 16, 1995, at Noon. Information may be obtained from Edwina J. Shires, P.O. Box 5888, Arlington, Texas 76005-5888, (817) 640-3300. TRD-9514526.

The North Texas Municipal Water District Board of Directors will meet at the Administration Office, 505 East Brown, Wylie, November 21, 1995, at 4:00 p.m. Information may be obtained from Carl W. Riehn, P.O. Box 2408, Wyle, Texas 75098, (214) 442-5405. TRD-9514534.

The Palo Pinto Appraisal District Board of Directors will meet at the Court House, Highway 180, Palo Pinto, November 16, 1995, at 3:00 p.m. Information may be obtained from Carol Holmes, P.O. Box 250, Palo Pinto, Texas 76484-0250, (817) 659-1281. TRD-9514531.

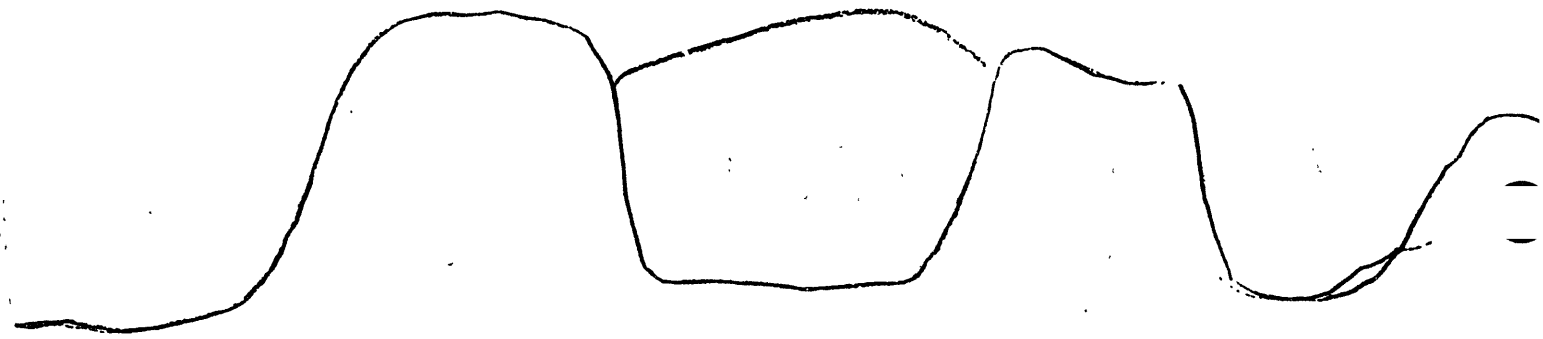
The Rockwall County Central Appraisal District Board of Directors will meet at 106 North San Jacinto, Rockwall, November 14, 1995, at 7:30 p.m. Information may be obtained from Ray E. Helm, 106 North San Jacinto, Rockwall, Texas 75087, (214) 771-2034. TRD-9514529.

The South Plains Association of Governments Board of Directors (Workshop) will meet at River Smith's Catering, 1602 Main, Lubbock, November 14, 1995, at 9:00 a.m. Information may be obtained from Jerry D. Casstevens, P. O. Box 3730, Lubbock, Texas 79452-3730, (806) 762-8721. TRD-9514536.

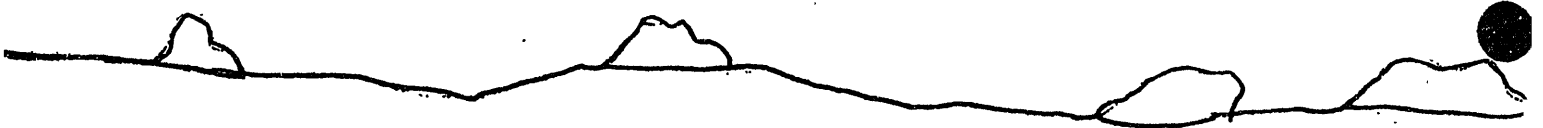
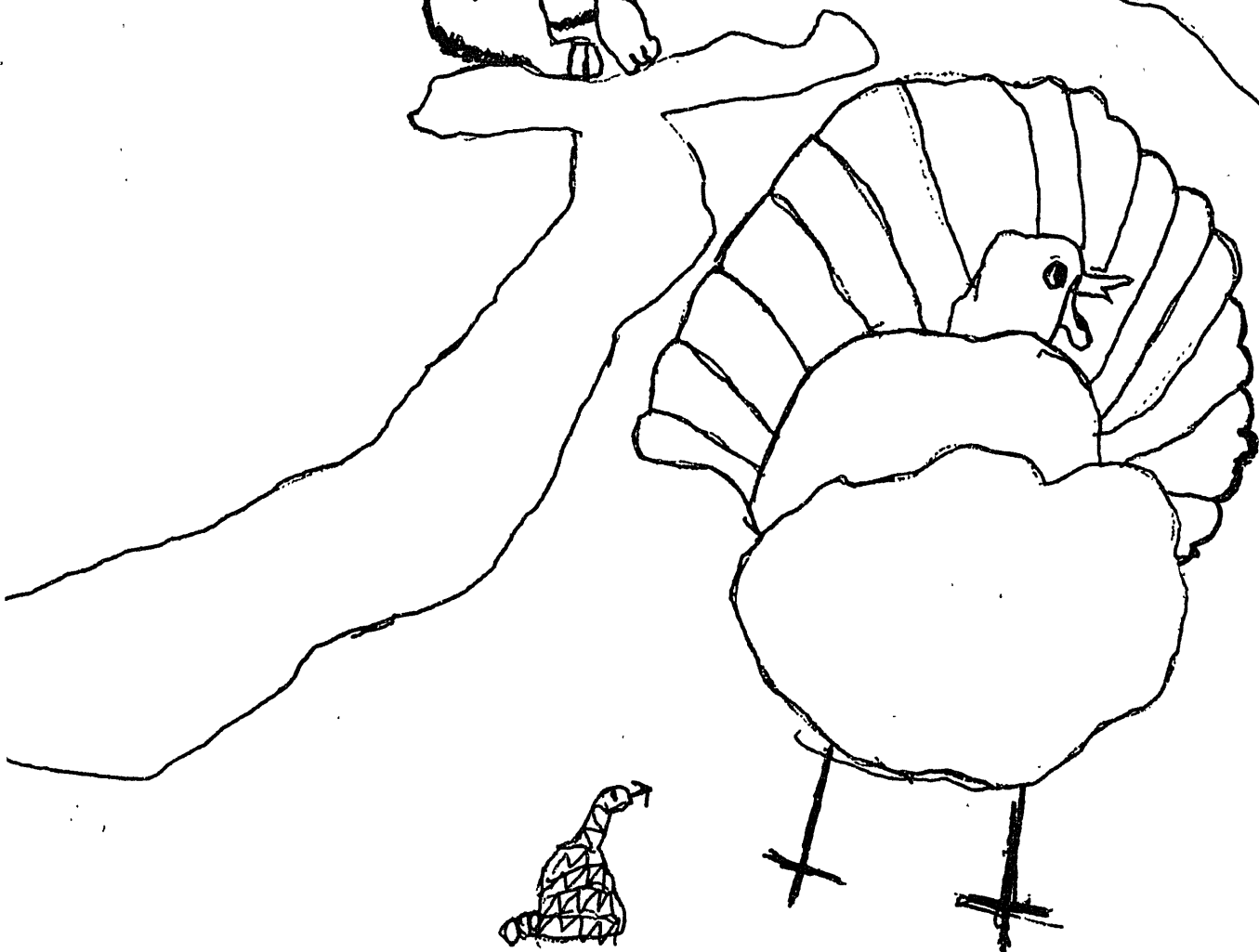
The Tarrant Appraisal District Board of Directors will meet at 2301 Gravel Road,

Fort Worth, November 17, 1995, at 9:00
a.m. Information may be obtained from
Mary McCoy, 2315 Gravel Road, Fort
Worth, Texas 76116, (817) 284-0024. TRD-
9514530.





Name: Nathan Bartek
Grade: 4
School: Moulton Elementary School, Moulton 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.

State Office of Administrative Hearings

Notice of Public Hearing Residential Property Insurance Benchmark Rate Setting and Catastrophe Property Insurance Association Rate Setting

Notice is hereby given of Continuance of Public Hearing under Docket Number 454-95-1280.G; Residential Property Insurance Benchmark Rate Setting and Catastrophe Property Insurance Association Rate Setting which appeared in the October 17, 1995, issue of the *Texas Register* (20 TexReg 8531). Hearing has been rescheduled from Wednesday, December 13, 1995, 9:00 a.m. to Wednesday, December 20, 1995, 9:00 a.m.

The hearing will be held before an administrative law judge (ALJ) of the State Office of Administrative Hearings at 9:00 a.m. on December 20, 1995, and continuing thereafter at dates, times, and places designated by the ALJ until conclusion. The purpose of the hearing to establish benchmark rates for Residential Property, Homeowners, Dwelling, Farm and Ranch, and Farm and Ranch Owners Insurance and the setting of rates for residential and commercial insurance written by the Texas Catastrophe Property Insurance Association. The hearing will be held at the State Office of Administrative Hearings, Suite 502 of the William Clements State Office Building at 300 West 15th Street, Austin, Texas 78701.

Issued in Austin, Texas, on November 3, 1995.

TRD-9514251 Shella Bailey Taylor
Deputy Chief Administrative Law Judge
State Office of Administrative Hearings

Filed: November 3, 1995

Texas Commission on Alcohol and Drug Abuse

Notice of Intent to Contract

The Texas Commission on Alcohol and Drug Abuse (TCADA), under the authority of the Texas Health and Safety Code, Title 6, Subtitle B, Chapter 461, gives notice of an Intent to Contract for Pharmacotherapy Services in Dallas County. The purpose of this action is to prevent the potential loss of methadone services in the area. TCADA will utilize the noncompetitive negotiation of awards method to award funding to a provider in Dallas County due to the public exigency that will exist if clients do not receive methadone or levo-alpha-acetyl-methadol (LAAM) treatment services.

TCADA has been contacted by several interested organizations. The following four organizations are interested in contracting with TCADA: Bomar Epstein and Associates (The Cliffs), Dallas County Mental Health Mental Retardation, Parkland Memorial Hospital, and the Veterans Administration Hospital. If there are no other interested and eligible organizations, TCADA will enter into negotiations with one of these organizations, after reviewing an application and applying criteria for funding. Qualified organizations with experience and capability interested in receiving an application to apply shall submit a letter of intent to: Steve Casillas, Assistant Deputy Director for Funding, 710 Brazos, Austin, Texas 78701. The letter shall demonstrate how the organization meets the requirements listed, and also demonstrate experience and capability to provide the service. The letter shall be received at TCADA no later than 5:00 p.m., November 24, 1995. TCADA will screen applicants based on the information contained in the letter of intent. Only those applicants with documented capability and experience will be contacted. For further information, contact Nicol de Silva at (512) 867-8265.

For organizations interested in applying and competing for these funds, organizations shall consider and respond to the following: eligible providers are private non-profit, public, or for-profit entities; the organization shall ensure that the facility is currently licensed or in the process of being licensed for pharmacotherapy services by the Texas Department of Health, the Drug Enforcement Administration, and TCADA; the number of clients to be served is 88.

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

TRD-9514448 Mark Smock
Assistance Deputy for Finance
Texas Commission on Alcohol and Drug
Abuse

Filed: November 8, 1995

Texas Department of Commerce

Notice of Request for Proposals for Outside Legal Services

The Texas Department of Commerce (Commerce) invites law firms and legal counsel to submit proposals to serve as bond counsel for the 1996 fiscal year. The legal work to be performed relates to Commerce's obligations under the Development Corporation Act of 1979, Texas Civil Statutes, Article 5190.6. These obligations currently include administration of the Texas Leverage Fund Program and certain approvals relating to industrial revenue bond issuances and refundings. Commerce anticipates that bond

counsel may also be involved in construing the scope of agency involvement in approvals given under Article 5190.6, §24.

Under the Texas Leverage Fund Program, Commerce issued bonds for a loan program under which it makes certain economic development loans to economic development corporations which, in turn, make loans to businesses having qualified "projects" under Article 5190.6. These loans are secured by the sales tax revenue collected in the affected city or county. During the term of the bond counsel contract for this fiscal year, Commerce anticipates that the law firm selected to serve as bond counsel will be asked to review the terms of the renewal of the \$25,000,000 Direct Pay Letter of Credit Facility for the Texas Leverage Fund Program. To the extent that the letter of credit renewal necessitates changes to the existing program guidelines and boilerplate loan documents, bond counsel will be asked to make recommendations concerning the scope of the changes required. Bond counsel may be asked to draft new documents and work with Commerce staff, Policy Board members and counsel for the letter of credit financial institution in effecting necessary changes to the program guidelines and boilerplate loan documents.

Contact: Parties interested in obtaining a copy of the Texas Leverage Fund Program guidelines and boilerplate loan documents and a copy of the engagement plan form required by the Office of the Attorney General may contact Renee Mauzy, Assistant General Counsel, Texas Department of Commerce, P.O. Box 12728, 1700 Congress Avenue, Stephen F. Austin State Office Building, Room 136, Austin, Texas 78711, (512) 936-0178.

Closing date: To be considered, proposals submitted hereunder must be received by Ms. Mauzy at the previous address no later than 5:00 p.m. (CZT) December 7, 1995. Proposals should be clearly marked on the outside envelope with the legend "Proposal for Outside Bond Counsel Services."

Awards Procedure: Proposals received hereunder will be evaluated by in-house counsel for Commerce and staff responsible for the administration of programs under the Development Corporation Act of 1979. These individuals will determine which proposal best meets the criteria set forth in the Request for Proposals and will make a recommendation to the Executive Director for her consideration. The bond counsel will ultimately be selected by the Executive Director. Any contract for legal services must also be approved by the Office of the Attorney General. Proposers may be asked to clarify their proposals. They may also be asked to make an oral presentation to the staff reviewing the proposals and/or to the Executive Director prior to final selection.

Conditions: Commerce reserves the right to accept or reject any or all proposals submitted in response to this

Request for Proposals. Commerce is under no legal or other obligation to execute a contract on the basis of this Request for Proposals. Costs incurred by potential contractors, and by the selected contractor before the execution of the contract for outside legal services, are the sole responsibility of the potential contractor or the contractor. Execution of a contract with the selected law firm or attorney is subject to the approval of the Office of the Attorney General and to Commerce having sufficient funding available to pay the contractor.

Engagement Plan: The Office of the Attorney General requires that agencies entering into contracts for outside legal services do so under a written engagement plan. Accordingly, a completed engagement plan substantially in accordance with the form engagement plan which can be obtained from Ms. Mauzy, as set forth previously, must be submitted with any proposal hereunder. Failure to submit the engagement plan shall disqualify the potential contractor from consideration under this Request for Proposals.

Commerce is an equal opportunity agency. Historically underutilized businesses are encouraged to submit proposals for consideration.

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

TRD-9514139 Michael Regan
Chief Administrative Officer
Texas Department of Commerce

Filed: November 1, 1995

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Comptroller of Public Accounts
Correction of Error

The Comptroller of Public Accounts proposed an amendment to §3.555, concerning earned surplus computation. The rule appeared in the October 31, 1995, issue of the *Texas Register* (20 TexReg 8991).

Section 3.555(b)(1) should read:

(1) Business loss—A negative amount after apportionment and allocation but before any deductions for solar energy devices under the Tax Code, §171.107, or investment in an enterprise zone under the Tax Code, §171.1015.

◆ ◆ ◆
Local Sales Tax Changes Effective
January 1, 1996

An additional 0.5% sales tax for improving and promoting economic and industrial development will become effective January 1, 1996, in the following cities.

<u>City Name</u>	<u>City Code</u>	<u>New Rate</u>	<u>Total Rate</u>
Frankston (Anderson County)	2001027	0.01500	0.08250
River Oaks (Tarrant County)	2220077	0.01500	0.07750
San Juan (Hidalgo County)	2108109	0.01500	0.07750
Sinton (San Patricio County)	2205049	0.01500	0.07750
Tatum (Panola County)	2201034	0.01500	0.07750
Tatum (Rusk County)	2201034	0.01500	0.07750
Universal City (Bexar County)	2015129	0.01500	0.07750

An additional 0.5% sales tax for improving and promoting economic and industrial development as permitted under Texas Civil Statutes, Article 5190.6, §4A, will be replaced with an additional 0.5% sales tax as permitted under Texas Civil Statutes, Article 5190.6, §4B, in the following city. This tax type change will become effective January 1, 1996. There will be no change in the city rate nor in the total rate.

<u>City Name</u>	<u>City Code</u>	<u>New Rate</u>	<u>Total Rate</u>
Richmond (Fort Bend County)	2079042	0.02000	0.08250

A 0.5% special purpose district sales tax will become effective January 1, 1996, in the special purpose districts as follows.

<u>SPD Name</u>	<u>SPD Code</u>	<u>New Rate</u>	<u>Total Rate</u>
Hurst Crime Control District	5220512	0.00500	*
Maverick County LFW & CDC District	5159508	0.00500	**

*The boundaries of the Hurst Crime Control District are the same boundaries as the City of Hurst. The total rate in the City of Hurst will be 0.08250.

**The boundaries of the Maverick County LFW & CDC District are the same boundaries as Maverick County. The City of Eagle Pass currently has a 1.0% city sales tax and its total rate will be 0.08250. The four cities that do not have city sales tax and the unincorporated areas of Maverick County will have a total rate of 0.07250.

Issued in Austin, Texas, on November 5, 1995.

TRD-9514342 Martin Cherry
 Chief, General Law
 Comptroller of Public Accounts

Filed: November 7, 1995

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**Office of Consumer Credit
 Commissioner**

Notice of Rate Ceilings

The Consumer Credit Commissioner of Texas has ascertained the following rate ceilings by use of the formulas and methods described in Title 79, Texas Civil Statutes, Article 1.04, as amended (Texas Civil Statutes, Article 5069-1.04).

<u>Types of Rate Ceiling</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)	11/06/95-11/12/95	18.00%	18.00%
Monthly Rate - Art. 1.04 (c)(3)	11/01/95-11/30/95	18.00%	18.00%

Issued in Austin, Texas, on October 30, 1995.
 TRD-9514141 Leslie L. Pettijohn
 Commissioner
 Office of Consumer Credit Commissioner
 Filed: November 1, 1995

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Request for Interpretation of Title 79

Under provisions of Title 79, Texas Civil Statutes, Article 2.02A, §(10) (Texas Civil Statutes, Article 5069-2.02A), the Consumer Credit Commissioner has issued the following interpretation of Title 79, Texas Civil Statutes (Texas Civil Statutes, Articles 5069-1.01 *et seq.*. The interpretation was approved by the Finance Commission of Texas on October 27, 1995.

Request Number 95-3. Request from Claudia B. Wilkinson; Fulbright and Jaworski, L.L.P. concerning the proper disclosure language for documentary fees in retail installment transactions under Title 79, Texas Civil Statutes (Texas Civil Statutes, Articles 5069-6.01 *et seq.*) and 7.01 *et seq.*, as amended by the 74th Legislature in Senate Bill 872 and Senate Bill 1445.

Summary of Interpretation:

This interpretation reconciles the apparent conflict between the requirements of Senate Bill 872 and Senate Bill 1445 in connection with Title 79, Texas Civil Statutes (Articles 5069-6.10(b) and Articles 5069-7.01(h-1)(iv)). The conflict concerns the proper disclosure language for documentary fees in retail installment transactions under Title 79, Texas Civil Statutes (Texas Civil Statutes, Articles 5069-6.01 *et seq.* and 7.01 *et seq.*), as amended by the 74th Legislature. As of January 1, 1996, the correct wording of the documentary fee disclosure as required under Articles and Articles 5069-7.01(h-1)(iv) is as follows:

"A DOCUMENTARY FEE IS NOT AN OFFICIAL FEE AND IS NOT REQUIRED BY LAW, BUT MAY BE CHARGED TO A BUYER FOR THE HANDLING OF DOCUMENTS AND THE PERFORMING OF SERVICES RELATED TO THE CLOSING OF A SALE. A DOCUMENTARY FEE MAY NOT EXCEED \$50. THIS NOTICE IS REQUIRED BY LAW."

Issued in Austin, Texas, on November 8, 1995.
 TRD-9514303 Leslie L. Pettijohn
 Commissioner
 Office of Consumer Credit Commissioner
 Filed: November 8, 1995

**Texas Education Agency
 Request for Applications Concerning
 Open-Enrollment Charter Schools
 beginning October 1995**

Eligible Applicants. The Texas Education Agency (TEA) is requesting applications from eligible entities to operate open-enrollment charter schools. Eligible entities include public institutions of higher learning, private or independent institutions of higher education, organizations exempt from taxation under the Internal Revenue Code of 1986, §501(c)(3), (20 United States Code, §501(c)(3)), or governmental entities. Each prospective applicant is requested to send notice in writing of its intent to submit an application. The notice of intent must be sent to the Document Control Center, Room 6-108, Texas Education Agency, William B. Travis Building, 1701 North Congress Avenue, Austin, Texas 78701-1494. Failure to notify TEA of intent to apply does not disqualify an applicant from submitting an application.

Description. The purpose of an open-enrollment charter is to provide an alternative avenue for restructuring schools. It offers flexibility and choice for educators, parents, and students. The State Board of Education (SBOE) may approve a maximum of 20 open-enrollment charter schools. An approved open-enrollment charter school may be located in a facility of a commercial or nonprofit entity or in a school district. If the open-enrollment charter school is to be located in a school district facility, it must be operated under the terms established by the board of trustees or governing body of the school district.

An open-enrollment charter school will provide instruction to students at one or more elementary or secondary grade levels as provided by the charter. It is governed under the specifications of the charter and retains authority to operate for the term of the charter contingent on satisfactory student performance as defined by the state accountability system. An open-enrollment charter school does not have the authority to impose taxes.

An open-enrollment charter school is subject to federal and state laws and rules related to a criminal offense and to requirements related to the Public Education Information Management System (PEIMS), criminal history records, high school graduation, special education programs, bilingual education, prekindergarten programs, extracurricular activities, health and safety provisions, and public school accountability. An open-enrollment charter school is immune from liability to the same extent as a school district, and its employees and volunteers are immune from liability to the same extent as school district employees and volunteers. An employee of an open-enrollment charter school who qualifies for membership in the

Teacher Retirement System of Texas must be covered under the system to the same extent a qualified employee of a school district is covered.

Dates of Project. An open-enrollment charter school may begin operation upon approval of its charter by SBOE.

Project Amount. For each student enrolled in an open-enrollment charter school, the Texas Education Code, §12.106(b), requires the commissioner of education to distribute to the school an amount equal to the following: the amount provided for the student under the specific foundation school program for which the school is chartered, plus the transportation allotment for which the student would be entitled; less the sum of the school's tuition receipts, plus the school's distribution from the Available School Fund. An open-enrollment charter school is entitled to receive local funds from the school district in which a student attending the school resides. An open-enrollment charter school may not charge tuition. An open-enrollment charter may not discriminate on the basis of sex, national origin, ethnicity, religion, disability, academic or athletic ability, or the district the child would otherwise attend. An open-enrollment charter school may deny admission to a student with a criminal record or documented discipline problems.

Requesting the Application. An application must be submitted under SBOE guidelines to be considered. A complete copy of the publication "Open-Enrollment Charter Guidelines," which includes an application and procedures, may be obtained by writing to: Division of Accountability Development, Training, and Support, Room 5-105, Texas Education Agency, William B. Travis Building, 1701 North Congress Avenue, Austin, Texas 78701, or by calling (512) 463-9716.

Further Information. For clarifying information about the open-enrollment charter school application, contact Deborah Nance or Belinda Flores, Division of Accountability Development, Training, and Support, Texas Education Agency, (512) 463-9716.

Issued in Austin, Texas, on November 7, 1995.

TRD-9514344 **Cris Cloudt**
Associate Commissioner for Policy Planning
and Research
Texas Education Agency

Filed: November 7, 1995

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Texas Funeral Service Commission

Correction of Error

The Texas Funeral Service Commission submitted open meeting request, which was published in the November 3, 1995, issue of the *Texas Register* (20 TexReg 9197).

Due to publication error the day of the meeting was incorrect, it should read "Tuesday, November 7, 1995, 9:00 a.m."

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Texas General Land Office

Correction of Error

The Coastal Coordination Council (council) adopted an amendment to §503.1, concerning the Coastal Management Program (CMP) Boundary. The rule appeared in the October 20, 1995, issue of the *Texas Register* (20 TexReg 8661).

The issue contained errors as follows:

In §503.1(b)(4) on page 8664 (left column), the word "Hidalgo" was misspelled as "Hildago." The phrase should read as follows: "...Treaty of Guadalupe-Hidalgo..."

In 505.26 on page 8670 (right column), the word "or" should be deleted. The sentence should read as follows: "As applicable, the provisions of §505.20 of this title..."

In §506.26(f) on page 8682 (left column), the word "an" should be "a" and the sentence should read as follows: "A federal agency shall not grant final approval for a federal agency activity..."

In §506.28(c) on page 8682 (right column), the "(1)" that is indented toward the bottom of the column was inadvertently separated from the rest of the site it is part of and was indented prior to printing. The line should read as follows: "...presumed consistent with §501.14(j)(1) of this title..."

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Texas Department of Health

Licensing Actions for Radioactive Materials

The Texas Department of Health has taken actions regarding licenses for the possession and use of radioactive materials as listed in the table below. The subheading labeled "Location" indicates the city in which the radioactive material may be possessed and/or used. The location listing "Throughout Texas" indicates that the radioactive material may be used on a temporary basis at job sites throughout the state.

NEW LICENSES ISSUED:

Location	Name	License#	City	Amend- ment #	Date of Action
-----	----	-----	----	-----	-----
Houston	Steen NDT Supply Incorporated	L04915	Houston	0	10/20/95
Throughout Texas	H & B Contractors Incorporated	L04911	Mcgregor	0	10/23/95
Throughout Texas	Coppell Construction Company Incorporated	L04916	Lewisville	0	10/20/95

AMENDMENTS TO EXISTING LICENSES ISSUED:

Location	Name	License#	City	Amend- ment #	Date of Action
-----	----	-----	----	-----	-----
Abilene	Hendrick Medical Center	L00021	Abilene	27	10/24/95
Alvin	GAMX	L04375	Friendswood	7	10/18/95
Arlington	HCA Arlington Medical Center	L02228	Arlington	36	10/25/95
Athens	East Texas Medical Center-Athens	L02470	Athens	21	10/13/95
Austin	Seton Medical Center	L02896	Austin	38	10/27/95
Austin	Central Texas Radiation Therapy	L03995	Austin	3	10/24/95
Borger	Golden Plains Community Hospital	L04369	Borger	5	10/25/95
Brownwood	Brownwood Regional Medical Center	L02322	Brownwood	27	10/18/95
Brownwood	Brownwood Regional Medical Center	L04765	Brownwood	4	10/18/95
Burnet	Highland Lakes Medical Center	L03515	Burnet	14	10/23/95
Cheek	Metalforms, Incorporated	L02261	Beaumont	24	10/31/95
Corpus Christi	Radiology Associates	L04169	Corpus Christi	14	10/18/95
Crockett	East Texas Medical Center - Crockett	L01411	Crockett	16	10/17/95
Dallas	Doctors Hospital	L01366	Dallas	35	10/17/95
Dallas	Mallinckrodt, Inc.	L03580	Dallas	24	10/27/95
Dallas	North Texas Heart Center, P.A.	L04608	Dallas	7	10/17/95
Denison	Texoma Medical Center	L01624	Denison	41	10/23/95
El Paso	Syncor International Corporation	L01999	El Paso	82	10/20/95
El Paso	Johnson & Johnson Medical Inc.	L04178	El Paso	7	10/17/95
El Paso	Pinzon, Guillermo A., M.D., P.A.	L04277	El Paso	4	10/19/95
Fort Worth	All Saints Episcopal Hospital	L02212	Fort Worth	38	10/18/95
Fort Worth	All Saints Hospital Cityview	L04105	Fort Worth	3	10/18/95
Fort Worth	Trans-America International, Inc.	L04634	Fort Worth	9	10/13/95
Fort Worth	Trans-America International, Inc.	L04634	Fort Worth	10	10/19/95
Harlingen	Heart Clinic, Inc.	L04514	Harlingen	4	10/24/95

CONTINUED AMENDMENTS TO EXISTING LICENSES ISSUED:

Houston	Baylor College of Medicine	L00680	Houston	53	10/17/95
Houston	Baylor College of Medicine	L00680	Houston	54	10/19/95
Houston	Kooney X-Ray, Inc.	L01074	Barker	76	10/18/95
Houston	Memorial City Medical Center	L01168	Houston	42	10/27/95
Houston	Bellaire General Hospital	L02038	Houston	26	10/23/95
Houston	Park Plaza Hospital	L02071	Houston	28	10/17/95
Houston	Mallinckrodt Medical, Inc.	L03008	Houston	39	10/19/95
Houston	Gulf Coast Veterinary Specialists	L04236	Houston	3	10/18/95
Houston	Sheldon Rubenfeld, M.D.	L04410	Houston	3	10/16/95
Houston	Texas Children's Hospital	L04612	Houston	7	10/25/95
Irving	MetWest Incorporated	L01253	Irving	15	10/17/95
Kingsville	Spohn Kleberg Memorial Hospital	L02917	Kingsville	13	10/24/95
Longview	Good Shepherd Medical Center	L02411	Longview	47	10/24/95
Longview	Longview Regional Hospital	L02882	Longview	16	10/17/95
McAllen	Valley Nuclear Incorporated	L04521	McAllen	5	10/19/95
Mount Pleasant	Titus County Memorial Hospital	L02921	Mount Pleasant	12	10/18/95
Odessa	Medical Center Hospital	L01223	Odessa	50	10/17/95
Orange	Chevron Chemical Company	L00031	Orange	34	10/18/95
Palestine	Memorial Hospital Foundation, Palestine Inc.	L02728	Palestine	22	10/13/95
Paris	St. Joseph's Hospital and Health Center	L03199	Paris	12	10/17/95
Pasadena	Hoechst Celanese Chemical Company	L01130	Houston	44	10/23/95
Plano	Medical Center of Plano	L02032	Plano	29	10/17/95
Rockdale	Alcoa Power Plant	L04386	Rockdale	7	10/19/95
San Angelo	Ethicon, Inc.	L00720	San Angelo	42	10/17/95
San Angelo	Shannon Clinic	L04216	San Angelo	4	10/17/95
San Angelo	Shannon Clinic	L04216	San Angelo	5	10/20/95
San Antonio	Santa Rosa Health Care Corporation	L02237	San Antonio	36	10/24/95
San Antonio	San Antonio Regional Hospital	L02266	San Antonio	49	10/25/95
San Antonio	City Public Service	L02876	San Antonio	12	10/30/95
San Antonio	Cancer Therapy & Research Foundation of South Texas	L03350	San Antonio	13	10/27/95
San Antonio	Advanced Medical Imaging	L04305	San Antonio	10	10/27/95
San Antonio	South Texas Interventional	L04377	San Antonio	5	10/24/95
San Antonio	Heart & Vascular Institute of Texas	L04799	San Antonio	1	10/23/95
San Antonio	Heart Center of Central San Antonio	L04860	San Antonio	1	10/19/95
Smithville	Smithville Regional Hospital	L04428	Smithville	4	10/13/95
Tatum	TU Electric, Martin Lake Plant	L04593	Tatum	2	10/13/95
The Woodlands	GENEMEDICINE, Incorporated	L04746	The Woodlands	4	10/20/95
Throughout Texas	Houston Department of Health	L00149	Houston	55	10/18/95
Throughout Texas	Texas A&M University	L00448	College Station	86	10/20/95
Throughout Texas	The Methodist Hospital	L00457	Houston	78	10/16/95
Throughout Texas	Texas Department of Health	L01155	Austin	74	10/23/95
Throughout Texas	Texas Tech University	L01536	Lubbock	51	10/16/95
Throughout Texas	Longview Inspection	L01774	Houston	98	10/18/95
Throughout Texas	Bix Testing Laboratories	L02143	Baytown	71	10/20/95
Throughout Texas	H & G Inspection Company, Inc.	L02181	Houston	97	10/23/95
Throughout Texas	Big State X-Ray	L02693	Odessa	22	10/17/95
Throughout Texas	Lower Colorado River Authority	L02738	Austin	16	10/25/95
Throughout Texas	Eagle X-Ray	L03246	Mont Belvieu	48	10/23/95
Throughout Texas	Cummings Wireline Service, Inc.	L03604	Somerset	10	10/19/95
Throughout Texas	Computalog Wireline Services, Inc.	L04286	Fort Worth	25	10/20/95
Throughout Texas	Isotag Specialist, Inc.	L04498	Midland	10	10/27/95
Throughout Texas	Industrial NDT Company, Incorporated	L04570	Deer Park	20	10/23/95

CONTINUED AMENDMENTS TO EXISTING LICENSES ISSUED:

Throughout Texas	El Paso Inspection	L04599	El Paso	5	10/18/95
Throughout Texas	Champagne-Webber Incorporated, Texas	L04904	Palmer	2	10/23/95
Tyler	MuTech Inc.	L04274	Tyler	15	10/17/95
Tyler	Stewart Regional Blood Center	L04826	Tyler	1	10/13/95

RENEWALS OF EXISTING LICENSES ISSUED:

Location	Name	License#	City	Amend-ment #	Date of Action
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Corpus Christi	Jordan Laboratories Incorporated	L02455	Corpus Christi	13	10/20/95
El Paso	R. E. Thomason General Hospital	L00502	El Paso	43	10/19/95
La Porte	Rohm and Haas Bayport Inc.	L04368	La Porte	4	10/25/95
Quanah	Southern Cotton Oil Company	L02354	Quanah	5	10/17/95
San Antonio	Nuclear Cardiology of San Antonio, Inc.	L03833	San Antonio	14	10/18/95
Smithville	Smithville Regional Hospital	L04428	Smithville	3	10/25/95
Snyder	Midwestern Reclamation	L03831	Snyder	2	10/18/95

TERMINATIONS OF LICENSES ISSUED:

Location	Name	License#	City	Amend-ment #	Date of Action
-----	----	-----	----	-----	-----
Houston	Village Drive Imaging	L03460	San Antonio	9	10/19/95
Paris	Radiology Inc/Radiology Center of Paris	L00458	Paris	48	10/17/95

AMENDMENTS TO EXISTING LICENSES DENIED:

Location	Name	License#	City	Amend-ment #	Date of Action
-----	----	-----	----	-----	-----
Lake Jackson	Non-Destructive Inspection Corporation	L02712	Lake Jackson	0	10/20/95
Throughout Texas	Service and Compliance Consultants	L03873	Coldspring	0	10/20/95

In issuing new licenses and amending and renewing existing licenses, the Texas Department of Health, Bureau of Radiation Control, has determined that the applicants are qualified by reason of training and experience to use the material in question for the purposes requested in accordance with *Texas Regulations for Control of Radiation* in such a manner as to minimize danger to public health and safety or property and the environment; the applicants' proposed equipment, facilities, and procedures are adequate to minimize danger to public health and safety or property and the environment; the issuance of the license(s) will not be inimical to the health and safety of the public or the environment; and the applicants satisfy any applicable special requirements in the *Texas Regulations for Control of Radiation*.

This notice affords the opportunity for a hearing on written request of a licensee, applicant, or person affected within 30 days of the date of publication of this notice. A person

affected is defined as a person who is resident of a county, or a county adjacent to the county, in which the radioactive materials are or will be located, including any person who is doing business or who has a legal interest in land in the county or adjacent county, and any local government in the county; and who can demonstrate that he has suffered or will suffer actual injury or economic damage due to emissions of radiation. A licensee, applicant, or person affected may request a hearing by writing Richard A. Ratliff, P.E., Chief, Bureau of Radiation Control (Director, Radiation Control Program), 1100 West 49th Street, Austin, Texas, 78756-3189.

Any request for a hearing must contain the name and address of the person who considers himself affected by agency action, identify the subject license, specify the reasons why the person considers himself affected, and state the relief sought. If the person is represented by an agent, the name and address of the agent must be stated.

Copies of these documents and supporting materials are available for inspection and copying at the office of the Bureau of Radiation Control, Texas Department of Health, Exchange Building, 8407 Wall Street, Austin, Texas, from 8:00 a.m. to 5:00 p.m., Monday-Friday (except holidays).

Issued in Austin, Texas, on October 31, 1995.

TRD-9514167 Susan K. Steeg
General Counsel, Office of General
Counsel
Texas Department of Health

Filed: November 2, 1995

Notice of Rescission of Order

Notice is hereby given that the Bureau of Radiation Control, Texas Department of Health, rescinded the following order: Emergency Impoundment Order issued September 6, 1995, to Joe C. Edwards, D.D.S., 4444 Walzem Road, Suite 104, San Antonio, Texas 78218, holder of Certificate of Registration Number R05931.

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 November 1, 1995

TRD-9514162 Susan K. Steeg
General Counsel, Office of General
Counsel
Texas Department of Health

Filed: November 2, 1995

Public Hearing-Ryan White CARE Act/Title II Activities in Texas for 1996

The Texas Department of Health (department) will be holding a public hearing to receive comments on the statewide comprehensive plan for funding the sixth year of the Ryan White CARE Act/Title II Activities in Texas for 1996.

The hearing will be held on Friday, December 15, 1995, at 10:00 a.m. in Room M-739, Texas Department of Health, 1100 West 49th Street, Austin, Texas. To request an accommodation under the American's with Disabilities Act, please contact Renee Rusch, ADA Coordinator in the Office of Civil Rights, Texas Department of Health, 1100 West 49th Street, Austin, Texas 78756, (512) 458-7627 or TDD at (512) 458-7708 at least two days prior to the meeting.

Copies of the proposed plan will be mailed to all department Ryan White Title II contractors prior to the public hearing. Interested persons can obtain a copy of the plan by contacting Laura Ramos at (512) 490-2525.

Written comments should be addressed to Casey S. Blass, HIV/STD Health Resources Division, Texas Department of Health, 1100 West 49th Street, Austin, Texas 78756. Comments will be accepted through December 31, 1995.

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

TRD-9514161 Susan K. Steeg
General Counsel, Office of General
Counsel
Texas Department of Health

Filed: November 2, 1995

Texas Department of Human Services Notice of Cancellation of Public Hearings

The Texas Department of Human Services (TDHS) will not conduct public hearings on November 15, 1995, to receive comments on proposed reimbursements for the following programs: Primary Home Care; Residential Care; Assisted Living Services/Residential Care and related add-ons, and Respite Care Assisted Living Services/Residential Care and other components of the Community Based Alternatives Waiver. If there are questions concerning these changes, contact Sonya Battle, MC W-425, P.O. Box 149030, Austin, Texas 78714-9030, (512) 438-4817.

Issued in Austin, Texas, on November 3, 1995.

TRD-9514266 Nancy Murphy
Section Manager, Media and Policy
Services
Texas Department of Human Services

Filed: November 3, 1995

Texas Department of Insurance Insurer Services

The following applications have been filed with the Texas Department of Insurance and are under consideration.

Application for admission in Texas for First Standard Security Insurance Company, a foreign fire and casualty company. The home office is in Dover, Delaware.

Application for a name change in Texas for North American Benefit Association, a foreign fraternal benefit society. The proposed new name is Woman's Life Insurance Society. The home office is in Port Huron, Michigan.

Application for a name change in Texas for INA County Mutual Insurance Company, a domestic county mutual company. The proposed new name is Oakbrook County Mutual Insurance Company. The home office is in Irving, Texas.

Application for a name reservation in Texas for Pearle Vision Managed Care-HMO of Texas, Inc., a domestic health maintenance organization. The home office is in Dallas, Texas.

Application for a name reservation in Texas for NYLCare Health Plans of the Gulf Coast, Inc., a domestic health maintenance organization. The home office is in Houston, Texas.

Application for a name reservation in Texas for NYLCare Health Plans of the Southwest, Inc., a domestic health maintenance organization. The home office is in Irving, Texas. Any objections must be filed within 20 days after this notice was filed with the Texas Department of Insurance, addressed to the attention of Cindy Thurman, 333 Guadalupe Street, M/C 305-2C, Austin, Texas 78701.

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

TRD-9514457 Alicia M. Fechtel
General Counsel and Chief Clerk
Texas Department of Insurance

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Notices of Public Hearing

The Commissioner of Insurance, at a public hearing under Docket Number 2188 scheduled for 1:30 p.m., December 14, 1995, in Room 100 of the Texas Department of Insurance Building, 333 Guadalupe Street in Austin, Texas, will consider a proposal made in a petition on automobile rental reimbursement coverage, filed by James H. Mallett. The petition seeks to amend actions taken by the State Board of Insurance on July 15, 1993, and ratified and adopted by Commissioner's Order Number 95-1164, issued November 7, 1995. The petition (Reference Number A-1095-37) was filed on October 9, 1995. In response to Mr. Mallett's petition, staff has filed its own exhibit under this same reference number.

On July 15, 1993, the Board adopted amendments to the Texas Automobile Rules and Rating Manual (the Manual), Rate Rule 30 and optional Endorsement 523A (to be redesignated 523B), Rental Reimbursement Coverage. Those amendments replaced the maximum benefit level of \$20 per day, up to \$600 total, with multi-tiered benefit levels as follows: \$20/\$600, \$25/\$750, \$30/\$900, or \$35/\$1,050. However, the amendments are not effective until the effective date of the relevant rates adopted pursuant to the private passenger and commercial automobile insurance benchmark rate hearing. New Endorsement 523B leaves blanks for the benefit levels chosen, and therefore would need no further revision if Mr. Mallett's proposal is adopted. However, Rate Rule 30 would need to be revised, as shown in staff's proposed exhibit mentioned herein.

Mr. Mallett's petition notes that the benefit level of \$20 per day, \$600 maximum was adopted more than 11 years ago. The petition alleges the "\$20 level provides consumers with only the smallest sub-compact automobiles..." that result in greater injuries when wrecked. The petition makes other arguments against retaining the \$20 level, and seeks its elimination. The petition supports the previously mentioned levels of \$25, \$30, and \$35 per day, and the corresponding maximum amounts.

A copy of the petition containing the full text of the proposed amendments to the Manual is available for review in the office of the Chief Clerk of the Texas Department of Insurance, 333 Guadalupe Street, Austin, Texas. For further information or to request copies of the petition, please contact Sylvia Gutierrez at (512) 463-6326; refer to (Reference Number A-1095-37).

The written comments should be directed to Office of the Chief Clerk, Texas Department of Insurance, P.O. Box 149104, MC 113-2A, Austin, Texas 78714-9104. An additional copy of comments is to be submitted to David Durden, Deputy Commissioner, Property and Casualty Insurance Lines, Texas Department of Insurance, P.O. Box 149104, MC 104-5A, Austin, Texas 78714-9104.

This notification is made pursuant to the Insurance Code, Article 5.96, which exempts it from the requirements of the Administrative Procedure Act.

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

TRD-9514458 Alicia M. Fechtel
General Counsel and Chief Clerk
Texas Department of Insurance

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The Commissioner of Insurance will hold a public hearing under Docket Number 2189 on December 14, 1995, at 1:30 p.m. in Room 100 of the Texas Department of Insurance Building, 333 Guadalupe Street in Austin, Texas, to consider the adoption of proposed amendments to 28 TAC §§33.501-33.511 concerning the ongoing regulatory requirements for continuing care retirement facilities.

The proposed amendments and the statutory authority for the proposed amendments were published in the September 26, 1995, issue of the *Texas Register* (20 TexReg 7794).

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

TRD-9514455 Alicia M. Fechtel
General Counsel and Chief Clerk
Texas Department of Insurance

Filed: November 8, 1995

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Third Party Administrator Application

The following third party administrator (TPA) applications have been filed with the Texas Department of Insurance and are under consideration.

Application for admission to Texas of The Princeton Corporation, a foreign third party administrator. The home office is Kentland, Indiana.

Any objections must be filed within 20 days after this notice was filed with the Secretary of State, addressed to the attention of Charles M. Waits, MC 107-5A, 333 Guadalupe, Austin, Texas 78714-9104.

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

TRD-9514456 Alicia M. Fechtel
General Counsel and Chief Clerk
Texas Department of Insurance

Filed: November 8, 1995

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**Texas Juvenile Probation Commission
Request for Proposals**

Pursuant to House Bill 2031, 74th Texas Legislature Regular Session, the Texas Juvenile Probation Commission invites proposals to provide for a statewide coordinator of Buffalo Soldier Heritage Pilot Programming as described as follows.

The selected statewide coordinator will coordinate programming in five selected Texas counties. The statewide coordinator shall report directly to the Texas Juvenile Probation Commission's executive director and board and the Buffalo Soldier's Heritage Pilot Program State Advisory Board.

Detailed specifications are contained in request for proposal available November 1, 1995 from the office of Intergovernmental Relation specialist, 1st Floor, 2015 South IH-35, Austin, Texas between the hours of 8:00 a.m. and 5:00 p.m., Monday through Friday. For additional information contact Mark Walker, Intergovernmental Relation Specialist, at (512) 443-2001.

Responses will be accepted only if actually received in writing by the intergovernmental relations specialist no later than 9:00 a.m. on December 4, 1995. Proposals should be submitted with an original and two copies. Fax submissions will not be accepted. The Texas Juvenile Probation Commission reserves the right to reject any or all proposals.

The Texas Juvenile Probation Commission will consider the approach for providing the required services, knowledge of Buffalo Soldier History and experience in providing services to at-risk youth, reasonableness of fee and work hour estimate, and other factors including outdoors programming. The Texas Juvenile Probation Commission has the sole discretion and reserves the right to cancel the request for proposals if it is considered to be in the best interest of the agency to do so.

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

TRD-9514140 Vicki Wright
Executive Director
Texas Juvenile Probation Commission

Filed: November 1, 1995

Texas Department of Licensing and Regulation

Request for Proposals

The Texas Department of Licensing and Regulation requests proposals for consulting contracts from municipal officials and licensed air conditioning and refrigeration contractors, including any whose license is not being used to contract with the public. Consultants would inspect air conditioning and refrigeration work that is the subject of a complaint by a consumer to determine if the complaint is valid, or if statements by more than one contractor who performed work at a site are valid statements. The proposal should include the following statements:

- (1) that the applicant is willing to perform inspections on an as needed basis, either free of charge or for a consulting fee, stating the amount required per hour, and whether or not the applicant requires a fee for travel time;
- (2) the area within which the applicant is willing to perform inspections;
- (3) any reimbursement of expenses required by the applicant;
- (4) any limit the applicant wishes to place on the amount of time the applicant would be available each month;
- (5) that, in order to provide evidence as a disinterested witness, the applicant will not accept any job or contract to repair any work that the applicant has inspected for the Department;
- (6) any special expertise the applicant possesses, such as specific areas of work, inspection experience, teaching experience, etc; and
- (7) any other statement the applicant wishes to make.

Municipal officials who wish to contract with the Department for this purpose are advised that their official status within the city limits in which they are employed will not extend beyond those limits, but that their expertise as mechanical inspectors will be recognized by the Department outside those limits as disinterested witnesses.

Requests should be sent to Pauline Denson, Texas Department of Licensing and Regulation, P.O. Box 12157, Austin, Texas 78711, or delivered to 920 Colorado, Austin, Texas, Eighth floor. Requests will be accepted until February 28, 1996. Contracts may be awarded as needed, since numerous contracts are desired to cover various areas of the state.

Issued in Austin, Texas, on November 2, 1995.

TRD-9514176 Jack W. Garrison
Executive Director
Texas Department of Licensing and Regulation

Filed: November 2, 1995

Texas Natural Resource Conservation Commission

Declaration of Administrative Completeness and Applications to Renew Weather Modification License

APPLICATION BY ATMOSPHERICS, INCORPORATED; Application Number 9530971; license initially issued in 1970, renewed 1971-1979 and each subsequent year since 1989, application is for renewal for State Fiscal Year 1996;

APPLICATION BY COLORADO RIVER MUNICIPAL WATER DISTRICT; Application Number 9529428; license initially issued in 1971 and renewed each subsequent year since 1971; application is for renewal for State Fiscal Year 1996;

APPLICATION BY NORTH AMERICAN WEATHER CONSULTANTS; Application Number 9531175; license initially issued in 1985 and renewed each subsequent year since 1985; application is for renewal for State Fiscal Year 1996;

APPLICATION BY STRATEGIC WEATHER SERVICES; Application Number 9532034; license initially issued in 1971 under the name of I.P. Krick Incorporated of Texas and renewed each subsequent year since 1971; application is for renewal for State Fiscal Year 1996. The Executive Director is authorized to act on behalf of the TNRCC an issue final approval on certain applications. The Executive director will act on this application unless a written hearing request that includes the following information is filed within ten days from the date Notice is published in the *Texas Register*: the name, mailing address, and daytime phone number of the person requesting the hearing; the name of the District; the statement "I/we request a public hearing"; and a brief description of how the person for whom the hearing is being requested would be adversely affected by the approval of the application in a way not common to the public. A hearing request by a group or association must meet certain additional requirements that may be obtained from the Chief Clerk at the address and telephone number listed. If a hearing request is filed, the Executive Director will not act on the application and will forward the application and hearing request to the TNRCC Commissioners for consideration at a scheduled Commission meeting. If you wish to appeal a license issued by the Executive Director, you may do so by filing a written Motion for Reconsideration with the Chief Clerk of the Commission no later than 20 days after the date the Executive Director signs the permit. Requests

for a hearing must be submitted in writing during the ten-day notice period to the Chief Clerk's Office, MC 105, TNRCC, P.O. Box 13087, Austin, Texas 78711, (512) 239-3300. Written comments may also be submitted to the Chief Clerk's Office during the notice period. For information concerning technical aspects of the application, contact Water Planning and Assessment Division, Weather Modification (MC 150) at the same Commission address or by telephone at (512) 239-0770. For information concerning hearing procedures or citizen participation, contact the Public Interest Counsel, Mark Alvarado (MC 103), at the same Commission address or by telephone at (512) 239-6363.

Issued in Austin, Texas, on November 3, 1995.

TRD-9514285 Gloria A. Vasquez
 Chief Clerk
 Texas Natural Resource Conservation
 Commission

Filed: November 6, 1995

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Enforcement Orders

An agreed enforcement order was entered regarding BASN CORPORATION, Docket Number 95-1210-PST-E on October 21, 1995, assessing \$1,200 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Ray Winter, Staff Attorney, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711-3087, (512) 239-0477.

An agreed enforcement order was entered regarding D. C. DISTRIBUTORS, INC., Docket Number 95-1440-PST-E (TNRCC Facility I.D. Number 015666; Enforcement I. D. Number E10877) on October 21, 1995, assessing \$1,200 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Paul Sarahan, Staff Attorney, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711-3087, (512) 239-3422.

An agreed enforcement order was entered regarding PIONEER OIL COMPANY, Docket Number 95-1441-PST-E (TNRCC Facility I.D. Number 28986; Enforcement I.D. Number E10881) on October 21, 1995, assessing \$600 in administrative penalties with \$13,700 deferred.

Information concerning any aspect of this order may be obtained by contacting Paul Sarahan, Staff Attorney, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711-3087, (512) 239-3422.

An agreed enforcement order was entered regarding FEDERAL PETROLEUM COMPANY, Docket Number 95-1380-PST-E (TNRCC Facility I.D. Number 1499; Enforcement I.D. Number E10846) on October 21, 1995, assessing \$1,200 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Paul Sarahan, Staff Attorney, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711-3087, (512) 239-3422.

An agreed enforcement order was entered regarding MERICHEM COMPANY, Docket Number 95-1083-IHW-E (SWR Number 30595, UIC Permit Number WDW-147) on October 21, 1995, assessing \$42,760 in administrative penalties with \$12,828 deferred.

Information concerning any aspect of this order may be obtained by contacting Ann Foster, Staff Attorney, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711-3087, (512) 239-0586.

Issued in Austin, Texas, on November 3, 1995.

TRD-9514282 Gloria A. Vasquez
 Chief Clerk
 Texas Natural Resource Conservation
 Commission

Filed: November 6, 1995

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Notice of Applications for Waste Disposal Permits

Notices of applications for waste disposal permits issued during the period of October 30-November 3, 1995.

These applications are subject to a Commission resolution adopted August 18, 1993, which directs the Commission's Executive Director to act on behalf of the Commission and issue final approval of certain permit matters. The Executive Director will issue these permits unless one or more persons file written protests and/or a request for a hearing within 30 days after publication of this notice.

If you wish to request a public hearing, you must submit your request in writing. You must state your name, mailing address, and daytime phone number; the permit number or other recognizable reference to this application; the statement "I/we request a public hearing"; a brief description of how you, or the persons you represent, would be adversely affected by the granting of the application; a description of the location of your property relative to the applicant's operations; and your proposed adjustment to the application/permit which would satisfy your concerns and cause you to withdraw your request for hearing. If one or more protests and/or requests for hearing are filed, the Executive Director will not issue the permit and will forward the application to the Office of Hearings Examiners where a hearing may be held. In the event a hearing is held, the Office of Hearings Examiners will submit a recommendation to the Commission for final decision. If no protests or requests for hearing are filed, the Executive Director will sign the permit 30 days after publication of this notice or thereafter. If you wish to appeal a permit issued by the Executive Director, you may do so by filing a written Motion for Reconsideration with the Chief Clerk of the Commission no later than 20 days after the date the Executive Director signs the permit.

Information concerning any aspect of these applications may be obtained by contacting the Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711, (512) 239-3300.

Listed are the name of the applicant and the city in which the facility is located, type of facility, location of the facility, permit number and type of application-new permit, amendment, or renewal.

TEXAS ARAI, INC.; the applicant operates a metal pipe

coupling plant; the plant site is at 8204 Fairbanks North Houston Road in the City of Houston, Harris County, Texas; amendment; 03014.

PINEWOOD PLACE, INC.; the Pinewood Place Wastewater Treatment Facilities; the plant site is at 9601 Dowdell Road, approximately 1/4 mile northeast from the intersection of Dowdell Road with FM Road 2920 in Harris County, Texas; renewal; 12643-01.

AMERICAN THERMOPLASTICS CORPORATION; the applicant operates a facility which mixes plastic feedstock with pigments and processing aids to produce colored plastic compounds for the plastics industry; the plant site is at 1235 Kress Street, approximately 500 feet south of Larimer Street between Kress Street and Gazin Street in the City of Houston, Harris County, Texas; renewal; 01061.

TEXAS LIME COMPANY; the applicant operates a quicklime and hydrated lime manufacturing plant; the plant site is approximately 3.5 miles west-southwest of the intersection of FM Road 933 and State Highway 174, on the south side of the Atchison, Topeka and Santa Fe Railway, north of the City of Blum, Hill County, Texas; amendment; 02014.

ACME BRICK COMPANY; the applicant operates the Hobson Pits Clay Mine; the plant site is at 220 Daniels Street, adjacent to the east side of U.S. Highway 377, approximately one mile south of the intersection of U.S. Highway 377 and Interstate Highway 35E in the City of Denton, Denton County, Texas; new; 03838.

NORTHPARK BUSINESS CENTER, LIMITED; the Northpark Business Center Wastewater Treatment Facilities; the plant site is approximately 0.9 mile east-northeast of the intersection of State Highway Loop 494 and Northpark Drive, approximately one mile east-southeast of the intersection of U.S. Highway 59 and West Knox Drive in Montgomery County, Texas; renewal; 12943-01.

CITY OF LONGVIEW; the Sabine River Water Treatment Plant; the plant site is south of FM Road 2206 on the east side of Swinging Bridge Road and 600 feet south of Premier Road in the City of Longview in Gregg County, Texas; renewal; 02002.

CITY OF RANGER; the Ranger Wastewater Treatment Facilities; the facilities are approximately 2.5 miles north-northeast of the intersection of U.S. Highway 80 and FM Road 101 in Eastland County, Texas; renewal; 11557-01.

CITY OF BLANCO; the wastewater treatment plant is approximately 0.8 mile northeast of the intersection of U.S. Highway 281 and FM Road 1623, 0.5 mile due east of the intersection of Live Oak Street and Tenth Street in Blanco County, Texas; renewal; 10549-02.

HAMSHIRE-FANNETT INDEPENDENT SCHOOL DISTRICT; the Fannett Campus Wastewater Treatment Facilities; the facilities are on the Fannett Campus approximately 800 feet southeast of the intersection of State Highway 124 and FM Road 365 in Jefferson County, Texas; renewal; 12098-01.

CENTRAL POWER AND LIGHT COMPANY; industrial low potential impact facility; the Nueces Bay Power Station is at 2002 Navigation Boulevard, 1.5 miles west of the Corpus Christi Harbor Bridge in the City of Corpus Christi, Nueces County, Texas; renewal; 01244.

CITY OF MONT BELVIEU; the wastewater treatment facilities are approximately 1.4 miles north of Interstate Highway 10 and 0.6 mile east of Eagle Drive on the east side of Mont Belvieu in Chambers County, Texas; amendment; 11030-01.

NORTH FOREST MUNICIPAL UTILITY DISTRICT; the wastewater treatment facilities are at 16,230 Ella Boulevard (formerly Medberry Road), approximately 1.4 miles southwest of the intersection of Interstate Highway 45 and FM Road 1960-West in Harris County, Texas; renewal; 10905-01.

HARDIN INDEPENDENT SCHOOL DISTRICT; the Hardin Schools Wastewater Treatment Facilities; the wastewater treatment facilities are on the Hardin ISD High School campus, approximately 900 feet east of the intersection of Pete Miller Road and Berry Road; approximately 1,800 feet northeast of the intersection of State Highway 146 and FM Road 834 in Liberty County, Texas; renewal; 13135-01.

PENNZOIL PRODUCTS COMPANY; a plant that produces purified mineral oils, lubricating oils and sulfonated hydrocarbons; the plant site is approximately 700 feet southeast of the intersection of FM Road 517 and Nichols Street in the City of Dickinson, Galveston County, Texas; renewal; 00377.

ACME BRICK COMPANY; the permittee operates the Bridgeport Clay Mine; the plant site is adjacent to the north side of State Highway 380 approximately 1.5 miles west of the intersection of State Highways 380 and 114 in the City of Bridgeport, Wise County, Texas; new; 03858.

COMMERCIAL REAL ESTATE SERVICES, E. P. HILLS COMPANY AND EL PASO COUNTY WATER AUTHORITY MUNICIPAL UTILITY DISTRICT; the wastewater treatment facilities are approximately 1.5 miles southeast of the intersection of Horizon Boulevard and Interstate Highway 10 in El Paso County, Texas; new; 13797-01.

CITY OF AUSTIN ELECTRIC UTILITY; the Decker Steam Electric Station; the plant site is on the west shore of Walter E. Long Lake, approximately four miles east of the intersection of U.S. Highway 290 and U.S. Highway 183 in the City of Austin, Travis County, Texas; renewal; 01887.

Issued in Austin, Texas, on November 3, 1995.

TRD-9514283
Gloria A. Vasquez
Chief Clerk
Texas Natural Resource Conservation
Commission

Filed: November 6, 1995

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**Notice of Opportunity to Comment on
Permitting Actions—For the Week
Ending November 3, 1995**

The following applications are subject to a Commission resolution adopted August 30, 1995, which directs the Commission's Executive Director to act on behalf of the Commission and issue final approval of certain permit matters. The Executive Director will issue the permits unless one or more persons file written protests and/or requests for hearing within ten days of the date notice concerning the application(s) is published in the *Texas Register*.

If you wish to request a public hearing, you must submit your request in writing. You must state your name, mailing address, and daytime phone number; the permit number or other recognizable reference to this application; the statement "I/we request a public hearing"; a brief description of how you, or the persons you represent, would be adversely affected by the granting of the application; a description of the location of your property relative to the applicant's operations; and your proposed adjustment to the application/permit which would satisfy your concerns and cause you to withdraw your request for hearing. If one or more protests and/or requests for hearing are filed, the Executive Director will not issue the permit and will forward the application to the Office of Hearings Examiners where a hearing may be held. If no protests or requests for hearing are filed, the Executive Director will sign the permit ten days after publication of this notice or thereafter. If you wish to appeal a permit issued by the Executive Director, you may do so by filing a written Motion for Reconsideration with the Chief Clerk of the Commission no later than 20 days after the date the Executive Director signs the permit.

Requests for a public hearing on this application should be submitted in writing to the Chief Clerk's Office (Mailcode 105), Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711, (512) 239-3300.

APPLICATION NUMBER 23-2782E BY BORDER ENERGY SERVICES, INC. FOR AN AMENDMENT TO CERTIFICATE OF ADJUDICATION NUMBER 23-2782, PURSUANT TO TEXAS WATER CODE, §11.122, FOR EXECUTIVE DIRECTOR'S CONSIDERATION. Applicant seeks authorization to add a diversion point on the Rio Grande for diversion and use of their portion of the rights (ten acre-feet of water per annum of Class "B" for mining purposes) authorized by Certificate Number 23-2782, as amended. The diversion point is on a two-acre tract of land owned by Valley Onions, Inc. and is included in a lease agreement between the applicant and Valley Onion, Inc. Dated September 1, 1995, and is located 20 miles west from McAllen, Texas in Hidalgo County (RENEE' TUGGLE).

Consideration of the application of Sebastian Municipal Utility District to Transfer Water CCN Number 11462 from Sebastian Water Supply Corporation in Cameron and Willacy Counties, Texas (Application Number 30656-S, Doug Holcomb).

Consideration of the application of Sebastian Municipal Utility District for a Sewer CCN in Cameron and Willacy Counties, Texas (Application Number 30657-C, Doug Holcomb).

Consideration of the application of Joe D. Havens doing business as Havenshire Subdivision Water System for a Water Certificate of Convenience and Necessity in Montgomery County, Texas (Application Number 30853-C, Doug Holcomb).

Consideration of the application of S and B Water System Management Corporation to Amend Water Certificate of Convenience and Necessity Number 11765 in McLennan County, Texas (Application Number 30895-C, Doug Holcomb).

Issued in Austin, Texas, on November 3, 1995.

TRD-9514281
Gloria A. Vasquez
Chief Clerk
Texas Natural Resource Conservation
Commission

Filed: November 6, 1995

Notice of Public Hearing (Chapter 115)

Notice is hereby given that pursuant to the requirements of the Texas Health and Safety Code Annotated, §382.017 (Vernon's 1992); Texas Government Code Annotated, Subchapter B, Chapter 2001 (Vernon's 1993); and 40 Code of Federal Regulations, §51.102 of the United States Environmental Protection Agency regulations concerning State Implementation Plans (SIP), the Texas Natural Resource Conservation Commission (TNRCC or commission) will conduct a public hearing to receive testimony regarding revisions to 30 TAC Chapter 115 and to the SIP.

In May 1995, the EPA adopted the federal small engine rule, which makes the TNRCC utility engine rule redundant. In response to that EPA action, the TNRCC proposes the repeal of §115.621 and §115.625, concerning utility engines.

A public hearing on this proposal will be held in Austin on December 7, 1995 at 2:00 p.m. in Building E, Room 254S at the TNRCC offices located at 12100 Park 35 Circle, Austin. Individuals may present oral statements when called upon in order of registration. Open discussion within the audience will not occur during the hearing; however, a TNRCC staff member will be available to discuss the proposal 30 minutes prior to the hearing and will answer questions before and after the hearing.

Written comments not presented at the hearing may be submitted to the TNRCC central office in Austin. The deadline for submission of written comments will be December 11, 1995. Material received by the TNRCC Office of Policy and Regulatory Development by 4:00 p.m. on that date will be considered by the commission prior to any final action on the proposal. Please mail written comments to Heather Evans, Office of Policy and Regulatory Development, MC 205, P.O. Box 13087, Austin, Texas 78711-3087 and reference Rule Log Number 95170-115-AI. Comments may also be faxed to (512) 239-4808. Copies of the proposal are available at the Office of Policy and Regulatory Development of the TNRCC located at 12100 Park 35 Circle, Building F, Austin and at all TNRCC regional offices. For further information, please contact Beecher Cameron at (512) 239-1495.

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

Issued in Austin, Texas, on November 6, 1995.

TRD-9514274
Kevin McCalla
Director, Legal Services Division
Texas Natural Resource Conservation
Commission

Filed: November 6, 1995

**Notice of Receipt of Application and
Declaration of Administrative
Completeness for Municipal Solid
Waste Management Facility—For the
Week Ending November 3, 1995**

APPLICATION BY BRAZOS VALLEY SOLID WASTE MANAGEMENT AGENCY (BVSWMA); Proposed Permit Amendment Number MSW1444-B, authorizing an amendment to their Type I (Landfill) municipal solid waste facility permit. The site covers approximately 119.53 acres of land and is to receive approximately 550 tons of solid waste daily. The proposed permit amendment authorizes a vertical expansion of the current facility. The site is located approximately 2.75 miles southeast of the intersection of State Highway 6 and Loop 507, south of Rock Prairie Road, southeast of College Station, in Brazos County, Texas.

If you wish to request a public hearing, you must submit your request in writing. You must state your name, mailing address, and daytime phone number; the application number, TNRCC docket number or other recognizable reference to the application; the statement "I/we request an evidentiary public hearing"; a brief description of how you, or the persons you represent, would be adversely affected by the granting of the application; and a description of the location of your property relative to the applicant's operations.

Requests for a public hearing or questions concerning procedures should be submitted in writing to the Chief Clerk's Office, Park 35 TNRCC Complex, Building F, Room 4301, Texas Natural Resource Conservation Commission, Mail Code 105, P.O. Box 13087, Austin, Texas 78711, (512) 239-3300.

Issued in Austin, Texas, on November 3, 1995.

TRD-9514284
Gloria A. Vasquez
Chief Clerk
Texas Natural Resource Conservation
Commission

Filed: November 6, 1995

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Public Hearing Notice

Notice is hereby given that pursuant to the requirements of the Texas Health and Safety Code, §341, Subchapter C, and Texas Government Code, Subchapter B, Chapter 2001, the Texas Natural Resource Conservation Commission (TNRCC or Commission) will conduct a public hearing to receive testimony concerning revisions to Chapter 321.

The Texas Natural Resource Conservation Commission (commission or TNRCC) proposes new §§330.981-330.987 and §§330.1021-330.1030, relating to Grants Pertaining to the Collection, Reuse, and Recycling of Used Oil and Waste Tire Recycling and Energy Recovery Grants.

The purpose of the proposed new subchapters is to implement grant-related actions directed by Senate Bill 776 and Senate Bill 1683, Acts of the 74th Legislature, 1995, pertaining to the waste tire recycling program and to the collection, management, and recycling of used oil and used oil filters, respectively. Other actions directed by the two bills are being proposed in other subchapters. In the

past, all grants under the Municipal Solid Waste Program have been awarded under the general provisions of Subchapter S, Assistance Grants and Contracts; however, with the expanded and specific grant-related activities authorized by the foregoing legislation, the two new subchapters are proposed. Proposed Subchapter U pertains to grants to be provided from the Used Oil Recycling Fund which is funded primarily by fees collected on the first sale of automotive oil. Proposed Subchapter V pertains to grants to be provided from the Waste Tire Recycling Fund which is funded primarily by fees collected on the sale of new and good used tires. Each of the two subchapters proposed herein covers eligible grant-supported activities, eligible applicants, the manner in which grant announcements will be made, and how grant recipients will be selected. In addition, Subchapter V covers additional grant-related requirements for construction of waste tire recycling facilities and for retrofitting of waste tire energy recovery facilities.

The public hearing will be held November 27, 1995 at 10:00 a.m. in Room 131-E of TNRCC Building C, located at 12100 North IH-35, Park 35 Technology Center, Austin. The hearing is structured for the receipt of oral or written comments by interested persons. Individuals may present oral statements when called upon in order of registration. Open discussion with the audience will not occur during the hearing; however, a TNRCC staff member will be available to discuss the proposal 30 minutes prior to the hearing and will answer questions before and after the hearing.

Written comments not presented at the hearing should mention Rule Log Number 95150-330-WS/95151-330-WS and may be submitted to Bettie Mabry Bell, Texas Natural Resource Conservation Commission, Office of Policy and Regulatory Development, MC-201, P.O. Box 13087, Austin, Texas 78711-3087. Comments must be received by 5:00 p.m., 30 days from the date of publication of this proposal in the *Texas Register*. For further information or questions concerning this proposal, please contact Douglas S. McArthur, Municipal Solid Waste Division, at (512) 239-6705.

Persons with disabilities who have special communication or other accommodation needs who are planning to attend the hearing should contact the agency at (512) 239-1459. Requests should be made as far in advance as possible.

Issued in Austin, Texas, on November 3, 1995.

TRD-9514323
Kevin McCalla
Director, Legal Division
Texas Natural Resource Conservation
Commission

Filed: November 6, 1995

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**Texas State Board of Pharmacy
Change of Address**

The Texas State Board of Pharmacy announces their relocation. The following information is effective November 28, 1995.

Texas State Board of Pharmacy, William P. Hobby Building, Tower 3, Suite 600, 333 Guadalupe Street, Box 21, Austin, Texas 78701-3942, (512) 305-8000, Fax: (512) 305-8075.

Issued in Austin, Texas, on November 2, 1995.

Filed: November 3, 1995

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Texas Department of Public Safety

Correction of Errors

The Texas Department of Public Safety adopted on an emergency basis under Texas Civil Statutes, Article 4413(29ee), new §§6.11-6.21. The rules appeared in the October 17, 1995, issue of the *Texas Register* (20 TexReg 8367).

Due to errors by the Texas Register, corrections are noted as follows.

In §§6.11-6.21, at the end of the paragraph listing the statutory authority, insert the following sentence "Authority to adopt a system to implement staggered and evenly distributed license expiration dates is granted by Senate Bill 60, 74th Legislature, 1995, Chapter 229, 8(b)."

In §6.16. *Special Application Procedures and Fees.*, insert "(j) Two year licenses. Initial licenses will be issued for either a two year or a four year term. Certain license applicants, randomly selected, will be issued an application for a two year license. The department shall reduce by 50% the fee required for issuance of a two year license. After expiration of the two year license, renewals will be for a four year period."

In §6.21. *Renewal of License.* (a) should read "Except as provided in §6.16(j) of this title (relating to Special Application Procedures and Fees)," a license expires on...

The Texas Department of Public Safety adopted on an emergency basis an amendment to §3.59 and new §3.62, concerning traffic supervision. The rules appeared in the October 17, 1995, issue of the *Texas Register* (20 TexReg 8359).

In §3.59(b)(6) *Regulations Governing Transportation of Hazardous Materials.*, on line 6, take out the space between the comma and the 0 in 3, 000.

In §3.62(m)(2)(C)(iv) *Regulations Governing Transportation Safety.*, the 10th line should read "...the time that the order of the department.. ."

The Texas Department of Public Safety adopted on an emergency basis the repeal of §36.62, concerning regulations governing transportation safety. The rule appeared in the October 17, 1995, *Texas Register* (20 TexReg 8365).

Due to publication the following error was published:

In §3.62, 9th line, first paragraph of the preamble, delete the period after "1995)" and insert a comma so that it reads "1995)," effective..."

The Texas Department of Public Safety adopted amendments to §17.1 and §17.11, and new §17.16, concerning Administrative License Revocation (ALR). The rules appeared in the October 17, 1995, *Texas Register* (20 TexReg 8455).

Due to publication the following errors were published:

In Chapter 17. *Administrative License Revocation* §§17.1,

17.11, 17.16, on the 8th line of the first paragraph, should read amendments to and "§17.1 and..."

In Chapter 17. *Administrative License Revocation* §§17.1, 17.11, and 17.16, on the 7th line of the 3rd paragraph, should read New "§17.16 is.. ."

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Public Utility Commission of Texas

Notices of Intent to File Pursuant to Public Utility Commission Substantive Rule 23.27

Notice is given to the public of the intent to file with the Public Utility Commission of Texas an application pursuant to Public Utility Commission Substantive Rule 23.27 for approval of customer-specific PLEXAR-Custom Service for Hidalgo ISD, Hidalgo, Texas.

Tariff Title and Number. Application of Southwestern Bell Telephone Company for PLEXAR-Custom Service for Hidalgo ISD pursuant to Public Utility Commission Substantive Rule 23.27. Tariff Control Number 14939.

The Application. Southwestern Bell Telephone Company is requesting approval of a new PLEXAR-Custom service for Hidalgo ISD. The geographic service market for this specific service is the Hidalgo, 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 November 2, 1995.

TRD-9514179

Paula Mueller
Secretary of the Commission
Public Utility Commission of Texas

Filed: November 2, 1995

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Notice is given to the public of the intent to file with the Public Utility Commission of Texas an application pursuant to Public Utility Commission Substantive Rule 23.27 for approval of a new PLEXAR-Custom service for the City of Pampa in Pampa, Texas.

Tariff Title and Number: Application of Southwestern Bell Telephone Company for Approval of a Customer-Specific Contract for PLEXAR-Custom Service for City of Pampa Pursuant to Public Utility Commission Substantive Rule 23.27. Tariff Control Number 14945.

The Application: Southwestern Bell Telephone Company seeks approval of a new customer-specific contract to provide PLEXAR-Custom service to the City of Pampa in Pampa, Texas. The service will be provided from the Pampa Exchange and is within the geographic market of the Amarillo LATA.

Persons who wish to comment upon the action sought should contact the Public Utility Commission of Texas, 7800 Shoal Creek Boulevard, Austin, Texas 78757, or call the Public Utility Commission Consumer Affairs Section at (512) 458-0223, or (512) 458-0221 for teletypewriter for the deaf.

Issued in Austin, Texas, on November 6, 1995.

TRD-9514291

Paula Mueller
Secretary of the Commission
Public Utility Commission of Texas

Filed: November 6, 1995

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Notice is given to the public of the intent to file with the Public Utility Commission of Texas an application pursuant to Public Utility Commission Substantive Rule 23.27 for approval of a new PLEXAR-Custom service for Bank One in Fort Worth, Texas.

Tariff Title and Number: Application of Southwestern Bell Telephone Company for Approval of a Customer-Specific Contract for PLEXAR Custom Service for Bank One in Fort Worth. Pursuant to Public Utility Commission Substantive Rule 23.27. Tariff Control Number 14946.

The Application: Southwestern Bell Telephone Company seeks approval of a new customer-specific tariff for PLEXAR-Custom service for Bank One in the Fort Worth Exchange. The geographic market for this specific PLEXAR-Custom service is the Dallas LATA.

Persons who wish to comment upon the action sought should contact the Public Utility Commission of Texas, 7800 Shoal Creek Boulevard, Austin, Texas 78757, or call the Public Utility Commission Consumer Affairs Section at (512) 458-0223, or (512) 458-0221 for teletypewriter for the deaf.

Issued in Austin, Texas, on November 6, 1995.

TRD-9514292

Paula Mueller
Secretary of the Commission
Public Utility Commission of Texas

Filed: November 6, 1995

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Notice is given to the public of the intent to file with the Public Utility Commission of Texas an application pursuant to Public Utility Commission Substantive Rule 23.27 for approval of customer-specific PLEXAR-Custom Service for Lubbock ISD, in Lubbock, Texas.

Tariff Title and Number. Application of Southwestern Bell Telephone Company for PLEXAR-Custom Service for Lubbock ISD pursuant to Public Utility Commission Substantive Rule 23.27. Tariff Control Number 14957.

The Application. Southwestern Bell Telephone Company is requesting approval of a new PLEXAR-Custom service for Lubbock ISD. The geographic service market for this specific service is the Lubbock, Texas area.

Persons who wish to comment upon the action sought should contact the Public Utility Commission of Texas, at 7800 Shoal Creek Boulevard, Austin, Texas 78757, or call the Public Utility Commission Consumer Affairs Division at (512) 458-0256, or (512) 458-0221 for teletypewriter for the deaf.

Issued in Austin, Texas, on November 6, 1995.

TRD-9514325

Paula Mueller
Secretary of the Commission
Public Utility Commission of Texas

Filed: November 6, 1995

Notice of Public Hearing

The Public Utility Commission of Texas will hold a public hearing on November 27, 1995, at 10:00 a.m. in Hearing Room A on a new rule concerning certification to the Securities and Exchange Commission about investment in foreign utility holding companies by exempt holding companies of Texas utilities. The purpose of the new rule is to provide a regular structure for providing information about such investments to the Commission and Commission consideration of issuing or continuing certification to the Securities and Exchange Commission. The Commissioners may or may not be present at the public hearing.

The proposed rule has been published, and the comment period on this rule has closed. Copies of comments already filed are available from the Commission's Secretary; inquiries should be addressed to James Galloway, Filing Clerk, 7800 Shoal Creek Boulevard, Austin, Texas 78757. Additional comments will be received and considered through the end of the public hearing. Parties should be prepared to discuss their comments and those of others. Following the hearing, the rule will be placed on an Open Meeting agenda to be considered for adoption. This project has been assigned Project Number 12123.

Persons who plan to attend the public hearing should register with Darla Rasberry at (512) 458-0279. If you have questions, call Michael E. Etchison at (512) 458-0288.

Issued in Austin, Texas, on November 2, 1995.

TRD-9514177

Paula Mueller
Secretary of the Commission
Public Utility Commission of Texas

Filed: November 2, 1995

Request for Comments

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The Public Utility Commission of Texas is initiating a rulemaking proceeding relating to integrated resource planning. The commission faces a number of alternatives concerning its rulemaking proceeding and would like to hear from interested parties concerning the alternatives. As a part of this proceeding, the commission staff will distribute an "IRP Issues Paper." The paper will be mailed to parties to the commission's last integrated resource planning rulemaking proceeding. A copy of the paper may also be picked up from Sandra Hamlett in the commission's Office of Policy Development no earlier than 3:00 p.m. Tuesday, November 14, 1995. Interested persons may provide their views on these matters by submitting 15 copies of comments to the commission no later than 3:00 p.m. Tuesday, November 21, 1995. Such comments should be filed with Paula Mueller, Secretary of the Commission at 7800 Shoal Creek Boulevard, Austin, Texas 78757 and should refer to Project Number 14400.

Issued in Austin, Texas, on November 7, 1995.

TRD-9514334

Paula Mueller
Secretary of the Commission
Public Utility Commission of Texas

Filed: November 7, 1995

